

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 25th May, 1974.

No. 1349/SL/74. The following Ordinance made by the President on 20-4-1974 is hereby published for general information:-

(ORDINANCE No. II OF 1974)¹

An Ordinance further to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1974.

Whereas it is expedient to further amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 for the purposes hereinafter appearing;

And Whereas the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

Now, Therefore, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all powers enabling him in that behalf 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 Electoral Rolls (Second Amendment) Ordinance, 1974.
(2) It shall come into force at once.
2. **Addition of proviso to Section 13-A, in Ordinance I of 1970.**— In the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970, after sub-section (2) of Section 13-A, the following proviso shall be added, namely : —

"Provided that fresh enumeration shall not be necessary and the existing electoral rolls may be published as draft rolls for the purposes of inviting claims, objections and applications for corrections."

Sd/-

(Sheikh Manzar Masood)

Speaker, Legislative Assembly,
Acting as President.

Sd/-

(Malik Mohammad Aslam Khan)

Secretary Law & Parliamentary Affairs,
Azad Government of the State of J & K

¹ This law was Issued as an Ordinance but got force of an Act in view of Section 51 of AJ&K Interim Constitution Act, 1974.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 8, 1974.

No. 2273/SL/74. The following Ordinance approved by the Legislative Assembly of Azad Jammu and Kashmir at its meeting held on the 21st of August 1974 is hereby published for general information:—

(ORDINANCE III OF 1974)²

AN ORDINANCE to provide for the law relating to the formation of trade unions, regulation of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them.

WHEREAS it is expedient to provide for the law relating to the formation of trade unions, the regulations of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them or matters connected therewith and ancillary thereto:

AND WHEREAS the Legislative Assembly is not in Session and the President is satisfied that the circumstances exist which render immediate Legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all other powers enabling him in that behalf, the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent, application and commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Industrial Relations Ordinance, 1974.

(2) It extends to the whole of Azad Jammu and Kashmir Territory.

(3) It shall not apply to any person employed in the Police or any of the Defence Services of Azad Jammu and Kashmir and any services or installations connected with or incidental to the

² This Ordinance was approved by the Legislative Assembly on 21st of August, 1974 and issued as an Act vide No. 2273/SL/74 dated September, 08, 1974 but retained its name as an Ordinance.

Armed Forces of Azad Jammu and Kashmir or to any person employed in the Administration of the State other than those employed as workmen by the Departments.

(4) It shall come into force at once.

2. **Definitions.-** In this Act, unless there is any thing repugnant in the subject or context.-

(1) 'Arbitrator' means a person appointed as such under this Ordinance ;

(2) 'Award' means the determination by a labour Court, Arbitrator or Appellate Tribunal of any industrial dispute or any matter relating thereto and includes an interim award;

(3) 'Collective Bargaining Agent' in relation to an establishment or industry, means the trade union of workmen which under Section 25 is the agent of the workmen in the establishment or, as the case may be, industry, in the matter of collective bargaining;

(4) 'Conciliation proceedings' means any proceedings before conciliator;

(5) 'Conciliator' means a person appointed as such under Section 32;

(6) 'Employer' in relation to an establishment means any person or body of persons, whether incorporated or not, who or which employs workmen in the establishment under a contract of employment and includes-

(a) an heir, successor or assignee, as the case may be, of such person or body as aforesaid;

(b) any person responsible for the management, supervision and control of the establishment;

(c) in relation to an establishment run by or under the authority of any department of the Government, the authority appointed in this behalf or, where no authority is appointed, the Head of the Department;

(d) in relation to an establishment run by or on behalf of a local authority, the officer appointed in this behalf or where no officer is so appointed, the Chief Executive Officer of that authority;

Special provision:- For the purposes of destination from the category of "workers or workmen", officers and employees of a department of the Government or a local authority who belong to the superior, managerial, secretarial, directional, supervisory or agency staff and who have been notified for this purpose in the official Gazette shall be deemed to fall within the category of employers,

- (e) in relation to any other establishment, the proprietor of such establishment and every Director, Manager Secretary, agent or officer or person, concerned with the management of the affairs thereof;
- (7) 'Establishment' means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;
- (8) 'Executive' means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;
- (9) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (10) 'High Court' means the High Court of Judicature, Azad Jammu and Kashmir State;
- (11) 'Illegal Lock Out' means -a lock out declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;
- (12) 'Illegal Strike' means a strike declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;
- (13) 'Industrial Dispute' means any dispute or difference between employers and employees or between employers and workmen or 'between workmen and workmen, which is concerned with the employment or non-employment or the terms of employment or the conditions of work of any person;
- (14) 'Industry' means any business, trade, manufacture, calling, service, employment or occupation;
- (15) 'Labour Court' means Labour Court established under Section 40;

(16) 'Lock out means the closing of a place of employment or part of such place or the suspension, wholly or partly, or work by an employer or refusal absolute or conditional by an employer to continue to employ any number of workmen employed by him where such doing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workmen employed to accept certain term and conditions of or affecting employment;

(17) 'Organisation' means any organization of workers or of employers for furthering and defending the interest of workers or of employers;

(18) 'Officer in relation to a trade union' means any member of the executive thereof but does not include in auditor or legal advisor;

(19) 'Prescribed' means prescribed by rules;

(20) 'Public Utility Service' means any of the services specified in the schedule;

(21) 'Registered Trade Union' means a trade union registered under this Ordinance;

(22) 'Registrar' means the Registrar of Trade Union appointed under Section 15;

(23) 'Rule' means rule made under section 78;

(24) 'Settlement' means a settlement arrived at in the course of conciliation proceeding and include an agreement between an employer and his workmen arrived at otherwise than in the course of any conciliation proceeding, where such as agreement is in writing, has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the Government, the conciliator and such other person as may be prescribed

(25) 'Strike' means cessation of work by a body or persons employed in any establishment acting in combination or a concerted refusal, or refusal under a common understanding of any number of persons who have been so employed to continue to work or to accept employment:

(26) 'Trade Union' means any combination of workmen or employers, formed primarily for the purpose of regulating the relations between workmen and employers, or workmen and

workmen or employers and employers, or for imposing restrictive conditions on the conduct of any trade or business and includes a federation of two or more trade unions;

(27) 'Tribunal' means a Labour Appellate Tribunal constituted under section 46 of this Ordinance;

(28) 'Worker' and 'Workmen' means any person not falling within the definition of employer who is employed (including employment as a supervisor or as an apprentice) in an establishment or industry for hire or reward either directly or through a contractor whether the ten as of employment be expressed or implied and for the purpose of any proceeding under this Ordinance in relation to an industrial dispute include a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay-off, or removal has led to that dispute but does not include any person-

- (a) who is employed mainly in a managerial or administrative capacity; or
- (b) who, being employed in a supervisory capacity, draws wage exceeding Rupees Six hundred per men sum or performs, either because of the nature of duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

3. **Trade Union and freedom of Associate:-** Subject to the provisions contained in this Ordinance.

- (a) Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join associations of their own choosing without previous authorization;
- (b) Employers, without distinction whatsoever, shall have the right to establish and subject only to the rules of the organization concerned, to join associations of their own choosing without previous authorization;
- (c) trade unions and employers associations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom to organize their administration and activities and to formulate their programme;

(d) worker and Employers organizations shall have the right to establish and join federations and confederations in Azad Jammu and Kashmir territory.

4. **Adherence to the law of the land:-** Workers and employers and their respective organization, in exercising the rights provided for in Section 3, like other persons or organized collectives, shall respect the law of the land.

5. **Application for registration:-**Any trade union may, under the signature of its president the secretary, apply for., registration of the trade union under this Ordinance.

6. **Requirements of applications:-** Every application for registration of trade union shall be made to the Registrar and shall be accompanied by.

(a) statement showing-

(i) the name of the trade union and the address of its head office;

(ii) date of formation of the union:

(iii) the titles, name, ages, addresses and occupations of the officers of the trade union;

(iv) statement of total paid membership;

(v) the name of the establishment or group of establishments or the industry, as the case may be, to which the trade union relate.

(vi) in case of federation of trade unions, the names, addresses and registration number of member union;

(b) Three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the Chairman of the meeting;

(c) A copy of the resolution by the members of trade union authorising its President and the Secretary, to apply for its registration; and

(d) in case of a federation of trade unions, a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.

7. **Requirements of registration:-** (1) A trade union shall not be entitled to registration under this Ordinance unless the constitution thereof provides for the following matters namely:
- (a) the name and address of the trade union;
 - (b) the objects for which the trade union has been formed;
 - (c) the purposes for which the general funds of the union shall be applicable ;
 - (d) the number of persons forming the executive shall be from amongst the workmen actually engaged or employed in the establishment or the industry for which the trade union has been formed;
 - (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him;
 - (f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union ;
 - (g) the manner in which the constitution shall be amended, varied or rescinded;
 - (h) the safe custody of the funds of trade union, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the Officers and members of trade union;
 - (i) the manner in which the trade union may be dissolved;
 - (j) the manner of election of officers by the general body of the trade union and the term, not exceeding two years, for which an officer may hold office upon his election or re-election;
 - (k) the procedure for expressing want of confidence in an officer of the trade union; and
 - (1) the meeting of the executive and of the general body of the trade union, so that the executive shall meet at least once in every three months and the general body at least once every year.
 - (2) Without prejudice to the provisions of sub-section (1) a

trade union, of workmen shall not be entitled to registration under this Ordinance unless all its members are workmen actually engaged or employed in the industry with which the trade union is concerned.

8. **Disqualifications for being an officer of a trade union.-** Notwithstanding anything containing in the constitutions or rules of a trade union, a person who has been convicted of an offence under section 71 shall be disqualified from being elected as, or from being an officer of a trade union.
9. **Registered trade union to maintain register etc.-** Every registered trade union shall maintain in such form as may be prescribed-
 - (a) a register of members showing receipts particulars of subscriptions paid by each member;
 - (b) an accounts book showing particulars of expenditure; and
 - (c) a minute book for recording the proceedings of meetings.
10. **Registration:-** (1) The Registrar, on being satisfied that the trade union has complied with all the requirements of this Ordinance, shall register the trade union in a prescribed register and issue a registration certificate in the prescribed form within a period of fifteen days from the date of receipt of the application. In case the application is found by the Registrar to be deficient in a material respect or respects he shall communicate in writing his objections to the trade union within a period of fifteen days from the receipt of the application and the trade union shall reply thereto within a period of fifteen days from the receipt of the objections;
 - (2) When the objections raised by the Registrar have been satisfactorily met, the Registrar shall register the trade union as provided in sub-section (1) and issue a certificate of registration in the prescribed form within three days of the objections having been so met. In case the objections are not satisfactorily met, the Registrar may reject the application:
 - (3) In case the application has been rejected or the Registrar has delegated disposal of the application beyond the period of fifteen days provided in subsection (1) or has not issued a certificate of registration within the period of three days as

provided in subsection (2), as the case may be, the trade union may appeal to the Labour Court who for reasons to be stated in its judgment may pass an order directing the Registrar to register the trade union and to issue a certificate of registration or may dismiss the appeal;

(4) Notwithstanding anything contained in any other provision of this Ordinance, every alteration made in the constitution of a registered trade union and even change of its officers shall be notified by registered post by the trade union to the Registrar within fifteen days of such change.

(5) The Registrar may refuse to register such change or alteration if it is in contravention of any of the provision of the Ordinance or if it is in violation of the constitution of the trade union.

(6) Subject to the provisions of sub-section (5), every inclusion or exclusion of any constituent unit of a federation or unions shall be notified by registered post by the federation to the Registrar within fifteen days of such inclusion or exclusion.

(7) In case there is a dispute in relation to the change of officers of a trade union, or any trade union is aggrieved by the refusal of the Registrar under sub-section (5), any officer or member of the trade union may appeal to the Labour Court who shall within seven days of receipt of the application or appeal as the case may be pass an order either directing the Registrar to register the change or alteration in the constitution or in the officer of the trade union or may, for reasons to be recorded in writing, direct the Registrar to hold fresh elections of the union under his supervision.

11. **Transfer, etc. of officer of trade union during tendency of application for registration:-** Save with the prior permission of the Registrar no officer of a trade union of workmen shall be transferred, discharged, dismissed or otherwise punished during the pendency of an application for registration of the trade union with the Registrar, provided that the union has notified the names of its officers to the employer in writing.
12. **Certificate of registration:-** The Registrar, on registering a trade union under Section 10 shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Ordinance.
13. **Cancellation of registration:-** (1) The registration of a trade

union shall be cancelled if the Labour Court so directs upon a complaint in writing made by the Registrar that the trade union has

- (i) contravened any of the provisions of this Ordinance or the rules ; or
- (ii) contravened any of the provisions of its constitutions ; or
- (iii) made in its constitution any provision which is inconsistent with this Ordinance or the rules ; or
- (iv) dissolved itself or has ceased to exist.

(2) Where any person who is disqualified under section 8 from being elected as, or from being, an officer of a trade union is elected as an officer of a registered trade union the registration of that union shall be cancelled if the Labour Court, upon a complaint in writing made in this behalf by the Registrar, so direct.

- 14. **Appeal against cancellation:-** Any trade union aggrieved by a decision given under section 13 may appeal to the a Labour Appellate Tribunal, which may uphold or reject the decision.
- 15. **Registrar of trade unions:-** For the purpose of this Ordinance the Government may by notification in the official Gazette appoint as many persons as it considers necessary to be Registrars of trade unions and where it appoints more than one Registrar, shall specify in the notification the area within which each one of them shall exercise and perform the powers and functions under this Ordinance.
- 16. **Powers and functions of Registrar:-** The following shall be the powers and functions of the Registrar:-if ,
 - (a) the registration of trade unions under this Ordinance and the maintenance of register for this purpose;
 - (b) to lodge or authorise any person to lodge complaints with the Labour Courts for action against trade unions for any alleged offence or any unfair Labour practice or violation of any provisions of this Ordinance;
 - (c) the determination of the question as to which one of the trade unions in an establishment or an industry is entitled to be certified as the collective bargaining agent in relation to that establishment or industry ; and

(d) such other powers and functions as may be prescribed.

17. Incorporation of registered trade union:- (1) Every registered trade union shall be a body corporated by the name under which it is registered, shall have perpetual succession and a common seal and the power to contract and to acquire, hold and dispose of property, both moveable and immoveable and shall by the said name sue or be sued.

(2) The Societies Registration Act, 1860 (XXI of 1860), the co-operative societies Act, 1912, (IL of 1912) and Companies Act, 1913 (VII of 1913) shall not apply to any registered trade union and the registration of any trade union under any of these Acts shall be void.

18. Unfair labour practices on the part of employers:- (1) No employer or trade union of employers and no person acting on behalf of either shall-

(a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union, or

(b) refuse to employ or refuse to continue to employ any person on the ground that such person is or is not a member or officer of a trade union, or

(c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is or is not, a member or officer of a trade union, or

(d) dismiss, discharge, remove from employment or transfer or threaten to dismiss, discharge or remove from employment or transfer a workmen or injure or threaten to injure him in respect of his employment by reason that the workmen—

(i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union, or

(ii) participates in the promotion, formation or activities of a trade union;

(iii) induce any person to refrain from becoming, or to cease to be a member or officer of a trade

union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person ;

- (f) compel any officer of the collective bargaining agent to sign a memorandum by using intimidation, coercion pressure, threat, confinement to a place, physical injury, this connection of water, power and telephone facilities and such other methods ;
- (g) interferes with or in any way influence "the balloting provided for in section 25;
- (h) recruit any new workmen during the period of notice of strike under section 33 or during the currency of a strike which is not illegal except where the conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, permitted temporary employment of a limited number of workmen in the section, where, the damage is likely to occur.

(2) Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon his appointment or promotion to managerial position shall cease to be and shall be disqualified from being a member or officer of a trade union of workmen.

19. **Unfair labour practices on the part of workmen:-** (1) No workmen or trade union of workmen and no person acting on behalf of such trade union shall-

- (a) persuade a workman to join or refrain from joining a trade union during working hours, or
- (b) intimidate any person to become, or refrain from becoming or to continue to be or to cease to be a member or officer of a trade union, or
- (c) induce any person to refrain from becoming, or cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on or by procuring or offering to procure any advantage for, such person or any other person, or
- (d) compel or attempt to compel the employer to sign a memorandum of settlement by using, intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and

power facilities and such other methods.

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under section 25 by the exercise undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

RIGHTS & PRIVILEGES OF REGISTERED TRADE UNIONS AND COLLECTIVE BARGAINING AGENTS

20. **Law and conspiracy limited in application:-** No officer or member of a registered trade union or collective bargaining agent as determined by the Registrar shall be liable to punishment under sub-section (2) of section 120-B of the Azad Jammu and Kashmir Penal Code, 1860 in respect of any agreement made between the members thereof for the purpose of furthering any such object of the trade union as is specified in its constitution referred to in section 7, unless the agreement is an agreement to commit an offence or otherwise violate any law other than this Ordinance.
21. **Immunity from civil suit in certain cases :-** (1) No suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or collective bargaining agent or any officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground only that such act induces some other person to break a contract of employment or that is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.
- (2) A trade union shall not be liable in any suit or other legal proceedings in any civil court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the trade union if it is proved that such person acted without to knowledge of, or contrary to express instruction given by the executive of the trade union.
22. **Enforceability of agreement:-** Notwithstanding anything contained in any other law for the time being in force an agreement between the members of a trade union shall not be void or avoidable by reason only that any of the objects of the agreement are in restraint of trade;

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the

express purpose of enforcing, of recovering damage for the breach of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business, or work, employ or be employed.

23. **Registration of Federation of Trade Union:-** (1) Any two or more registered trade unions may, if their respective general bodies so resolve; constitute a federation by executing an instrument of federation and apply for the registration of the federation:

Provided that a trade union of workmen shall not join a federation which comprises a trade union of employer nor shall a trade union of employers join a federation which comprises a trade union of workmen:

Provided further that a trade union of workmen or employers shall not join a federation outside the territory of Azad Kashmir, not a trade union of workmen or employers, outside Azad Kashmir shall join a federation in Azad Kashmir.

(2) An instrument of federation referred to in sub-section (1) shall, among other things, provide for the procedure to be followed by federated trade unions and the right and responsibilities of- the federation and federated unions.

(3) An application for the registration of a federation of trade union shall be signed by the president of all the trade unions constituting the federation or by the officer of these trade unions respectively authorised by the trade unions in this behalf and shall be accompanied by three copies of the instrument of federation referred to in sub-section (1).

(4) Subject to sub-section (1), (2) and (3) provision of this Ordinance shall so, far as may be and with the necessary modifications apply to a Federation of trade union.

24. **Returns:-** (1) There shall be sent annually to the Registrar on or before such date as may be prescribed, a general statement audited in the prescribed manner of all receipts and expenditure of every registered trade union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of December as may be prescribed.

(2) Together with a statement of the total paid membership and the general statement there shall be sent to the Registrar a

statement showing all changes of officers made by the trade union during the year to which the general statement refers together with a copy of the constitution of the trade union corrected up to the date of the dispatch thereof to the Registrar.

(3) A copy of every alteration made in the constitution of a Registered trade union and of a resolution of the general body having the effect of a provision of the constitution shall be sent to the Registrar within 15 days of the making of the alteration or adoption of resolution.

(4) In case the registered trade union is member of a federation, the name of that federation shall be given in the annual statement.

25. **Collective Bargaining agent:-** (1) Where there is only one registered trade union in an establishment or a group of establishments, that trade union shall if it has as its member not less than one-third of the total number of workmen employed in such establishment or group of establishments, to be deemed to be collective bargaining agent for such establishment or group.

(2) Where there are more registered trade union than one in an establishment or a group of establishments, the Registrar shall, upon an application made in this behalf by any such trade union which has as its members not less one-third of the total number of workmen employed in such establishment or group of establishments or by the employer or the Government, held within fifteen days from the making of the application, a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group;

Provided that the Registrar may, in the case of a large establishment having its branches in more than one town, hold the secret ballot within thirty days from the making of the application;

(3) Upon receipt of an application under sub-section (2) the Registrar shall, by notice in writing, call upon every registered trade union in the establishment or group of establishments to which the application relates-

(a) to indicate whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to such establishment or group ; and

- (b) If it so desires, to submit to him within the time specified in the notice a list of its members showing in respect of each member, his parentage age, the section or department and the place in which he is employed, his ticket number and the date of his becoming a member and, if the trade union is a federation of trade unions, a list of its affiliated trade unions together with a list of members of such trade union showing in respect of each such member the said particulars.
- (4) Every employer shall-
 - (a) on being so required by the Registrar, submit a list of all workmen employed in the establishment excluding those whose period of employment in the establishment is less than three months and showing in respect of each workmen, his parentage, age, the section or department and the place in which he is employed, his ticket number and the date of his employment in the establishment; and
 - (b) Provide such facilities for verification of the lists submitted by him and the trade unions as the Registrar may require;

Provided that, in computing the period of three months referred to in clause (a) in the case of a workman employed in a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), the period during which he was employed in that factory during the preceding season shall also be taken into account.

- (5) The Registrar shall, after verification of the lists submitted by trade unions, prepare a lists of voters in which shall be included the name of every workman whose period of employment as computed in accordance with sub-section (4) is not less than three months and who is a member of any of the contesting trade unions and shall, at least four days prior to the date fixed for the poll, sent to each of the contesting trade unions a certified copy of the lists of voters so prepared.
- (6) Every workman who is a member of any of the contesting trade unions and whose name appears in the lists of voters prepared under sub-section (5) shall be entitled to vote at the Poll to determine the collective bargaining agent.
- (7) Every employer shall provide all such facilities in his establishment as may be required by the Registrar for the

conduct of the poll but shall not interfere with, or in any way, influence, the voting.

(8) No person shall canvass for vote within a radius of fifty yards of the polling station.

(9) For the purpose of holding secret ballot to determine the collective bargaining agent, the Registrar shall-

- (a) fix the date for the poll and intimate the same to each of the contesting trade unions and also to every employer;
- (b) on the date fixed for the poll so place in the polling station set up for the purpose the ballot boxes which shall be sealed in the presence of the representative of the contesting trade unions as to receive the ballot papers;
- (c) conduct the poll at the polling station at which the representatives of the contesting trade unions shall have the right to be present;
- (d) after the conclusion of the poll and in the presence of such of the representatives of the contesting trade unions as may be present, open the ballot boxes, and count the votes; and
- (e) after the conclusion of the count, declare the trade union which has received the highest number of votes to be the collective bargaining agent;

Provided that no trade union shall be declared to be the collective bargaining agent for an establishment or group of establishments unless the number of votes received by it is not less than one third of the total number of workmen employed in such establishment or group.

(10) Where a registered trade union has been declared under clause (e) of sub-section (9) to be the collective bargaining agent for an establishment or group of establishments, no application for the determination of the collective bargaining agent for such establishment or group shall be entertained within a period of two years from the date of such declaration, except where the registration of such a registered trade union is cancelled before the expiration of the period.

(11) A collective bargaining agent may without prejudice to its own position, implead as a party to any proceedings under

this Ordinance to which it is itself a party any federation of trade unions of which it is a member.

(12) The collective bargaining agent in relation to an establishment or group of establishments shall be entitled to-

- (a) undertake collective bargaining with the employer or employers on matters connected with employment non-employment, the terms of employment or the conditions of work;
- (b) represent all or any of the workman in any proceedings;
- (c) give notice of, and declare, a strike in accordance with the provisions of this Ordinance.

(13) The Registrar may authorise in writing an officer to perform all or any of his functions.

26. **Check Off:-** (1) If a collective bargaining agent so requests the employer of the workmen who are members of a trade union shall deduct from the wage of the workmen such amounts towards their subscription to the funds of the trade union as may be specified with the approval of each individual workman named in the demand statement furnished by the trade union.

(2) An employer making any deductions from the wages under sub-section (1) shall, within 15 days of the end of the period for which the deductions have been made, deposit the entire amount so deducted by him in the account of the trade union on whose behalf he has made the deductions.

(3) A collective bargaining agent shall maintain with a branch of any scheduled Bank of Pakistan or with a Post Office Savings Bank an account to which shall be credited the entire amount deducted by the employer under sub-section (1) from the wages of the member of Trade Union.

(4) The employer shall provide facilities to the collective bargaining agent for ascertaining whether deduction from the wages of its members are being made under subsection (1).

JOINT CONSULTATION CONCILIATION & MEDIATION

27. **Shop Stewards to act as link between labour and management:-**(1) In every establishment in which fifty or more workmen are employed shop stewards, from amongst the workmen in a shop, section or department of the establishment,

shall-

- (a) Where there is a collective bargaining agent in the establishment, be nominated by it;
- (b) where there is no collective bargaining agent in the establishment, be elected at a secret ballot held in the prescribed manner;

Provided that any shop Steward elected before the commencement of the Ordinance shall continue to hold till the expiry of his term.

(2) The employer shall provide all such facilities in this establishment as may be required for the holding of a ballot under sub-section (1) but shall not interfere with or in any way influence, the voting.

(3) A Shop Steward shall hold office for a period of one year from the date of his election or nomination, as the case may be.

(4) Any dispute arising out of or in connection with the election of a shop steward shall be referred to the Registrar whose decision shall be final and binding on, all parties to this dispute.

(5) The Shop Steward shall act as a link between the workers and the employer, assist in the improvement of arrangements for the physical working conditions and production work in the shop, section or department for which he is elected and help workers in the settlement of their problems either connected with work or with any such individual grievance of a workman as is referred to in sub-section (1) of section 30.

28. **Works Council:-** (1) In every establishment in which 50, or more workmen are employed or were employed on any day in the preceding 12 months, the employer shall constitute, in the prescribed manner a works council consisting of representatives of the employers and the workmen so however that the number of the representatives of the workmen is not less than the number of the representatives of the employer in the work council.

(2) In the case of an establishment where there are one or more trade unions, the collective bargaining agent shall nominate the representatives of the workmen on such works council:

Provided that where there is no collective bargaining

agent representatives of workmen on a works council shall be chosen in the prescribed manner from amongst the workmen engaged in the establishment for which the works council is constituted.

29. **Functions of works council.** The functions of a works council shall be to promote measures for securing and preserving good relations between an employer and his workmen are in particular-

- (a) to endeavor to maintain continuous sympathy and understanding between the employer and workmen ;
- (b) to promote settlement of differences through bilateral negotiations;
- (c) to promote security of employment for the workmen and conditions of safety, health and job satisfaction in their work;
- (d) to encourage vocational training within the establishment;
- (e) to take measures for facilitating good and harmonious working conditions in the establishment, to provide educational facilities for children of workmen in secretarial and accounting procedures and to promote their absorption in these departments of the establishment; and
- (f) to discuss any other matter of mutual interest with a view to promoting better labour management relations.

30. **Redress of individual grievances:-** (1) A worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law for any award or settlement for the time being in force to the notice of his employer in writing, either himself or through his shop Steward or Trade Union, within three months of the day on which the cause of such grievance arises.

(2) Where a worker himself brings his grievance to the notice of the employer, the employer shall, within fifteen days of the grievance being brought to his notice, communicate his decision in writing to the worker.

(3) Where a worker brings his grievance to the notice of his employer through his shop Steward or Trade Union, the employer shall within seven days of the grievance being brought

to his notice, communicate his decision in writing to the shop steward, as the case may be, the Trade Union.

(4) If the employer fails to communicate a decision within the period specified in sub-section (2) or, as the case may be, sub-section (3), or if the worker is dis-satisfied with such decision, the worker or the Shop Steward may take the matter to his Trade Union or the Labour Court or as the case may be the Trade Union may take the matter to the Labour Court, and, where the matter is taken to the Labour Court it shall give a decision within fifteen days from the date of the matter being brought before it as if such matter were an industrial dispute:

Provided that a worker who desires so to take the matter to the Labour Court shall do so within a period of two months from the date of the communication of the employer or, as the case may be, from the expiry of the period mentioned in sub-section (2) or sub-section (3), as the case may be.

(5) In adjudicating and determining a grievance under subsection (4) the labour Court shall go into all the facts of the case and pass such orders as may be just and proper in the circumstances of the case.

(6) Notwithstanding anything contained in sub-section (1) to (4) any workman aggrieved by the termination of his employment as result of retrenchment, dismissal, discharge, lay off, lock-out or otherwise not earlier than two months preceding the commencement of this Ordinance, may within a period of two months from the commencement of this Ordinance, or the termination of the employment, whichever ever is later, either him self or through his Trade Union takes the matter directly to a labour Court having jurisdiction in the area in which the establishment is situated.

31. **Negotiations relating to differences and disputes:-** (1) If at any time an employer or a collective bargaining agent finds that an industrial dispute has arisen or is likely to arise, the employer or, as the case may be, the collective bargaining agent, may communicate his or its views in writing either to the work Council or the other party so, however, that where the views are so communicated to the Works Council, a copy of the communication shall also be sent to the other party.

(2) On receipt of the communication under sub-section (1), the Work Council or the party receiving it shall try to settle the dispute within ten days of the receipt of the communication by

bilateral negotiations, and of the parties reach a settlement, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded to the Conciliator and the authorities mentioned in clause (24) of section 2.

(3) Where a settlement is not reached between the employer the collective bargaining agent or, if the views of the employer or collective bargaining agent; have been communicated under sub-section (1) to the works Council, there is a failure of bilateral negotiations in the Works Council, the employer or the collective bargaining agent may, within seven days from the end of the period referred to in sub-section (2), serve on the other party to the dispute a notice of lock-out or strike, as the case may be, in accordance with the provisions of this Ordinance.

32. **Conciliator:-** (1) The Government shall, by notification in the Official Gazette, appoint as many persons as it considers necessary to be conciliators for the purposes of this Ordinance and shall specify in the notification the area within which, or the class of establishments or industries in relation to which, each one of them shall perform his functions.
33. **Notice of strike or lock-out.-** The period of notice of lock-out or strike given under sub-section (3) of section (31) shall be 21 days.
34. **Conciliation after notice of strike or lock-out.-** Where a party to an industrial dispute serves a notice of strike or lock-out under section 31 it shall simultaneously with the service of such notice deliver a copy thereof to the conciliator who shall proceed to .conciliate in the dispute, and to the labour court.
35. **Proceedings before Conciliator.-** (1) The conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

(2) The parties to the dispute shall be represented before the conciliator by persons nominated by them and authorised to negotiate and enter into an agreement binding on the parties:

Provided that if, in the opinion of the Conciliator, the presence of the employer or any officer of the trade union connected with the dispute is necessary in a meeting called by him, he shall give notice in writing requiring the employer or such officer to appear in person before him at the place, date and time, specified in the notice, and it shall be the duty of the

employer or the officer of the trade union to comply with the notice.

(3) The conciliator shall perform such functions in relation to a dispute before him as may be prescribed and may, in particular suggest to either party to the dispute such conciseness or modification in its demand as are in the opinion of the conciliator likely to promote an amicable settlement of the disputes.

(4) If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings before him the conciliator shall send a report thereof to the Government together with the memorandum of settlement signed by the parties to the dispute.

(5) If no settlement is arrived at within the period of the notice of strike or lock-out, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

36. **Arbitration:-** (1) If the conciliation fails, the conciliator shall try to persuade the parties to agree to referee the dispute to an arbitrator. In case the parties agree, they shall make joint request in writing for reference of the dispute to an arbitrator agreed upon by them.

(2) The arbitrator to whom a dispute is referred under subsection (1) may be a person borne on a pannel to be maintained by the Government or any other person agreed upon by the parties.

(3) The arbitrator shall give his award within a period of thirty days from the date on which the dispute is referred to him under subsection (1) or such further period as may be agreed by the parties to the dispute.

(4) After he has made an award, the arbitrator shall forward a copy thereof to the parties and to the Government who shall cause it to be published in the official Gazette.

(5) The award of the arbitrator shall be final and no appeal shall lie against it. It shall be valid for a period not exceeding two years or as may be fixed by the arbitrator.

37. **Strike and Lock-out:-** (1) If no settlement is arrived at during the course of conciliation proceedings and the parties to the dispute do not agree to refer it to an arbitrator under section (36),

the workmen may go on strike or, as the case may be, the employer may declare a lock-out on the expiry of the period of the notice under section (33) or upon a declaration by the conciliator that the conciliation proceeding have failed, whichever is the later.

(2) The party raising a dispute may at any time, either before or after the commencement of a strike or lock-out, make an application to Labour Court for adjudication of the dispute.

(3) Where a strike or lock-out lasts for more than 30 days the Government may, by order in writing, prohibit the strike or lock-out:

Provided that the Government may by-order, in writing prohibit a strike or lock-out at any time before the expiry of 30 days if it is satisfied that the continuance of such strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.

(4) In any case in which the Government prohibits a strike or lock-out, it shall forthwith refer the dispute to the Labour Court.

(5) The Labour Court shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible but not exceeding thirty days from the date on which the dispute was referred to it:

Provided that the Labour Court may also make an interim award on any matter of dispute. Provided also that any delay by the Labour Court in making an award shall not affect the validity of any award made by it.

(6) An award of the Labour Court shall be for such period, as may be specified in the award, which shall not be more than two years.

38. **Strike or Lock-out in Public Utility Services:-** (1) In the case of any of the public utility services, the Government may, by order in writing, prohibit a strike or lock out at any time before or after the commencement of the strike or lock-out.

(2) The provisions of sub-section (3), (4) and (5) of section 37 shall also apply to an order made under sub-section (2) of that section.

39. **Application to Labour Court:-** Any collective bargaining.

agent or any employer may apply to the labour court for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.

40. **Labour Court:-** (1) The Government may, by notification in the official Gazette, establish as many Labour Courts as it considers necessary and where it establishes more than one Labour Court, shall specify in the notification the territorial limits within which or the industry or classes of cases in respect of which each one of them shall exercise jurisdiction under this Ordinance.

(2) A labour court shall consist of one presiding officer appointed by the Government.

(3) A person shall not be qualified for appointment, as Presiding Officer unless he has been or is, or is qualified to be a District Judge or an Additional District Judge.

(4) Labour Court shall;

(a) adjudicate and determine an industrial dispute which has been referred to or brought before it under this Ordinance.

(b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Government.

(c) try offences under this ordinance, and such other offences under any other law as the Government may by notification in the official gazette specify in this behalf.

(d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Ordinance or any other law.

(5) Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (VII of 1923), or the payment of wages Act, 1936 (VI of 1936) as in force in Azad Jammu and Kashmir, the Government may, by notification in the official gazette, appoint a Labour Court to be or confer upon it any power or function of, any authority under any of the said Acts, and upon such notification, the Labour Court shall be deemed to be such authority and shall exercise the powers and perform the function of such authority under the relevant Act.

41. **Procedure and powers of Labour Court:-** (1) Subject to the provisions of this Ordinance, while trying an offence a Labour Court shall follow as nearly as possible summary procedure as prescribed under the Code of Criminal procedure, 1898.
- (2) A Labour Court shall, for the purpose of adjudicating and determining any industrial dispute 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 the powers of :
- (a) enforcing the attendance of any person and examining him on oath,
 - (b) compelling the production of documents and material objects, and
 - (e) issuing commissions for the examination of witnesses or documents.
- (3) A Labour Court shall, for the purpose of trying an offence under the Ordinance, have the same powers as are vested in the Court of a Magistrate of the first class, specially empowered U/S 30 of the Code of Criminal procedure, 1898 (Act V of 1898) and shall for the purpose of appeal from a sentence passed by it, be deemed to be a Court of Sessions under that Code.
- (4) No Court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from a Labour Court.
42. **Appeal against the decision of Labour Court:-** Any party aggrieved by a decision of a Labour Court under Section 41 may prefer an appeal to a Labour Appellate Tribunal within thirty days of the delivery thereof and a decision of the Labour Appellate tribunal in such appeal shall be final.
43. **Penalty:-** If an order or direction under section 41 or a decision under section 42 is not given effect to or complied with within a week or within a period specified in such order direction or decision, the defaulter shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.
44. **Cognizance of cases:-** No person shall be prosecuted under Section 43 except on a complaint in writing--

- (a) by the workman if the order in his favour is not implemented within the period specified in section 43, or
 - (b) by the Labour Court, if a decision or direction is given under section 41 and 42 is not complied with.
45. **Awards and decisions of labour court:-** (1) An award or decision of a labour court shall be given in writing and delivered in open Court and two copies thereof shall be forwarded forthwith to the Government.
- (2) The Government shall, within a period of one month from the receipt of the copies of the award or decision, publish it in the official Gazette.
- (3) Any party aggrieved by an award given under sub-section (1) may prefer an appeal to Labour Appellate Tribunal within 30 days of the delivery thereof and the decision of the Tribunal in such appeal shall be final.
- (4) All decisions of Labour Court, other than awards and decision referred to in subsection (3) of this section, and sentences referred to in sub-section (3) of section 41 shall be final and shall not be called in question in any manner by or before any court or other authority.
46. **Labour appellate Tribunal:-** (1) The Tribunal shall consist of one member to be appointed by the Government by notification in the official Gazette.
- (2) The members of the Tribunal shall be a person who is or has been a judge (or an Additional Judge) of High Court and shall be appointed on such terms and conditions as Government may determine.
- (3) The Tribunal may, an appeal, confirm, set side, vary or modify the award or decision and shall exercise all the powers conferred by this Ordinance on the Labour Court, save as otherwise provided. The decision of the Tribunal shall be delivered as expeditiously as possible, within a period of 60 days following the filing of the appeal: Provided that such decision shall not be rendered invalid by reason of any delay in its delivery.
- (4) The Tribunal shall follow such procedure as may be prescribed.
- (5) The Tribunal shall have authority to punish for contempt

of its authority, or that of any Labour Court Subject to its appellate jurisdiction, as if it were the High Court.

(6) Any person convicted and sentenced by the Tribunal under Sub-section (5) to imprisonment for any period, or to pay a fine exceeding Rs. 50/- may prefer an appeal to the High Court.

47. **Settlement and awards on whom binding:-** (1) A settlement arrived at in the course of a conciliation proceedings, or an award of an arbitrator published under section 36 or an award or decision of a Labour Court delivered under section 45 or the decision of a Tribunal under section 46 shall.

- (a) be binding on all parties to the industrial dispute;
- (b) be binding on all other parties summoned to appear in any proceedings before a Labour Court as parties to the industrial dispute unless the court specifically otherwise directs in respect of any such party;
- (c) be binding on the heirs, successors or assignees of the employer in respect of the establishment to which the industrial dispute relates where an employer is one of the parties to that dispute; and
- (d) where a collective bargaining agent is one of the parties to the dispute, be binding on all workmen who were employed in the establishment or industry to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after the date.

(2) A settlement arrived at by agreement between the employer and a trade union otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.

48. **Effective date of settlement, award, etc.-** (1) A settlement shall become effective.

- (a) if a date is agreed upon by the parties to the dispute to which it relates, on such date; and
- (b) if a date is not so agreed upon, or the date on which the memorandum of the settlement is signed by the parties.

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon,

for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the aforesaid period until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the settlement,

(3) An award given under sub-section (1) of section 45 shall, unless an appeal against it is preferred to the Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Tribunal shall specify date from which the award on various demands shall be effective and the limits by which it shall be implemented in each case:

Provided that if, at anytime before the expiry of the said period any party bound by an award applied to the Labour Court which made the award for reduction of the period on the ground that the circumstances in which the award was made have materially changed, the Labour Court may, by order made after giving to the other party an opportunity of being heard, terminate the said period on a date specified in the order.

(4) A decision of the Tribunal in appeal under sub-section (3) of section 46 shall be effective from the date of award.

(5) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (3) the award shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the award.

49. **Commencement and conclusion of proceedings:-** (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out is received by the conciliator under section 33.

(2) A conciliation proceeding shall be deemed to have concluded:-

(a) where a settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and

(b) where no settlement is arrived at:-

(i) If the dispute is referred to an, Arbitrator under

section 36 on the date on which the Arbitrator has given his award; or otherwise

- (ii) On the date on which the period of the notice of strike or lock-out expires.

(3) Proceedings before the Labour Court shall be deemed to have commenced:-

- (a) in relation to an industrial dispute, on the date on which an application has been made under section 37 or section 39 or on the date on which it is referred to the Labour Court by the Government under section 37 or 38 and-
- (b) in relation to any other matter, on the date on which it is referred to the Labour Court.
- (4) Proceedings before a Labour Court shall be deemed to have concluded on the date on which the award or decision is delivered under sub-section (1) of section 45.

50. **Certain matters to be kept confidential:-** There shall not be included in any report, award or decision under this Ordinance any information obtained by a Registrar, Conciliator Labour Court, Arbitrator or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such authority, if the trade union, person, firm or company in question has made a request in writing to the authority that such information shall be treated as confidential, nor shall such conciliator or any person present or concerned in proceedings disclose any such information without the consent in writing of the secretary of the trade union or person, firm or company in question as the case may be:

Provided that nothing contained in this section shall apply to disclosure of any such information for the purpose of prosecution under section 193 of the Azad Kashmir penal Code.

51. **Raising of industrial disputes:-** No industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a collective bargaining agent or an employer.

52. **Prohibition on serving notice of striking or lock-out while proceedings pending:-** No notice of strike or lock-out shall be served by any party to an industrial dispute while any conciliation proceedings or proceedings before an arbitrator or a

Labour Court or an appeal to the Tribunal under sub-section (3) of section 46 are or is pending in respect of any matter constituting such industrial dispute.

53. **Powers of Labour Court and Tribunal to prohibit strike etc.**

(1) When a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when, in respect of such industrial dispute, there is made to, or is pending before, a Labour Court, an application under section 39 the Labour Court may, by an order in writing, prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to a Tribunal under section 46. The Tribunal may, by an order in writing, prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which had already commenced and was in existence on the date on which the appeal was preferred.

54. **Illegal strike and lock-out:-** (1) A strike or lock-out shall be illegal if:-

- (a) it is declared, commenced or continued without giving to the other party to the dispute, in the prescribed manner, a notice of strike or lock-out or before the date of strike or lock-out specified in such notice, or in contravention of section 52 or
- (b) it is declared, commenced or continued in consequence of an industrial dispute raised in the manner other than that provided in section 51, or
- (c) it is continued in contravention of an order made under section 37 or section 53.
- (d) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of any of the matters covered by a settlement or award.

(2) A lock-out declared in consequence of an illegal strike and a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

55. **Procedure In case of illegal strike or lock-outs:-** (1) Notwithstanding anything contained in any other provision of this Ordinance or in any other law for the time being in force, an "officer of the Labour Department not below the rank of Assistant Director, Labour Welfare, hereinafter in this section

referred to as the officer may make enquiries in such manner as he may deem fit into an illegal strick or illegal lock-out in a factory and make a report to the Labour Court.

(2) After completing the enquiry the officer shall serve a notice on the employer and the collective bargaining agent or the registered trade union concerned with the dispute to appear before the labour Court on a date to be fixed by that Court.

(3) The Labour Court, may within ten days following the day on which it receives a report under sub-section (1) after considering the report and hearing such of the parties as appear before it order the strike to be called off or the lock-out to be lifted.

(4) If the employer contrivance the order of the Labour Court under sub-section (3) and the court is satisfied that the continuance of the lock-out is causing serious heard-ship to the community or is prejudicial to the national interest, it may issue an order for the attachment of the factory and for the appointment of an official receiver for such period as it deems fit, and such period may be varied from time to time.

(5) The official receiver shall exercise the powers of management and may transact business, enter into contract give valid discharge of all moneys received and do or omit to do all such acts as or necessary for conduction the business of the factory.

(6) The Labour Court may, in appointing and regulating the work of an official receiver exercise the powers of a Civil Court under the Code of Civil procedure (Act V of 1908).

(7) If the workers contrivance the order of the Labour Court under sub-section (3) the court may pass orders of dismissal against all or any of the striking workers:

Provided that the court may review its orders if good and sufficient cause is shown by an affected worker within seven days of such orders of dismissal.

(8) Subject to any rules made by the Government in this behalf the officer may for the purpose of enquiry under sub-section (1) within the local limits for which he is appointed, enter with such assistants if any being persons in the service of Azad Jammu and Kashmir, as he thinks fit in a factory, where he has reason to believe an illegal strike or lock-out to be in progress,

and make such examination of the premises and plant and of any registers maintained therein and take on the spot or otherwise such evidence of persons and exercise such other powers as he may deem necessary for carrying out the purpose of this section.

(9) The officer shall have authority to call any party to such dispute to his office or secure his presence in the factory and shall also have the power to bind any party to the dispute to appear before the Labour Court.

(10) Where a part to an illegal strike or lock-out on being required or bound under this section to appear before the officer or the Labour Court, does not so appear, the officer or Labour Court, as the case may be may, besides taking such other action as may be admissible under this Ordinance proceed Exparte.

56. **Conditions of service to remain unchanged while proceedings pending:-** (1) No employer shall, while any conciliation proceeding or proceedings before an Arbitrator a Labour Court or Tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any workman concerned in such dispute, the conditions of service applicable to him before the commencement of the conciliation proceedings or of the proceedings before the Arbitrator, the Labour Court or Tribunal, as the case may be, not shall be-
- (a) save with the permission of the conciliator, while any conciliation proceedings are pending, or
 - (b) save with the permission of the Arbitrator, the Labour Court or Tribunal, while any proceedings before the Arbitrator, Labour Court or Tribunal are pending, discharge, dismiss or otherwise punish any workman except for misconduct not connected with such dispute.
- (2) Notwithstanding anything contained in sub-section (1) an officer of a registered trade union shall not, during the tendency of any proceedings referred to in sub-section (1) be discharged, dismissed or otherwise punished for misconduct, except with the previous permission of the Labour Court.
57. **Removal of fixed assets:-** No employer shall remove any fixed assets of the establishment during the currency of illegal lock-out or a strike which is not illegal.
58. **Protection of certain persons:-** (1) No person refusing to take part or to continue to take part in any illegal strike illegal lock-

out, shall, by reason of such refusal, be subject expulsion from any trade union or to any fine or penalty to the deprivation of any right or benefit which he or his legal representatives would otherwise have been entitled; or liable to be placed in any respect, either directly or indirectly, under any disability or disadvantage as compared with other members of the trade union.

(2) Any contravention of the provisions of sub-section (1) may be made the subject-matter of an industrial dispute, and nothing in the constitution of trade union providing the manner in which any dispute between its executive members shall be settled, shall apply to proceedings for enforcing any right or exemption granted by sub-section (1). In any such proceeding, the Labour Court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the funds of the trade union such sum by way of compensation or damages as the court thinks just.

59. **Representation of parties:-** (1) A workman who is a party to an industrial dispute shall be entitled to be presented in any proceedings under this ordinance by an officer of a collective bargaining agent and subject to the provision of sub-section (2) and sub-section (3) any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceeding by a person duly authorised by him.

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Ordinance.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before the Labour Court, or before an Arbitrator, with the permission of the Court on the Arbitrator as the case may be.

60. **Interpretation of Settlement and awards:-** (1) If any difficulty or doubt arises to the interpretation of any provisions of an award or settlement, it shall be referred to the Tribunal constituted under this Ordinance.

(2) The Tribunal to which a matter is referred under subsection (1) shall after giving the parties an opportunity of being heard, decide the matter and its decision shall be final and binding on the parties.

61. **Recovery of money due from an employer under a settlement**

or award. (1) Any money due from an employer under a settlement or under an award or decision of the arbitrator, Labour Court or Tribunal may be recovered as arrears of land revenue or as a public demand. If upon the application of the person entitled to the money the Labour Court so directs.

(2) Where any workman is entitled to receive from the employer any benefit, under a settlement or under an award or decision of the Arbitrator, Labour Court or Tribunal, which is capable of being computed in terms of money, the amount at which such benefit shall be computed may, subject to the rules made under this Ordinance, be determined and recovered as provided for in sub-section (1) and paid to the workman concerned with in a specified date.

62. Any act or function which is by this Ordinance required to be performed by or has been conferred upon a collective bargaining agent may, until a collective bargaining agent has been ascertained under the provisions of this Ordinance be performed by a registered trade union which has been recognized by the employer or employers.

PENALTIES AND PROCEDURE.

63. **Penalty for unfair labour practices:-** (1) Whoever contravenes the provisions of Section 11 shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both.

(2) Whoever contravenes the provisions of section 18 shall be punishable with imprisonment which may extend to four years, or with the fine, which may extend to five thousand rupees or with both.

(3) Any workman who contravenes the provisions of Section 19 shall be punishable with imprisonment which may extend to three years, or with fine which may extend to two hundred rupees or with both.

(4) An Officer of a Trade Union, a workman or person other than a workman who contravenes or abets the contravention of the provisions clause (d) of sub-section (1) of section 19 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to two thousand rupees or with both.

(5) Where the person accused of an offence under sub-section (4) is an officer of Trade Union, he shall cease to hold

the office of such officer and be disqualified from holding any office in any Trade Union during the term immediately following the term in which he so ceases to hold office.

(6) Whoever contravenes the provisions of Section 57 shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both.

64. **Penalty for Committing breach of settlement:-** Whoever committing any breach of any term or any settlement, award or decision which is binding on him under this Ordinance shall punishable:-
- (a) for the first offence, with imprisonment for a term which may extend to one year or with fine which, may extend to five hundred rupees, or with both; and
 - (b) for each subsequent offence with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.
65. **Penalty for failing to implement settlement etc:-** Whoever wilfully fails to implement any term of any settlement, award or decision which it is his duty under this Ordinance to implement, shall be punishable with, imprisonment for a term which may extend to one year, or with a fine which may extend to rupees five hundred or with both, and in the case of continuing failure, with a further fine which may extend to two hundred rupees for every day after the first during which the failure continues,
66. **Penalty for false statement, etc:-** Whoever wilfully makes or causes to be made in any application or other document submitted under this Ordinance or the rules thereunder any statement which he knows or has reason to believe to be false, or wilfully neglecting or fails to maintain or furnish any list, document or information one he is required to maintain or furnish under this Ordinance or the rules thereunder, shall be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to five hundred rupees, or with both.
67. **Penalty for illegal strike or lock-out:-** (1) Any workman who commences, continues otherwise acts in furtherance of, an illegal strike shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

(2) Any employer who commences, continues or otherwise acts in furtherance of an illegal lock-out shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing offences with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

68. **Penalty for instigating illegal strike or lock-out:-** Whoever instigates or incites others to take part in or expends or supplies money or otherwise acts in furtherance or support of an illegal strike or an illegal lock-out shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

69. **Penalty for taking part in or instigating go-slow:-** Whoever takes part in, or instigates or incites others to take part in or otherwise acts in furtherance of a go-slow shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation:- In this section go slow means an organized, deliberate and purposeful slowing down of normal out-put of work by body of workmen acting in a concerted manner, but does not include the slowing down of normal output, of work which is due to mechanical defect, break-down of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.

70. **Penalty for discharging officer or trade union in certain circumstance etc:-** Any employer who contravenes the provisions of section 56 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

71. **Penalty for embezzlement or mis-appropriation of funds:-** Any officer or any other employee of a registered trade union guilty of embezzlement or mis-appropriation of trade union funds shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to a fine, which shall not exceed the amount found by the court to have been embezzled or mis-appropriated upon realisation, the amount of fine may be reimbursed by the court to the trade union concerned.

72. **Penalty for other offences:-** Whoever contravenes, or fails to

comply with any of the provisions of this Ordinance, shall, if no other penalty is provided by this Ordinance for such contravention or failure be punishable with fine which may extend to two hundred and fifty rupees.

73. **Offences by corporations:-** Where the person guilty of any offence under this Ordinance is a company or other body corporate, every Director, Manager, Secretary or other officer or agent thereof shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.
74. **Trial of offences:-** No court other than a Labour Court or that of a Magistrate of the First Class shall try any offence punishable under this Ordinance.

MISCELLANEOUS

75. **Indemnity:-** No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this ordinance or any rule.
76. **Registrar, etc., to be public servants:-** A registrar, a Conciliator the Presiding Officer of a Labour Court and the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Azad Jammu and Kashmir penal Code (Act XIV of 1860),
77. **Limitation:-** The provisions of Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply in computing the period within which an application is to be made, or any other thing is to be done, under this Ordinance.
78. **Powers to make rules:-** (1) The Government may make rules for carrying out the purposes of this Ordinance.
- (2) Rules made under this Section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.
79. **Offences to be non-Cognizable:-** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) no police Officer shall be competent to arrest without warrant an employer or a worker for an offence under this Ordinance.

SCHEDULE.

Public utility Service:- see Section 2 (20)

1. The generation, production, manufacture or supply of electricity, gas, oil or water to the public.
2. Any system of public conservancy or sanitation.
3. Hospital and ambulance service.
4. Fire fighting Service.
5. Any postal, Telegraph and telephone Service.
6. Watch and Ward staff and security services maintained in any establishment.

Sd/-
Asstt. Legal Remembrance,
Azad Kashmir Govt.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT
MUZAFFARABAD.**

Dated the September 14, 1974.

No.2291/SL/74. The following Ordinance approved by the Legislative Assembly of Azad Jammu and Kashmir at its meeting held on 2nd September, 1974, and assented to by the President on 4th September, is hereby published for general information:-

(ORDINANCE IV OF 1974)³

AN ORDINANCE to establish Mirpur Development Authority.

WHEREAS it is expedient to establish a "Development Authority" for making all arrangements for the planning and development of the specified areas of District Mirpur within the framework of a regional development plan;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all other powers enabling him in that behalf, the President is please to make and promulgate the following Ordinance:-

CHAPTER-I (Preliminary).

1. **Short title, extent and commencement.** (1) This Ordinance may be called the Mirpur Development Authority Ordinance, 1974.
 - (2) It extends to specified Areas of Mirpur District.
 - (3) It shall come into force at once.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context:-
 - (a) 'Agency' means any department or organization of the Government and includes a corporation, or other

³ This Ordinance was passed by the Legislative Assembly on 2nd September 1974 as an Act and retained its name as an Ordinance while issuance on September 14, 1974

autonomous or semi-autonomous body set up by the Government;

- (b) 'Authority' means the Mirpur Development Authority established under Section-4
- (c) 'Board' means the Board constituted under Section-6;
- (d) 'Building' includes any factory, industrial or business establishment, shop, godowns, warehouse, house, outhouse, hut, hutment, shed, garage, stable, well or platform, and any other structure, whether meant for residential or business purposes or not, made of masonry, bricks, wood, mud, thatch, metal or any other material, but does not include a temporary structure made for purposes connected with agriculture;
- (e) 'Chairman' means the Chairman of the Authority;
- (f) 'Commissioner' means the Revenue Commissioner of Azad Government of the State of Jammu and Kashmir, and includes any other Officer appointed by the Government to exercise the powers of the Commissioner under this Ordinance;
- (g) 'Deputy Commissioner' means the Deputy Commissioner of the Mirpur District, and includes any other officer appointed by the Government to exercise all or any of the powers and discharge all or any of the functions of the Deputy Commissioner under this Ordinance;
- (h) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (i) 'Land' includes buildings and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (j) 'Local Body' means the local body, the local council or the municipal body as established under law for the time being in force having jurisdiction in the area concerned, and includes an Improvement Trust within such area;
- (k) 'Member' means a member of the Authority;
- (1) 'President' means the President of Azad Government of the State of Jammu and Kashmir;

- (m) 'Rules' means rules made under this Ordinance;
- (n) 'Scheme' means a planning scheme or a development scheme made under this Ordinance;
- (o) 'Specified Areas' means the areas specified in the schedule, and such other area or areas as may from time to time be included therein by the Government by notification in the official Gazette;

3. **Declaration of Specified Areas.**

(1) The Government may, from time, to time by notification in the Official Gazette, declare any part or parts of Mirpur District to be Specified Areas.

(2) Notwithstanding anything contained in this Ordinance or in any other law any such notification as aforesaid may be made so as to be retrospective to any day not earlier than the first day of June 1974, and where a notification is so made, the provisions of this Ordinance shall, in so far as they affect the Areas Specified, apply as if this Ordinance were promulgated on the day to which the notification is made retrospective.

CHAPTER-II (Constitution of the Authority)

4. **Constitution of the Authority.**

(1) There shall be established an authority to be known as the Mirpur Development Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with powers subject to the provisions of this Ordinance, to acquire and hold property, both moveable and immoveable, and shall by the said name sue and be sued.

5. **Management.**

(1) The general direction and administration of the Authority and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board in discharging its functions shall act on sound principles of development, town planning and housing and shall be guided on questions of policy by such directions as the

Government may from time to time give.

(3) If any question arises as to whether any matter is a matter of policy or not the decision of the Government shall be final.

6. **Constitution of the Board.**

(1) The Board shall consist of not less than three members to be appointed by the Government.

(2) The Government shall appoint a Chairman and a Financial Adviser from amongst the members.

(3) The Chairman and other members shall hold office during the pleasure of the Government and unless sooner removed the Chairman and the Financial Adviser shall hold office for a period of five years and other members shall hold office for a period of four years.

(4) Any person, ceasing to be Chairman, Financial Adviser or member of the Board, by reason of the expiry of the term of his office, shall be eligible for re-appointment for another term or for such shorter term as the Government may decide.

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

(6) The Chairman, Financial Adviser, or any member may at any time resign; provided that his resignation shall not take effect until accepted, by the Government.

7. **Remuneration and conditions of Service.** The Chairman and each member shall receive such salary and allowances and shall be subject to such conditions of service as may be determined by the Government.

8. **Dis-qualification of the members.** No person shall be or shall continue to be a member, who:-

- (a) is, or, at any time, has been, convicted of an offence involving moral turpitude; or
- (b) is, or, at any time, has been adjudicated insolvent; or
- (c) is found to be a lunatic or of un-sound mind; or

- (d) is a minor; or
- (e) has financial interest in any scheme or a conflicting interest directly or indirectly between his interests as a member and his private interests and has failed to disclose such interest in writing to the Government;
- (f) if he is for the time being dis-qualified for membership of an elective body under any law for the time being in force.

9. **Duties and functions of Chairman and other members,-**

(1) The Chairman and other members shall discharge such duties and perform such functions as are assigned to them by or under this Ordinance .

(2) Until the Board is duly constituted, the Chairman shall, subject to such directions as the Government may from time to time give, exercise the powers, discharge the duties and perform the functions of the Board.

10. **Headquarters of the Authority and Meetings of the Board.-**

(1) Headquarters of the Authority shall be situated at Mirpur.

(2) The meetings of the Board shall be held at such time and places and in such manner as the regulations may provide;

Provided that until regulations are made in this behalf, the meetings of the Board shall be held at such time and place as determined by the Chairman.

CHAPTER-III
(Functions and Powers of the Authority).

11. **Master- plan and Master-programme.-** The Authority may, or if so directed by the Government, shall prepare master-plan and phased master-programme for the development of any part or whole of the specified areas of the District of Mirpur and all such plans and programmes prepared from time to time shall be submitted to the Government for approval;

Provided that the Authority may issue interim development orders for areas for which master plan is being contemplate or is under preparation and restrict or prohibit by general or special order any change in the use of land and

alteration in building structures and installations.

12. **Preparation of Schemes by local bodies or Agencies.**

(1) The Authority may, pursuant to the master plans and the master programmes, call upon any local body or agency operating in the specified areas to prepare, in consultation with the Authority, a scheme or Schemes in respect of matters ordinarily dealt with by such local body or agency, and thereupon the local body or agency shall be responsible for the preparation of the Scheme or Schemes within reasonable time.

(2) Such Schemes, may relate to :-

- (a) land use, zoning and land reservation;
- (b) public buildings;
- (c) industry;
- (d) transportation and communications, highways, roads, streets, railways, aerodromes and in land water transport;
- (e) telecommunications including wireless, television, radio, telephone;
- (f) utilization of water, power and other natural resources;
- (g) a forestation, range-management and horticulture;
- (h) Vegetable farming, Dairy farming, Poultry farming, Fish farming, Cattle farming and other operations for ensuring regular fish supplies of daily use;
- (i) Establishment of consumers stores, ware housing facilities, cold storage and other marketing facilities;
- (j) community planning, housing, slum clearances, amelioration;
- (k) Community facilities including water supply sewerage, drainage, sewerage disposal, electricity supply, gas supply and other public utilities;
- (1) preservation of objects and places of historical and scientific interest or natural beauty.

(3) The Government may by notification in the official

Gazette, and to, alter or amend the list of subjects given in sub section (2), and any such addition, alteration or modification shall take effect as if it had been enacted in this Ordinance.

(4) The expenditure incurred on the preparation of any such schemes as aforesaid shall be borne as agreed to between the authority and the local body or agency, and in the event of disagreement between them as may be determined by the Government;

(5) No planning or development scheme shall be prepared by any person or by any local body or agency except with the concurrence of the Authority.

13. **Preparation of schemes by Authority.** The Authority may, pursuant to the master-programmes, itself prepare, when it considers it desirable to do so in the Public interest, schemes for the specified areas relating to the matters enumerated in sub section (2) of Section 12.
14. **Manner and form etc. of Scheme.** All schemes under Section 12 and Section 13 shall be prepared in such manner and form as the Government may specify, and shall contain among other things the following information, namely:-
 - (a) description of the scheme and the manner of its execution;
 - (b) estimate of costs and benefits;
 - (c) allocation of costs to the various purposes to be served by the scheme.
15. **Power of the Authority.-** (1) Subject to the other provisions of this Ordinance and the rules, the Authority may take such measures and exercise such powers as may be necessary for the carrying out of the purposes of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by sub section (1) the Authority may:-

 - (i) **Power to purchase or lease by agreement.** The Authority may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange of any land which the Authority is authorised to acquire, or any interest in such land.

- (ii) Power to acquire land under the Land Acquisition Act, 1894. The Authority may with the previous sanction of the Government, acquire for carrying out the purposes of this Ordinance land under the provisions of the Land Acquisition Act, 1894 (I of 1894), as in force in Azad Kashmir.
- (iii) undertake any works in the specified areas in pursuance of any scheme prepared under Section 13;
- (iv) incur any expenditure;
- (v) procure plant, machinery, instruments and materials required, for its use;
- (vi) enter into and perform all such contracts as it may consider necessary;
- (vii) spouser, for the purpose of giving effect to any of the provisions of this Ordinance, limited liability companies under the Companies Act, Cooperative Societies under the Cooperative Societies Act or Registered Societies under the relevant Acts, and .upon its request be represented on the Management of any such Company or Society;
- (viii) cause studies, survey, experiments and technical researches to be made or contribute towards the cost of any such studies, survey, experiments or technical researches made by any other agency at the request of the Authority;
- (ix) cause removal, of any works obstructing the execution of its schemes;
- (x) seek and obtain advice and assistance for the preparation of any planning scheme or for the execution of any schemes from any local body or agency and such local body or agency shall give the advice and assistance sought by the Authority to the best of its ability, knowledge and judgment, and the additional expenditure, if any, involved in giving such advice or assistance shall be borne by the Authority.
- (xi) undertake any work or perform any function connected with or incidental to the purposes of this Ordinance that may be assigned to it by the Government from time to time.

- (xii) recover such development cess from the beneficiaries for improvement or development of any area as may be approved by the Government by a general or special order.

16. **Execution of schemes etc. through local bodies and agencies.-** (1) The Authority may require a local body or agency within whose jurisdiction any particular area covered by a scheme lies:-

- (a) to execute a scheme in consultation with the Authority;
- (b) to take over and maintain any of the works and service in that area;
- (c) to enforce regulations, on behalf of the Authority.

(2) The expenditure incurred on the execution of any scheme, or on the taking over or maintenance of any work or the enforcement of regulations, under this section, shall be borne as may be agreed to between the Authority and the local body or agency, and in the event of disagreement as may be determined by the Government

17. **Consultation with the Authority,** (1) The Authority shall be consulted in the utilization and allocation of natural resources in the specified areas to various uses.

(2) Without prejudice to the general provision of sub-section (1) and notwithstanding anything contained in any other law for the time being in force or in any contract or agreement, no person shall, without the prior concurrence of the Authority, allocate, exploit, or in any manner utilize, except for the purposes or his own personal use, such natural resources used as building material as the Authority may, by notification in the official Gazette, specify in this behalf.

18. **Amendment of Schemes.** Any scheme prepared under Section 12 or Section 13 may at any time be amended or modified;

- (a) in cases where the amended or modified scheme should exceed the financial powers of the Authority, by the authority, with the previous approval in writing of the Government; and
- (b) in other cases, by the Authority.

19. **Performance of Municipal Functions by the Authority.** (1) For facilitating the preparation or execution of any scheme under section 12, the discharge of any functions under different provisions of this Ordinance, or the overall improvement of the working of any Local Body, the Government may by a Notification in the official Gazette declare subject to such restrictions and modifications as may be prescribed, that the Authority shall, notwithstanding anything contained in any other law for the time being in force, exercise the powers and discharge the functions of the Local Body, under the provision of Act constituting that Local Body.
- (2) When a notification under Sub Section (1) is issued all powers and functions under the Act, constituting that local body
- (a) vested in the Government shall be discharged by the Authority;
- (b) vested in the Controlling Authority/Commissioner and the Deputy Commissioner shall be discharged by the Chairman;
- (3) The Authority or the Chairman may delegate subject to any limitation any powers exercisable by it or by him under Sub section (2) to any officer or servant of the Authority.
20. **Regulatory Functions of the Authority.** (1) The Government may, when it is considered expedient. or conclusive to better performance of different functions under this Ordinance, declare subject to such restrictions and modifications as may be prescribed by a notification in the official Gazette that specified regulatory functions or powers under the provisions of relevant Acts, shall be performed or exercised by the Authority or its Chairman;
- (2) The Authority or the Chairman may delegate subject to any limitations any powers exercisable by it or him under Sub-section (1) to any officer or servant of the Authority.
21. **Removal etc., of building after hearing.** The Authority shall not order or cause any building in specified areas, to be removed or demolished unless an opportunity of being heard has been given to the owner or occupier thereof, and his objections, if any, have been duly considered and the Authority is satisfied that removal or demolition of the building is essential to the execution of its schemes.

22. **Scheme to be executed after calling objections.** The Authority shall not execute or cause to be executed any scheme in the specified Areas, unless the persons whose rights and interests are thereby affected have been given a reasonable opportunity to file their objection to such execution and the Authority has heard such of them as it considers necessary.

CHAPTER - IV (ESTABLISHMENT)

23. **Appointment of Officers and servants etc.** (1) The Authority may, from time to time, appoint such Officers, servants, experts or Consultants as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit.

Provided that a salaried officers and servants whose remuneration exceeds two thousand rupees per mensem shall not be appointed except with the previous approval in writing of the Government.

(2) Subject to the proviso to sub-section (1), the Chairman may, in cases of urgency, appoint such officers, servants, experts or consultants and on such terms and conditions as he deems fit;

Provided that every appointment made under this sub section shall be reported to the Authority without unreasonable delay.

24. **Recruitment, conditions of service and disciplinary Powers.** The Authority may lay down the procedure for the appointment of its officers, servants, experts and consultants and shall be competent to take disciplinary action against them.
25. **Members, Officers, Experts, Public servants** The Chairman, members, officers, servants, experts and consultants of this Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance be deemed to be public servants within the meaning of Section 21 of the Azad Kashmir Penal Code (Act XIV of 1860).
26. **Indemnity.** No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, any member, officer, servant, expert or consultant of the Authority in respect of any thing done or intended to be done, in good faith under this Ordinance.
27. **Delegation of Powers to Chairman etc.** The Authority may, by

general or special order, delegate to the Chairman, or a member or an officer of the Authority, any of its powers, duties or functions under this Ordinance, subject to such conditions as it may think fit to impose.

CHAPTER-V (FINANCE).

28. **Mirpur Development Authority Fund.** (1) There shall be formed a fund to be known as the Mirpur Development Authority Fund' which shall vest in the Authority and shall be utilized by the Authority to meet charge's in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Chairman, members, Officers, servants, experts and consultants of the Authority.
- (2) To the credit of Mirpur Development Authority Fund shall be placed:-
- a) grant made by the Government from time to time for the execution of its schemes and conduct of its business ;
 - b) loans obtained from the Government ;
 - c) grants made by the local bodies ;
 - d) sale proceeds of movable and immovable property and receipts for services rendered ;
 - e) loans obtained by the Authority with the special or general sanction of the Government ;
 - f) all other sums receivable by the Authority.
29. **Budget.** (1) In accordance with the time schedule to be laid down by the Government from time to time each year the Authority shall submit to the Government for approval a statement of estimated receipts and expenditure in rupees in respect of the next financial year ;
- (2) In the manner prescribed by the Government the Authority shall also submit to the Government for approval a statement of estimated receipts and expenditure in foreign exchange in respect of the next financial year.
- (3) The Authority shall obtain specific sanction of the Government in respect of each individual scheme to finance out of the Mirpur Development Authority Fund.

Provided that the Authority may without reference to the Government execute any scheme the provisional estimated cost of which does not exceed rupees five lacs and specific provision for which exists in its annual estimates of receipts and expenditure.

30. **Accounts and Audit.** (1) The Authority shall maintain accounts in such manner as may be prescribed by rules framed by it with the approval of the Government.
- (2) The Authority shall with the previous approval of the Government appoint Auditors for auditing its accounts.
- (3) The Auditors appointed under sub-section (2) shall send three copies of the Audit Report to the Authority which shall forward two copies thereof with its comments to the Government.
- (4) The Authority shall comply with such directions as the Government may give for the rectification of any matter objected to in audit.
31. **Consultation with the Financial Advisor.**- Save as provided in the rules or regulations the Financial Advisor shall be consulted on every proposal of expenditure and when his opinion differs from majority opinion of the Board, the decision of the majority shall prevail, however such cases shall be reported by the Chairman in writing to the Government.

CHAPTER-VI **(Penalty and Procedure).**

32. **Penalty.** Whoever contravenes any provision of this Ordinance or of any rules or regulations made or scheme sanctioned thereunder shall, if no other penalty is provided for such contravention, be punishable with imprisonment which may extend to 3 month or with fine, or with both.
33. **Causing damage to property.** Whoever wilfully causes damage or allows damage to be caused to any property which vests in the Authority or unlawfully converts it to his own use or to that of any other person shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.
34. **Disobedience of orders.** Whoever, without lawful excuse, fails or refuses to comply with any direction or order issued by the Authority under this Ordinance shall be guilty of an offence

punishable under Section 32.

35. **Attempts and abetments.** Whoever attempts to commit or abets the commission of an offence punishable under this Ordinance shall be deemed to have committed the offence.
36. **Summary trial of offences.** Any Magistrate or Bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub section (1) of Section 260 of the Code of Criminal Procedure, 1898, may, if such Magistrate or Bench of Magistrates thinks fit, on application being made in this behalf by the prosecution, try any offence punishable under this Ordinance in accordance with the provisions contained in Sections 262 to 268 of the said Code.
37. **Cognizance of offences by Courts.** No court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Authority or by an officer authorised for the purpose by the Authority.

CHAPTER—VII (Miscellaneous).

38. **Submission of yearly reports and returns etc.** (1) The Authority shall submit to the Government, as soon as possible after the end of every financial year but before the last day of December next following, a report on the conduct of its affairs for that year.

(2) The Government may, after giving sufficient notice to the Authority, require it to furnish the Government with:-
 - (i) any return, statement, statistics, or other information regarding any matter under the control of the Authority, or
 - (ii) a report on any subject with which the Authority is concerned, or
 - (iii) a copy of any document in the charge of the Authority, and the Authority shall comply with every such requisition.
39. **Power to dispose of land.** The Authority may retain or may lease, sell, exchange, rent or otherwise dispose of any land vested in it.
40. **Recovery of dues etc.** Any sum due to the Authority from, or any sum wrongly paid to, any person under this Ordinance shall

be recoverable as arrears of land revenue.

41. **Summary ejectment of unauthorized occupants.** The Deputy Commissioner or any person authorised by him or the Authority in this behalf may, after giving fifteen days notice, summarily eject any person in unauthorized occupation of any land or property vested in the Authority and may, for such ejectment, use such force including police force as may be necessary.
42. **Removal of building etc. erected or used in contravention of this Ordinance.** (1) If any building, structure, work or land is erected, constructed or used in contravention of the provisions of this Ordinance or of any rule, regulation or order made thereunder, the Deputy Commissioner, or any person empowered in this behalf by the Authority, may, by order in writing, require the owner, occupier, user or person in control of such building, structure, work or land to remove, demolish or so alter the building, structure or work, or to desist from using or to so use the land, as to be in accordance with the said provisions.

(2) If an order under sub section (1) in respect of any building, structure, work or land is not complied with within such time as may be specified therein, the Deputy Commissioner, or any person empowered in this behalf by the Authority, may, after giving the person affected by the order an opportunity of being heard, remove, demolish or alter the building, structure or work, or stop the use of the land and, in so doing, may use such force including police force as may be necessary and may also recover the cost thereof from the person responsible for the erection, construction or use of the building, structure, work or land in contravention of the provisions as aforesaid.
43. **Police assistance,** The Officer-in-charge of a Police Station shall render such police assistance as the Deputy Commissioner or any person empowered in this behalf by the Authority may require in the discharge of his functions under this Ordinance.
44. **Jurisdiction of Courts barred.** Save as otherwise provided by this Ordinance or by the Azad J&K Govt. Act, 1970, as amended, no court or other authority shall have jurisdiction to question the legality of anything done or any action taken under this Ordinance by or at the instance of the Authority.
45. **Admissibility of document or entry as evidence.** A copy of any receipt, application, plan, notice, order or other document or of any entry in a register, in the possession of the Authority shall,

if duly certified by the legal keeper there of or other person authorised by the Authority in this behalf, be admissible in evidence of the existence of the document of entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters.

46. **Power to make rules.** (1) Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particulars and without prejudice to the generality of the foregoing powers, such rules may provide for:-

- (a) the manner of keeping accounts of the Authority;
- (b) the recruitment and terms and conditions of service of officers and servants of the Authority;
- (c) the form and manner in which and the authorities to whom returns, reports or statements shall be submitted;
- (d) the date by which, and the forms in which, the annual budget statement shall be submitted in each year;
- (e) the procedure for appropriation and re-appropriation of moneys at the credit of the Authority; and
- (f) such other matters relating to the administration of the affairs of the Authority as Government may think fit to regulate by rules.

47. **Power to make regulations.-** (1) The Authority may, with the previous sanction of the Government, make regulations to provide 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 said rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for:-

- (a) the meetings of the Board ;
- (b) development of residential and commercial localities;
- (c) construction of buildings ; and
- (d) removal of encroachments on roads, streets and other

public places.

48. **Repeal and Savings.-** (1) The new Mirpur Town (Allotment of land) Act, 1964, hereinafter referred to as the said Act, and rules and orders made thereunder by the Government, are hereby repealed

(2) Notwithstanding the repeal of the said Act, and without prejudice to section 24 of the General Clauses Act, 1897 (X of 1897)

- (a) The Allotment Committee constituted under the said Act and functioning immediately before the commencement of this Ordinance shall discharge the functions of allotment cancellation of allotment only, and be deemed to be, the Allotment Committee established under this Ordinance, until altered or substituted by the Government.
- (b) The Allotment Committee established under the said Act, shall function in accordance with the regulations to be framed by the Authority with the previous sanction of the Government, and till such regulations are framed, the Committee shall function in accordance with the rules framed and order issued under the said Act.
- (c) All assets, rights and all property, movable and immovable, and all interest therein and all debts, liabilities and obligations of the Allotment Committee constituted under the said Act shall stand transferred to, and be deemed to be assets, rights property and interest of, the Authority established under this Ordinance.

(3) The appellate Authority created under the said Act shall stand dissolved and all appeals and other proceedings pending with the appellate or any other authority in respect of order of allotment , shall be forwarded by the authority/authorities with whom such appeals or proceedings are pending to the Allotment Committee which in suitable cases may review the previous orders made in connection with the allotment or cancellation of allotment of land.

(4) The land allotted by the Allotment Committee shall be formally transferred by the Authority under the relevant law of the land.

49. **Dissolution of Authority and transfer of its assets and**

liabilities to the Government and other Agency determined by the Government. (1) The Government may, by notification in the official Gazette, declare that the Authority shall be dissolved on such date as may be specified in such notification, and the Authority shall stand dissolved accordingly.

(2) On and from the said date:--

- (a) (i) all properties, funds and dues placed at the disposal of the Authority, by the Government and;

(ii) all properties, funds and dues, exchanged for, derived from, or otherwise attributable to the properties, funds and dues referred to in sub clause (1), which, immediately before the said date, were held by or were realisable by the Authority shall vest in, and be realisable by, the Government;
- (b) all properties, funds and dues other than those referred to in clause (a), which, immediately before the said date were vested in or were realisable by the Authority shall vest in and be realisable by such agency as the Government may determine, and its decision thereon shall be final;
- (c) all liabilities which, immediately before the said date, were enforceable against the Authority shall be assumed by and be enforceable against the Government or such Agency as the Government determines under clause (b), as the case may be;
- (d) for the purpose of completing the execution of any scheme which has not been fully executed by the Authority and of realizing properties, funds and dues referred to in clauses (a) and (b), the functions of the Authority under this Ordinance shall be discharged by the Government or by the Agency determined by the Government under clause (b) and (c), as the case may be; and
- (e) the Agency referred to in clauses (b), (c) and (d) shall keep such accounts of all moneys respectively received and expended by it under this Ordinance, as the Government may prescribe.

THE SCHEDULE
Limits of the Specified Area

The limits of the Specified Areas of Mirpur District shall be coterminous with the Revenue limits of Mirpur Tehsil.

Sd/-
(Sardar Mohammad Abdul Oayyum Khan)
President,
Azad Government of the State of Jammu & Kashmir.

Sd/-
Malik Mohammad Aslam Khan)
Secretary Law and Parliamentary Affairs
Azad Government of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

No. 1488/SL/74. The following ordinance made and promulgated by the President on 5-6-1974 is hereby published for general information.

(ORDINANCE NO. V OF 1974)⁴

WHEREAS it is expedient to make provisions for the administration and development of Chhamb Area:

AND WHEREAS it is expedient to develop the agriculture and other land resources of the area for the betterment of the community at large;

AND WHEREAS the Legislative Assembly is not in session, and the President is satisfied that circumstances exist and emergency has arisen which renders an immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970, and all powers enabling him in that behalf, the President, Azad Government of the State of Jammu and Kashmir, is pleased to make and promulgate the following Ordinance:-

1. **Short title and commencement:-** (1) This Ordinance may be called The Chhamb Area Administration and Development Ordinance, 1974.

(2) It shall come into force at once.
2. **Definitions:-** In this Ordinance, unless there is something repugnant in the subject or context—
 - (1) 'Chhamb area' means the entire area situated between 1949 cease-fire-line and 1972 Control Line in Bhimber Tehsil of Mirpur District;
 - (2) 'Commissioner' means the Relief and Rehabilitation Commissioner appointed by the Government to perform all or any of the functions and exercise all or any of the powers of a

⁴ This law was issued as an Ordinance but got force of an Act in view of Section 51 of AJ&K Interim Constitution Act, 1974.

Commissioner under this Ordinance or the Rules made thereunder;

(3) 'Deputy Commissioner' means the Chief Executive of the District;

(4) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(5) 'Land owner' means a person who was in possession of an estate or any share or portion thereof or in the enjoyment of any part or profit of an estate in Chhamb Area on 24th October, 1947;

(6) 'Prescribed' means prescribed by Rules made by the Government under this Ordinance;

(7) 'Revenue Officer' has the same meaning as assigned to it under Section 3 (12) of the Punjab Land Revenue Act of 1887, as adapted in Azad Kashmir.

3. **Power to take over possession:-** (1) The Deputy, Commissioner Mirpur, shall, on behalf of the Government, take over the possession of the Chhamb Area.

(2) The, possession of the area already taken over shall be deemed to have been taken over on behalf of the Government.

4. **Allotment of Land:-** (1) The Government may allot the agriculture lands in the area to the following:

(i) Land owners of the area who hold no allotment of agriculture land either in Pakistan or in Azad Kashmir;

(ii) 1965 War refugees from Indian held Kashmir duly registered with the Deputy Commissioners of the respective districts in Azad Kashmir;

(iii) 1971 War displaced persons;

(iv) Ex- Servicemen.

(2) Allotment to these categories of persons shall be made in the prescribed manner.

5. **Bar on Right or Title to any Particular Land:** Notwithstanding anything contained in any other law for the time being in force in Azad Kashmir or any entry in the record of

rights, no person shall be entitled to the allotment or shall be deemed to have any right or title to have any particular land or lands in Chhamb area.

6. **Power to enter upon and take possession:-** When the Deputy Commissioner is satisfied that any person has taken or is in possession of land in the area to which, he has no right or title under this Ordinance, the Deputy Commissioner shall, forthwith, enter upon the land with the use of such force as may be necessary and resume possession of it and take possession of all crops, trees and buildings thereon on behalf of the Government without payment of any compensation whatsoever.
7. **Condition for allotment:-** No person shall be deemed to be an allottee or to have any right or title of land allotted to him until such a written order has been passed and has been put in possession of the land by a Revenue Officer.
8. **Cancellation of allotment:-** If any person proved to have obtained allotment on the basis of false information his allotment shall be cancelled.
9. When the Deputy Commissioner is satisfied that an allottee in possession of land has committed a breach of the conditions of his allotment, he may, after giving the allottee an opportunity to appear and state his objection, order his ejectment from the land and resume its possession allotment to for any other deserving person.
10. **Power to frame schemes:-** The Government may frame a scheme or schemes for the development of Chhamb Area or a part thereof providing for all or any of the following matters:-
 - (1) Layout and construction of townships, Market places, villages and settlements.
 - (2) Provision of facilities for communications, including lay-out and alteration of roads, streets, foot-paths and bridle paths.
 - (3) Provision of open spaces, playing fields, national parks, nature reserves, forests and forests parks, camping grounds, camping sites cemeteries and places of the religious worship.
 - (4) Provision of water supply, electricity, education, health, and agriculture facilities for the betterment of the

community.

- (5) A scheme shall be prepared by the departments concerned in consultation with the Commissioner and the execution of these schemes may be done under supervision of the Commissioner.

11. **Appeal and review:-** (1) (a) Save as otherwise provided by this Ordinance, an appeal shall lie from an original order of a Deputy Commissioner to the Commissioner.

- (b) Orders passed by the Commissioner on an appeal shall be final.

(2) The period of limitation for an appeal under sub-section (1) shall be thirty days from the date of the order appealed against.

12. (1) A Deputy Commissioner and Commissioner, may, either of his own notice or on the application of any party interested, review and, on so reviewing modify, reverse or confirm any order passed by himself or any of his predecessors in office.

(2) An order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appeal and be heard in support of the order.

(3) An order against which an appeal has been preferred shall not be reviewed.

(4) An application for review of an order shall not be entertained unless it is made within 15 days from the passing of the order.

(5) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

13. **Bar on jurisdiction:-** (1) No Court shall have jurisdiction to entertain any suit or an application made to obtain a decision or order in respect of any matter which the Azad Government or any officer is by this Ordinance empowered to decide, or dispose of.

(2) No decision made or order passed by any competent authority under this Ordinance shall be questionable in any Court of Law.

14. **Power to make rules:-** The Government may, by notification in

the official gazette, make rules for carrying out the purposes of this ordinance.

15. **Delegation of power:-** The Government may, by general or special order notified in the official gazette, direct that the powers exercisable by it under this Ordinance shall be exercised by such officer and in such circumstances and under such conditions, if any, as may be specified in the order.
16. **Penalties:-** (1) Whoever contravenes any directions/orders issued under this Ordinance shall be punished with imprisonment of either description for a term which may, extend to three years or a fine of Rs. 1,000 or with both.
- (2) The offences under this Ordinance shall be cognizable, bailable and compoundable.

(Sardar Mohammad Abdul Oayyum Khan)
President,
Azad Govt. of the State of J & K.

Sd/-
(Malik Mohammad Aslam Khan)
Secretary Law,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated September, 14, 1974.

No.2291/SL/74 The following ordinance approved by the Legislative Assembly of Azad Jammu and Kashmir at its meeting held on 21st of August, 1974 and assented to by the President on 1st of September, 1974 is hereby published, for general information.

(ORDINANCE No. VI 1974)⁵

AN ORDINANCE to consolidate and regularize Nautors of Khalsa land.

WHEREAS it is expedient to consolidate and to regularize Neuters of Khalsa land made on or before the issuance of this Ordinance and make provision for grant of Khalsa land in future;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which rendered immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by section 24 of the Azad Jammu and Kashmir Government Act 1970 and all other powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance :-

1. **Short title, extent and commencement** (i) This ordinance, may be called the Azad Jammu and Kashmir Regularization of Nautors and grant of Khalsa land Ordinance, 1974.
(ii) It shall extend to the whole of Azad Jammu and Kashmir
(iii) It shall come into force at once.

Definitions:

2. In this ordinance unless there is anything repugnant in the subject or context :-
 - (i) "Commissioner, Collector and Revenue Officer" shall have the same meaning as defined in the Land Revenue Act.
 - (ii) "Demarcated forest" means such area as was under the

⁵ This Ordinance was approved by the Legislative Assembly on 21st August, 1974 and issued as an Act vide No. 2291/SL/74 dated 14 September, 1974, but retained its name as an Ordinance.

control of the Forest" Department before the commencement of this ordinance, and such areas as are brought under demarcation in accordance with the provisions of any other law for the time being in force.

- (iii) "Government" means the Azad Government of the State of Jammu and Kashmir.
- (iv) "Holding" means a cultivated land holding of a person which shall comprise the proprietary land together with the evacuee land, if any, his possession.
- (v) "Khalsa land" means the land which is entered in the revenue record as such or which may be entered as such on any future date under any law but it does not include the demarcated forest and such other lands which are required for Village common purpose.
- (vi) "Land owner" shall have the same meaning as defined in the Land Revenue Act.
- (vii) "Land Revenue" shall have- the same meaning is defined in the Land Revenue Act.
- (viii) "Nautors " means the existing Neuters made out of Khalsa land on or before the issuance of this ordinance or such Nautors which may be sanctioned in future.
- (ix) "Village common purposes" includes such purposes as grazing land, public roads, village paths, grave yards, water points, cattle ponds, public meeting places or such other purposes as may be past usage or common custom be established to be community purposes in a particular community; or such other purposes as may be prescribed by the Government.
- (x) "Prescribed" means as prescribed by rules under this ordinance.

3. **Regularization of Existing Nautors:** Existing noutars may be regularized as under.-

- (i) A person to whom right in respect of Khalsa land had accrued under council orders No. 38/C, 140/C of Dogra Regime or any order of Poonch State or Government order No. 282/57, and the right could not be granted due to absence of entry in the revenue record as required under Government order No. 282/57, will be entitled to grant of proprietary rights :

Provided it is proved before the Collector of the district,

after such enquiry as may be prescribed, that such person or persons have been in continuous possession of Khalsa land and are recorded as such in the revenue record before RABI 1957 A.D. Such grant may be made on payment of premium and subject to limitations as laid down in the aforesaid orders, as amended from time to time.

Provided further that Nautors which do not fulfill the conditions laid in Government order No. 149/60 dated 11.3.60 shall not be regularized.

(ii) (a) Where the Nautors has been made after RABI 1957 A.D by a land owner whose holding is less than 30 Kanals, such a Nautor may, subject to the conditions of plantation herein after contained, be regularized upto the extent of 30 Kanals including the holding of the Nautor Kunandah, by recording him as tenant at will under Sarkar:

Provided it is proved before a Revenue officer that such person or persons have been in continuous possession of such Khalsa land and are recorded as such on or before the commencement of this ordinance and that the Nautor adjoins the revenue assessed land of the Nautor Kunandah. Such an entry will be made by a mutation to be attested by an officer not below the rank of Assistant Collector 2nd grade:

Provided further that no such Neuters shall be regularized in respect of land likely to be required for any village common purposes.

(b) A land owner in possession of any portion of Nautor in access of 30 Kanals including his own holding, shall be liable to summary ejectment by an officer not below the rank of Naib Tehsildar.

(iii) All Nautors regularized under sub-section (ii) (a) above shall be used by the land owner for plantation of fruit trees, fuel trees etc, as the land owner may choose and no cultivation shall be, undertaken in such areas after the mutation.

Plantation in the said area shall be started within one year of the mutation. Any land owner cultivating in such areas shall be liable to summary ejectment and cancellation of his mutation.

(iv) A land owner in whose name a mutation under subsection (ii) (a) above has been sanctioned shall be eligible for the grant of proprietary rights in such land

with-out any payment provided that:-

- (a) a minimum period of seven years has elapsed since he started plantation.
- (b) The minimum density of plantation per kanal shall be 15 trees in the case of fruit trees and 30 trees in the case of other trees and in the same proportion in the case of mixed plantation.

Proprietary rights shall be sanctioned by the Collecteur of the district after due enquiry that conditions prescribed in clauses (a) and (b) above have been fulfilled. The proprietary rights may be cancelled, at any time, if any breach of the prescribed conditions occurs after the sanction.

- (v) The holding of a Nautor Kunindah for the purposes of sub-sections above shall be the holding as it stood on 1st January 1960 and any transfer made by him after this date shall be reckoned in his holding.
- (vi) No Nautor exceeding 30 kanals including the holding of a Nautor Kunindah shall be regularized in any case and the said Neuter Kunindah shall be summarily ejected by a revenue officer not below the rank of a Naib Tehsildar and the area thus vacated may be granted to other persons in accordance with the succeeding provisions of this ordinance.

4. **Nautors in the demarcated forests.-** Nautors in the demarcated forests shall not be regularized in any case and the Nautor Kunandah shall be ejected forthwith.
5. **Landless resident/tenant.-** A land less resident/tenant of a village who is himself a head of the family and whose main means of livelihood is agriculture will be eligible to get Khalsa land sanctioned in his favour to the extent of 30 kanals subject to the conditions as may be prescribed
6. **Land owner holding less than 30 kanals.-** A land owner whose holding is less than 30 kanals may get Khalsa land sanctioned in his favour to the extent that his holding becomes 30 kanals subject to the conditions as may be prescribed.

7. **Special grant of Khalsa Land.-** The Government may make special grants of Khalsa land for such purposes on payment subject to such limitations as may be prescribed.
8. **Grant of Khalsa Land on Teh-Zamini.-** Khalsa land may be granted for residential, commercial or industrial purposes on payment of surface rent as may be prescribed from time to time.
9. **Appeal, review and revision.-** The provisions of the Punjab Land Revenue Act 1887 and the rules made thereunder, as in force in Azad Kashmir, shall be applicable in matters of appeal, review, revision and other proceedings, unless otherwise provided in this ordinance.

Provided that only one appeal shall lie against an order or ejectment passed by a Revenue officer.

10. **Bar of jurisdiction of Civil Courts.** (1) No civil court shall have jurisdiction on any matter which the Government or any revenue officer is competent to dispose of under this ordinance and shall not take cognizance of the manner in which the Government or any revenue officer exercises any powers vested in it or in him by or under this ordinance or under Government order No. 282/57.

(ii) No civil court shall be competent to issue a temporary injunction in respect of any matter referred to in subsection (i) above.

11. **Power to make Rules.-** The Government may by notification in the official gazette make rules to carrying out the purposes of this ordinance.

12. **Penalties.-** (i) Any person who contravenes any direction or order issued pursuant of the provisions of this ordinance shall be liable to a fine Rs. 200/- to be imposed by the Collector of the district.

(ii) Any person who, without lawful authority, clear or breaks up any land in a Forest or erects a fence or enclosure for cultivation or for any other purpose or otherwise encroaches upon or takes possession of such land by illegal trespass shall be punishable with imprisonment of either description for a term which may extend to three years and with fine.

(iii) Where any person is convicted by a court under this section or under any other law for the time being in force for breaking, clearing or otherwise encroaching upon any land in a forest, such court shall order, his ejectment and shall restore

possession of such land to the forest officer or other authority entitled to the possession thereof.

(iv) All offences under this ordinance shall be cognizable and bailable. They will be however compounded like any other offence under the Azad Jammu and Kashmir Forest Regulation 1930.

13. **Savings.-** The provisions of this ordinance shall not affect the provisions of the Azad Jammu and Kashmir Grant of Khalsa Waste Land as Shamlat Deh Act, 1969.

Sd/-

(Sardar Muhammad Abdul Oayyum Khan)
President,
Azad Govt. of the State of Jammu & Kashmir.

Sd/-

(Malik Mohammad Aslam Khan)
Secretary Law,
Azad Govt. of the State of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Dated Muzaffarabad the June 9, 1974.

No. 1513/SL/74. The following Ordinance made and promulgated by the President on 9th of June, 1974, is hereby published in the Official Gazette for general information.

(ORDINANCE VII OF 1974)⁶

AN ORDINANCE to provide for the formation and regulation of Political Parties in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for the formation and regulation of Political Parties in Azad Jammu and Kashmir;

AND WHEREAS the Legislative Assembly is not in Session and the President is satisfied that emergency has arisen which renders immediate legislation necessary for peace and good Government of Azad Jammu and Kashmir;

NOW, THEREFORE, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all other powers enabling him in that behalf, the President, Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, Application and commencement.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Political Parties Ordinance, 1974.

(2) It shall apply to all the Political Parties and members of the Legislative Assembly.

(3) It shall come into force at once.
2. **Definitions.-** (1) In this Ordinance, unless there is anything repugnant in the subject or context.-
 - (a) "foreign aided party" means a political party which-
 - (i) has been formed or organized at the instance of any Government or Political party of a foreign

⁶ This law was issued as an Ordinance but got force of an Act in view of Section 51 of AJ&K Interim Constitution Act, 1974.

country; or

(ii) is affiliated to or associated with any Government or political party of a foreign country; or

(iii) receives any aid, financial or otherwise, from any Government or political party of a foreign country; or a substantial portion of its funds from foreign nationals;

(b) "High Court" means the High Court of Azad Jammu and Kashmir.

(c) "Government" means the Azad Government of the State of Jammu and Kashmir.

(d) "Government Act" means the Azad Jammu and Kashmir Government Act, 1970.

(e) "Gazette" means the official Gazette of the Azad Government of the State of Jammu and Kashmir.

(f) "Legislative Assembly" means the Azad Jammu and Kashmir Legislative Assembly.

(g) "Political Party" means a body of individuals or an association of persons setting up an organizational structure or collecting funds or owing property, with the object of propagating political opinions or indulging in any other political activity in Azad Jammu and Kashmir.

3. **Formation of certain political parties prohibited.-** (1) No political party shall be formed with the object of propagating any opinion, or acting in a manner prejudicial to the Islamic ideology or the accession of the Jammu and Kashmir State to Pakistan or security of Azad Jammu and Kashmir.

(2) No person shall form, organize, set up or convene a foreign aided party or in any way be associated with any such party.

4. **Lawful political activities.-** Subject to the provisions of Section 3, it shall be lawful—

(1) for any body of individuals or association of persons to form, organize or set up a political party;

- (2) for any person to be a member or office bearer of, or be otherwise associated with, a political party; or
- (3) for any person, for the purpose of an election to be held under the Government Act or any other Act in force in Azad Kashmir, to hold himself out or any other person as a member, or to have the support, of a political party, the formation, organization or setting up of which is not prohibited by this Ordinance.

5. **Disqualifications for being a member of a political party.-** (1) No political party shall have as its member or office bearer any person who is disqualified under sub-section (2).

- (2) A person shall be disqualified for being a member or office bearer of a political party—
 - (a) if he has been convicted of any offence and sentenced by an ordinary Court of law to transportation or to imprisonment for not less than two years, unless a period of five years has elapsed since his release;
 - (b) if he has been disqualified from holding public office under the Azad Jammu and Kashmir Elective Body and Public Offices Disqualification Act, 1961, unless the period of his disqualification has expired ;
 - (c) if he has been dismissed from the service of Azad Kashmir or Pakistan, unless a period of five years has elapsed from the date of his dismissal.

6. **Reference to High Court regarding certain parties.-** (1) Where the Government is of the opinion that any political party has been formed or is operating in contravention of section 3, it shall refer the matter to the High Court, and the decision of the High Court on such question, given after hearing the person or persons concerned, shall be final.

- (2) Where the High Court, upon a reference under sub-section (1), has given a decision that a political party has been formed or is operating in contravention of section 3, the decision shall be published in the Gazette, and upon such publications, the political party concerned shall stand dissolved and all its properties and funds shall be forfeited to the Government.

7. **Penalty.-** (1) If any person who is disqualified under subsection (2) of section 5 becomes a member or office bearer, or holds

himself out as a member or office bearer, of a political party, he shall be punishable with imprisonment for a term which may extend to two years, or with fine of Rs. 20,000/- or with both.

(2) Any person who, after the dissolution of a political party under sub-section (2) of section 6, holds himself out as a member or office bearer of that party, or acts for, or otherwise associates himself with that party, shall be punishable with imprisonment for a term which may extend to two years, or with fine of Rs. 20,000/- or with both.

8. **Certain Disqualifications for being a member of the Legislative Assembly.-** (1) Any member of the Legislative Assembly who acts in a manner prejudicial to the accession of Jammu and Kashmir State to Pakistan, shall cease to be a member of the Legislative Assembly from the time and date of such act for the un-expired period of his term.

(2) A person who has been an office bearer of a political party dissolved under sub-section (2) of section 6 or who has been convicted under section 7 shall be disqualified from being elected as a member of the Legislative Assembly for a period of five years from the date of such dissolution or conviction, as the case may be.

(3) If a person being either on the strength of a political party in the Legislative Assembly or having been elected to the Legislative Assembly as a nominee of a political party withdraw himself from it; or acts in a manner prejudicial to the party interest; he shall cease to be a member of the Legislative Assembly from the time and date of such withdrawal or prejudicial act for the un-expired period of his term.

9. **Sanction for Prosecution.-** No prosecution under this Ordinance shall be instituted against any person without the previous sanction in writing of the Government.

(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Govt. of the State of Jammu and Kashmir.

Sd/- (Malik Mohammad Aslam Khan)
Secretary Law,
Azad Govt. of the State of J&K, Muzaffarabad

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 31, 1974.

No. 2141/SL/74. The following Act of the Legislative Assembly received the assent of the President on 24th of August, 1974, and is published for general information.

ACT VIII OF 1974

An Act to repeal and with certain modifications, re-enact the Azad Jammu and Kashmir Government Act, 1970.

WHEREAS the future status of the State of Jammu and Kashmir is yet to be determined in accordance with the freely expressed will of the people of the State through the democratic method of free and fair plebiscite under the auspices of the United Nations as envisaged in the UNCIP Resolutions adopted from time to time ;

AND WHEREAS a part of the territories of the State of Jammu and Kashmir already liberated by the people are known for the time being as Azad Jammu and Kashmir ;

AND WHEREAS it is necessary to provide for the better Government and Administration of Azad Jammu and Kashmir until such time as the status of Jammu and Kashmir is determined as aforesaid and for that purpose to repeal and re-enact the Azad Jammu and Kashmir Government Act, 1970, with certain modifications '

AND WHEREAS, in the discharge of its responsibilities under the UNCIP Resolutions, the Government of Pakistan has approved the proposed repeal and re-enactment of the said Azad Jammu and Kashmir Government Act, 1970, and authorised the President of Azad Jammu and Kashmir to introduce the present Bill in the Legislative Assembly of Azad Jammu and Kashmir for consideration and passage;

It is hereby enacted as follows:-

1. **Short title and commencement, etc:-** (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution Act, 1974.

(2) It shall come into force on the day on which the Azad Jammu and Kashmir Government Bill, 1974 is assented to, or is deemed to have been assented to, by the President.

(3) This Bill shall not be presented to the President for assent unless it has been passed by the votes of not less than two-thirds of the total members of the Assembly.

(4) The President shall assent to this Bill within three days after it has been presented to him for assent under sub-section (2); and, if the President fails to do so, he shall be deemed to have assented to this Bill at the expiration of the said period.

2. **Definitions**—In this Act, unless there is anything repugnant in the subject or context,-

- (a) **‘Assembly’** means the Legislative Assembly of Azad Jammu and Kashmir ;
- (b) **‘Azad Jammu & Kashmir’** means the territories of the State of Jammu and Kashmir which have been liberated by the people of that State and are for the time being under the administration of Government and such other territories as may hereafter come under its administration;
- (c) **‘Council’** means the Azad Jammu and Kashmir Council constituted under this Act.
- (d) **‘Government’** means the Azad government of the State of Jammu and Kashmir.
- (e) **‘Muslim’** means a person who believes in the Unity and Oneness of Almighty Allah, His angels, the Books of Allah, Prophethood, the Holy Quran being the last of them, His Prophets, the absolute finality of the Prophethood of Mohammad (peace be upon him), the Day of Judgment, and all the requirements and teachings of the Holy Quran and Sunnah ;
- (f) **‘Prescribed’** means as prescribed by law and rules made thereunder;
- (g) **‘Speaker’** means Speaker of the Assembly;
- (h) **‘State Subject’** means a person for the time being residing in Azad Jammu and Kashmir or Pakistan who is a 'State Subject' as defined in the late Government of the State of Jammu and Kashmir Notification No. I-L/84, dated the 20th April, 1927, as amended from time to time.

3. **Islam to be state religion.-** Islam shall be the State religion of Azad Jammu and Kashmir,
4. **Fundamental Rights.-** (1) Any law or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this section, shall, to the extent of such inconsistency, be void

(2) The government shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this sub-section shall, to the extent of such contravention, be void.

(3) The provisions of this section shall not apply to any law relating to the members of the defence services or of the forces charged with the maintenance of public order for the purpose of ensuring proper discharge of their duties or the maintenance of discipline among them.

(4) The Rights:-

1 Security of person.- No person shall be deprived of life or liberty save in accordance with law.

2. Safeguard as to arrest and detention.- (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate, and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

(3) Nothing in sub-paragraphs(1) and (2) shall apply to any person -----

(a) who for the time being is an enemy alien,
or

(b) who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a period exceeding three months unless the Review Board set up by the Government has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order:

Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against the public interest to disclose.

3. Slavery and forced labour prohibited.- (1) No person shall be held in slavery, and no law shall permit or in any way facilitate the introduction into Azad Jammu and Kashmir of slavery in any form.

(2) All forms of forced labour are prohibited.

(3) Nothing in this paragraph shall be deemed to affect compulsory service—

(a) by persons undergoing punishment for offences against any law ; or

(b) required by any law for a public purpose.

4. Protection against retrospective punishment.- No law shall authorise the punishment of a person –

(a) for an act or omission that was not punishable by law at the time of the act or omission ; or

(b) for an offence by a penalty greater than, or of a kind different from, the penalty prescribed by law for that offence at the time the offence was committed.

5. Freedom of movement.- Subject to any reasonable restrictions imposed by law in the public interest, every

State Subject shall have the right to move freely throughout Azad Jammu and Kashmir territory and to reside and settle in any part thereof.

6. **Freedom of assembly.**- Every State Subject shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.
7. **Freedom of association.**- (1) Subject to this Act, every State Subject shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order.

(2) No person or political party in Azad Jammu and Kashmir shall be permitted to propagate against, or take part in activities prejudicial or detrimental to, the ideology of the State's accession to Pakistan.
8. **Freedom of trade, business or profession.**- Every State Subject possessing such qualifications, if any, as may be prescribed by law in relation to his profession or occupation shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business :

Provided that nothing in this paragraph shall prevent-

- (a) the regulation of any trade or profession by a licensing system ; or
 - (b) the regulation of trade, commerce or industry in the interest of free competition therein ; or
 - (c) the carrying on, by Government or by a Corporation controlled by Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.
9. **Freedom of speech.**- Every State Subject shall have the right to freedom of speech and expression, subject to any reasonable restrictions imposed by law in the interest of the security of Azad Jammu and Kashmir, friendly relations with Pakistan, public order, decency or

morality, or in relation to contempt of Court, defamation or incitement to an offence.

10. **Freedom of religion.-** Subject to law, public order and morality –

- (a) every State Subject has the right to profess and practice his religion ; and
- (b) every religious denomination and every sect thereof has the right to establish, maintain and manage its places of worship :

Provided that nothing contained in sub paragraphs (a) and (b) shall be so construed as to abridge the authority to promulgate laws which may prescribe prohibition or penalty for conversion from Islam or the act of converting or the attempt of converting a Muslim to some other religion.

11. **Safeguard against taxation for purposes of any particular religion.**—No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.

12. **Safeguard as to educational institutions in respect of religion, etc.-** (1) No person attending any educational institution shall be required to receive religious instructions or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

(2) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination.

(3) No State Subject shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.

(4) In respect of any religious institution, there shall be no discrimination against any community in the

granting of exemption or concession in relation to taxation.

(5) Every religious community or denomination shall have the right to establish and maintain educational institutions of its own choice, and the Government shall not deny recognition to any such institution on the ground only that the management of such institution vests in that community or denomination.

(6) Nothing in this paragraph shall prevent any public authority from making provision for the advancement of any society or educationally backward class of State Subjects.

13. **Provision as to property.**- Subject to any reasonable restrictions imposed by law in the public interest, every State Subject shall have the right to acquire, hold and dispose of property.

14. **Protection of property.**- (1) No person shall be deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefore and either fixes the amount of compensation or specifies the principles on which and the manner in which compensation is to be determined and given.

(3) Nothing in this paragraph shall affect the validity of -

(a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health ; or

(b) any law relating to the acquisition, administration or disposal of any property which is or is deemed to be evacuee property under any law; or

(c) any law providing for the taking over by the Government for a limited period of the management of any property for the benefit of its owner ; or

(d) any law in force immediately before the coming into force of this act,

Explanation.- In sub-paragraphs (2) and (3), 'property' shall mean immovable property, or any commercial or industrial undertaking, or any interest in any undertaking.

15. **Equality of State Subjects.-** All State Subjects are equal before law and are entitled to equal protection of law.

16. **Non-discrimination in respect of access to public places.-** In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any State Subject on the ground only of race, religion, caste, sex or place of birth, but nothing herein shall be deemed to prevent the making of any special provision for women.

17. **Safeguard against discrimination in services.-**No State Subject otherwise qualified for appointment in the services of Azad Jammu and Kashmir shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste or sex:

Provided that, in the interest of the said service, specified posts or services may be reserved for members of either sex.

18. **Abolition of untouchability.-** Untouchability is abolished, and its practice in any form is forbidden and shall be declared by law to be an offence.

5. **President.-** (1) There shall be a President of Azad Jammu and Kashmir, hereinafter called the President, who shall be elected in such manner as may be provided by an Act of the Assembly passed by the votes of not less than two-thirds of its total membership.

(2) The election to the office of President shall be conducted under the control and supervision of the Chief Election Commissioner.

(3) The election of the President under sub-section (2) shall not be called in question in any Court or before any Tribunal or

other authority.

(4) No person shall be qualified for election as President unless,-

- (a) he is a Muslim ;
- (b) he has attained the age of thirty-five years ;
- (c) his name appears on the electoral roll prepared for election of the members of the Assembly; and
- (d) he is qualified to be elected as a member of the Assembly.

(5) Subject to the provisions of this Act, the President shall hold office for a period of five years from the date on which he enters upon his office and shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(6) Before he enters upon his office, the President shall make before the Chief Justice of the High Court an oath in the form set out in the First Schedule:

Provided that this provision will not apply to a person acting as President.

Provided further that the oath made or deemed to have been made under the provisions of the Azad Jammu and Kashmir Government Act, 1970, shall be deemed to have been made under this Act,

(7) The President may resign his office by writing under his hand addressed to the Speaker of the Assembly or in the absence of the Speaker, to the Chief Justice of the High Court.

(8) The President shall not be a member of the Assembly and, if the President is elected as a member of the Assembly, he shall not enter upon his office as such member until he resigns his office of the President.

6. **Removal of President.**- (1) If one-third of the total number of members of the Assembly give a notice in writing to the Speaker of the Assembly of their intention to move a resolution of no confidence against the President, the Speaker shall convene a meeting of the Assembly not later than two weeks from the date of receipt of the notice.

(2) The President shall have the right to appear before the Assembly during the consideration of the resolution under sub-section (1) and to make a statement if he so desires.

(3) If the resolution under sub-section (1) is passed by the Assembly by the votes of not less than two-thirds of the total number of members of the Assembly, the President shall forthwith cease to hold office.

7. **President to act on advice, etc.-** (1) Subject to this act, in the performance of his functions, the President shall act on and in accordance with the advice of the Prime Minister and such advice shall be binding on him.

(2) The question whether any, and if so what, advice was tendered to the President by the Prime Minister shall not be enquired into any court.

8. **Acting President.-** At any time when the President is unable to perform the functions of his office due to absence, illness or any other cause, the Speaker of the Assembly or, in his absence, the Chief Justice of the High Court of Azad Jammu and Kashmir shall act as President and shall perform the functions of President.

9. **Casual vacancy in the office of President.-** Where the office of President falls vacant due to death, resignation or any other cause, the Speaker of the Assembly or, in his absence, the Chief Justice of the High Court of Azad Jammu and Kashmir shall —

- (a) perform the functions of President till such time as a new President is elected ; and
- (b) cause an election to the office of President to be held within a period of three months from the date on which the office falls vacant.

10. **President's power of pardon and reprieve.-** The President has power to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any Court, tribunal or other authority.

11. **Plebiscite Adviser.-** The President may appoint a Plebiscite Adviser to advise the Government in relation to the holding of a plebiscite in the State of Jammu and Kashmir in terms of UNCIP Resolutions.

12. **The Government.**- (1) Subject to this Act, the executive authority of Azad Jammu and Kashmir shall be exercised in the name of the President by the Government, consisting of the Prime Minister and the Ministers, which shall act through the Prime Minister who shall be the Chief executive of Azad Jammu and Kashmir.
- (2) In the performance of his functions under this Act, the Prime Minister may act either directly or through the Ministers.
- (3) The Prime Minister and the Ministers shall be collectively responsible to the Assembly.
13. **The Prime Minister:-** (1) The Assembly shall meet on the thirtieth day following the day on which a general election to the Assembly is held, unless sooner summoned by the President.
- (2) After the election of the Speaker, the Assembly, shall to the exclusion of any other business, proceed to elect, without debate one of its Muslim members to be the Prime Minister.
- (3) The Prime Minister shall be elected by the votes of the majority of the total membership of the Assembly:
- Provided that, if no member secures such majority in the first poll, a second poll shall be held between the members who secure the two highest numbers of votes in the first poll and the member who secures a majority of votes of the members present and voting shall be declared to have been elected as Prime Minister:
- Provided further that, if the number of votes secured by two or more members securing the highest number of votes is equal, further poll shall be held between them until one of them secures a majority of the members present and voting.
- (4) The member elected under sub-section (3) shall be called upon by the President to assume the office, of Prime Minister and he shall, before entering upon the office make before the President oath in the form set out in the First Schedule.
14. **Ministers:-** (1) The Prime Minister shall appoint Ministers from amongst the members of the Assembly.
- (2) Before entering upon office, a Minister shall make before the President oath in the form set out in the First Schedule.

(3) A Minister may, by writing under his hand addressed to the Prime Minister, resign his office or may be removed from office by the Prime Minister.

15. **Prime Minister continuing in office:-** (1) The Prime Minister shall continue to hold office until his successor enters upon the office of Prime Minister.

(2) Nothing in section 13 or section 14 shall be construed to disqualify the Prime Minister or a Minister from continuing in office during the period the Assembly stands dissolved.

16. **Resignation of Prime Minister:-** (1) Subject to sub-section (2), the Prime Minister may, by writing under his hand addressed to the President, resign his office and, when the Prime Minister resigns, the Ministers shall cease to hold office.

(2) The Prime Minister and, at the request of the Prime Minister, a Minister shall continue to perform the functions of the office of Prime Minister or, as the case may be, Minister until a new Prime Minister has been elected and has entered upon his office.

(3) If the Assembly is in session at the time when the Prime Minister resigns his office, the Assembly shall forthwith proceed to elect a Prime Minister, and if the Assembly is not in session the President shall for that purpose summon it to meet within fourteen days of the resignation.

17. **Minister performing functions of Prime Minister:-** (1) In the event of the death of the Prime Minister or the office of the Prime Minister becoming vacant by reason of his ceasing to be a member of the Assembly, the most senior Minister for the time being shall be called upon by the President to perform the functions of that office and the Ministers shall continue in office until a new Prime Minister has been elected and has entered upon his office.

(2) If the Assembly is in session at the time when the Prime Minister dies or the office of the Prime Minister becomes vacant, the Assembly shall forthwith proceed to elect a Prime Minister, and if the Assembly is not in session the President shall for that purpose summon it to meet within fourteen days of the death of the Prime Minister or, as the case may be, of the office becoming vacant.

(3) when, for any reason, the Prime Minister is unable to

perform his functions, the most senior Minister for the time being shall perform the functions of Prime Minister until the Prime Minister resumes his functions.

(4) In this section, "most senior Minister" means the Minister for the time being designated as such by the Prime Minister.

18. **Vote of no-confidence against Prime Minister:-** (1) A resolution for a vote of no-confidence (hereafter in this section referred to as the resolution) may be passed against the Prime Minister by the Assembly.

(2) A resolution shall not be moved in the Assembly unless, by the same resolution the name of another member of the Assembly is put forward as the successor.

(3) A resolution shall not be moved in the Assembly while the Assembly is considering demands for grants submitted to it in the Annual Budget.

(4) A resolution shall not be voted upon before the expiration of three days, or later than seven days, from the date on which it is moved in the Assembly.

(5) If the resolution is passed by majority of the total membership of the Assembly, the President shall call upon the person named in the resolution as the successor to assume office and, on his entering upon office, his predecessor and the Ministers appointed by him shall cease to hold office:

Provided that, for a period of ten years from the commencement of this Act or the holding of the second general election to the Assembly after such commencement, whichever occurs later, the vote of a member, elected to the Assembly as a candidate or nominee of a political party, cast in support of a resolution for a vote of no-confidence shall be disregarded if the majority of the members of that political party in the Assembly has cast its vote against the passing of such resolution.

(6) If a resolution is not passed, another such resolution shall not be moved until a period of six months has elapsed.

19. **Extent of executive authority of Government:-** (1) Subject to this act, the executive authority of the Government shall extend to the matter with respect to which the Assembly has power to make laws.

(2) The executive authority of the Government shall be so exercised as:-

(a) not to impede or prejudice the responsibilities of the Government of Pakistan under the UNCIP Resolutions or for the defense and security of Azad Jammu and Kashmir; and

(b) to secure compliance with the laws made by the Council.

(3) Notwithstanding anything contained in this Act, the Government may, with the consent of the Council, entrust, either conditionally or unconditionally, to the Council, or to its officers, functions in relation to any matter to which the executive authority of the Government extends.

20. **Advocate-General.**- The President shall appoint a person, being a person qualified to be appointed a Judge of the High Court to be the Advocate-General for Azad Jammu and Kashmir.

(2) It shall be the duty of the Advocate-General to give advice to Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Government.

(3) The Advocate-General shall hold office during the pleasure of the President.

(4) The Advocate-General may, by writing under his hand addressed to the President resign his office.

(5) The person holding the office as Advocate General immediately before the commencement of this Act shall be deemed to be the Advocate-General, appointed under this Act.

21. **Azad Jammu and Kashmir Council.**- (1) There shall be an Azad Jammu and Kashmir Council consisting of:-

(a) the Prime Minister of Pakistan;

(b) the President;

(c) five members to be nominated by the Prime Minister of Pakistan from time to time from amongst Federal Ministers and members of Parliament;

(d) The Prime Minister of Azad Jammu and Kashmir or a person nominated by him; and

(e) six members to be elected by the Assembly from amongst State Subjects in accordance with the system of proportional representation by means of the single transferable vote.

(2) The Prime Minister of Pakistan shall be the Chairman of the Council.

(3) The President shall be the Vice-Chairman of the Council.

(4) The qualifications and disqualifications for being elected, as, and for being, a member of the Council shall, in the case of a member referred to in clause (e) of sub-section (1), be the same as these for being elected as, and for being a member of the Assembly.

(5) A member the Council elected by the Assembly shall hold office for a term of five yeas from the day he enters upon his office.

(6) A member of Council elected by the Assembly shall, before entering upon office, make before the Chairman oath in the from set out in the First Schedule.

(7) The executive authority of the Council shall extend to all matters with respect to which the Council has power to make laws and shall be exercised, in the name of the President, through the Secretariat of the Council, of which the Federal Minister nominated by the Chairman from amongst the member of the Council and two Special Assistants appointed by the Chairman from amongst the elected member of the Council shall be in-charge:-

Provided that the Council may direct that, in respect of such matters as it may specify, its authority shall be exercisable by the Vice-Chairman of the Council, subject to such conditions, if any, as the Council may specify.

(8) The Council may make its own rules of procedure

Explanation:- In this section, "Chairman" means Chairman of the Council.

22. **Legislative Assembly:-** (1) The Legislature of Azad Jammu and Kashmir shall consist of a Legislative Assembly consisting of forty-two members of whom—

- (a) forty shall be elected directly on the basis of adult franchise, and the directly elected members.
 - (b) Two, who shall be women, shall be elected by the directly elected members.
 - (2) The manner of election of the members of the Assembly and the manner of filling casual vacancies shall be such as may be prescribed.
 - (3) Every Assembly, unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly.
23. **Oath of members of the Assembly:-** (1) A person elected as a member of the Assembly shall not take his seat in the Assembly until he makes before such person as is prescribed by rules of the Assembly an oath in the form set out in the First Schedule.
- (2) The oath may be made at any time whether or not the Assembly is in session.
- (3) If any person sits or votes in the Assembly knowing that he is not qualified to be, or is disqualified from being, a member of the Assembly he shall be liable in respect of every day on which he so sits-or votes to a penalty of two hundred rupees a day which may be recovered from him as a debt due to the Government recoverable as arrears of land revenue.
24. **Qualification of members of the Assembly:-** (1) A person shall be qualified to be elected as, and to be, a member of the Assembly if-
- (a) he is a state subject;
 - (b) he is not less than twenty-five years of age; and
 - (c) his name appears on the electoral roll of any constituency in Azad Jammu and Kashmir of Pakistan.
- (2) A person shall be disqualified from being so-elected if.
- (a) he is of unsound mind and stands so declared by competent court; or
 - (b) he is an undischarged insolvent unless a period of ten years has elapsed since his being adjudged as insolvent; or

- (c) he has been on conviction for any offence sentenced to transportation for any term or imprisonment for a term of not less than two years unless a period of five years has elapsed since his release; or
- (d) 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 other than an office specified in the Second Schedule; or
- (e) he has been dismissed for misconduct from the service of Azad Jammu and Kashmir or the service of Pakistan unless a period of five year has elapsed since his dismissal; or
- (f) he is otherwise disqualified from being a member of the Assembly by this Act or by or under any other law.

25. **Seat in Assembly becomes vacant under certain circumstance:-** (1) The seat of a member of the Assembly shall become vacant if-

- (a) he resigns his seat by notice in writing under his hand addressed to the Speaker or, in his absence, to the Secretary of the Assembly; or
- (b) he is absent from the Assembly without the leave of the Assembly for thirty consecutive sitting days of the Assembly; or
- (c) he fails to make the oath referred to in section 23 within a period of ninety days after the date of his election unless the Speaker for good cause shown extends the period; or
- (d) he is elected as a member of the Council; or
- (e) he ceases to be qualified for being a member under any provision of this Act or any other law.

(2) If any question arises whether a member of the Assembly has, after his election, become disqualified from being a member of the Assembly, the Speaker shall refer the question to the Election Commissioner and, if the Election Commissioner is of the opinion that the member has become disqualified, the member shall cease to be a member and his seat shall become vacant.

26. **Right to address and take part in Assembly proceeding:-** (1) The President may address the Assembly and send messages to the Assembly.
- (2) The Advocate-General shall have the right to speak, and otherwise take part in the proceedings of, the Assembly or any of its committees, but shall not by virtue of this section have the right to vote.
27. **Meeting of the Assembly:-** (1) The, Assembly shall assemble at such times and at such places as the President may appoint; and the President may prorogue a session of the Assembly except when the Assembly has been summoned by the Speaker.
- (2) Any meeting of the Assembly may be adjourned by the Speaker or other person presiding thereat.
- (3) There shall be at least two sessions of the Assembly every year and six months shall not intervene between the first sitting of the Assembly in one session and its first sitting in the next session.
28. **Dissolution of Assembly:-** The President shall dissolve the Assembly if so advised by the Prime Minister, and the Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Prime Minister has so advised:
- Explanation:-** Reference in this section to "Prime Minister" shall not be construed to include reference to a Prime Minister against whom a resolution for a vote of no-confidence has been moved in the Assembly but has not been voted upon or against whom such a resolution has been passed or who is continuing in office after his resignation or after the dissolution of the Assembly or a Minister performing the functions of Prime Minister under sub-section (1) or sub-section (3) of section 17.
29. **Speaker of the Assembly:-** (1) The Assembly shall, at its first meeting or as soon thereafter as may be, elect from amongst its members a Speaker of the Assembly.
- (2) Before entering upon office, a member of the Assembly elected as Speaker shall make before the Assembly an oath in the form set out in the First Schedule.
- (3) All proceedings of the Assembly shall be conducted in accordance with Rules of Procedure made by the Assembly and approved by the President.

(4) The Speaker shall preside at its meetings and, in the absence of the Speaker from any meeting, such member of the Assembly present as may be determined by the Rules of procedure shall preside.

(5) So often as the office of the Speaker becomes vacant, the Assembly shall choose another member to fill the office.

(6) The Speaker may resign his office by writing under his hand addressed to the President.

(7) The office of the Speaker shall become vacant, if-

(a) except as provided in sub-section (3) he ceases to be a member of the Assembly, or

(b) he is removed from office by a resolution of the Assembly, of which not less than seven day's notice by not less than six members has been given and which is passed by a majority of total membership of the Assembly.

(8) When the Assembly is dissolved, the Speaker shall continue in his office till the person elected to fill the office by the next Assembly enters upon his office.

30. **Rules of Procedure quorum etc.:-** (1) Subject to this Act:-

(a) a decision in the Assembly shall be taken by a majority of the votes of the member present and voting but the Speaker or the person presiding in his absence shall not vote except when there is an equality of votes in which case he shall exercise his casting vote;

(b) the Assembly may act notwithstanding any vacancy in its membership; and

(c) any proceedings in the Assembly shall not be in valid on the ground that some person who was not entitled to do so set, voted or otherwise took part in the proceedings.

(2) If at any time during a meeting of the Assembly the attention of the person presiding at the meeting is drawn to the fact that less than seventeen members are present, it shall be the duty of the person presiding either to adjourn the meeting or to suspend the meeting until seventeen members are present.

31. **Legislative Powers:-** (1) Subject to the succeeding provisions of this section, both the Council and the Assembly shall have the power to make laws--
- (a) for the territories of Azad Jammu and Kashmir;
 - (b) for all State subjects wherever they may be; and
 - (c) for all officers of the Council or, as the case be, the Government, wherever they may be.
- (2) Subject to sub-section (3) --
- (a) the Council shall have exclusive power to make laws with respect to any matter in the Council Legislative List set out in the Third Schedule, hereinafter referred to as the Council Legislative list; and
 - (b) the Assembly shall, and the Council shall not, have power to make laws with respect to any matter not enumerated in the Council Legislative list.
- (3) Neither the Council nor the Assembly shall have the power to make any law concerning,-
- (a) the responsibilities of the Government of Pakistan under the UNCIP Resolutions;
 - (b) the defence and security of Azad Jammu and Kashmir;
 - (c) the current coin or the issue of any bills, notes or other paper currency; or
 - (d) the external affairs of Azad Jammu and Kashmir including foreign trade and foreign aid.
- (4) No tax shall be levied for the purposes of the territories of Azad Jammu and Kashmir except by or under the authority of an Act of the Council or the Assembly.
- (5) No law shall be repugnant to the teachings and requirements of Islam as set out in the Holy Quran and Sunnah and all existing laws shall be brought in conformity with the Holy Quran and Sunnah.
32. **Reference to Council of Islamic Ideology:-** (1) If one-third of the total number of members of the Assembly so requires, the to Assembly shall refer the Council of Islamic Ideology constituted

under the Constitution of the Islamic Republic of Pakistan (hereinafter referred to as the Islamic Council) for advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam.

(2) When a question is referred by the Assembly to the Islamic Council, the Council shall, within fifteen days thereof, inform the Assembly of the period within which the Council to be able to furnish the advice.

(3) Where the Assembly considers that, in the public interest, the making of the proposed law in relation to which the question arose should not be postponed until the advice of the Islamic Council is furnished, the law may be made before the advice is furnished:

Provided that, where a law is referred for advice to the Islamic Council and the Council advises that the law is repugnant to the Injunctions of Islam, the Assembly shall reconsider the law so made.

33. **Amendment of this Act:-** (1) The provisions of this act, except section 31, this section and section 56, may be amended in accordance with the following provisions.

(2) A Bill to amend this Act may originate either in the Council or in the Assembly.

(3) Within fourteen days of the day on which a Bill to amend this Act is introduced in the Council or the Assembly, the President shall summon a joint sitting of the Council and the Assembly; and if the Bill is passed in the joint sitting, with or without amendment, by the votes of the majority of the aggregate of the total membership of the Assembly and elected member of the Council, the Bill shall be presented to the President for assent.

34. **General Provisions regarding Council, etc:-** (1) The validity of any proceedings in the Council, the Assembly or a joint sitting shall not be questioned in any court.

(2) An officer or member of an authority in whom powers are vested for the regulation of proceedings, conduct of business, or a joint sitting shall not, in relation to the exercise by him of any of those powers, be subject to the jurisdiction of any court.

(3) A member of, or a person entitled to speak in, the

Council, the Assembly or a joint sitting shall not be liable to any proceedings in any court in respect of anything said by him or any vote given by him in the Council, the Assembly or a Joint sitting or in any Committee thereof.

(4) A person shall not be liable to any proceedings in any court in respect of publication by or under the authority of the Council, the Assembly or joint sitting of any report, paper, vote or proceedings.

(5) No process issued by a court or other authority shall, except with the leave of the Chairman of the Council or the Speaker be served or executed within the precincts of the place where a meeting of the Council or, as the case may be, the Assembly is being held.

(6) Subject to this section, the privileges of the Council, the Assembly, the Committees and members of the Council or the Assembly and of the persons entitled to speak in the Council or the Assembly may be determined by law.

35. **Authentication of Bills Passed by the Council:-** A Bill passed by the Council, shall not require the assent of the President and shall, upon its authentication by the Chairman of the Council, become law and be called an Act of the Council.

36. **President's assent to Bills.-** (1) Subject to this Act, when a Bill has been passed by the Assembly or a joint sitting, it shall be presented to the President for assent.

(2) The President shall assent to a Bill within seven day after it has been presented to him for assent under sub-section (1) or under section 33; and if the President fails to do so he shall be deemed to have assented to the Bill at the expiration of the said period.

(3) When the President has assented or is deemed to have assented to a bill, it shall become law and be called-

(a) in the case of a Bill to amend this Act, an Act of Azad Jammu and Kashmir, and

(b) in the case of a Bill with respect to any other matter, and Act of the Assembly.

37. **Council Consolidated Fund.-** (1) All revenues received by the Council, all loans raised by the Council and all moneys received

by it in repayment of any loan or otherwise shall form part of a consolidated fund, to be known as the Council Consolidated Fund.

(2) The custody of the Council Consolidated Fund, the payment of money into that Fund, the withdrawal of money there from, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Council.

(3) The Council shall, in respect of every financial year, cause to be prepared, and approve, a statement of the estimated receipts and expenditure of the Council for that year.

(4) The Chairman of the Council shall authenticate by his signature the statement approved by the Council under subsection (3); and no expenditure from the council Fund shall be deemed to be duly authorized unless it is consolidated specified in the statement so authenticated

38. **Budget.-** (1) The President shall, in respect of every financial year, cause to be laid before the Assembly a statement of the estimated receipts and expenditure for that year, to be called the Annual Budget.

(2) The Annual Budget shall be submitted to the Assembly in the form of demands for, grants and the Assembly shall have power to assent to, or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein:

Provided that, for a period of ten years from the commencement of this Act or the holding of the second general election to the Assembly after such commencement, whichever occurs later, a demand shall be deemed to have been assented to without any reduction of the amount specified therein, unless, by the votes of a majority of the total membership of the Assembly, it is refused or assented to subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

(4) The Annual Budget as passed by the Assembly shall be placed before the President who shall authenticate it by his signature.

(5) The President may, if necessary, also cause a

Supplementary Budget to be laid before the Assembly in respect of any financial year and the provisions of this section shall apply to a Supplementary Budget as they apply to the Annual Budget.

39. **Special powers of the President regarding Budget etc:-** (1) Where the Annual Budget for any financial year cannot be passed by the Assembly by reason of its having been earlier dissolved, the President shall cause to be prepared an Annual Budget for that year and, by his signature, authenticate the Budget.

(2) The Annual Budget for any financial year authenticated by the President under sub-section (1) shall, for the purposes of this Act, be deemed to have been passed by the Assembly.

40. **Restriction on expenditure.-** No expenditure shall be incurred by the Government except as authorised by the Annual or Supplementary Budget as passed or deemed to have been passed by the Assembly.

41. **Power to make Ordinance.-** (1) The President may, except when the Assembly is not in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

(2) An Ordinance promulgated under this section shall have the same force and effect as an Act of the Assembly and shall be subject to like restrictions as the power of the Assembly to make law, but every such Ordinance-

(a) shall be laid before the Assembly and shall stand repealed at the expiration of four months from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution; and

(b) may be withdrawn at any time by the President.

(3) Without prejudice to the provisions of sub-section (2), an Ordinance laid before the Assembly shall be deemed to be a Bill introduced in the Assembly.

(4) The President may likewise, except when the Council is in session, if so advised by the Chairman of the Council, make and promulgate an Ordinance as the circumstances may require;

and the provisions of section (2) and sub-section (3) shall apply to an Ordinance so made as if references therein to "Act of the Assembly" and "Assembly" were references respectively to "Act of the Council" and "Council".

42. **Judicial Board:-** There shall be constituted a Judicial Board to be the highest court of appeal which shall have jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the Azad Jammu and Kashmir High Court. Its constitution and jurisdiction shall be prescribed by law.

43. **High Court.-** (1) There shall be a High Court for Azad Jammu and Kashmir, hereinafter called the High Court, which shall consist of a Chief Justice and such number of other Judges as may be prescribed by an Act of the Assembly.

(2) The person holding office as Chief Justice or other Judge of the High Court immediately before the commencement of this Act shall be deemed to be the Chief Justice or other Judge, as the case may be, appointed under this Act.

(3) The Chief Justice and other Judges of the High Court shall be appointed by the President, but a person shall not be so appointed as a Judge of the High Court or Advocate General unless—

(a) he has for a period, or for periods aggregating, not less than ten years, been an Advocate or Pleader of the High Court of Azad Jammu and Kashmir or a High Court in Pakistan:

Provided that the term 'High Court' herein shall include a High Court or an equivalent Court that existed at any time before the 14th day of August, 1947; or

(b) he has for a period of not less than ten years held a Judicial office out of which not less than three years shall have been as District and Sessions Judge.

(4) Before he enters upon his office, the Chief Justice of the High Court shall make before the President, and an other Judge of the High Court shall make before the Chief Justice, an oath in form set out in the First Schedule.

(5) The Chief Justice or a Judge of the High Court shall hold office until he attains the age of sixty-two years unless he sooner resigns or is removed from office in accordance with law:

Provided that the President may appoint a Retired Judge of any High Court of Pakistan to be the Chief Justice or a Judge of the High Court for a period not exceeding three years and such person shall hold office till he attains the age of sixty-five years.

(6) If at any time any Judge of the High Court is absent or is unable to perform his functions due to illness or some other cause, the President may appoint a person qualified for appointment as a Judge of the High Court to be an Additional Judge of the High Court for the period for which the Judge is absent or unable to perform his function.

(7) A Judge of the High Court shall not-

(a) hold any other office of profit in the service of Azad Jammu and Kashmir if his remuneration is thereby increased; or

(b) occupy any other position carrying the right to remuneration for the rendering of services, but this subsection shall not be construed as preventing a Judge from holding or managing private property.

(8) A person who has held office as a Judge of the High Court shall not hold any office of profit in the service of Azad Jammu and Kashmir, not being a judicial or quasi - judicial office or the office of Chief Election Commissioner or of Chairman or member of the Public Service Commission, before the expiration of two years after he ceased to hold that office.

(9) The remuneration and other terms and conditions of Service of Judge of High Court shall be as provided in the Fourth Schedule.

44. **Jurisdiction of High Court.-** (1) The High Court shall such jurisdiction as is conferred on it by this Act or by any other law.

(2) Subject to this Act, the High Court, if it is satisfied that no other adequate remedy is provided by law-

(a) on the application of any aggrieved party, make an order-

(i) directing a person performing functions in connection with the affairs of Azad Jammu and Kashmir or a local authority to refrain from

doing that which he is not permitted by law to do, or to do that which he is required by law to do; or

- (ii) declaring that any act done or proceedings taken in Azad Jammu and Kashmir by a person performing functions in connection with the affairs of the State or a local authority has been done or taken without lawful authority, and is of no legal effect; or

(b) on the application of any person, make an order-

- (i) directing that a person in custody in Azad Jammu and Kashmir be brought before the High Court so that the court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or
- (ii) requiring a person in Azad Jammu and Kashmir holding or purporting to hold a public office to show under what authority of law he claims to hold that office; or

(c) on the application of any aggrieved person, make an order giving such directions to the person or authority, including the Council and the Government, exercising any power or performing any function in, or in relation to, Azad Jammu and Kashmir as may be appropriate for the enforcement of any of the fundamental rights conferred by this Act.

(3) An order shall not be made under sub-section (2) of this section on application made by or in relation to a person in the Defence Services in respect of his terms and conditions of service, in respect of any matter arising out of his service or in respect of any action taken in relation to him as a member of the Defence Service.

(4) Where—

- (a) application is made to the High Court for an order under clause (a) or clause (c) of sub-section (2); and
- (b) the Court has reason to believe that the making of an interim order would have the affect of prejudicing or interfering with the carrying out of a public work or

otherwise being harmful to the public interest, the Court shall not make an interim order unless the Advocate General has been given notice of the application and the Court, after the Advocate General or any officer authorised by him in this behalf has been given an opportunity of being heard, is satisfied that the making of the interim order would not have the effect referred to in clause (b) of this sub-section.

(5) In this section, unless the context otherwise requires, 'person' includes any body politic or corporate, any authority of or under control of the Council or the Government and any Court or tribunal, other than the Judicial Board, the High Court or a Court or Tribunal established under a law relating to the Defence Services.

45. **Contempt of Court.-** (1) In this section "Court" means the Judicial Board or the High Court.

(2) A Court shall have power to punish any person who—

(a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court;

(b) scandalizes the Court or otherwise does anything which tends to bring the Court or a Judge of the Court into hatred, ridicule or contempt;

(c) does anything which tends to prejudice the determination of a matter pending before the Court; or

(d) does any other thing which, by law, constitutes contempt of the Court.

(3) The exercise of the power conferred on a Court by this section may be regulated by law and, subject to law, by rules made by the Court.

46. **High Court to superintend and control all Courts subordinate to it, etc.-** (1) The High Court shall superintend and control all other courts that are subordinate to it.

(2) There shall, in addition to Judicial Board and the High Court, be such other Courts as are established by law.

(3) A Court so established shall have such jurisdiction as is conferred on it by law.

(4) No Court shall have any jurisdiction which is not conferred on it by this Act or by or under any other law.

47. **Administrative Courts and Tribunals.-** (1) Notwithstanding anything hereinbefore contained, the Assembly may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of —

- (a) matters relating to the terms and conditions of persons who are or have been in the service of Government including disciplinary matters;
- (b) matters relating to claims arising from tortious acts or the Government or any person in the service of Government, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or
- (c) matters relating to acquisition, administration and disposal of any property which is deemed to be enemy property under any law.

(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under subsection (1), no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal shall abate on such establishment.

(3) An appeal to the Judicial Board from a Judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Judicial Board being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

48. **Public Service Commission.-** (1) There shall be a public service commission for Azad Jammu and Kashmir which shall consist of such number of members, including a Chairman, and Perform such function as may be prescribed.

(2) The Public Service Commission existing immediately before the commencement of this Act and the persons holding

office as Chairman and other members of that Commission immediately before such commencement shall be deemed to have been constituted and appointed under this Act.

49. **The Services.-** (1) Subject to this Act, the appointment of persons to, and the terms and conditions of service of persons in the service of Azad Jammu and Kashmir may be regulated by law.

(2) Subject to this Act, a person who is a member of any service or who holds a civil Post in connection with the affairs of Azad Jammu and Kashmir —

(a) shall not be dismissed or removed from service or reduced in rank, by an authority subordinate to that by which he was appointed unless that subordinate authority has been/expressly empowered to do so by an authority not so subordinate; and

(b) subject to sub-section (2), shall not be dismissed or removed from service, or be reduced in rank, unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken with respect to him.

(3) Clause (b) of sub-section (2) shall not apply—

(a) where a person is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to his conviction and entailing imprisonment, on a criminal charge; or

(b) where an authority empowered to dismiss or remove a person from service, or to reduce a person in rank, considers that, in the circumstances of the case, it is not practicable to give to the person an opportunity of showing cause or that it would be prejudicial to the security of Azad Jammu and Kashmir for the person to be given such an opportunity.

50. **Chief Election Commissioner.-** (1) There shall be a Chief Election Commissioner appointed by the President on such terms and conditions as may be prescribed.

(2) The person appointed as Chief Election Commissioner under the Azad Jammu and Kashmir Government Act, 1970, or deemed to have been so appointed, and functioning as such

immediately before the commencement of this Act shall be deemed to have been appointed as Chief Election Commissioner under sub section (1) on the same terms and conditions of service as are applicable to him immediately before such commencement.

51. **Continuance of existing laws.**- Subject to the provisions of this Act, all laws which, immediately before the commencement of this Act, were in force in Azad Jammu and Kashmir shall continue in force until altered, repealed or amended by an Act of the appropriate authority.

52. **General provisions regarding President and Ministers:-**

- (1) Neither the President nor a Minister shall:-
 - (a) hold any other office of profit in the service of Azad Jammu and Kashmir or any other country; or
 - (b) occupy any other position carrying the right to remuneration for the rendering of services; but this section shall not be construed as preventing the President or a Minister from holding or managing his private property.
- (2) No criminal proceedings whatsoever shall be instituted or continued against the President while he is in office.
- (3) No civil proceedings in which relief is claimed against the President[^] shall be instituted while he is in office in respect of anything done or not done, or purporting to have been done or not done, by him in his personal capacity, whether before or after he enters upon his office, unless, at least sixty days before the proceedings are instituted, notice in writing has been delivered to him, or sent to him, stating the nature of the proceeding, the cause of the action, the name, description and place of residence of the party by whom the proceedings are to be instituted and the relief which he claims.
- (4) Except in relation to proceedings referred to in sub-section (3), no process whatsoever shall be issued from any Court or Tribunal against the President, whether in a personal capacity or otherwise, while he is in office.
- (5) Subject to this Act neither the President nor a Minister shall, not except in respect of anything done or not done by him in contravention of law, be answerable to any Court or Tribunal

for the exercise of the powers, or the performance of the duties, of his office or for any act done or purporting to be done by him in the exercise of those powers or in the performance of those duties:

Provided that nothing in this sub-section shall be construed as restricting the right of any person to bring appropriate proceedings against the Government.

53. **Power to issue Proclamation.-** (1) If the President is satisfied that a grave emergency exists in which the security of Azad Jammu and Kashmir is threatened by war or external aggression or by internal disturbances, the President may issue a Proclamation of Emergency, hereinafter referred to as the Proclamation.

(2) A Proclamation shall be laid before the Assembly as soon as conditions make it practicable for the President to summon that Assembly, and if approved by the Assembly, shall remain in force until it is revoked or, if disapproved, shall cease to operate from the date of disapproval.

(3) A Proclamation may be made before the actual occurrence of war or external aggression if the President is satisfied that there is imminent danger thereof.

54. **Power to suspend fundamental rights.-** (1) While a Proclamation is in operation, the President may, by order, declare that right to move any Court for the enforcement of such of the rights conferred by section 4 as may be specified in the order, and all proceedings pending in any Court for the enforcement of the rights so specified, shall remain suspended for the period during which the Proclamation is in force.

(2) Every order made under sub-section (1), shall, as soon as may be, laid before the Assembly.

55. **Power to vary or rescinded Proclamation.-** (1) A Proclamation issued under section 53 may be varied or revoked by a subsequent proclamation.

(2) The validity of any Proclamation issued or order made under section 53 or section 54 shall not be questioned in any Court.

56. **Act not to derogate from responsibilities of Pakistan.-** Nothing in this Act shall derogate from the responsibilities of the

Government of Pakistan in relation to the state of Jammu and Kashmir under the UNCIP resolutions or Prevent the Government of Pakistan from taking such action as it may consider necessary or expedient for the effective discharge of those responsibilities.

57. **Act to over-ride other laws, etc.-** (1) The provisions of this Act shall over-ride and have effect notwithstanding the provisions of any law for the time being in force.
- (2) No Court, including the High Court, shall call into question or permit to be called into question, the validity of this act.
58. **Power to make rules.-** The President may make rules for carrying out the purposes of this act.
59. **Repeal and savings.-** (1) The Azad Jammu and Kashmir Government Act, 1970, hereinafter referred to as the said Act, together with the Acts amending it, and the rules made thereunder are hereby repealed.
- (2) Notwithstanding the repeal of the said act under sub-section (1):-
- (a) the provisions of the said Act relating to election of the members of the Legislative Assembly shall apply for the purposes of the first election of the Legislative Assembly provided for this Act;
- (b) the person who, immediately before the commencement of this Act, was holding the office of President of Azad Jammu and Kashmir shall continue to hold that office until the President is elected in accordance with the provisions of the Act, of the Assembly referred to in sub-section (1) of section 5 and shall, until the Prime Minister is elected in accordance with the provisions of this Act, exercise the powers and perform the functions under this Act of the President and the Government; and
- (c) the Legislative Assembly in existence immediately before the commencement of this Act, until the Legislative Assembly is constituted in accordance with the provisions of this Act, exercise the powers and perform the functions of the legislative Assembly under section 30 of this Act.

THE FIRST SCHEDULE OATH OF OFFICE PRESIDENT
[See section 5 (6)]

I, ... do solemnly swear that I am a Muslim and believe in the Unity and Oneness of Almighty Allah, His angels, the Books of Allah, the Holy Quran being the last of them, His Prophets, the absolute finality of the Prophethood of Mohammad (peace be upon him), the day of Judgment, and all the requirements and teachings of the Holy Quran and Sunnah:

That, as President of Azad Jammu and Kashmir I will remain loyal to the country and to the cause of accession of the State of Jammu and Kashmir to Pakistan:

That I will perform my functions as President honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as President:

So help me Allah:

PRIME MINISTER.
[See Section 13 (4)]

I,.....do solemnly swear that I am a Muslim and believe in the Unity and Oneness of Almighty Allah, His angels, the Books of Allah, the Holy Quran being the last of them, His Prophets, the absolute finality of the Prophet hood of Mohammad (peace be upon him), the day of Judgment, and all the requirements and teachings of the Holy Quran and Sunnah:

That I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan.

That I will perform my functions as Prime Minister honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Prime Minister of Azad Jammu and Kashmir:

So help me Allah:

MINISTER
[See Section 14 (2)]

I, ... do hereby solemnly swear in the name of Allah; That I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as Minister honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Minister;

o help me Allah;

SPEAKER OF LEGISLATIVE ASSEMBLY
[See Section 29 (2)]

I, ... having been election as Speaker of Azad Jammu and Kashmir Legislative Assembly do hereby solemnly swear in the name of Allah:

That I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as Speaker of the Legislative Assembly honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Speaker of the Assembly;

So help me Allah;

MEMBER OF LEGISLATIVE ASSEMBLY OR COUNCIL

[See section 21 (6) and 23 (1)]

I, ...having been elected as Member of the Legislative Assembly (or Council) do hereby solemnly swear in the name of Allah;

That I will remain loyal to (he country and the cause of accession of the State of Jammu and Kashmir to Pakistan-

That I will perform my functions as Member of the Legislative Assembly (or Council) honestly and faithfully;

That I will not directly or indirectly communicate or reveal to any person official secret which may come to my knowledge as Member of the Legislative Assembly (or Council);

So help me Allah;

OATH OF CHIEF JUSTICE-JUDGE HIGH COURT

[See section 43 (5)]

I,.....having been appointed Chief Justice (or Judge) of the High Court of Judicature, Azad Jammu and Kashmir State, do solemnly swear that I owe allegiance to Allah and that I will faithfully perform the duties of my office to the best of my ability, Knowledge and judgment and will administer justice according to the law inforce in Azad Jammu and Kashmir without fear or favour, affection or if will.

SECOND SCHEDULE

[See section 24 (2) (d)]

1. An office which is not a whole time office remunerated either by salary or by fee.
2. The office of Lamberdar, Inamdar, Sufedposh and Zaildar, whether called by this or any other title.
3. The offices of the Chairman of the Union Council, Union Committee and Town Committee and of the Vice Chairman of the Municipal Committee and the District Council.
4. Reserve of the Armed Forces.
5. Any other office which is declared by an Act of the Assembly not to disqualify its holder from being elected as, or from being a member of the Assembly.

THIRD SCHEDULE
[See section 31 (2)]
COUNCIL LEGISLATIVE LIST

1. Subject to the responsibilities of the Government of Pakistan under the UNCIP Resolutions, nationality, citizenship and nationalization; migration from or into Azad Jammu and Kashmir; admission into, and emigration and expulsion from, Azad Jammu and Kashmir, including in relation thereto the regulation of the movements in Azad Jammu and Kashmir of persons not domiciled in Azad Jammu and Kashmir.
2. Posts and Telegraphs, including telephones, wireless broadcasting and other like forms of communications; Post Office Saving Bank.
3. Public debt of the Council, including the borrowing of money on the security of the Council Consolidated Fund.
4. Council public services and Council Public Service Commission.
5. Council pensions, that is to say, pensions payable by the Council or out of the Council Consolidated Fund.
6. Administrative courts for Council subjects.
7. Council agencies and institutions for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.
8. Nuclear energy, including-
 - (a) mineral resources necessary for the generation of nuclear energy;
 - (b) the production of nuclear fuels and the generation and use of nuclear energy; and
 - (c) ionising radiations.
9. Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.
10. Beacons and other provisions for safety of aircraft.
11. Carriage of passengers and goods by air.
12. Copyright, inventions, designs, trademarks and merchandise marks.

13. Opium so far as regards sale for export.
14. Banking that is to say, the co-ordination with the Government of Pakistan of the conduct of banking business.
15. The law of insurances and the regulation of the conduct of insurance business.
16. Stock-exchanges and future markets with objects and business not confined to Azad Jammu and Kashmir.
17. Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by Azad Jammu and Kashmir and carrying on business only within Azad Jammu and Kashmir, or, co-operative societies, and of corporations whether trading or not, with objects not confined to Azad Jammu and Kashmir, but not including universities.
18. Planning for economic coordination; including planning and coordination of scientific and technological research.
19. Highways, continuing beyond the territory of Azad Jammu and Kashmir, excluding roads declared by the Government of Pakistan to be strategic importance.
20. Council survey including geological surveys and Council meteorological organizations.
21. Works, lands and buildings vested in, or in the possession of the Council for the purposes of the Council (not being) Military, naval or air force works), but, as regards property situate in Azad Jammu and Kashmir, subject always to law made by the Legislative Assembly, save in so far as law made by the Council otherwise provides.
22. Census
23. Establishment of standards of weights and measures.
24. Extension of the powers and jurisdiction of members of a police force belonging to Azad Jammu and Kashmir or any Province of Pakistan to any area in such Provinces or Azad Jammu and Kashmir, but not so as to enable the police of Azad Jammu and Kashmir or such Province to exercise powers and jurisdiction in such Province or Azad Jammu and Kashmir without the consent

of the Government of that Province or Azad Jammu and Kashmir; extension of the powers and to jurisdiction of members of a police force belonging the Azad Jammu and Kashmir or a Province of Pakistan to railway areas outside Azad Jammu and Kashmir or that Province.

25. Election to the Council.
26. The salaries, allowances and privileges of the members of the Council and Special Assistant.
27. Railways.
28. Mineral oil and natural gas; liquids and substances declared by law made by the Council to be dangerously inflammable.
29. Development of industries, where development under Council control is declared by law made by the Council to be expedient in the public interest.
30. Removal of prisoners and accused persons from Azad Jammu and Kashmir to Pakistan or from Pakistan to Azad Jammu and Kashmir.
31. Measures to combat certain offences committed in connection with matters concerning the Council and the Government and the establishment of a police force for that purposes.
32. Prevention of the extension from Azad Jammu and Kashmir to Pakistan or from Pakistan to Azad Jammu and Kashmir of infectious or contagious diseases or pests affecting men, animals or plants.
33. Population planning and social welfare.
34. Boilers.
35. Electricity.
36. Newspapers, books and printing presses.
37. State property.
38. Curriculum, syllabus, planning, policy, centers of excellence and standards of education.
39. Sanctioning of cinematograph films for exhibition.

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- 40. Tourism.
- 41. Duties of customs, including export duties.
- 42. Taxes on income other than agricultural income.

Sd/-
Assistant Legal Remembrance,
Azad Govt. of the State of J & K Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 1st September, 1974.

No. 2156/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 31st of August, 1974, and is hereby published for general information :-

(ACT IX OF 1974)

AN ACT to provide for the manner of election to the office of President of Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for the manner of election to the office of President of Azad Jammu and Kashmir ;

It is hereby enacted as follows :-

1. **Short title and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Presidential Election Act, 1974.

(2) It shall come into force at once.
2. **Election of President.-** The President of Azad Jammu and Kashmir that shall be elected directly on the basis of adult franchise by State Subjects in such manner as may be prescribed.
3. **Power to make rules.-** The Government may make rules for carrying out the purposes of this Act.

Sd/-
Assistant Legal Remembrance
Azad Kashmir Govt.
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 17, 1974.

No. 2311/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 31st of August, 1974, and is hereby published for general information:-

(ACT X OF 1974)

AN ACT to provide for privileges of the Azad Jammu and Kashmir Legislative Assembly, its Members and Committees,

Preamble.- Whereas it is expedient to provide for the privileges of the Azad Jammu and Kashmir Legislative Assembly, its Member and Committees, and of the persons entitled to speak and otherwise take part in the proceedings of the Assembly, and to provide for matters incidental and supplemental thereto;

it is hereby enacted as follows:—

1. **Short title and commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly Privileges Act, 1974.

(2) It shall come into force at once.
2. **Definition.**- (1) In this Act unless there is anything repugnant in the subject or context.-
 - (a) 'Assembly' means the Azad Jammu and Kashmir Legislative Assembly;
 - (b) 'Assembly Secretariat' means the Secretariat of the Assembly;
 - (c) 'Committee' means a committee appointed by the Assembly, and includes a Standing Committee and a Select Committee of the Assembly;
 - (d) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (e) 'Member' means a member of the Assembly and includes the Speaker, a Deputy Speaker and a Minister;
 - (f) 'President' means the President of the Azad Government

of the State of Jammu and Kashmir;

- (g) 'Precincts of the Assembly' means the Assembly Chamber's building courtyard and gardens appurtenant thereto, and includes the hall, members' Lobbies, galleries, rooms of the Speaker, Deputy Speaker, Minister and other officers of the Government located in the Assembly building, committee rooms; and the offices of the Assembly Secretariat;
- (h) 'Rules of Procedure' means the rules regulating the procedure of the Assembly for the time being in force;
- (i) 'Speaker' means the Speaker of the Assembly;
- (j) 'Deputy Speaker' means the Deputy Speaker of the Assembly;

(2) Save as otherwise 'provided' in this Act or where the context otherwise requires, all expressions used in this Act shall bear the same meanings as they bear in the Azad Jammu and Kashmir Government Act 1970.

3. **Members not liable to civil or criminal action.-** Subject to the provisions of the Azad Jammu & Kashmir Government Act, 1970 and the Rules of procedure no civil or criminal proceedings shall lie against any member by reason of any matter or thing which he may have brought up or given notice of intention to bring up before the Assembly or any Committee thereof by bill, resolution, motion, question or otherwise, and notwithstanding such resolution, motion, question or other thing being disallowed or not having been admitted by the Speaker.

4. **Freedom from detention.-** (1) No Member shall be detained under any law relating to preventive detention or be required to appear in person in any civil or Revenue Court, or before any commission or Election Tribunal during a session of the Assembly and for a period of fourteen days before and fourteen days after the session of the Assembly, and no member of the committee shall be so detained or required to appear before such court, commission or Tribunal during a sitting of the Committee and for a period of three days before and three days after the meeting of the Committee.

(2) Nothing in subsection (1) shall be construed as

- (a) applying to any Member detained under and such law as is referred to therein immediately before the

commencement of this Act, or at any time during the period commencing on the fifteenth day next after the conclusion of a session of the Assembly and ending on the fifteenth day before the commencement of the next session; or

- (b) Precluding a Member from being detained under any such law during any time that the Assembly is not in session and for a period of fifteen days before and fifteen days after the session for any act against such law committed by him during the period that the Assembly is in session or during the period of fifteen days before and fifteen days the session or at any other time.

5. **Freedom from appearance in civil cases, etc.-** (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no civil or Revenue Court and no Commission or Election Tribunal shall proceed during a session of the Assembly and for a period of fourteen days before and fourteen days after the session, with any matter before it in which a Member is a party, unless the privilege conferred by section 4 is waived, by application made in writing to the Court, Commission or Tribunal, as the case may be, by the Member concerned with the matter, and where more Members than one are to concerned, by all of them.

(2) The provisions of sub-section (1) shall apply to all matters pending immediately before the commencement of this Act, in any civil or Revenue Court, or before any Commission or Election Tribunal, in which a Member is a party, and to such Court, Commission or Tribunal shall proceed further with such matter unless the privileges referred therein are waived in accordance with the provisions thereof, or the period specified therein has elapsed.

6. **Attendance of a Member detained or arrested on a criminal charge.-** If a Member is arrested or detained on any criminal charge and the Court before which any case relating to such charge is pending against such member, is duly informed by the Member that he has been summoned to attend any session of the Assembly or a meeting of any Committee thereof, such Court shall, if the charge against such Member relates to a bailable offence, release such Member on his personal recognizance in sufficient time to enable him to attend the session of the Assembly or a meeting of any Committee thereof, as the case may be;

Provided that the provisions of this section shall not be construed as exempting any such Member from attending such Court all the day or days which the Court may in usual course fix the trial of the case against such Member.

7. **No process to be served in the Assembly.**- No process, civil or criminal, shall be served upon a Member within the precincts of the Assembly, building except with the leave of the Speaker.
8. **No attachment of salaries, and allowances.**- Salaries and allowances paid or payable to the Members under any law for the time being in force shall not be liable to attachment in execution of a decree under the provisions of the Code of Civil Procedure, 1908.
9. **Non-liability for removing persons infringing rules.**- No action, civil or criminal, shall lie against any person for removing or excluding by order or authority of the Speaker of the Assembly, any person infringing the Rules of Procedure or otherwise behaving in a disorderly manner within the precincts of the Assembly.
10. **Summoning of witnesses.**- (1) Subject to the provision contained in sub-section (7), the Assembly or any Committee there of may direct any person to appear before the Assembly or the Committee, as the case may be, and to produce or cause to be produced any paper, book, record or document in the possession or under the control of such person.

(2) Any order made under sub-section (1) shall be notified to person required to attend or to produce any paper, book, record or document, under the hand of the Secretary, by order of the Speaker or the Chairman of a Committee, as the case may be, and in every such order there shall be stated the date, the time and the place where the person summoned is required to attend or produce the paper or other document.

(3) Such order shall be served by the delivery thereof to, or leaving at the usual or the last known place of residence of the person concerned, through the District Magistrate within whose jurisdiction the said residence, lies, who shall get it served by any person authorised by him in this behalf.

(4) Any person so summoned shall be entitled to receive, from the Secretary, such traveling and daily allowances as may be admissible under rules framed by Government in this behalf.

(5) The Assembly or any Committee thereof may require any witness appearing before it to make an oath, and it shall be lawful thereupon for the Secretary or any person authorised by the Speaker or the Chairman of the Committee, as the case may be, to administer oath to such witness.

(6) Subject to the provisions contained in sub-section (7), if any person summoned to appear refuses or fails, without a reasonable cause, to appear or to produce or cause to be produced on requisition any paper, book, record or document, as the case may be, in his possession or power or under his control, he shall be punished with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees.

(7) When Government is of opinion that in the interest of security of the State or the maintenance of Public order or generally in the public interest or on account of any other sufficient reason, any particular record summoned from any office or authority under Government or setup or established by Government, should not be furnished to the Assembly or any Committee thereof, or a person in the service of the State should not be summoned or compelled to give evidence, the Government may claim privilege for that record or exemption for the public servant, as the case may be;

Provided that in such case the Assembly or the Committee thereof, as the case may be, may obtain orders of the President whether the privilege or exemption, as the case may be, is properly claimed, and the orders of the President in this behalf shall be final and conclusive on such point, and shall not be questioned in any Court.

11. **Penalty for causing disturbance in the precincts of Assembly.-** Whoever, not being a Member, creates any disturbance with in the precincts of the Assembly, whereby the proceedings of the Assembly, or of a Committee thereof are or are likely to be interrupted or obstructed, shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
12. **No prosecution except on complaint under order of the Speaker.-** No prosecution shall lie under the provisions of this Act save on the complaint in writing of the Secretary, made under the orders of the Speaker and with the concurrence of the minister for parliamentary affairs.

13. **Withdrawal of proceedings.-** Notwithstanding any thing to the contrary contained in the Code of Criminal procedure, 1898, the Speaker may, in pursuance of a resolution of the Assembly, request the Court in which any proceedings are pending in respect of a complaint made under section 12, to drop further proceedings, and on receipt of such request, the Court shall drop all further proceedings in regard to the complaint, and the complaint shall be deemed to have been withdrawn.
14. **Cognizance of offences.-** No Court other than the Court of a First Class Magistrate shall take cognizance of or shall try any offence punishable under the provisions of this Act.
15. **Members to be V.I Ps.-** The Members shall be V.I.Ps.
16. **Accommodation in rest houses etc.-** A Member shall, on previous intimation to the authority concerned and subject to the availability of accommodation, be entitled to accommodation in every rest house and dak bungalow maintained by Government or any local body under the control of Government on payment of such amount as is charged from touring officer, while on duty for accommodation in such rest house or Dak bungalow, as the case may be.
17. **Visit to Hospitals etc. by Members.-** (1) A member shall be entitled to visit hospitals, dispensaries, health centers, social welfare officers, educational Institutions for boy police stations, Forest check posts and buses, trucks of Azad Kashmir running either within the area of Azad Kashmir or in Pakistan.

(2) After such visit the Member may submit his report to the Minister-in-Charge.
18. **Inspection of Jails by Members.-** Every Member of the Azad Jammu and Kashmir Legislative Assembly shall be authorised to inspect the jails within office hours.
19. **Indemnity.-** No Suit, prosecution or other legal proceedings, shall, lie against: any person for anything in good faith done or intended to be done under this Act.

(Sardar Mohammad Sharif Khan)
Secretary
Law & Parliamentary Affairs Secretariat,

✪ 10 حکومتی اداروں کی کتابوں کی خرید و فروخت

محکمہ قانون

مورخہ 05 ستمبر 1974 نمبر ۶۲۶۹/م/ق/۴۷ - قانون ساز اسمبلی کا منظور شدہ مندرجہ ذیل ایکٹ جس کی توثیق صدور کے ذریعے مورخہ ۳ ستمبر ۱۹۷۴ء کو کی گئی ہے اطلاع عام کر کے پبلش کیا گیا ہے۔

ایکٹ XI ۱۹۷۴ء

تمہید  گاہ کہ لازم ہے  ⑩ جموں و کشمیر گورنمنٹ ایکٹ ۱۹۷۰ء ⑩ دفعہ ۳۲ کی رو سے  ⑩ جموں و کشمیر میں مرہم  و انین  ن و  کے مطابق  جائے۔
لہذا  ذیل قانون وضع کیا گیا ہے۔

م، اطلاق ✉ ۱۰ غا ۱۰ نعا۔ (۱) یہ ایک ۱۰ جموں و کشمیر اسلامی (تقریریاتی) قوانین نفاذ ایکٹ ۱۹۷۴ء ✉ م سے موسوم ہوگا۔

۲۔ (الف) اس ایکٹ کا اطلاق (۱۰) جموں و کشمیر کی (۱۰) کے تحت (۱۰) شخص ہوگا۔

(ب) جہاں ملزم مسلمان ہوا ﷺ اس ایکٹ کا اطلاق اس کے فقہی مسلک کے مطابق ہوگا۔

۳۔ یہ ایکٹ فی الفور نافذ ہوگا۔

تقرات 10 دفعہ ۲۔ اس ۱

(۱) ﴿۱۰﴾ سے ایسی سزا ہے جو حد نہ ہو اور وہ عدد  مجاز کی  یہ منحصر ہو۔

(۲) 'تہج' قاضی سے ۱۰ نہ صرف وہ شخص ہے جو سرکاری طور پر جج ر قاضی مقرر کیا گیا ہو، بلکہ وہ شخص بھی قاضی جج ہوگا قانون کی رو سے یہ اختیارات ہو کہ کسی قانونی کارروائی میں خود ۱۰ یو ایف ایف اری، فیصلہ قطعی ایسا فیصلہ جس کے خلاف اپیل نہ کی جائے تو قطعی ہو، ایسا فیصلہ جس کی توثیق کو ۱۰ دوسری عدالت مجاز ۱۰ لے تو قطعی ہو، ۱۰ رکریا جو اشخاص کی جما ۱۰ میں سے ہو، جن اشخاص کی جما ۱۰ کو قانون کی رو سے ایسا فیصلہ ۱۰ رکرنے کا اختیار ہو۔

سرقہ موجب حد سے سزا ۱۰ نفع ۱۸۔ جو کوئی شخص سرقہ موجب حد کا ارتکاب کرے تو اسے پھانسی دے دی جائے گی۔

تشریح نمبر ۱۔ حد سرقہ کے نفاذ کے لئے مندرجہ ذیل شرائط کا پورا ضروری ہے۔

- (۱) ملزم عاقل بالغ طاق اور بصیر ہو۔
- (۲) مال مسروقہ جلد اور قدرتا بگڑ جانے والا نہ ہو۔
- (۳) مال مسروقہ میں ملزم کیلئے شبہ اور قائل قبول تحویل کی گنجائش نہ ہو۔
- (۴) سرقہ کسی ایسی جگہ سے ہو جہاں ملزم مدورفت کی اجازت نہ ہو۔
- (۵) ملزمان ایسے ۱۰ ہوں اولاد ایسے کے حصہ میں مقدار نصاب سرقہ ہو تو پھانسی دے دی جائے گی۔
- (۶) حد کے اسے قبل ۱۰ اقبال ۱۰ کی نسبت قابض مال یہ ظاہر کرے کہ تہج تہجی اقبال ۱۰ غلط تھا تو حد جاری نہیں ہوگی۔

(۷) ملزم ۱۰۰ یوں ۳۰ یوں باقیوں اس کا انگلی ۱۰۰ یوں کٹی ہوئی ہوں ۱۰۰ یوں
قانون ۱۰۰ یوں ہوں تو حد کا نفاذ نہیں ہوگا۔

(۸) بصورت اقبال ۱۰۰ یوں، حد کیے ۱۰۰ یوں سے پیشتر ۱۰۰ یوں ملزم ایسے اقبال ۱۰۰ یوں سے منحرف ہو جائے تو حد ساتھ ہو جائے گی۔

(۹) ۱۰۰ یوں ہذا کے ثبوت کے لئے اقبال ۱۰۰ یوں، ایسے ۱۰۰ یوں لغت مسلمان ۱۰۰ یوں گواہان کا ۱۰۰ یوں
ضروری ہے جن کی شہادت شرعاً ۱۰۰ یوں اس ۱۰۰ یوں ارہ ہو۔

(۱۰) بوت ۱۰۰ یوں ائے حد مسروقہ مال کا حاضر ۱۰۰ یوں ضروری ہے۔

تشریح نمبر ۲۔ (۱) ملزم کے ۱۰۰ یوں ۱۰۰ یوں کے مرتکب ہو ۱۰۰ یوں اس ۱۰۰ یوں ہا تھا قطع کیا جائے گا۔

(۲) ملزم ۱۰۰ یوں ۱۰۰ یوں کے مرتکب ہو ۱۰۰ یوں اس ۱۰۰ یوں ۱۰۰ یوں قطع کیا جائے گا۔

(۳) ملزم کے تیسری ۱۰۰ یوں کے مرتکب ہو ۱۰۰ یوں اس کو توبہ کرنے ۱۰۰ یوں سزائے قیامی
جائے گی۔ جو ۱۰۰ یوں مشق ۱۰۰ یوں قید ۱۰۰ یوں قید تہائی ۱۰۰ یوں ہے۔

سرقہ موجب ۱۰۰ یوں فقہ ۱۹۔ کسی ایسی چیز کا سرقہ جس میں سرقہ موجب حد کی جملہ شرائط مو ۱۰۰ یوں نہ ہوں
سرقہ موجب ۱۰۰ یوں کہلائے گا۔ ۱۰۰ یوں یگر مر ۱۰۰ یوں فذلوت ۱۰۰ یوں ملکی قانون کے تحت ۱۰۰ یوں سزائیں
۱۰۰ یوں جائیں گی۔ لیکن مالی ۱۰۰ یوں مانہ نہ ہوگا۔

قطع الطريق ۱۰۰ یوں فقہ ۲۰۔ جو کوئی ۱۰۰ یوں جما ۱۰۰ یوں راستہ روک کر کسی کا مال ۱۰۰ یوں ۱۰۰ یوں طوع ۱۰۰ یوں حاصل
کرنے کیلئے قوت استعمال کر ۱۰۰ یوں استعمال کرنے ۱۰۰ یوں ۱۰۰ یوں تو اس نے قطع الطريق کا ارتکاب
کیا ہے۔

ارتکاب ۱۰۰ یوں کے لئے حصول مال لازم نہیں۔

قطع الطريق کی سزا ۱۵۰ نفعہ ۲۱۔ جو کوئی شخص قطع الطريق کا ارتکاب کرے تو اس پر بتفصیل ذیل حکم فذہو
گی۔

(۱) صرف مال حاصل کیا ہو تو اس ۱۵۰ یوں ہاتھ لگا دیا جائے گا۔

(۲) صرف قتل کیا ہے تو اسے سزائے موت ۱۵۰ دی جائے گی۔

(۳) حصول مال کے ساتھ قتل کیا ہو تو اس ۱۵۰ یوں ہاتھ لگا دیا جائے گا اور پھر سزائے موت ۱۵۰ دی جائے گی۔

تشریح۔ اس حکم میں لگائے حد کے لئے جملہ شرائط سرقہ موجب حد کا بھی ضروری ہے۔

اقدام قطع الطريق کی سزا ۱۵۰ نفعہ ۲۲۔ جو کوئی شخص قطع الطريق کا اقدام کرے تو اس کو تہیبا ضرب کے بعد ۱۵۰
کرنے پر مشتمل قید محض کی سزا ۱۵۰ دی جائے گی۔

اختیار سزا ۱۵۰ نفعہ ۲۳۔ (۱) مجموعہ ضابطہ جاری ۱۸۹۸ کی ۱۵۰ فذہو ضلعی عدالت کی وہ شخص
اشخاص کسی امر ۱۵۰ اس ایکٹ کے تحت لگائے کی سزا ۱۵۰ صرف ضلعی

عدالت کی وہ شخص اشخاص جنہیں حکو ۱۵۰ ایسے اختیار ۱۵۰ کریں گے۔

(۲) ایکٹ ہذا کے تحت مقدمات میں ضلعی عدالتوں کے فیصلہ میں اختلاف رائے کی

صورت میں مقدمہ لگال کے لئے عدالت عالیہ کے ججین بیچ کو بھیجا جائے

گا۔ جس کے فیصلہ کے خلاف اپیل رتیس یوم عدالت عالیہ کے فل بیچ کے

پر ۱۵۰ کی جاسکے گی۔

(۳) ۱۵۰ واران سزا ۱۵۰ مقدمہ ضلعی عدالت ۱۵۰ رمیان اختلاف رائے کی صورت میں مقدمہ

عدالت عالیہ پر استصواب کے لئے بھیجا جائے گا۔ جس رائے کے مطابق ضلعی

عدالت عمل کرے گی۔

- اختیار عدا مجاز عدا اہی شرعی ۱۰۰۔ (۱) عدا مجاز کی سما ۱۰۱ مقدمہ اس نتیجے
- ۱۰۲ پنچے کہ ملزم کے خلاف ۱۰۳ ہے لیکن متعینہ گواہان کے پورا نہ ہو ۱۰۴
- گواہان کے مطلوبہ شرعی معیار ۱۰۵ نے کی ۱۰۶ سے ملزم کو ۱۰۷ قصاص کی سزا
- نہیں ۱۰۸ ی جا ۱۰۹ یہ کہ مقدمہ کی تفصیلات کی ۱۱۰ قصاص کی سزا ۱۱۱ بنا منا ۱۱۲ نہ ہوگا تو
- عدا مجاز کو اختیار ہوگا کہ وہ ۱۱۳ سزائیں مندرجہ ۱۱۴ فی ۱۱۵ ایکٹ ہذا ۱۱۶ رکھے۔
- (۲) ۱۱۷ وراں تفتیش یہ ۱۱۸ جائے کہ متعینہ گواہان کے پورا نہ ہونے کی بنا پر ۱۱۹ ملزم
- کو حد کی سزا نہیں ۱۲۰ ی جا ۱۲۱ تو عدا مجاز ایسے مقدموں میں ماخوذ ملزموں کا
- ۱۲۲ فذالو ۱۲۳ گیر ملکی قانون کے تحت ۱۲۴ ے گی۔
- اپیل، نگرانی اور انتقال مقدمات ۱۲۵۔ (۱) ضلعی عدا ۱۲۶ کے فیصلے کے خلاف اپیل عدا ۱۲۷ العالیہ
- میں ۱۲۸ آئیں ۱۲۹ کی جا سکے گی اور ایسی عدا ۱۳۰ کو اختیارات نگرانی بھی حاصل
- ہوں گے۔ جس کی می ۱۳۱ ساٹھ یوم ہوگی ۱۳۲ کسی اپیل ۱۳۳ نگرانی کا فیصلہ عدا ۱۳۴ العالیہ کا کوئی
- ۱۳۵ جج کرے تو اس کے فیصلہ کے خلاف ۱۳۶ نگرانی عدا ۱۳۷ العالیہ ۱۳۸ دوسرے ۱۳۹ وجوہ کے ۱۴۰ آئیں
- ۱۴۱ کی جا سکے گی۔
- (۲) مجموعہ ضابطہ ۱۴۲ اری ۱۸۹۸ کے احکام ۱۴۳ کسی ایسے ۱۴۴ میں جس کی سما ۱۴۵
- کوئی ایسی ضلعی عدا ۱۴۶ کرے اور جس میں ضلعی عدا ۱۴۷ مذکور نے ۱۴۸ ۱۴۹ رکھا ہو۔
- ۱۵۰ پیر دگار منجانب سرکار کو ہدیہ کی ۱۵۱ ہے کہ وہ مذکورہ ۱۵۲ عدا ۱۵۳ میں اپیل ۱۵۴
- کرے۔ ایسی صورت میں ۱۵۵ اپیل نو ۱۵۶ ن ہوگی۔
- (۳) مذکورہ ۱۵۷ عدا ۱۵۸ کو اختیار ہوگا کہ کسی مقدمہ کو کسی ضلعی عدا ۱۵۹ سے معقول ۱۶۰ کسی
- ۱۶۱ گیر ضلعی عدا ۱۶۲ میں مستقل ۱۶۳ ے۔

[illegible]

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(۲) ح ۱۰ وقصاص کے مقدمات میں لازم ہے کہ قاضی گواہاں کا کتہہ کبھی بھی کرے۔

🔔 اُنم کا قاتل 📖 ازی اور قاتل شہید ☑️۔

۱۔ ۲۔ (۱) مجموعہ ۱۸۹۸ء کی کسی ۱۰ دوسرے فیڈ الوت قانون میں ۱۰ رج شدہ کسی امر
۱۰۔ ۱۱۔ ائمہ منہج ایکٹ ہذا (۱۰) از (پولیس) قانون ۱۰ منہج تصور ہوں
۱۲۔ ۱۳۔ ۱۴۔ ۱۵۔ ۱۶۔ ۱۷۔ ۱۸۔ ۱۹۔ ۲۰۔ ۲۱۔ ۲۲۔ ۲۳۔ ۲۴۔ ۲۵۔ ۲۶۔ ۲۷۔ ۲۸۔ ۲۹۔ ۳۰۔ ۳۱۔ ۳۲۔ ۳۳۔ ۳۴۔ ۳۵۔ ۳۶۔ ۳۷۔ ۳۸۔ ۳۹۔ ۴۰۔ ۴۱۔ ۴۲۔ ۴۳۔ ۴۴۔ ۴۵۔ ۴۶۔ ۴۷۔ ۴۸۔ ۴۹۔ ۵۰۔ ۵۱۔ ۵۲۔ ۵۳۔ ۵۴۔ ۵۵۔ ۵۶۔ ۵۷۔ ۵۸۔ ۵۹۔ ۶۰۔ ۶۱۔ ۶۲۔ ۶۳۔ ۶۴۔ ۶۵۔ ۶۶۔ ۶۷۔ ۶۸۔ ۶۹۔ ۷۰۔ ۷۱۔ ۷۲۔ ۷۳۔ ۷۴۔ ۷۵۔ ۷۶۔ ۷۷۔ ۷۸۔ ۷۹۔ ۸۰۔ ۸۱۔ ۸۲۔ ۸۳۔ ۸۴۔ ۸۵۔ ۸۶۔ ۸۷۔ ۸۸۔ ۸۹۔ ۹۰۔ ۹۱۔ ۹۲۔ ۹۳۔ ۹۴۔ ۹۵۔ ۹۶۔ ۹۷۔ ۹۸۔ ۹۹۔ ۱۰۰۔ ۱۰۱۔ ۱۰۲۔ ۱۰۳۔ ۱۰۴۔ ۱۰۵۔ ۱۰۶۔ ۱۰۷۔ ۱۰۸۔ ۱۰۹۔ ۱۱۰۔ ۱۱۱۔ ۱۱۲۔ ۱۱۳۔ ۱۱۴۔ ۱۱۵۔ ۱۱۶۔ ۱۱۷۔ ۱۱۸۔ ۱۱۹۔ ۱۲۰۔ ۱۲۱۔ ۱۲۲۔ ۱۲۳۔ ۱۲۴۔ ۱۲۵۔ ۱۲۶۔ ۱۲۷۔ ۱۲۸۔ ۱۲۹۔ ۱۳۰۔ ۱۳۱۔ ۱۳۲۔ ۱۳۳۔ ۱۳۴۔ ۱۳۵۔ ۱۳۶۔ ۱۳۷۔ ۱۳۸۔ ۱۳۹۔ ۱۴۰۔ ۱۴۱۔ ۱۴۲۔ ۱۴۳۔ ۱۴۴۔ ۱۴۵۔ ۱۴۶۔ ۱۴۷۔ ۱۴۸۔ ۱۴۹۔ ۱۵۰۔ ۱۵۱۔ ۱۵۲۔ ۱۵۳۔ ۱۵۴۔ ۱۵۵۔ ۱۵۶۔ ۱۵۷۔ ۱۵۸۔ ۱۵۹۔ ۱۶۰۔ ۱۶۱۔ ۱۶۲۔ ۱۶۳۔ ۱۶۴۔ ۱۶۵۔ ۱۶۶۔ ۱۶۷۔ ۱۶۸۔ ۱۶۹۔ ۱۷۰۔ ۱۷۱۔ ۱۷۲۔ ۱۷۳۔ ۱۷۴۔ ۱۷۵۔ ۱۷۶۔ ۱۷۷۔ ۱۷۸۔ ۱۷۹۔ ۱۸۰۔ ۱۸۱۔ ۱۸۲۔ ۱۸۳۔ ۱۸۴۔ ۱۸۵۔ ۱۸۶۔ ۱۸۷۔ ۱۸۸۔ ۱۸۹۔ ۱۹۰۔ ۱۹۱۔ ۱۹۲۔ ۱۹۳۔ ۱۹۴۔ ۱۹۵۔ ۱۹۶۔ ۱۹۷۔ ۱۹۸۔ ۱۹۹۔ ۲۰۰۔ ۲۰۱۔ ۲۰۲۔ ۲۰۳۔ ۲۰۴۔ ۲۰۵۔ ۲۰۶۔ ۲۰۷۔ ۲۰۸۔ ۲۰۹۔ ۲۱۰۔ ۲۱۱۔ ۲۱۲۔ ۲۱۳۔ ۲۱۴۔ ۲۱۵۔ ۲۱۶۔ ۲۱۷۔ ۲۱۸۔ ۲۱۹۔ ۲۲۰۔ ۲۲۱۔ ۲۲۲۔ ۲۲۳۔ ۲۲۴۔ ۲۲۵۔ ۲۲۶۔ ۲۲۷۔ ۲۲۸۔ ۲۲۹۔ ۲۳۰۔ ۲۳۱۔ ۲۳۲۔ ۲۳۳۔ ۲۳۴۔ ۲۳۵۔ ۲۳۶۔ ۲۳۷۔ ۲۳۸۔ ۲۳۹۔ ۲۴۰۔ ۲۴۱۔ ۲۴۲۔ ۲۴۳۔ ۲۴۴۔ ۲۴۵۔ ۲۴۶۔ ۲۴۷۔ ۲۴۸۔ ۲۴۹۔ ۲۵۰۔ ۲۵۱۔ ۲۵۲۔ ۲۵۳۔ ۲۵۴۔ ۲۵۵۔ ۲۵۶۔ ۲۵۷۔ ۲۵۸۔ ۲۵۹۔ ۲۶۰۔ ۲۶۱۔ ۲۶۲۔ ۲۶۳۔ ۲۶۴۔ ۲۶۵۔ ۲۶۶۔ ۲۶۷۔ ۲۶۸۔ ۲۶۹۔ ۲۷۰۔ ۲۷۱۔ ۲۷۲۔ ۲۷۳۔ ۲۷۴۔ ۲۷۵۔ ۲۷۶۔ ۲۷۷۔ ۲۷۸۔ ۲۷۹۔ ۲۸۰۔ ۲۸۱۔ ۲۸۲۔ ۲۸۳۔ ۲۸۴۔ ۲۸۵۔ ۲۸۶۔ ۲۸۷۔ ۲۸۸۔ ۲۸۹۔ ۲۹۰۔ ۲۹۱۔ ۲۹۲۔ ۲۹۳۔ ۲۹۴۔ ۲۹۵۔ ۲۹۶۔ ۲۹۷۔ ۲۹۸۔ ۲۹۹۔ ۳۰۰۔ ۳۰۱۔ ۳۰۲۔ ۳۰۳۔ ۳۰۴۔ ۳۰۵۔ ۳۰۶۔ ۳۰۷۔ ۳۰۸۔ ۳۰۹۔ ۳۱۰۔ ۳۱۱۔ ۳۱۲۔ ۳۱۳۔ ۳۱۴۔ ۳۱۵۔ ۳۱۶۔ ۳۱۷۔ ۳۱۸۔ ۳۱۹۔ ۳۲۰۔ ۳۲۱۔ ۳۲۲۔ ۳۲۳۔ ۳۲۴۔ ۳۲۵۔ ۳۲۶۔ ۳۲۷۔ ۳۲۸۔ ۳۲۹۔ ۳۳۰۔ ۳۳۱۔ ۳۳۲۔ ۳۳۳۔ ۳۳۴۔ ۳۳۵۔ ۳۳۶۔ ۳۳۷۔ ۳۳۸۔ ۳۳۹۔ ۳۴۰۔ ۳۴۱۔ ۳۴۲۔ ۳۴۳۔ ۳۴۴۔ ۳۴۵۔ ۳۴۶۔ ۳۴۷۔ ۳۴۸۔ ۳۴۹۔ ۳۵۰۔ ۳۵۱۔ ۳۵۲۔ ۳۵۳۔ ۳۵۴۔ ۳۵۵۔ ۳۵۶۔ ۳۵۷۔ ۳۵۸۔ ۳۵۹۔ ۳۶۰۔ ۳۶۱۔ ۳۶۲۔ ۳۶۳۔ ۳۶۴۔ ۳۶۵۔ ۳۶۶۔ ۳۶۷۔ ۳۶۸۔ ۳۶۹۔ ۳۷۰۔ ۳۷۱۔ ۳۷۲۔ ۳۷۳۔ ۳۷۴۔ ۳۷۵۔ ۳۷۶۔ ۳۷۷۔ ۳۷۸۔ ۳۷۹۔ ۳۸۰۔ ۳۸۱۔ ۳۸۲۔ ۳۸۳۔ ۳۸۴۔ ۳۸۵۔ ۳۸۶۔ ۳۸۷۔ ۳۸۸۔ ۳۸۹۔ ۳۹۰۔ ۳۹۱۔ ۳۹۲۔ ۳۹۳۔ ۳۹۴۔ ۳۹۵۔ ۳۹۶۔ ۳۹۷۔ ۳۹۸۔ ۳۹۹۔ ۴۰۰۔ ۴۰۱۔ ۴۰۲۔ ۴۰۳۔ ۴۰۴۔ ۴۰۵۔ ۴۰۶۔ ۴۰۷۔ ۴۰۸۔ ۴۰۹۔ ۴۱۰۔ ۴۱۱۔ ۴۱۲۔ ۴۱۳۔ ۴۱۴۔ ۴۱۵۔ ۴۱۶۔ ۴۱۷۔ ۴۱۸۔ ۴۱۹۔ ۴۲۰۔ ۴۲۱۔ ۴۲۲۔ ۴۲۳۔ ۴۲۴۔ ۴۲۵۔ ۴۲۶۔ ۴۲۷۔ ۴۲۸۔ ۴۲۹۔ ۴۳۰۔ ۴۳۱۔ ۴۳۲۔ ۴۳۳۔ ۴۳۴۔ ۴۳۵۔ ۴۳۶۔ ۴۳۷۔ ۴۳۸۔ ۴۳۹۔ ۴۴۰۔ ۴۴۱۔ ۴۴۲۔ ۴۴۳۔ ۴۴۴۔ ۴۴۵۔ ۴۴۶۔ ۴۴۷۔ ۴۴۸۔ ۴۴۹۔ ۴۵۰۔ ۴۵۱۔ ۴۵۲۔ ۴۵۳۔ ۴۵۴۔ ۴۵۵۔ ۴۵۶۔ ۴۵۷۔ ۴۵۸۔ ۴۵۹۔ ۴۶۰۔ ۴۶۱۔ ۴۶۲۔ ۴۶۳۔ ۴۶۴۔ ۴۶۵۔ ۴۶۶۔ ۴۶۷۔ ۴۶۸۔ ۴۶۹۔ ۴۷۰۔ ۴۷۱۔ ۴۷۲۔ ۴۷۳۔ ۴۷۴۔ ۴۷۵۔ ۴۷۶۔ ۴۷۷۔ ۴۷۸۔ ۴۷۹۔ ۴۸۰۔ ۴۸۱۔ ۴۸۲۔ ۴۸۳۔ ۴۸۴۔ ۴۸۵۔ ۴۸۶۔ ۴۸۷۔ ۴۸۸۔ ۴۸۹۔ ۴۹۰۔ ۴۹۱۔ ۴۹۲۔ ۴۹۳۔ ۴۹۴۔ ۴۹۵۔ ۴۹۶۔ ۴۹۷۔ ۴۹۸۔ ۴۹۹۔ ۵۰۰۔ ۵۰۱۔ ۵۰۲۔ ۵۰۳۔ ۵۰۴۔ ۵۰۵۔ ۵۰۶۔ ۵۰۷۔ ۵۰۸۔ ۵۰۹۔ ۵۱۰۔ ۵۱۱۔ ۵۱۲۔ ۵۱۳۔ ۵۱۴۔ ۵۱۵۔ ۵۱۶۔ ۵۱۷۔ ۵۱۸۔ ۵۱۹۔ ۵۲۰۔ ۵۲۱۔ ۵۲۲۔ ۵۲۳۔ ۵۲۴۔ ۵۲۵۔ ۵۲۶۔ ۵۲۷۔ ۵۲۸۔ ۵۲۹۔ ۵۳۰۔ ۵۳۱۔ ۵۳۲۔ ۵

(۲) ۱۵) وقصاص کے تمام مقدمات ماسوائے سرقہ، قطع الطريق اور حد شراب و خمر کے ۱۵)

راضی ☐ مہ ہوں گے ان صورتوں کے جس میں عدا  مجاز کی رائے ہو

کہ راضی  یقین میں سے کسی نے بلا جبر و اکراہ نہیں کیا ہے۔

(۳) ح ۱۰ و قصاص کے تمام مقدمات میں حکومت کو سزا میں معافی، تخفیف یا تبدیلی کا

اختیار نہ ہوگا۔

طریقہ سا ④۔ ⑩ نفعہ ۲۸۔ اس ایکٹ کے تحت طریقہ سا ④ مقدمات وہی ہو گا جو ضابطہ ۱۸۹۸ کے ب ۲۰ میں ⑩ رج ہے عداۃ مجاز کو اختیار ہو گا کہ ملزم کا بیان حلف پلے اور ایسا بیان ملزم کے خلاف ④ طرہ ④ ق ④ خال ④ ت ہوگا۔
 ⑩ نفعہ ۲۹۔ اس ایکٹ کے تحت سزا کا نفاذ ④ ن اور ④ میں متعین ④ طرہ ④ نفاذ سزا۔
 ہوگا۔

④ نفعہ ۳۰۔ اس ایکٹ کے تحت جس شخص کے خلاف کارروائی ہو رہی ہو اس شخص کو وکیل مقرر کرنے کا اختیار ہوگا اور عداۃ مجاز ایسے وکیل کو، اپنے مؤکل ④ نفعہ کا پورا پورا موقع ④ ے گی۔ اور جہاں عداۃ مجاز کے رائے میں ملزم وکیل مقرر کرنے کے استطا ④ نہیں ④ اس کی قانونی ④ کیلئے عداۃ وکیل مقرر کرے گی۔
 ⑩ نفعہ ۳۱۔ (۱) ④ کے تمام فیصلہ جات اور قتل عمد میں قصاص کا فیصلہ ④ نہیں ہوگا۔
 وقتیکہ اس کی توثیق عداۃ العالیہ ④ ے اور لازم ہے کہ ضلعی عدالتیں ایسے ④ کی ⑥ ت سات یوم کے ④ عداۃ العالیہ کو ارسال ④ یں۔
 (۲) ④ ایسے کسی فیصلے کی توثیق عداۃ العالیہ کے کسی ④ ج نے کی ہو تو اس فیصلے کے خلاف اپیل ④ رت میں یوم عداۃ العالیہ ④ سر ④ وجوں کے ④ کی جاسکے گی۔

۱۰ نفع استثنائیہ۔ ۱۰ نفع ۳۲۔ (۱) کوئی امرانہ (۱۰) از نہیں ہوگا جن کی توجیہ ایکٹ ہذا کے

تحت ضلعی عدا (۱۰) ہے۔ الا یہ کہ ایکٹ ہذا میں ۱۰ رج ہو۔

(۲) ایسے تمام (۱۰) ام (۱۰) جن کی (۱۰) اس ایکٹ میں کوئی صریحی حکم نہ ہو تو مر (۱۰)

تحریر (۱۰) کستان اور ضابطہ (۱۰) اری کا اطلاق ہوگا۔

یہ ۱۰ قانون، قانون ساز اسمبلی (۱۰) جموں و کشمیر نے ۱۲ اگست ۱۹۷۷ کو منظور کیا۔

سپیکر

قانون ساز اسمبلی (۱۰) جموں و کشمیر

میں اس کی توثیق (۱۰) ہوں۔

صدر

۱۰ حکم (۱۰) جموں و کشمیر

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 8, 1974.

No. 2269/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 20th of August, 1974, and is hereby published for general information :-

(ACT XII OF 1974)

An Act to amend the Azad Jammu and Kashmir Rehabilitation Act, 1956.

Whereas it is expedient to amend the Azad Jammu and Kashmir Rehabilitation Act, 1956 to make provision for the economic Rehabilitation of persons other than refugees;

It is hereby enacted as follows :-

1. **Short title:-** (1) This Act may be called the Azad Jammu and Kashmir Rehabilitation (Amendment) Act, 1974.
2. **Extent:-** (2) It shall extend to the whole of Azad Jammu and Kashmir territory.
3. **Commencement:-** (3) It shall come into force at once.
2. **Definitions.-** In this Act, unless the context otherwise requires:-
 - (a) 'Shaheed' means a person who has been killed in action during the war of liberation between 14th August, 1947, to the end of December, 1948 or who was killed by enemy action during the said period and whose dependents may or may not have been granted pension.
 - (b) 'dependent' means dependents of shaheeds, including widow or widows, parents and children of the shaheeds, in the absence of children his grand children and in case the shaheed has left no widow or parents, then his grandfather and brothers.
 - (c) 'Disabled persons' means persons who have been injured during the war of liberation by enemy action are unable to pursue their normal avocations and who are certified by the Army Medical Board to have been so disabled.

- (d) 'Destitutes' means the persons who being cultivators either own no land at all or have less than 30 kanals per family and have no other adequate source of income, but would not include occupancy tenants.
- (e) 'Non-refugee' means a local person of Azad Jammu and Kashmir, who has not migrated from any Indian occupied area of the State of Jammu and Kashmir and is entitled to the allotment of evacuee land under this Act.

3. **Insertion of new Section 6-A.- The Azad Jammu and Kashmir Rehabilitation Act, 1956.-** After section 6 of the Azad Jammu and Kashmir Rehabilitation Act, 1956 the following new Section 6-A shall be inserted, namely:-

"6-A. A Rehabilitation Authority may allot evacuee land to the persons other than refugees in the manner hereinafter provided:-

- (1) A person mentioned in clause (b) or (c) and (d) of this Act shall be entitled to the allotment of 64 kanals of evacuee land inclusive of holding."

4. **Repeal.-** All existing Acts, laws and rules relating to the evacuee property contravening this Act, shall hereby stand repealed.

Sd/- Asstt. Legal Remembrance,
Azad Kashmir Government
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 8, 1974.

No. 2270/SL/74. The following Act, of the Legislative Assembly received the assent of the President on the 20th of August, 1974, and is hereby published for general information:-

(ACT XIII OF 1974)

An Act to amend the Azad Jammu and Kashmir Land Reforms Act, 1960,

Whereas it is expedient to amend the Azad Jammu and Kashmir Land Reforms Act, 1960, for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**-(1) This Act, may be called the Azad Jammu and Kashmir Land Reforms (Amendment) Act, 1974.

(2) it shall come into force at once.

2. **Insertion of new section 25 b. Azad Jammu and Kashmir land reforms act, 1960.**- In the Azad Jammu and Kashmir Land Reforms Act, 1960, hereinafter referred to as the said Act, after section 25-A, the following new Section shall be inserted namely:-

"25-B. (i) Where the Landlord is a non-evacuee and occupancy tenant is an evacuee, and the Land in the possession of Landlord, he shall exercise all ownership rights, free of any compensation over such Land and all the existing tenancy rights therein shall be extinguished;

(ii) Where the Landlord is a non-evacuee and the occupancy tenant is an evacuee, and the Land is allotted or not, to a refugee of any other person, the possession of such Land shall be restored to the Landlord and compensation, if any, shall be paid to the allottee as determined by the Custodian;

(iii) Where the landlord is an evacuee and the land in tenancy has been in continuous possession of an old tenant since April, 1947, or before, he shall get ownership rights over such land, after the payment of compensation as determined in accordance with the

provisions of section 25 of the said Act, to the Custodian within the period of one year when he is directed to make such payment by the competent authority as provided under the said Act".

3. **Amendment of section 28, Azad Jammu and Kashmir, Land Reforms Act, 1960.-** In the said Act, in section 28,-

- (i) clause (a) of sub-section (1) shall be omitted; and
- (ii) clause (b) of sub-section (1) shall be renumbered as clause (g) of sub-section (1).

Sd/-

(Asstt. Legal Remembrance)
Azad Kashmir Govt. Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 8, 1974.

No. 2271/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 20th of August, 1974, and is hereby published for general information:-

(ACT XIV OF 1974)

AN ACT to amend the Dissolution of Muslim Marriages Act, 1939.

WHEREAS it is expedient to amend the Dissolution of Muslim Marriages Act, 1939 as applicable to Azad Jammu and Kashmir, it is hereby enacted as follows :-

1. **Short title and extent.-** (1) This Act may be called the Dissolution of Muslim Marriages (Amendment) Act, 1974.

(2) It shall come into force at once.
2. **Amendment of Section 2 (vii) of Dissolution of Muslim Marriages Act.-** In Dissolution of Muslim Marriages Act, 1939 as applicable to Azad Jammu and Kashmir, in Section 2 clause (vii) for the word 'fifteen' the word 'sixteen' shall be substituted.

Sd/-
Asstt. Legal Remembrance,
Azad Kashmir Government
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 8, 1974

No. 2272/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 31st of August, 1974, and is hereby published for general Information:-

(ACT XV OF 1974)

An Act to give effect to the Financial Proposals of the Azad Govt. of the State of Jammu & Kashmir for the year beginning on the First day of July, 1974 and to Amend the Law relating to the Income Tax.

PREAMBLE WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Azad Government of the State of Jammu and Kashmir, and to amend the Law relating to the Income Tax for the purposes hereinafter appearing ;

It is hereby enacted as follows :-

1. **Short title Extent and Commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Finance (Supplementary) Act, 1974.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(3) It shall come in to force at once and shall be deemed to have taken effect from the first day of July, 1974, and all orders Notifications made not inconsistent with the provisions of this Act; shall be deemed to have been made under this Act and shall continue in force.
2. **Amendment of Act XI of 1922:-** The following amendments shall be made in the income Tax Act, 1922 (XI of 1922), namely:-

(1) In section 2- for clause (14) the following shall be substituted and shall be deemed always to have been so substituted, namely

“(14)” tax means income-tax, super-tax, surcharge and additional tax chargeable or payable under this Act and includes any interest, penalty, fee or any sum or amount or other charge livable or payable under this Act”.

- (2) In section 4, in sub-section (3);
- (a) In clause (xii), —after sub-clause (e) the following sub-clause shall be inserted, namely:-

"(f) in. respect of a building the erection of which is completed at any time between the 'first day of July, 1974, and the thirtieth day of June, 1980 (both days inclusive) and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the following limits., namely;

 - (i) where the annual value does The whole or not exceed twelve thousand such value rupees
 - (ii) In other cases Six thousand rupees
- (b) clause (xiiaa) shall be re-numbered as (xiiaaa) and before the said clause (xiiaaa) as so re-numbered the following clause shall be inserted, namely:.

“(xiiaa) any income chargeable under the head Income from property" In respect of any unit of a building comprising multi storeyed flats, apartments or apartment houses if the annual value of the unit does not exceed three thousand and six hundred rupees and the erection of the building is completed at any time between the first day of July, 1974 and the thirtieth day of June, 1980 (both days inclusive), for a period of five years from the date of such completion;"
- (c) In clause (xv), —
 - (a) in sub-clause (1), for the word "two" twice occurring and the word "Two", the word "ten" shall be substituted, and
 - (b) in sub-clause (2), for the word "two" twice occurring and the word "Two", the word "five" shall be substituted;
- (3) in section 5,-
- (a) in sub-section (6),-
 - (i) for the words "notification in the official

Gazette" the words an order in writing" shall be substituted;

- (ii) for the word's, brackets, and figures beginning with the words "notification" and ending with the brackets and figure, "(3)", the words comma, brackets and figures "order either to the exclusion of or concurrently, with any ether authority appointed under sub-section (2) or (3) as the Central Board of Revenue may direct" shall be substituted;

- (b) in sub-section (7A), after the words "from one", occurring for the first time, the words "Commissioner or" shall be inserted ;

- (4) for section 15A, the following section shall be substituted, namely :-

"15A. Exemption of portion of earned income.— The tax shall not be payable by an assessee in respect of the earned income, if any, subject to the following limits, namely;-

- (a) Where such income is chargeable under the head "Salaries"

- (i) where such income does not exceed twelve thousand and five hundred rupees. The whole of such income or two thousand and five hundred rupees, which ever is the less.

- (ii) where such income exceeds twelve thousand and five hundred rupees. Twenty percent of such income or five thousand rupees, whichever is the less.

- (b) In other cases :-

- (i) where such income does not exceed ten thousand rupees. The whole of such income or one thousand rupees, whichever is the less.

- (ii) where such income exceeds ten thousand rupees Ten percent of such income or two thousand rupees, whichever is the less.

Provided that where an assessed derives earned income from salaries" and sources other than "Salaries", the aggregate amount of income exempt under this section shall not be less than two thousand five hundred rupees and not more than five thousand rupees.

(5) after section 15F, the following section shall be inserted, namely:-

"15-F. (1) Tax credit for investments:- Where a company invests any amount in the purchase of shares issued by a Company which fulfils the conditions specified in sub-section (6) credit for the amount so invested shall be given to the company against the tax payable by it in the manner hereinafter provided, at the following rates, namely :-

Where the industrial undertaking setup by the company located in

(a)	Baluchistan, Tribal Areas Northern Areas and Azad Kashmir.	Thirty per cent of the amount invested.
(b)	Other places excluding the Karachi and Hyderabad Talukas and Tehsils of Lyallpur and Lahore and such adjoining areas of Lahore Tehsil as may be notified by the Federal Government.	Fifteen per cent of the amount invested.

(2) The amount of the credit shall be deducted from the tax payable by the company in respect of the previous years in which the investment was made.

(3) Where no tax is payable by a company in respect of the year in which It makes such investment or where the amount, of tax payable is less than the amount of credit, the amount of credit or so much if it as has not been deducted, as the case may be, shall be carried forward and deducted from the tax payable by the company in the following year and so on.

(4) Credit under this section shall not be available in respect

of any shares acquired by purchase or transfer from a previous holder of such shares or in respect of any shares sold or transferred or otherwise disposed of within five years from, the date of their purchase.

(5) Where any credit is given under this section in any year in respect of any investment made in the purchase of any shares and subsequently such shares are sold, transferred or otherwise disposed of within five years of the date of their purchase, the company shall, notwithstanding anything to the contrary contained in any law for the time being in force, be liable to pay additional tax equal to the amount of the credit allowed to it in respect of the said shares and all the provisions of this Act shall apply accordingly.

(6) The following are the conditions referred to in subsection (1) that is to say the company is —

- (a) a company formed and registered in Pakistan / Azad Kashmir under the Companies Act, 1913 (VII of 1913) or a body corporate formed in pursuance of any government Act;
- (b) a public company as defined in the Companies Act, 1913(VII of 1913); and
- (c) a company engaged in an industrial undertaking, approved by the Central Board of Revenue for the purposes of this section.

(7) The Central Board of Revenue may make rules regarding the procedure for the grant of the credit and any other matter incidental to the operation of this section.

(8) in section 17, is sub-section (5), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that as respects the assessments for the years beginning on the first day of July, 1975 and ending on the thirtieth-day of June, 1977, income-tax and supertax shall, subject to the other provisions of this Act, be payable on the total income as reduced by the said income.

(9) in section 18, in sub-section (3BB), after the words "deemed to be", the word "advance" shall be omitted;

(10) in section 24, in sub-section (2B), in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely:-

"Provided that as respects the assessments for the years-
beginning on the first day of July, 1975 and ending on the
thirtieth day of June, 1977, this sub-section shall have effect as if
the year beginning on the first day of July, 1977 were the next
following year for the years ending on the thirtieth day of June,
1975 and the thirtieth day of June, 1976 and the first proviso
were omitted,";

(11) in section 26A,-

(a) in sub-section (3),

(i) after the word "Act" occurring for the
second time, for the commas and words,
"or where the firm has already been
registered for the immediately preceding
year, renew the registration" the words,
commas, brackets and figures" and,
subject to the provisions of sub-section
(4), such firm shall be treated as a
registered firm for the assessment year
for which it is first registered and all
subsequent years for so long as there is
no change in the constitution of the
firm" shall be substituted;

(b) in sub-section (5) the word, "or renewal of registration"
twice occurring shall be omitted;

(10) "31. Hearing of appeal.- Sub-Section (1), (2), (2 A),
(2B), (3), (4), (5) and (6) of section 3 shall be re-numbered as
sub-section (1), (2), (3), (4), (5), (6), (7) and (8) respectively.

(11) 33. Appeals to the Appellate Tribunal:

(c) Section 33 shall be substituted, namely:-

(1) Any assessee objecting to an order passed by--

(a) an Appellate Assistant Commissioner under section 28,
section 39 or section 31,

(b) an Inspecting Assistant Commissioner under section

34A, or

- (c) an inspecting Assistant Commissioner exercising the powers conferred on an Income-tax Officer under sub-section (5) of section 5, may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him;

Provided that no appeal under this sub-section shall lie against any order of the Appellate Assistant Commissioner in respect of an order of assessment unless the assessee has paid half the amount representing the difference between the tax as determined on the basis of the order of the Appellate Assistant Commissioner and the tax payable under section 22A.

- (2) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under section 31, direct the Income-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made within sixty days of the date on which the order is communicated to the Commissioner by the Appellate Assistant Commissioner.

(2-A) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-section (1) and 2 if it is satisfied that there was sufficient cause for not presenting it within that period.

- (3) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees and;

- (b) After sub-section. (6) the following new subsection shall be added, namely:-

"(7) Notwithstanding anything to the contrary contained in this Act, all appeals made to the Appellate Tribunal before the first day of July, 1974 shall be disposed of by the Appellate Tribunal as if such appeals had been filed under this section and all the provisions of this Act shall apply accordingly,";

- (12) in section 34,—

- (a) in sub-section (I), the second proviso shall be omitted;

- (b) in sub-section (2), in the proviso,—

- (i) for clauses (ii) and (iii), the following shall be substituted, namely:—
 - "(ii) Where a notice under sub-section (1) was issued, within the time-limit specified in subsection (I.A), the assessment or re-assessment, as the case may be, may be made in pursuance of such notice within one year from the end of the year in which such notice was served.";
- (c) In sub-section (2A), for the words" of eight years specified in the said sub-section before its" the words brackets, figures, comma and letter "specified in sub-section (1), (1A) and (2) before their" shall be substituted;
- (13) in section 66,- —
 - (a) for sub-section (1),-(2), (3), (4) and (4A), the following subjection shall be substituted, namely:—
 - (1) Within sixty days of the date upon which he is served with notice of an order under sub-section (4) of section 33, the assessee or the Commissioner may, by application in the prescribed form, accompanied where application is made by the assessee by a fee of one hundred rupees, require the Appellate Tribunal to-refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court.
 - (2) If on an application made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that, no question of law arises, the assessee or the Commissioner, as the case may be, may within ninety days from the date on which he is served with notice of the refusal, apply to the High Court and the High Court may if it is not satisfied with the correctness of the decision of the Appellate Tribunal frame a question of law and proceed to hear the case.
 - (3) In respect of cases referred to in sub-section (5) of section 5 where the Inspecting Assistant Commissioner performs the functions of an Income-tax Officer, reference in sub-section (I) to Commissioner shall be construed as reference to the Central Board of Revenue.

(4) If the High Court is not satisfied that the statements in a case referred under sub section (1) are sufficient to enable it to determine the question raised thereby the Court may refer the case back to the Appellate Tribunal to make such modification therein as the Court may direct in that behalf; and

(b) in sub-section (5), for words "such application" the words "such case" shall be substituted.

3. Income-tax and Super-tax.—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), in making any assessment for the year beginning on the first day of July, 1974,—

(a) income-tax shall be charged at the rates specified in part 1 of the first schedule; and

(b) the rates of super-tax shall for the purposes of section 55 of the Income tax Act, 1922 (XI of 1922), in this section referred to as the said section, be those specified in Part II of the First Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1974:—

(a) Where the total income of an assessee, not being a company, includes an income chargeable under the head 'Interest on Securities' the income tax payable by the assessee on the part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax and super-tax payable according to the rates applicable under the operation of the Azad Jammu and Kashmir Finance Act, 1974, on his total income the same proportion as the amount of such inclusion bears to his total income; and

(b) Where the total income of a company includes any profits and gains from life insurance business, super-tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion; and

(3) In making any assessment for the year beginning on the first day of July, 1974, where the assessee is a co-operative society, the tax shall be payable at the rates specified in paragraph A of part I, or paragraph B of Part I and paragraph A of Part II of the First Schedule as if the assessee were a company to which the proviso to sub paragraph (1) of paragraph A of said

Part II applied, whichever treatment is more beneficial to the assessee;

Provided that in calculating for the purposes of this subsection, the amount of income-tax at the rates specified in paragraph A of Part I of the First Schedule, no deduction in respect of any allowance or sums referred to in clause (i) of the proviso to the said paragraph shall be made.

(4) (a) In making any assessment for the year beginning on the first day of July, 1974, where the total income of an assessee, not being a company to which the proviso to sub-paragraph (1) of paragraph A of Part II of the First Schedule does not apply, includes any profits and gains derived from the export of goods out of Pakistan income-tax and super-tax, if any payable by him in respect of such profits and gains shall, subject to the provisions of clause (b) and (c), be reduced by an amount computed in the manner specified hereunder:-

(i)	Where the goods exported abroad had not been manufactured by the assessee who exported them:—	15 per cent of the income-tax and super-tax, if any, attributable to export sales.

(a)	and where the export sales during the relevant year exceed the export sales of the proceeding year.	Plus an additional percent for every increase of 10 percent in export sales over those of the proceeding year, subject to an overall maximum of 25 percent.

(b)	and where the export sales during the relevant year do not exceed the export sales of the proceeding year.	minus 1 percent for every decrease of 10 per cent in export sales over those of the preceding year, subject to an overall minimum of 10 per cent.

(ii)	Where the goods exported had been	

manufactured by the assessee who had exported them - - -

- (a) Where the export Nil sales do not exceed 10 percent of the total sales.
- (b) Where the export 15 percent of the sales exceed 10 income tax and percent but do not super-tax, if any, exceed 20 percent of attributable to the total sales. export sale.
- (c) Where the export 20 percent of the sales exceeds 20 income percent but do not tax and super-tax, if exceed 30 percent of any, attributable to the total sales. export sales.

Where the export 25 percent of the sales exceed 30 income tax and percent of the total super-tax if any, sales. attributable to export sales.

Provided that in the case of a registered firm super-tax payable by it under paragraph C on para II of the First Schedule shall be reduced under this clause by an amount calculated on the basis of the income-tax payable on its total income under paragraph A of Part I had it been the total income of an unregistered firm.

- (b) Nothing contained in clause (a) shall apply in respect of the following goods or Class of goods, namely:-
 - (a) raw cotton;
 - (b) such other goods as may be notified by the Central Board of Revenue from time to time.
 - (c) The Central Board of Revenue may make rules Providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.
- (5) In cases to which section 17 of the said Act, applies the

tax chargeable shall be determined as provided in that section, but with reference to the rates referred to in sub-section (1), and in accordance, where applicable, with the provisions of sub-section (2).

(6) For the purposes of making deduction of tax under section 18, of the said Act, the rates specified in Part I and Part II of the First Schedule shall apply as respects the year beginning on the first day of July, 1974, and ending on the thirtieth day of June, 1975.

(7) For the, purposes of this section and of rates of tax imposed thereby, the expression "total income means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the said Act; and the expression "public company" means a company.

- (i) in which not less than fifty percent of the shares are held by the Government, or
- (ii) whose shares were the subject of dealings in a registered stock exchange in Azad Kashmir at any time during the previous year and remained listed on the stock exchange till the close of that year.

4. **Surcharge under Act, XI of 1922.** Surcharge under the Income Tax Act, of 1922(XI of 1922), shall be charged in respect of any assessment for the year beginning on the first day of July, 1974 at the rates specified in Part 111 of the First Schedule.

THE FIRST SCHEDULE

{ See Section 3 }

PART - I RATES OF INCOME TAX

- A. In the case of every individual, unregistered firm, an association of persons, Hindu undivided family and every artificial juridical person referred to in clause (9) of section 2 of the Income-tax Act, 1922 (XI of 1922), not being a case to which paragraph B of this Part applies -

- 1. Where the taxable income does not exceed Rs. 2,000. 2.5 percent of the taxable income
- 2. Where the taxable income exceeds Rs. 2,000 but does not exceed 4000 Rs. 50 plus 10 per cent of the amount exceeding Rs. 2,000

3. Where the taxable income exceeds Rs. 4,000 but does not exceed 7,000 Rs, 250 plus 15 per cent of the amount exceeding Rs. 4,000
4. Where the taxable income exceeds Rs. 7,000 but does not exceed 10,000 Rs, 700 plus 20 per cent of the amount exceeding Rs. 7,000
5. Where the taxable income exceeds Rs. 10,000 but does not exceed 15,000 Rs, 1,300 plus 25 per cent of the amount exceeding Rs. 10,000
6. Where the taxable income exceeds Rs. 15,000 but does not exceed 20,000 Rs, 2,550 plus 30 per cent of the amount exceeding Rs. 15,000
7. Where the taxable income exceeds Rs. 20,000 but does not exceed 25,000. Rs, 4,050 plus 35 per cent of the amount exceeding Rs. 20,000
8. Where the taxable income exceeds Rs. 25,000 but does not exceed 30,000. Rs, 5,800 plus 40 per cent of the amount exceeding Rs. 25,000
9. Where the taxable income exceeds Rs. 30,000 but does not exceed Rs. 35,000. Rs, 7,800 plus 45 per cent of the amount exceeding Rs. 30,000
10. Where the taxable income exceeds Rs. 35,000 but does not exceed Rs. 40,000. Rs, 10,050 plus 50 per cent of the amount exceeding Rs. 35,000
11. Where the taxable income exceeds Rs. 40,000 but does not exceed Rs. 50,000. Rs, 12,550 plus 55 per cent of the amount exceeding Rs. 40,000
12. Where the taxable income exceeds Rs. 50,000 but does not exceed Rs. 70,000. Rs, 18,050 plus 60 per cent of the amount exceeding Rs. 50,000
13. Where the taxable income exceeds Rs. 70,000 but does not exceed Rs. 100,000. Rs, 30,050 plus 65 per cent of the amount exceeding Rs. 70,000
14. Where the taxable income Rs, 49,550 plus 70 per

exceed Rs. 100,000.

cent of the amount
exceeding Rs. 1,00,000

Provided that

- (i) no income-tax shall be payable on a total income which before deduction of the sums, if any, exempt under the first, third and 4th proviso to sub-section (1) of Section (7) of section 15, section 15A, section 15AA, section 15C, section 15CC, section 15D, section 15F, section 15H, section 58F and section 58W of the income-tax Act, 1922 (XI of 1922) does not exceed Rs. 12,000;
- (ii) Where the total income of an assessee exceeds Rs. 12,000 but does not exceed Rs. 15,000, the income-tax payable shall not exceed fifty per-cent of the amount by which the total income exceeds Rs. 12,000;
- (iii) Where the total income includes any income from a share of the income, profits and gains of a firm to which paragraph C of Part II applies, such portion of the super-tax payable under the said paragraph as bears to the total amount of such super-tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income-tax payable by such partner under this paragraph and if the sum so arrived at exceeds seventy percent of the total income of such partner (including his share of income, profits and gains of the firm), the amount of income tax payable by him under this paragraph shall be reduced by the amount of such excess.

Explanation .- The expression "taxable income", as used In this paragraph, means-

- (a) in the case of an assessee to whom or to which sub-section (3) of section 3 or clause (A) of sub-section (1) of section 17 of the income Tax Act, 1922 (XI of 1922), applies the total income;
- (b) in any other case, the total income of an assessee as diminished by the allowance admissible under the first, third / and 4th provisos to sub-section of section 7, section 15, section 15A, section 15AA, section 15C, section 15CC, Section 15D, section 15F, section 15H, section 58F section 58W of the Income-tax Act, 1922 (XI of 1922).

- (c) In the cases of every local authority and in every case in which, under the provisions of the Income tax Act, 1922 (XI of 1922), income tax is to be charged at the maximum rate. 30 percent of the total amount.
- (d) In the case of every company, being a public company or a foreign association declared to be a company by the central Board of Revenue under clause (5A) of section 2 or the Income tax Act, 1922 (XI of 1922) on the total income, excluding such part of the total income as consists of any dividends or bonus or bonus shares to which sub paragraph (3) or sub paragraph (4) of paragraph A or Part II applies. 30 percent of such income.
- (e) In the case of every other company, on the total income excluding such part thereof as consist of any bonus or bonus shares to which sub paragraph (4) of paragraph A of part II applies. 30 percent of such income.

PART II

RATES OF SUPER-TAX

1. In the case of a company,—

Rates

- (1) on the total income, excluding such part of the total income as consists of dividends or bonus or bonus shares to which sub-paragraph (3) and (4) apply, where such company is a company to which paragraph C of Part I applies 35 percent of such income in the case of a banking company and 30 percent of such income in the case of a company other than a Banking Company.
- (2) on the total income excluding such part of the total income as consist of banusor bonus shares to which sub-paragraph (4) applies where such company is a 35 percent of such income in the case of a Banking company and 30 percent of such income in the

company to which sub paragraph (1) does not apply.	case of company other than a Banking company.

Provided that where a company, in respect of the profits and gain's liable to tax under the income-tax Act, 1922 (XI of 1922), has made such effective arrangements as may be prescribed by the Central Board of Revenue in this behalf for the declaration and payment in Azad Kashmir of dividends payable out of such profits and gains and for the deduction of tax from such dividends, rebate shall be allowed as follows:-

- (i) a rebate of 5 per cent to such company not being a Banking company if it is a public company;
- (ii) a rebate of 5 percent to such company not being a Banking Company if it is a public company to which clause (iii) does; not apply, if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 5,00,000 ;
- (iii) a rebate of 5 per cent on so much of the income, profits and gains of such company, being a public company, as are derived by it from an industrial undertaking if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 10,00,000;
- (iv) a rebate of 10 per cent to such company in respect of its income, profits and gains to which sub-section (9) or section 10 of the income-tax Act, 1922 (XI of 1922); applies or which are derived by it in Pakistan from processing freezing, preserving and canning of food, vegetable, fruit, grain, meat, fish and poultry;
- (v) a rebate of 15 per cent to such company on so much of the income, profits and gains accruing or arising outside Azad Kashmir to which sub-section (4) of section 3 does not apply as are brought by it in Azad Kashmir.

Explanation.- The term "Industrial undertaking", as used in clause (iii) means as undertaking which is set up or commenced in Azad Kashmir on or after the 14th day of August, 1947, and which employs (i) ten or more persons in Azad Kashmir and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human

or animal agency or which is •

- (i) engaged in –
 - (a) the manufacture of goods or materials or subjection of goods or materials to any process, which substantially changes their original condition ;
 - (b) ship-building ;
 - (c) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power ;
 - (d) the working of any mine, oil-well or ether source of mineral deposits not being an undertaking to which the Second and Third Schedules to the Income Tax Act 1922 (XI of 1922), apply; or
 - (ii) any other industrial undertaking which may be approved by the Central Board of Revenue for the purposes of this clause.
- (3) to which paragraph C Part I applies, on the amount representing income from dividends from a company having its registered office in Azad Kashmir.
- (a) where such dividends are received 15 percent of by a public company and are such amount declared and paid by a company formed and registered in Azad Kashmir under the Companies Act, 1913 (VII of 1913), or a body corporate formed in pursuance of an Act of the Federal Legislature, in respect of the share capital issued subscribed and paid after the fourteenth day of August, 1947.
 - (b) In other cases 20 percent of such amount
- (4) On the whole of the amount representing the face value of bonus shares or the amount of any bonus issued by the company to its share holders with a view to increasing its paid-up capital-
- (a) Where a company which issued 15 percent of

	shares or bonus, as the case may be, is a public company	such amount
(b)	In other cases	20 percent of such amount
B	In the case of every local authority on the whole of the total income	12.5 percent of total income
C	In the case of every registered firm	
(1)	Where the total income does not exceed Rs. 15,000	Nil
(2)	Where the total income exceed Rs. 15,000 but does not exceed Rs. 30,000	5 percent of the amount exceed- ing Rs. 15,000
(3)	Where the total income exceed Rs. 30,000 but does not exceed Rs. 60,000.	Rs. 750 plus 20 percent of the amount exceed- ing Rs. 30,000.
(4)	Where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000	Rs. 3,750 plus 20 percent of the amount excee- ding Rs. 60,000
(5)	Where the total income exceeds Rs. 1,00,000	Rs. 11,750 plus 30 percent of the amount excee- ding Rs. 1,00,000

Explanation.—The term "registered firm" as used 20 this paragraph means a firm registered under section 26A of the- Income-tax Act, 1922 (XI of 1922), or a firm treated as a registered firm under clause (b) of 'sub-section (5) of section 23 of the said Act.

PART III

(See Section 4)

RATES OF SURCHARGE

In the case of persons deriving income from the business of manufacture, purchase or sales of Jewellery including gold, silver, precious metals, stones and pearl and ornaments or other articles made thereof. 6 percent of such income

Sd/- Asstt. Legal Remembrance
Azad Kashmir Govt.
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 8, 1974.

No. 2274/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 31st of August, 1974, and is hereby published for general information.-

(ACT XVI OF 1974)

An Act to consolidate and amend the law relating to duties of excise and to salt.

Whereas it is expedient to consolidate and amend the law relating to duties of excise on goods manufactured or produced (land service provided or rendered), in (Azad Jammu and Kashmir) and to salt;

It is hereby enacted as follows:-

CHAPTER I

1. **Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Excise and Salt Act, 1974.
(2) It extends to the whole of Azad Jammu and Kashmir.
(3) It shall come into force at once, and shall be deemed to have taken effect from the First day of July, of 1970.
2. **Definition.-** In this Act, unless there is anything repugnant in the subject or context,—
 - (a) "broker" or "commission agent" means a person who in the ordinary course of business makes contracts for the sale or purchase of exercisable goods for others;
 - (b) "Central Board of Revenue" means the Central Board of Revenue of Azad Jammu and Kashmir;
 - (c) "Excise officer" means any officer of the Excise Department, or any person invested by the Central Board of Revenue with any of the powers of a Excise Officer under this Act;
 - (d) "curing" includes wilting, drying, fermenting and any process for rendering an un-manufactured product fit for marketing or manufacture;
 - (e) "distributor" means a person appointed by a

manufacturer in or for a specified area to purchase excisable goods from him for sale to a whole sale dealer in that Area;

- (f) "excisable goods" means goods specified in (Part I of) the first Schedule as being subject to a duty of excise and includes salt;
- (g) "excisable services" means services, facilities and utilities specified in Part II of the First Schedule as being subject to a duty of excise;
- (h) "factory" means any premises, including the precincts thereof, wherein or in any Part of which excisable goods other than salt are manufactured, or where in or any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;
- (i) "manufacture" includes any process incidental or ancillary to the completion of a manufactured product and any process of a re-manufacture, remarking, reconditioning or repair and the processes of packing or repacking such product; and
 - (i) in relation to tobacco includes the preparation of cigarettes, cigars, cheroots, biris, cigarette or pipe or hookah tobacco, chewing tobacco or snuff; and
 - (ii) in relation to salt, includes collection, removal, preparation, steeping, evaporation, boiling, or any one or more of these processes, the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt and the excavation or removal of natural saline deposits or efflorescence; and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account if those goods are intended for sale and, in respect of gold and silver and products there-of, also any person dealing in gold and silver and products thereof

who, whether or not he carries out any process of manufacture himself or through his employees or relatives, gets any process of manufacture carried out on his behalf by any person who is not in his employ, and any person so dealing in Gold and Silver and products thereof shall be deemed to have manufactured for all purposes of this Act all products of Gold or silver in which he deals in any capacity whatever;

- (j) "Prescribed" means prescribed by rules made under this Act;
- (k) "sale" and "purchase" with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary-course of trade or business for cash or deferred payment or other consideration;
- (1) "saltpetre" includes reasi, sajji, and all other substances manufactured from saline earth, and kharinum and every form of sulphate or carbonate of soda;
- (m) "salt factory" includes—
 - (i) a place used or intended to be used in the manufacture of salt and all embankments, reservoirs, condensing and evaporating pans, buildings and waste places situated within the limits of such place as defined from time to time by the Collector of excise ;
 - (ii) all drying grounds and storage platforms and storehouses appertaining to any such place ;
 - (iii) land on which salt is spontaneously produced ; and a "private salt factory" is one not solely owned or not solely worked by the Government;
- (n) "wholesale dealer" means a person who buys or sells exercisable goods wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of excisable goods for others, stocks such goods belonging to others as an agent for the purpose of sale.

CHAPTER II
LEVY AND COLLECTION OF DUTY

3. **Duties specified in the First Schedule to be levied** (1) Time shall be levied and collected in such manner as may be prescribed duties of excise on all excisable goods, produced or manufactured, and on all excisable services provided or rendered, in Azad Jammu and Kashmir, as, and at the rates, set forth in the First Schedule.
- (2) The Central Board of Revenue, may, by notification in the official Gazette fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the First Schedule as chargeable with duty advalorem and may alter any tariff values for the time being in force.
- (3) Different tariff values may be fixed for different classes or descriptions of the same article.
- (4) With the prior approval of the Government, that Central Board of Revenue may, in lieu of levying and collecting under sub-section (1) duties of excise on excisable goods, by notification in the official Gazette levy and collect duties on the production capacity of plants, machinery, undertakings, establishments or installations producing or manufacturing such goods ; and such notifications shall specify—
- (a) the guiding principles for the determination of production capacity,
 - (b) the production capacity, as determined in accordance with such guiding principles, of the plants, machinery, undertakings, establishments or installations affected by it,
 - (c) the duty or the rate of duty on production capacity, and
 - (d) the manner of collection of such duty.
- (5) The production capacity of any plant or machinery or part thereof specified in a notification under subsection (4) shall, upon an application made to the Government within thirty days of the notification by any aggrieved person, be reviewed by standing Tribunal constituted under sub section (5) to which the application shall be referred; and the decision of the standing

Tribunal confirming, reducing or increasing the production capacity shall be final :

Provided that, in the case of any plant or machinery used for the manufacture of cotton fabrics or cotton yarn, the production capacity of which was determined, any aggrieved person may, within such time as the Government may, by notification in the official Gazette, specify in this behalf, make an application in writing to the Government for re-examination of the production capacity, and such application shall be referred by the Government to a Standing Tribunal constituted under sub-section (6) ; and the decision of the Standing Tribunal on such reference shall be final.

(6) The Government shall, for the purpose of Sub-section (5), constitute a Standing Tribunal consisting of not less than two persons each of whom may be either an officer not below the rank of a Secretary to the Government or a person who held such rank at the time of his retirement from service.

(7) The Central Board of Revenue may, by notification in the official Gazette, at any time, cancel a notification under sub-section (4); and where a notification is so cancelled or, for any reason whatsoever, cannot be given effect to, the duty under sub-section (1), in lieu whereof the duty under sub-section (4) was levied by such notification, shall be levied and, with necessary adjustment, collected for the financial year during which such notification is cancelled or for the period for which it cannot be given effect to.

Explanation.- For the purposes of this sub-section, an order of a Court suspending or staying the collection of the whole or any part of the duty under Sub-section (4) shall be deemed to be a reason for which a notification under sub-section (4) cannot be given effect to.

4. **Regulatory Duty of Excise:-** (1) The Government may, by notification in the official Gazette, levy, subject to such conditions, limitations and restrictions as it may deem fit to impose, a regulatory duty—

(a) on any excisable goods or excisable services, in addition to the duty livable under section 3, at a rate not exceeding 40 percent of the rate of duty livable thereon under the said section, or, in the case of excisable goods, at a rate not exceeding 10 percent; advalorem or 10

percent of the retail price and, in the case of excisable services, 10 percent of the charges for such services; and

- (b) on any other goods or service, at a rate, in case of the goods, not exceeding 20 percent ad-valorem or 20 percent of the retail price and, in the case of services, not exceeding 20 percent of the charges for the services.

(2) Any notification issued under sub-section (1) shall, if not, earlier rescinded, stands rescinded on the expiry, of the financial year during which it was issued.

5. **Goods Partially composed of dutiable articles:-** Goods partially goods whereof any article liable to duty under this Act forms a part or ingredient shall be chargeable with the full duty which would be payable on such goods if they were entirely composed of such article, or, if composed of more than one article liable to duty, then with the full duty which would be payable of such goods if they were entirely composed of the article on which the highest amount of duty would be payable.

6. **Determination of value for purposes of duty:-** (1) Where under this Act any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold to the general body of retail traders or, if there is no general body of retail traders, the general body of consumers on the day on which the article which is being assessed to duty is removed from the factory or the warehouse, as the case may be, without any abatement or deduction whatever except the amounts of duty then payable.

(2) Where under this Act any article is chargeable with duty at a rate dependent on the retail price of the article, the retail price shall be the price fixed by the manufacturer, inclusive of all charges and taxes, at which any particular brand or variety of such article should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest such price.

(3) Where under this Act any services, facilities and utilities are subject to duty at a rate dependent on the charges therefore and—

- (a) any such services, facilities or utilities are in any case,

rendered or provided free of charge or at a concessional rate, the duty shall be levied and collected on the amount which would have been charged for such services, facilities and utilities had they not been rendered or provided free of charge or at a concessional rate ; and

- (b) the amount with reference to which the duty shall be levied shall be the total amount charged for all services, facilities and utilities provided or rendered, including charges for supplies or merchandise therewith.

7. **Power of Government to impose Customs duty on goods mentioned in the First Schedule:-** The Government may, by notification in the official Gazette, impose on any excisable goods other than salt brought into Azad Kashmir from the territory of any non Acceding State, a duty of custom equivalent to the duty imposed by this Act, on the like goods produced or manufactured in Azad Jammu and Kashmir.

8. **Certain operations to be subject to licence.-**The Central Board of Revenue may, by notification in the official Gazette, provide that, from such date as may be specified in the notification, no person shall except under the authority and in accordance with the terms and conditions of a licence granted under this Act, engage in—

- (a) the production or manufacture or any process of the production or manufacture of any specified excisable goods or of saltpeter or of any specified component parts or ingredients of such goods or of specified containers of such goods,
- (b) the wholesale purchase or sale (whether on his own account; or as a broker or commission agent) or the storage of any excisable goods specified in this behalf in Part A of the Second Schedule or
- (c) providing or rendering any excisable services.

9. **Form and Conditions of licence:-** Every Licence under section 8 shall be granted for such area, if any, for such period, subject to such restriction and conditions, and in such form and containing such particulars, as may be prescribed.

10. **Restriction on possession of excisable goods:-** From such date as may be specified in this behalf by the Central Board of

Revenue by notification in the official Gazette, no person shall, except as provided by rules made under this Act, have in his possession any excisable goods specified in this behalf in Part B of the Second Schedule in excess of such quantity as may be prescribed for the purposes of this section as the maximum amount of such goods or of any variety of such goods which may be possessed at any one time by such a person.

11. **Offences and penalties:-** Whoever commits any of the following offences, namely:-

- (a) contravenes any of the provisions of a notification issued under section 8 or of section 10, or of a rule made under clause (iii) of sub-section (2) of section 34;
- (b) evades the payment of any duty payable under this Act;
- (c) fails to supply any information which he is required by rules made under this Act to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;
- (d) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section;
- (e) makes or attempts to make a deduction in the duty payable under sub-section (4) of section 3 on account of removal of goods for export, or to a licensed ware house or a licensed factory, otherwise than in accordance with the provisions of the appropriate notification under the said sub-section (4); shall, for every such offence, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees, or ten times the amount of duty involved, if any, whichever is greater, or with both.

12. **Power of Courts to order for forfeiture:-** Any Court trying an offence under this Chapter may order the forfeiture to (Government) of any goods in respect of which the Court is satisfied that an offence under this Chapter has been committed, and may also order the forfeiture of any receptacles, packages or coverings in which such goods are contained and the animals, vehicles, vessels or other conveyances used in carrying the goods, and any implements or machinery used in the

manufacture of the goods.

13. **Recovery of sums due to Government:-** In respect of duty and any other sums of any kind payable to the Government under any of the provisions of this Act or of the rules made thereunder, the officer empowered by the Central Board of Revenue to levy such duty or require the payment of such sums may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in the hands or at the disposal or control of such officer or of the Government, or may recover the amount by attachment and sale of excisable goods or any plant, machinery and equipment used for the manufacture of such goods or any other goods in the factory or bonded warehouse or in any premises where any excisable services are provided or rendered and such officer may stop removal of any goods from such factory or bonded warehouse or premises till such amount is paid or recovered in full and if the amount payable is not so recovered he may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear or land revenue.
14. **Exemptions:-** (1) The Government may from time to time, by notification in the official Gazette, exempt subject to such conditions, if any, as may be specified therein, any goods or class of goods or any services or class of services item the whole or any part of the duty leviable under this Act.

(2) The Central Board of Revenue may, by special order in each case, exempt from the payment of the whole or any part of the duty leviable under this Act, under circumstances of an exceptional nature to be stated, in such order, any goods on which such duty is leviable.

CHAPTER III POWER AND DUTIES OF OFFICERS AND LANDHOLDERS.

15. **Power of Arrest:-** (1) Any Excise Officer duly empowered by the Central Board of Revenue in this behalf may arrest any person whom he has reason to believe to be liable to punishment under this Act.

(2) Any person accused or reasonably suspected of

committing an offence under this Act or any rules made thereunder, who on demand of any officer duly empowered by the Central Board of Revenue in this behalf refuses to give his name and residence, or who gives a name or residence which such officer has reason to believe to be false, may be arrested by such officer in order that his name and residence may be ascertained.

16. **Power to summon persons to give evidence and produce documents in inquiries under this Act.-** (1) Any Excise Officer duly empowered by the Central Board of Revenue in this behalf shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce document or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may required;

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure (V of 1908) shall be applicable to requisitions for attendance under this section.

(3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Azad Jammu and Kashmir Penal Code, (XLV of 1860).

17. **Officers required to assist excise officers:-** All officers of Police and all officers of Government engaged in the collection of land-revenue, and all village officers are hereby empowered and required to assist the Excise Officers in the execution of this Act.
18. **Owner or occupiers of land to report manufacture of contraband excisable goods:-** Every owner or occupier of land, the agent of any such owner or occupier, in charge of the management of that land, if contraband excisable goods are

manufactured thereon, shall in the absence of reasonable excuse be bound to give notice of such manufacture to a magistrate, or to an officer of the Excise, Police, or Land Revenue Department, immediately the fact comes to his knowledge.

19. **Punishment for connive at offences:-** Any owner or occupier of land or any agent of such owner or occupier in charge of the management of that land, who wilfully connives at any offence against the provisions of this Act or of any rules made thereunder shall for every such offence be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.
20. **Searches and arrest how to be made:-** All searches made under this Act or any rules made thereunder and all arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898) relating respectively to searches and arrests made under that Code.
21. **Disposal of persons arrested:-** Every person arrested under this Act shall be forwarded without delay to the nearest Excise officer empowered to send persons so arrested to a Magistrate or, if there is no such Excise Officer within a reasonable distance, to the officer-in charge of the nearest police station.
22. **Procedure to be followed by officer-incharge of police station:-** The officer incharge of a police station to whom any person is forwarded under section 21 shall either admit him to bail to appear before the Magistrate having jurisdiction or in default of bail forward him in custody to such Magistrate.
23. **Inquiry how to be made by Excise Officer against arrested persons forwarded to them under section 21:-** (1) When any person is forwarded under section 21 to a Excise Officer empowered to send persons so arrested to a Magistrate, the Excise Officer shall proceed to inquire into the charge against him.

(2) For this purpose the Excise Officer may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898 (V of 1898), when investigating a cognizable case; Provided that---

(a) if the Excise Officer is of opinion that there is sufficient evidence or reasonable ground of suspicion against the

accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

- (b) if it appears to the Excise Officer that there is not sufficient evidence or reasonable ground of suspicion against the accused person he shall release the accused person, on his executing a bond, with or without sureties as the Excise Officer may direct, to appear, if and when so required before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

24. **Vexatious search, seizure, etc. by excise office:-** Any Excise Officer or other officer exercising powers under this Act or under the rules made thereunder who—————

- (a) without reasonable ground of suspicion searches or causes to be searched any house boat or place;
- (b) vexatiously and unnecessarily detains, searches or arrests any person;
- (c) vexatiously and unnecessarily seizes the movable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;
- (d) commits, as such Officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty, shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years, or with both.

25. **Failure of Excise Officer in duty:-** Any Excise Officer who ceases or refuses to perform or withdraws himself from the duties of his office, unless, he has obtained the express written permission of the Collector of Excise, or has given to his superior Officer two months, notice in writing of his intention or

———— has other lawful excuse, shall on conviction before a Magistrate be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to three months pay or with both.

CHAPTER IV SPECIAL PROVISIONS RELATING TO SALT.

26. **Special and permanent rights of manufacturing salt to be recognized.-** The proprietor of a private salt factory who has by virtue of a sand granted by the Government or any former Government, a special and permanent right to manufacture salt, or to excavate or collect natural salt, shall on application made in accordance with the rules made under this Act be entitled to a licence for such purpose and to the annual renewal thereof, unless on a breach of the provisions of this Act, his licence has been cancelled by an officer duly empowered by the Central Board of Revenue in this behalf.
27. **Right of ordinary proprietors of existing salt works:-** Every proprietor of a private salt-work, other than a private salt factory, to which section 26 applies shall continue to be entitled, on application made in accordance, with the rules made under this Act, to a licence for such purpose and to the annual renewal thereof, unless on a breach of the provisions of this Act his licence has been cancelled by an Officer duly empowered by the (Central Board of Revenue) in this behalf;

Provided that the Collector of Excise may at any time withdraw or withhold a licence from the proprietor of any such salt factory, if no salt has been manufactured, excavated or collected in such salt factory for the three years ending on the thirtieth day of June last preceding the date of his order, or, with the previous sanction of the Central Board of Revenue, if such salt factory has not produced, on an average, during the said three years, at least five thousand maunds of salt per annum.

CHAPTER V ADJUDICATION OF CONFISCATIONS AND PENALTIES

28. **Power to Adjudication:-** Where by the rules made under this Act in any case anything is liable to confiscation or any parson is liable to a penalty, such case may be adjudged——
- (a) without limit, by a Collector of Excise ;

(b) subject to such limitations and conditions as may be determined by the Central Board of Revenue from time to time, by a Deputy Collector, Assistant Collector Excise ;

29. **Option to pay fine in lieu of confiscation:-** Wherever confiscation is adjudged under this Act or the rules made thereunder, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit in addition to any duty and other charges due in respect of the goods.
30. **Confiscation of containers and conveyance:-** Where under this Act or the rules made thereunder any goods are liable to confiscation, then the receptacles, packages or coverings in which such goods are contained and the animals, vehicles, vessels, or other conveyances on which goods are loaded or which are used in carrying the goods shall also be liable to confiscation.
31. **Appeals:-** (1) Any person deeming himself aggrieved by any decision or order passed by the Excise Officer under this Act or the rules made thereunder may, within three months from the date of such decision or order, other than an order of attachment and sale under section 13 appeal there-from to the Central Board of Revenue, or, in such cases as the Central Board of Revenue directs, to any Excise Officer not inferior in rank to an Assistant Collector of Excise and empowered in that behalf by the Central Board of Revenue. Such authority or officer may thereupon make such further inquiry and pass such order as he thinks fit, confirming, altering or annulling the decision or order appealed against ;

Provided that no order imposing or enhancing any penalty or fine or requiring payment of a greater amount of duty than has been adjudged in the decision or order appealed against shall be passed by the appellate authority unless the person affected has been given an opportunity of showing cause against it and of being heard.

(2) Any person desirous of appealing under sub-section (1) against any decision or order relating to any duty demanded in respect of goods which have ceased to be under central excise control, or to any penalty levied under the Act or the rules made thereunder, shall pending the appeal, deposit the duty demanded or the penalty levied or both such duty and such penalty ;

Provided that where, — — — in any particular case, the appellate authority is of the opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may dispense with such deposit, either unconditionally or on such conditions as it may deem fit to impose.

(3) No appeal under sub-section (I) shall lie in any case after the Central Board of Revenue has initiated any proceedings under section 32 in respect of such case.

32. **Power of the Central Board of Revenue to call for and examine records etc.** (1) The Central Board of Revenue may of its own motion call for and examine the record of any departmental proceedings under this Act or the rules made thereunder for the purpose of satisfying itself as to the legality or propriety of any decision or order passed therein by an officer subordinate to the Board and may pass such order as it thinks fit;

Provided that no order imposing or enhancing any penalty or fine or requiring payment of a greater amount of duty shall be passed by the Board unless the person affected by the proposed order has been given an opportunity to showing cause against it and of being heard.

(2) No decision or order shall be revised under this section after the expiry of three years from the date of such decision or order.

(3) No proceedings under sub section (1) shall be initiated in a case where an appeal under sub-section (1) of section 31 is pending except after the disposal of such appeal.

33. **Revision by Government:-** The Government may on the application of any person aggrieved by any decision or order passed (under section 31 or 32 if such application is made within a period of one hundred and twenty days from the date of the decision or order, pass such order in relation thereto as it thinks fit.

Provided that no order imposing or enhancing any penalty or fine or requiring payment of a greater amount of duty than has been determined in the decision or order in respect of which the application has been made shall be passed unless the person affected has been given an opportunity of showing cause against it and of being heard.

CHAPTER VI
SUPPLEMENTAL PROVISIONS

34. **Power of Central Board of Revenue to make rules:-** (1) The Central Board of Revenue may make rules to carry into effect the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—
- (i) provide for the assessment and collection of duties of excise, the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be payable, and the recovery of duty not paid ;
 - (ii) Prohibit absolutely, or with such exceptions, or subject to such conditions as the Central Board of Revenue thinks fit, the production or manufacture, or any process of the production or manufacture, of excisable goods, or of any component parts or ingredients or containers thereof or the providing or rendering of any excisable services, except on land or premises approved for the purpose ;
 - (iii) regulate the removal of excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a licensed person, or a bonded warehouse, or to a market ;
 - (iv) regulate the production or manufacture, or any process of the production or manufacture, the possession, storage and sale of salt, and so far as such regulation is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods, or of any component parts or ingredients or containers thereof ;
 - (v) provide for the employment of officers of the Government to supervise the carrying out of any rules made under this Act ;
 - (vi) require a manufacturer or the licensee of a warehouse or a person providing or rendering any excisable services to provide accommodation within the precincts of his factory or warehouse or premises for officers employed

to supervise the carrying out of regulations made under this Act and prescribe the scale of such accommodation ;

- (vii) Provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering goods into and clearing goods from such warehouses;
- (viii) Provide for the distinguishing of goods which have been manufactured under licence, of materials which have been imported under licence, and of goods on which duty has been paid, or which are exempt from duty under this Act;
- (ix) impose on persons engaged in the providing or rendering of any excessable services or in the production or manufacture, storage or sale (whether on/their own account or as brokers or commission, agents) of salt, and, so far as such imposition is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;
- (x) require that excisable goods shall not be sold or offered or kept for sale in (Azad Kashmir) except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed and provide for the printing, embossing or weaving or retail price on any excisable goods and on containers, packages, covers, labels and wrappers in which any excisable goods are sold ;
- (xi) Provide for the issue of licences and transport permits and the fees, if any, to be charged therefore;

Provided that the fees for the licensing or the manufacture and refining of salt and.....saltpetre shall not exceed, in the case of each such licence, the following amounts, namely :-
Rs.

Licence to manufacture and refine saltpetre
and to separate and purify salt in the process
of such manufacture and refining.....50

Licence to manufacture salpetre.....	2
Licence to manufacture sulphate of soda (Kharinum) by solar heat in evaporating pans.....	10
Licence to manufacture sulphate of soda (Kharinum) by artificial heat.....	2
Licence to manufacture other saline substances.....	2
(xii) Provide for the detention of goods, plant, machinery or material, for the purpose of exacting the duty, the procedure in connection with the confiscation, otherwise than under section 12 of goods in respect of which breaches of the Act or rules have been committed, and the disposal of goods so detained or confiscated;	
(xiii) authorise and regulate the inspection of any premises where any excisable services are provided or rendered or of factories and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale or transport of salt, and so far as such inspection or search is essential levy and collection of the duties imposed by this Act, of any other for the proper excisable goods;	
(xiv) authorise and regulate the composition of offences against, or liabilities incurred under this Act or the rule made thereunder;	
(xv) Provide for permission to export goods on payment to duty or otherwise, and for the grant of rebate, on any basis, of the whole or any part of the duty paid on or in respect of any excisable goods which are exported or which are used in the manufacture of any other goods which are exported out of Pakistan.	
(xvi) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of the Government, or of any factory in which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;	

- (xvii) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale to salt within such area;
- (xviii) authorise the Collectors of Excise appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made under this section.

(3) In making rules under this section, the Central Board of Revenue may provide that any person committing a breach of any rule shall, without prejudice to any other action that may be taken against him under this Act, be liable to a penalty not exceeding "two thousand rupees or ten times the amount of duty involved whichever is greater and that any article in respect of which any such breach is committed shall be confiscated.

35. **Publication of rules and notifications:-** All rules made and notifications issued under this Act shall be made and issued by publication in the official Gazette. All such rules and notifications shall thereupon have effect as if enacted in this Act.

36. **Bar of suits and limitation of suite and other Legal proceedings:-** (1) No suit shall be brought in any civil court to set aside or modify any order passed, or any assessment, levy or collection of any duty, under this Act.

(2) No suit, prosecution, or other legal proceeding shall be instituted for anything done or ordered to be done under this Act after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.

(3) No suit shall lie against the Government or against any officer of the Government in respect of any order passed in good faith or any act in good faith done or order to be done under this Act.

37. **Repeal & Saving.-** (1) The Central Excise and Salt Act, 1944 (adopted by Azad Kashmir by Act I of 1959) is hereby repealed.

(2) Notwithstanding the repeal of the Act mentioned in sub-section (1) every thing done, action taken, obligation, liability, penalty or punishment incurred, injury or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made and order or notification issued under any of the provisions of the said Act, shall, if not inconsistent with the provisions of this Act, be continued, and so

far as may be, deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Act.

FIRST SCHEDULE

(See Section 3)

PART I

Item No. (1).	Description of goods (2)	Rate of duty (3)
SECTION I- VEGETABLE PRODUCTS		
1. (i)	TEA Tea packed in any kind of consumer package or container or bag on which weight and the retail price are legibly prominently and indelibly printed and such retail price-	
(a)	does not exceed four rupees and ninety paise per pound.	37 paise per pound
(b)	exceeds four rupees and ninety paise but does not exceed six rupees and fifty paise per pound.	37 paise per pound plus 5 percent of retail price.
(c)	exceeds six rupees and fifty paise but does not exceed eight rupees and eighty paise per pound.	37 paise per pound plus 7½ percent of retail price.
(d)	exceeds eight rupees and eighty paise per pound.	37 paise per pound plus 25 percent of retail price.
(ii)	If not covered by clause (i)	200 percent advalorem.

SECTION II-

VEGETABLES FATS AND OILS.

2.	Vegetable Non-Essential Oils-vegetable non-essential Oils, all sorts, excluding vegetable product covered by items 3	Seven rupees per c.w.t.
3.	Vegetable product:- "Vegetable product' means any vegetable oil or fat, which whether by	

itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human consumption

(i)	If packed in containers on which the retail price and the quantity are legibly, prominently and indelibly printed.	Forty five rupees per c.w.t.
(ii)	If not covered by sub-item (1)	Sixty rupees per c.w.t.

SECTION III-PREPARED FOODSTUFFS; BEVERAGES, TOBACCO

4.	Beverages	
(1)	Aerated waters, all sorts—	Ten paisa per bottle.
(a)	If retail price is legibly, prominently and indelibly printed on each bottles or on the crown cork or on the label.	
(b)	If not covered by clause (a)	200 percent, ad-valorem
(c)	Such Beverages as are manufactured by a manufacturer carrying on a cottage industry.	Nil
(2)	Syrups, squashes and fruit juices, all sorts—	Nil
5	SUGAR	
(a)	Sugar manufactured in a factory which is operated without the aid of power, steam or natural gas	Nil
(b)	Confectionery, Icing, Demerara and Candy sugar manufactured in a factory from sugar on which duties of excise have already been paid, provided that the procedure prescribed under the Act or the Rules made thereunder is followed.	Nil
(c)	If not covered by clause (a) & (b),	Fourteen rupees

per c.w.t.

6. TOBACCO
 "Tobacco" means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalk and stems of the tobacco plant but does not include any part of a tobacco plant while still attached to the earth.
- 1 Un-manufactured tobacco---
- (i) used in the manufacture of Cigarettes One rupee per lb.
 - (ii) used for cigars & cheroots purposes Sixty paisa per lb.
 - (a) Manufactured tobacco—
 - Cigars and cheroots of which the value-- Per Hundred
 - (i) exceeds Rs. 30.00 a hundred. Twelve rupees.
 - (ii) exceeds Rs. 25.00 a hundred but does not exceed Rs. 30.00 a hundred. Ten rupees
 - (iii) exceeds Rs. 20.00 a hundred but does not exceed Rs. 25.00 a hundred. Eight rupees
 - (iv) exceeds Rs. 15.00 a hundred but does not exceed Rs. 20.00 a hundred. Six rupees
 - (v) exceeds Rs. 10.00 a hundred but does not exceed Rs. 15.00 a hundred. Four rupees
 - (vi) exceeds Rs. 5.00 a hundred but does not exceed Rs. 10.00 a hundred. Two rupees
 - (vii) exceeds Rs. 2.50 a hundred but does not exceed Rs. 5.00 a hundred. One rupee
 - (viii) exceeds Rs. 1.25 a hundred but does not exceed Rs. 2.50 a hundred. Fifty paisa
 - (ix) exceeds Rs. 0.75 a hundred but does Twenty Five

	not exceed Rs. 1.25 a hundred.	paisa
(b)	Cigarettes If the retail price is legibly, prominently and indelibly printed on each packet and if such retail price per ten cigarettes	Per one thousand cigarettes
(i)	does not exceed fifteen paisa.	One rupee fifty paisa.
(ii)	exceeds fifteen paisa but does not exceed thirty paisa.	Three rupees plus 50 percent, of the retail price of the retail price in excess of fifteen rupees per one thousand cigarettes.
(iii)	exceeds thirty paisa but does not exceed one rupee	Eleven rupees plus 65 percent, of the retail price in excess of thirty rupees per one thousand cigarettes.
(iv)	exceeds one rupee	Fourteen rupees plus 65 percent of the retail price in excess of thirty rupees per one thousand cigarettes.
(2)	Un-manufactured Tobacco used for smoking mixtures for pipes and cigarettes. Manufactured Tobacco—— Smoking mixtures for pipes and cigarettes made by hand machine without the aid of power. If not covered by clause (i).	25 paisa per Lbs

(3)	(i)	Tobacco locally grown	(a) Balkhi	60 paisa per Lbs
		Tobacco imported from Pakistan other than Item No 1 & 2 :-	(b) Desi	
	(ii)	Refuses including "Raddi" and "Kara" .		Twelve rupees per Lb.
	(i)	Tobacco all other kinds.		30 paisas per seer
	(ii)	Manufactured "Snuff" and "Garakho" if imported from Pakistan.		50 paisas per seer
	(a)			20 paisas per seer
	(b)			50 paisas per seer
	(c)			12½ paisas per lb.

SECTION IV- MINERAL PRODUCTS

7.	CEMENT			
	Explanation.- The expression 'Cement' includes clinker			
	(1)	White or coloured cement.		One hundred rupees pre ton.
	(2)	All other sorts of cement		Thirty-six rupees per ton.
8	SALT—			Two rupees and fifty paisa per mounds
	"Salt" includes swamp salt, spontaneous salt, and salt or saline solutions made or produced from any saline substance or from salt earth.			
9.	Petroleum Oils and oils obtained from Bituminous Minerals, Crude.			Four rupees per ton.
10.	Petroleum Gases and other Gaseous Hydrocarbons including Natural Gas			Forty paisa per 1000 Cubic feet

and Liquefied Petroleum Gas.

11. Furnace oils, that is to say, any mineral oil which— Thirty paisa per Imperial gallon
- (i) has its flashing point at or above one hundred and fifty degree of Fahrenheit's thermometer,
 - (ii) has a flame height of less than ten millimeter,
 - (iii) Contains one quarter of one per cent or more by weight of any bituminous substance, and
 - (iv) possesses a viscosity of one hundred seconds or more by Redwood I Viscometer at one hundred degrees of Fahrenheit's thermometer.

Explanation I. "Mineral Oil" means an oil consisting of a single liquid hydrocarbon or a liquid mixture of hydrocarbons (except for associated impurities) derived from petroleum, coal, shale, peat or any other bituminous substance, and includes any similar oil produced by synthesis or otherwise.

Explanation II.— "Flame height" shall be determined in the apparatus known as the smoke point lamp in the manner prescribed in this behalf by the Government.

Explanation III.— "Flashing Point" shall be determined in accordance with the tests specified in this behalf in the rules made under the Petroleum Act, 1934.

12. High speed diesel oil and vaporizing oil, that is to say any Mineral oil (excluding mineral colza oil and One rupee and thirty five paisa per imperial

	turpentine substitute) which has its Flashing point at or above seventy-six degree of Fahrenheit thermometer and satisfies either of the——— requirements.	gallon.
13.	Diesel oil, not otherwise specified, that is to say any Mineral oil.	Fifty seven and half paisa per imperial gallon.
14.	Jet fuels	Eighty-five paisa per Imperial gallon.
15.	Kerosene—	Sixty-two and half paisa per Imperial gallon.
16.	Motor Spirit—	Three rupees and fifty paisa per Imperial gallon
17.	Petroleum Grease.	50 per cent, ad-valorem rent.
18.	Petroleum Jelly	67½ per cent, ad-vale rent.
19.	Petroleum Lubricating Oils Lubricating Oils, all sort	Two rupees & fifty paisa per Imperial gallon.
20.	Solvent Naphtha and other such Petroleum products	80 par-cent, ad-valorer Products.
21.	Asphalt—	One hundred and thirty rupees per ton.
22.	Petroleum Products not otherwise specified.	50 percent ad-valorem

SECTION V
PRODUCTS OF CHEMICAL AND ALLIED INDUSTRIES.

23. Creams and polishes for footwear, all

sorts—

Creams and polishes for footwear manufactured by a manufacturer carrying on a cottage industry. Nil

- (i) If retail price is legibly, prominently and indelibly printed on each container. 25 percent of retail price.

- (ii) If not covered by sub item(i) 200percent ad-valorem

24. Paints, Pigments, Varnishes and Polishes-All sorts of paints, pigments, distempers, colors, dyes, enamels, varnishes, glazes, luster's, thinners, blacks, cellulose lacquers, and polishes (except creams, and polishes falling under item No. 23) and their ancillaries in any form, liquid, solid, semisolid paste, powder or granules.

- (1) if retail price and quantity are legibly, prominently and indelibly printed on each container or package. 22 percent, of the retail price.

- (2) If not covered by sub item (1) 200 per-cent, ad valorem.

25 Perfumery cosmetics and Toilet Preparations

Perfumery, cosmetics and toilet preparations, all sorts, whether medicated or otherwise, including soap not falling under item 26.

- (i) Perfumery, cosmetics and toilet preparations manufactured by a manufacturer carrying on a cottage industry, provided the goods are marketed without any brand name or trade mark. Nil

- (ii) If retail price is legibly, prominently and indelibly printed on each 28 per-cent, ad valorem.

container, package, cover or outer wrapper, or on the article itself if it is marketed unpacked or unwrapped.

	(iii)	If not covered by sub-item (ii)	200 percent, ad-valorem.
26.		soaps and Detergents——	
		Soaps, all sorts, but excluding liquid soap, paste soap, shaving soap and depilatory soap—	
	(1)	Soap flakes, soap powders and detergents, all sorts—	
	(a)	If retail price and weight are legibly, prominently and indelibly printed on every container or package	20 per cent of the retail price.
	(b)	If not covered by clause (a)	200 percent ad-valorem
	(2)	Soap other than soap falling under sub-item (1)——	
	(a)	If weight and retail price are legibly, prominently and indelibly printed on the outer wrapper or container of soap or is legibly and prominently embossed on soap, which is sold unwrapped or unpacked -----	Such rate, not exceeding 50 percent of the retail price may be fixed by the Govt. by notification in the official Gazette, and different rates may be fixed with reference to different conditions and circumstance.
	(b)	If not covered by clause (a)	200 percent, ad-valorem.
27.		Soda Ash	One hundred and fifty rupees per ton.

SECTION VI

MATCHES.

28. Matches-----

"Matches" include a fire work in the form of & match; and, where a match-stick has more heads than one capable of being ignited by sticking, each such head shall be deemed to be a match.

- (1) Matches, manufactured in a factory whose daily output exceeds one hundred gross of boxes, in boxes or booklets containing on an average —

(i)	not more than forty matches	Two rupees	} per gross of boxes or booklets
(ii)	more than forty, but not more than fifty matches.	Two rupees fifty paise	
(iii)	more than fifty, but not more than sixty matches.	Three rupees	
(iv)	more than sixty, but not more than eighty matches	Four rupees	

- (2) Matches, manufactured in a factory whose daily output does not exceed one hundred gross of boxes, in boxes or booklets containing on an average—

(i)	not more than forty matches ;	One rupee and ninety-five paise	} per gross of boxes or booklets
(ii)	more than forty, but not more than fifty matches ;	Two rupees and forty four paise	
(iii)	more than fifty, but not more than sixty matches ;	Two rupees and ninety two paise	
(iv)	more than sixty, but not more	Three	

	than eighty matches	rupees and ninety paisa.
(3)	Matches in boxes containing on an average not more than twelve matches of the type known as "Bengal Lights".	Sixty two paisa per gross of boxes
(4)	All other matches	Fifty paisa for every 1440 matches or fraction thereof.

SECTION-VII
ARTIFICIAL RESINS AND PLASTIC MATERIALS AND ARTICLES
THEREOF; CELLOPHANCE; RUBBER, SYNTHETIC RUBBER
AND ARTICLES THEREOF.

- 29 Cellophane, plastic and Resin Materials——
- (1) Cellophane and all plastic materials and synthetic or artificial resins, and all products made wholly or partly of plastic materials or synthetic or artificial resins not otherwise specified. 10 percent, ad valorem.
 - (2) Radio and Transistors cabinets made wholly or partly of plastic material or synthetic or artificial resins——
 - (a) Large size Rupees five per piece.
 - (b) Medium size Rupees three per piece.
 - (c) Small size Rupees two per piece.
 - (3) Telephone and intercom instruments made wholly or partly of plastic material or synthetic or artificial resins. Rupees five per piece

Explanations——

- (1) "Plastic materials" include materials from which any kind of plastic is made.
 - (2) "Large size" means a cabinet the volume (length X breadth X height) of which exceeds 200 cubic inches.
 - (3) "Medium size" means a cabinet the volume (length X breadth X height) of which exceeds 155 cubic inches but does not exceed 200 cubic inches.
 - (4) "Small size" means a cabinet the volume (length X breadth X height) of which does not exceed 155 cubic inches.
- 30- Products of Rubber and of Synthetic and artificial rubber——
- (1) Products made wholly or partly of 10 percent, rubber or artificial rubber or volerem. synthetic rubber not otherwise specified including rubberized fabrics of all sorts
 - (2) Tyres and Tubes——
 - (a) Pneumatic tyres and tubes——
 - (i) Cycle tyres Seventy-five paisa per tyre.
 - (ii) Cycle tubes Twenty-five paisa per tube,
 - (iii) Tyres and tubes for motor vehicles. 30 per cent, ad valorem
 - (iv) All other pneumatic tyres and tubes. 15 percent, ad valorem.
 - (b) Other tyres

10 percent, ad
valorem

SECTION VIII –
LEATHER AND LEATHER GOODS

31.	Tanned leather, all sorts	10 percent advalorem
32.	Products made wholly or partly of Leather, all sorts——	
	(1) If retail price is legibly and prominently printed or embossed on each product	15 percent, of the retail price.
	(2) If not covered by sub-item (1)	200 per cent, ad valorem

SECTION IX –
PAPER, PAPERBOARD AND PAPER PRODUCTS.

33.	Paper, all sorts	Rupees fifteen per c.wt.
34.	Paperboard, all sorts	Rupees ten per cwt,
35.	Bank cheques, all sorts	Twenty paisa per cheque.

SECTION X –
TEXTILE AND TEXTILE ARTICLES.

36.	Cotton yarn, Twist and Thread— "Cotton yarn, twist and thread" means cotton yarn, twist and thread of any description manufactured either wholly or partly from cotton——	
	(i) Cotton yarn, twist and thread which is manufactured in such factories as are operated without the aid of power or steam.	Nil
	(ii) Cotton thread made from cotton yarn on which duties of- excise	Nil

have already been paid.

- (iii) If count, weight and retail price are legibly, prominently and indelibly printed on every package, cover, wrapper or label and not covered by item (i) & (ii) above.

(a) Yarn or counts less than 21	Fifty five paisa per pound
(b) Yarn of counts 21 or more but less than 35.	One rupee & seventy paisa per pound
(c) Yarn of counts 35 or mote by less than 48	One rupee & ten paisa per pound
(d) Yarn of counts 48 or more	Two rupee and eighty paisa per pound
(2) If not cover by sub item (iii)	200 percent ad valorem

Explanation ----- “Count” means the count of the basic single yarn, and any fraction of a count which is one half or more shall be reckoned as one, while less than one-half shall be ignored.

37. **Cotton Fabrics** – “Cotton Fabrics” means fabric of any description manufactured either wholly or party from cotton, and any such fabric processed in manner.

- (1) Grey (unprocessed) any fabrics ----
- | | |
|--|-------------------------------|
| (a) If retail price is legibly printed or woven on the selvage or border of every liner yard—— | |
| (i) Superfine fabrics | Eighty paisa per square yard. |
| (ii) Fine fabrics | Fifty paisa per square yard. |
| (iii) Medium fabrics | Twenty paisa per square yard. |
| (iv) Coarse fabrics | Ten paisa per |

- square yard.
- (v) Drill, tapestry curtain Fifty paisa per
fabrics, bed covers and square yard.
table covers.
- (b) If not covered by clause (a) 200 percent
advalorem
- (2). Processed fabrics——
- (a) If retail price is legible printed or woven on the
selvedge or border of every linear yard——
- (i) Calendared, bleached, Three paisa per
dyed and / or raised square yard
fabrics.
- (ii) Printed fabrics. Five paisa per
square yard
- (iii) Mercerized and/or Ten paisa per
sanforised fabrics or square yard
fabrics which have
undergone any
compressive shrinkage or
any other similar process.
- (iv) Embroidered fabrics or Fifty paisa per
fabrics processed in any square yard
other manner.
- (b) If not covered by clause (a) 200 per cent, ad
valorem,

Explanation :-

- (1) "Superfine fabrics" means fabrics in which the average
count of yarn is 48s or more ;
- (2) "Fine fabrics" means fabrics in which the average count
of yarn is 35s or more but less than 48s ;
- (3) "Medium fabrics"" means fabrics in which the average
count of yarn is 21s or more but less than 35s ;
- (4) "Coarse fabrics" means fabrics in which the average
count of yarn is less than 21s ;
- (5) "Dril to tapestry, curtain fabrics, bed covers and table
covers" means fabrics commonly known as such, made

from yarn of any count;

- (6) "Count" means count of yarn ;
- (7) For the purposes of determining the average count of yarn :-
- (a) yam used in the borders or selvages shall be ignored ;
 - (b) for multiple-fold yarn the count of the basic single yarn shall be taken and the number of ends per inch in the reed or the number of picks per inch, as the case may be, shall be multiplied by the number of plies in the yam ;
 - (c) the average count shall be obtained by applying the following formula, namely :

$$\frac{(\text{count of warp} \times \text{number of ends per inch in the reed}) + (\text{Count of weft} \times \text{number of picks per inch})}{(\text{number of ends per inch in the reed} + \text{number of picks per inch})}$$

the result being rounded off, wherever necessary by treating any fraction which is one-half or more as one, and disregarding any fraction which is less than one-half ;
- (8) If a fabric has undergone processes which fall under two or more of the clauses of sub-item II (a) in the same factory, duty shall be levied only under the clause carrying the higher or the highest rate, as the case may be ;
- (9) "Grey (unprocessed) fabrics" means fabrics which have undergone no process of any kind after weaving or knitting or fabrication otherwise ;
- (10) The liability to duty under sub-item 11 shall not be affected by any duty paid or payable under sub-item I;
- (11) If any fabric is embroidered in the process of weaving or knitting, duty shall be leviable thereon under sub-item II in addition to duty under sub-item I.

38. **Man-made Fibres and Yarns:-**

Explanation— Any mixed yarn the predominant component of which is man-made fiber shall be treated as man-made yarn.

(1) If weight and retail price are legibly, prominently and indelibly printed on the package, cover, wrapper or label.

(i) Acetate and Viscose Two rupees and fifty
fibres and yarns paisa per pound.

All other man-made Five rupees per pound
fibres and yarns

(2) If not covered by sub- 200 percent, ad-
item (1) volorem

39. **Fabrics of Man-made Fibers:-** "Fabrics of Man-made Fibers" means fabrics of any description made wholly or partly from man-made fibers, and any such fabrics processed in any manner—

Fabrics of man-made fibres, all sorts—

(1) If retail price is legibly printed or 30 paisa per
woven on the selvedge or border of linear yard.
every linear yard.

(2) If not covered by (1) above. 200 percent
ad-valorem

40. Jute and Mehta Five rupees per
bal or 400 lbs

41. Jute Manufactures
(1) Hessian including sacking and Rupees two
bagging materials and fabrics of all hundred per ton.
sorts.

(2) All other Manufactures Rupees one
hundred and
twenty five per
ton.

42. **Woolen yarn:-** Woolen yarn, all sorts, including knitting wool--

(1) If retail price or legibly, printed on 10 percent of
every package, cover, wrapper or the retail price.
label.

(2) If not covered by (1) above. 200 percent
ad-valorem

43. **Woolen Fabrics:-** “Woolen Fabrics” means all varieties of fabrics manufactured wholly or partly from wool but does not include any such fabrics which contains less than 10 percent of wool by weight--
- (1) Carpets and rugs Thirty percent ad-valorem.
 - (2) Blankets, Lohis and shawls
 - (a) Woolen blankets the size of which is less than 90 inches X 60 inches and woolen Lohis and shawls the size of which is less than 80 inches X 50 inches which are knitted, woven or otherwise fabricated in a factory which is not equipped with any plant or machinery capable of being operated with the aid of power, steam or natural gas and which are processed in another factory, provided the retail price and size are legibly printed or woven on every piece or on a label or tag attached to every piece. 15 percent of the retail price
 - (b) If not covered by clause (a). 200 percent advalorem
 - (3) Knitted Woollen Articles——
 - (a) If retail price is legibly printed or woven on every article or on a tag attached to every article. 20 percent of the retail price
 - (b) If not covered by clause (a). 200 percent ad-valorem
 - (4) Woollen fabrics not otherwise specified——
 - (a) If retail price is legibly printed or woven on the selvedge or border of every linear yard. 30 percent of the retail price
 - (b) If not covered by clause (a). 200 percent ad-valorem.

SECTION XI

44. GLASS AND GLASSWARE.:-

- Glass and Glassware, all sorts----- 10 percent
 (a) Glass and glass-ware manufactured advalorem.
 by a manufacturer carrying on a
 cottage industry.

SECTION XII-
 PRECIOUS METALS.

45. Gold and Silver and products thereof——

- (1) Gold including gold, and products 25 percent of
 made wholly or partly of gold, all the retail price.
 sorts, including ornaments and
 jewelry.
- (2) Silver, including remolded silver and 25 percent of
 products made wholly or partly of the retail price.
 silver, all sorts, including ornaments
 and jewelry.

SECTION XIII-
 BASE METALS AND ARTICLES OF BASE METALS.

46. Metal containers, all sorts whether made 10 percent ad-
 wholly or partly of metal, and parts thereof valorem
 —

47. **Mild steel products.** 50 rupees per ton.
 Mild steel products, all sorts, including
 bars, rods, coils, wires, joists, girders,
 angles, channels, tees, flats, beams, zeds,
 trough, piling and all other rolled, forged,
 formed or extruded shapes and sections.

48. Steel Ingots ——
 "Steel Ingots" means the product obtained Fifty rupees per
 by processing iron ore, pig iron or iron ton.
 scrap or any other ferrous raw material,
 whether cast into a mould in any shape or
 form, or whether used in molten or semi-
 finished state for the manufacture of rolled
 or forged or formed steel products.

49. Stainless Steel ——
 Products of stainless steel, made wholly or 10 percent of ad-
 partly of stainless steel, all sorts, and parts valorem.
 thereof, including cutlery.

50. Steel Furniture and Fixtures —
All sorts of furniture, fittings and fixtures 10 percent ad-
made wholly or partly of steel and parts valorem.
thereof, including frames for doors,
windows and ventilator and balustrades.

SECTION XIV—

MACHINERY, ELECTRICAL AND MECHANICAL EQUIPMENTS,
APPARATUS AND APPLIANCES.

51. **Electric Batteries and Parts thereof:-**

- (1) Storage batteries —
(a) If retail price is legibly, prominently 25 percent of
and indelibly printed on each battery. the retail price
(b) If not covered by clause (a). 200 percent
ad-valorem.
(2) Primary cells and primary batteries—
(a) If retail price is legibly, prominently 25 percent of
and indelibly printed on each cell or the retail price
battery.
(b) If not covered by clause (a). 200 percent
ad-valorem.
(3) Containers, covers and plates of 50 percent ad-
batteries, except containers, covers valorem,
and plates used as component parts of
batteries which are subject to duty
under sub-item (1) and (2) above.

52. **Electric Bulbs and Fluorescent Tubes—**

- (1) Electric Bulbs, all sorts—
(a) If retail price is legibly, prominently 7½ percent of
percent of the retail and indelibly the retail price.
printed on each bulb or price, its
package, cover or container,
(b) If not covered by clause (a). 200 percent
ad-valorem

- (2) Fluorescent tubes, all sorts——
- (a) If retail price is legibly, prominently and indelibly printed on each tube or its package, cover or container, and such retail price——
- (i) does not exceed two rupees and fifty paise per foot. 35 percent of the retail.
- (ii) exceeds two rupees and fifty paise per foot. 45 percent of the retail price
- (b) If not covered by clause (a). 200 percent ad-valorem

53. **Electric Fans and parts thereof——**

- (1) Cabin, Carnage, Table Fans. Twenty five rupees per fan
- (2) Ceiling fans. Thirty five rupees per fan.
- (3) Pedestal fans. Fifty rupees per fan.
- (4) All other fans. 25 percent ad-valorem subject to a minimum of rupees fifty per fan.
- (5) Complete motors, stators and rotors other than complete motors, stators and rotors used in the manufacture of fans on which duty is levied under sub-items (1), (2), (3) and (4). 40 percent ad-valorem.

54. **Electrical goods, Apparatus and Appliances ——**

Electrical goods, apparatus, appliances, equipment and fittings, 10 percent ad-valorem.
not otherwise specified, including air-conditioners, boilers, water coolers, refrigerators, freezers, heaters, stoves, cooking ranges, hot plates, juice extracting machines, domestic

grinding machines, switches, plugs, regulators, electric irons and kettles and parts of all such electrical goods, apparatus, appliances, equipment and fittings.

55. **Gas Apparatus and Appliances** — —
Gas apparatus and appliances, all sorts, including boilers, heaters, stoves, cookers, cooking ranges and cooling and refrigerating equipment and parts of all such apparatus and appliances. 10 percent ad-valorem.
56. **Wire and cables** — —
Electric wires and cables, all sorts, including telephone and telegraph wires and cables. 7½ percent ad-valorem.

SECTION XV

57. **Sound recorders and reproducers.**
Electrically operated gramophones, record players and other-sound recording or reproducing machines. 10 percent ad-valorem.
58. **Gramophone Records.** 10 percent ad-valorem.

SECTION XVI—

MISCELLANEOUS MANUFACTURED ARTICLES.

59. **Mechanical Lighters** — —
"Mechanical Lighters" means any mechanical or chemical contrivance for causing ignition which is portable and which operates by producing a spark or flame whether by itself or when brought into contract with gas, and includes a mechanical lighter issued from a factory in an incomplete state or requiring for its completion the addition of a flint. Three rupees per lighter.

PART II.

PART I

Item No.	Description of goods	Rate of duty

(1).	(2)	(3)
1.	Services rendered by Hotels & Restaurants-	
	(1) All services, facilities, and utilities, including catering supplies and merchandise provided or rendered by an hotel.	10 percent of the charges,
	Explanation :- "Hotel" means an establishment, organization or place where rooms or suites of rooms are let out on rent, whether or not it has any arrangement for catering or provides any other services, facilities or utilities, by whatever name called.	
	(2) All services, facilities, and utilities, including catering supplies and merchandise provided or rendered by restaurant.	10 percent of the charges,
	Explanation:- "Restaurant" means an establishment, Organization or place where food or drinks are sold, whether or not it provides any other services, facilities or utilities, what ever name called, and includes a night club and cabaret.	
2.	Advertisements,	
	Advertisement all sorts, published in news-papers, magazines, journals or periodicals, or displayed on cinema screens, broadcast over radio or telecast on television.	10 percent of the charges.

SECOND SCHEDULE
(SEE SECTION 8 AND 10)

PART A.

Excisable goods specified for the purposes of section 8—

1. Tobacco.
2. Gold and silver and products thereof.

PART B.

EXCISEABLE GOODS SPECIFIED FOR THE PURPOSES OF
SECTION 10—

1. Tobacco.

آ ۱۰ جموں و کشمیر
محکمہ قانون مظاہر

آ ۱۰ جموں و کشمیر زکوٰۃ ایکٹ ۱۹۷۷ء ایکٹ نمبر XVIII ۱۹۷۷

مورخہ ۱۲ ستمبر ۱۹۷۷ء نمبر ۸۸۷۷/۷۷ ق ۷۷ قانون ساز اسمبلی کا منظور ۱۰ مندرجہ ذیل
ایکٹ جس کی توثیق صدر حکومت نے مورخہ ۳ ستمبر ۱۹۷۷ء کو کی ہے: اے اطلاع عام ۱۰ نفع کیلئے
ہے۔

(ایکٹ نمبر XVIII ۱۹۷۷ء)

۱۰ جموں و کشمیر زکوٰۃ ایکٹ ۱۹۷۷ء

تمہید:- گاہ کہ لازم ہے ۱۰ جموں و کشمیر گورنمنٹ ایکٹ ۱۹۷۰ ۱۰ دفعہ ۳۴ کی رو سے ۱۰
۱۰ جموں و کشمیر میں قوانین ۱۰ ن و ۱۰ کے مطابق مل جائے۔ لہذا ۱۰ ذیل قانون
وضع کیلئے ہے۔

۱۔ مختصر عنوان وسعت اور نفاذ

(۱) یہ ایکٹ ۱۰ جموں و کشمیر زکوٰۃ ایکٹ ۱۹۷۷ء کہلائے گا۔

(۲) اس کا اطلاق سارے ۱۰ جموں و کشمیر جو علاقہ جات اس میں مل رہے ہو

گا۔

(۳) یہ ایکٹ فی الفور نافذ ہوگا۔

۲- تعریفات

اس ایکٹ میں ☒ وقتیکہ موضوع ☒ یہ عبارت میں کوئی امر اس کے نفیض نہ ہو۔

(۱) ”حکومت سے مراد 10 حکومتوں کا مجموعہ ہے۔“

(۲) ”زکوٰۃ“ سے ﴿۱۰﴾ مال کا وہ مقرر حصہ ہے جو صاحبِ نصاب پر شرعاً واجب ﴿۱۰﴾

ۛ 

(۳) ”ہاں“ سے ”نہی“ اور ”ماتل“ بلغ، مسلمان شخص ہے جو کسی شے  کا قانونی مالک ہو۔

(۴) ”نصاب“ سے ۱۰ اموال کی وہ مقررہ مقدار ہے جس کے مالک ہونے پر زکوٰۃ

لازم ہو جاتی ہے۔

(۵) ”اموال“ سے مراد ﴿۱۰﴾ ظاہر میں مخفی ﴿۱۱﴾ شہجات ہیں۔

(۶) ”نفیجہ“ سے 10 ایسا مسلمان جس کے پاس کوئی اثاثہ نہ ہو اور مالی اہلیت نہ ہو۔

(۷) ”مسکین“ سے ۱۰؎ وہ مسلمان ہے جس کے پاس مال ہو لیکن صاچے اب نہ ہو۔

(۸) ”عالمین زکوٰۃ“ سے ۱۰٪ حکومت کے وہ عہدیدار ہیں جس کے ذمہ ایکٹ اور

قواعد کے تحت زکوٰۃ کی وصولی کا کام ⑩ غیر متعلقہ امور کی انجاء ⑪ ہی سپرد ⑫ ہو۔

(۹) ”القلوب“ سے ﴿۱۰﴾ وہ لوگ ہیں جن کو اسلام اور اسلامی مملکت کے ﴿۱۱﴾ کی

مخالفت سے روکنا اس کے ⑩ کی بہتر EX ● ⑩ ✕ مقصود ⑩ ہو اور اس

غرض کے لئے ما (10) ے کر ان کی خلیف قلب کرنے کے سوا کوئی چارہ کار نہ ہو۔

اس میں مسلم اور غیر مسلم ⑩ ونوں امل ہیں۔

- (۱۰) ”رَقَابَتُہ“ سے ﴿۱۰﴾ غلام ہیں۔ غلاموں ﴿۱۰﴾ اس مد میں ﴿۱۰﴾ مل ہے چونکہ ﴿۱۰﴾ جمل غلاموں کا رواج نہیں ہے اس ﴿۱۰﴾ ج کے زمانہ میں ایسا ضرور تمند اور صالح قیدی بھی ﴿۱۰﴾ ہو سکتا ہے جو عد ﴿۱۰﴾ ان کی صورت میں سزا بھگت رہا ہو۔
- (۱۱) ”﴿۱۰﴾ سے ﴿۱۰﴾ وہ مسلمان ﴿۱۰﴾ ضدار ہے ﴿۱۰﴾ پور ﴿۱۰﴾ ض ﴿۱۰﴾ ا ﴿۱۰﴾ ے تو اس کے ﴿۱۰﴾ س بقدر نصاب ﴿۱۰﴾ باقی نہ رہے۔
- (۱۲) ”سَبِيلُ ﴿۱۰﴾ سے ﴿۱۰﴾ وہ ﴿۱۰﴾ اللہ کی راہ میں کام کرنے والا ﴿۱۰﴾ می ہے جو مالی ا ﴿۱۰﴾ کا ج ہو۔
- (۱۳) ”ابن سَبِيلُ ﴿۱۰﴾ سے ﴿۱۰﴾ مس ﴿۱۰﴾ ہے جو گھر میں خواہ غنی ہی کیوں نہ ہوں لیک ﴿۱۰﴾ وراں سفر ﴿۱۰﴾ ج ہو جائیں شرط یہ ہے کہ سفر کا فاصلہ شرعی ہو۔
- (۱۴) ”سَبِيلُ ﴿۱۰﴾ سے ﴿۱۰﴾ ایسے مولیشی ہیں جو سال کے اکثر حصے میں ﴿۱۰﴾ اگا ہوں رجنگوں میں ﴿۱۰﴾ ارہ کرتے ہیں۔
- (۱۵) ”عَامِلُ ﴿۱۰﴾ سے ﴿۱۰﴾ وہ افسر ہے جس کی تقرری ﴿۱۰﴾ نے بلحاظ عہدہ ﴿۱۰﴾ ی ہو جو اس ایکٹ کے تحت اپنے افسر اپنے ﴿۱۰﴾ اختیار میں انج ﴿۱۰﴾ ے۔
- (۱۶) ”عَامِلُ ﴿۱۰﴾ سے ﴿۱۰﴾ وہ افسر ہے جس کی تقرری ﴿۱۰﴾ نے بلحاظ عہدہ کہ ہو جو اس ایکٹ کے تحت اپنے افسر اپنے ﴿۱۰﴾ اختیار میں انج ﴿۱۰﴾ ے۔
- (۱۷) ”معاون ﴿۱۰﴾ سے ﴿۱۰﴾ محکمہ کا ایسا عہدہ ﴿۱۰﴾ ار ہے جس کے ﴿۱۰﴾ ایکٹ ہذا قواعد کے تحت جو اس ایکٹ کے تحت مرتبہ کئے گئے ہوں وصولی زکوٰۃ ﴿۱۰﴾ گیر امور کا کام مخصوص حلقہ میں ہوگا۔

- (۱۸) ”عالم سے ۱۰ محکمہ کا ایسا اعلان ہے جس کے ۱۰ ایکٹ ہذا قواعد جو اس ایکٹ کے تحت مرتبہ کئے گئے ہوں وصولی ۱۰ یگر امور کا کام مخصوص حلقہ میں ہوگا۔
- (۱۹) ”محکمہ سے ۱۰ محکمہ تحصیل زکوٰۃ ہے جس کے ۱۰ وصولی زکوٰۃ ہوگا۔
- (۲۰) ”قواعد سے ۱۰ ایسے قواعد ہیں جو اس ایکٹ کے تحت مرتبہ ہوں گے۔
- (۲۱) ”۱۰ ی ۱۰ سے ۱۰ تحصیل زکوٰۃ اور تقسیم زکوٰۃ کے لئے مقرر ۱۰ ہ ۱۰ سے ۱۰ یونہی ہے۔

۳۔ زکوٰۃ کی ضمیمت

- (۱) صاحب نصاب اپنے اس مال میں سے زکوٰۃ ۱۰ کرے گا جو سال کے اختتام پر اس ۱۰ اس مو ۱۰ ہو۔
- (۲) زکوٰۃ کی وصولی مطابق شر منامہ ہوگی جو اس ایکٹ کے ۱۰ ول ۱۰ ۱۰ ہے۔

۴۔ شہ جات کا اعلان

- (۱) قطع نظر ان تمام قوانین کے جو اس ایکٹ سے قبل حاوی ہیں ۱۰ مالک کے لئے لازم ہوگا کہ وہ اس ایکٹ کی منشاء کو پورا کرنے کے لئے اپنے اموال زکوٰۃ کی جملہ تفصیلات ۱۰ قواعد ۱۰ کو بہم پہنچائے۔
- (۲) ۱۰ کو اختیار حاصل ہوگا کہ ۱۰ شہ جات کے ایسے گوشوارے سال ۱۰ واران کسی بھی ۱۰ طلب کرے۔

۵۔ نصاب زکوٰۃ

- (۱) ساڑھے سات تولہ  ساڑھے ون تولہ  ای۔
- (۲)  معیار نصاب ہے اور سونے  خ ۸ سال کے  زا کے  کو پیش نظر رکھ کر حکم  مقرر کرے گی۔
- (۳)  ای الگ الگ حد نصاب  پہنچ جائے  ہ جائے تو ان کا نصاب  و (۱) متنازعہ لا ہوگا۔

۶۔ زکوٰۃ کے

- (۱) وقف مال (Trust) پر زکوٰۃ  نہ ہوگی۔
- (۲) صاحب نصاب اپنی فقہی مسلک کے مطابق زکوٰۃ  کرے۔
- ۷۔ اموال جو  زکوٰۃ واجب ہے۔

(۱) 

(۲)  ای

(۳) طلائی و نقرئی زیورات اور سو  ای کی بنی ہوئی  دیگر اشیاء

(۴) نقدی

(۵) بینک ڈیپازٹ

(۶) سرکاری تمسکات

(۷) حصص

(۸) اموال تجارت

(۹) مویشی

تشریح نمبر ۱: زکوٰۃ اشیائے تجارت یعنی تجارت کی غرض سے رکھے گئے اموال پر عائد ہوگی ذرائع تجارت پر نہیں۔

تشریح نمبر ۲: مویشیوں میں سے صرف اونچے، گالیوں، بھینسوں، بھیڑوں، بکریوں پر ہی زکوٰۃ واجب ہے جبکہ وہ صائمہ ہوں اور ان کی تعداد حد نصاب تک پہنچ جائے۔

تشریح نمبر ۳: برائے اری کے گائے نے والے اور گھریلو ضرورت کے لئے لے گئے مویشی زکوٰۃ سے مستثنیٰ ہوں گے۔ البتہ تجارت کے لئے رکھے گئے گھوڑوں، خچروں، گدھوں اور دیگر مویشیوں پر زکوٰۃ لازم ہوگی۔

تشریح زکوٰۃ: (۱) صاحب نصاب کے خلاف شہادت کی مکمل چھان بین حکمہ پر زکوٰۃ کرے گا کوئی امر قویٰ وضاحت ہو تو محکمہ کا حامل مجاز صاحب نصاب کو طلب کر کے ضروری وضاحت حاصل کر سکتا ہے۔ اس ضمن میں صاحب نصاب کو اپنے عذرات پیش کرنے کا پورا پورا موقع ملے گا۔

(۲) محکمہ کے پاس شہادت کے متعلق کوئی عکس ثبوت نہ ہو تو صاحب نصاب سے اخل کو گوشوارہ زکوٰۃ تسلیم کرتے ہوئے زکوٰۃ کی سطح مکمل کر لی جائے۔

تشریح نمبر ۱: شہادت سے متعلق گوشوارہ کے حلفیہ بیان کے خلاف محض زبانی تحریری شکایہ کی سطح پر زکوٰۃ نہیں کی جاتی۔ الا یہ کہ ٹھوس ثبوت ہو۔

(۳) **مسئلہ کے لئے محکمہ صاحب نصاب کا** ﴿تو اندریکا رڈ مرتبہ کرے گا﴾ صاحب
نصاب کو اختیار ہوگا کہ وہ چاہے تو اپنے گوشوارہ جات کے ساتھ واجب ﴿۱۰﴾ رقم
﴿تو﴾ ﴿۱۰﴾ ﴿۱۰﴾ ہے۔

٩- مطالبه زکوٰۃ

سحبہ زکوٰۃ کا کام مکمل ہونے پر محکمہ کا مجاز عامل متعلقہ صاحب نصاب کو مطالبہ زکوٰۃ
 Notice of Demand جاری کرے گا۔ جس میں (10) (10) رج ہوگی۔

۱۰۔ سزا عدد ۱۰ ایس کی زکوٰۃ

(۱) صاحب نصاب مقررہ مدت کے  ت واجب  ۱۰۱۰ زکوٰۃ  نہ کر                                                                                                                                                

۱۱۔ اپیل

(۱) محکمہ کے معاون عامل کی سہ  حکم ضبطی کے خلاف اپیل عامل  پ  ر

تیس یوم کی جا ہے۔

(۲) ”عالمی“ کے اختیارات میں ہوگا کہ بعد سے (۱) یقین وہ واقعات کی پہچان اپیل کو منظور (۱۰) سے۔ اموال زکوٰۃ کی مالیت (۱۰) سے۔ اپیل کو (۱۰) کلی منظور کر (۱۰) رہ سچ کرنے کی مدد جاری کرے۔

(۳) عامل کو Lamitation Act کے تحت مدت اپیل میں توسیع کرنے کا اختیار حاصل ہوگا۔

(۴) اپیل قواعد میں بتائے گئے طریقہ کار کے مطابق کی جائے گی۔

(۵) ”عالمی“ کے فیصلہ کے خلاف نگرانی کو خواہشمند رساٹھ یوم عامل کبیر کے کوئی کی جائے ہے۔

(۶) ”عامل کبیر“ کو اختیار ہوگا کہ (۱۰) خواہشمند کو منظور کر (۱۰) مس (۱۰) کو (۱۰) ضروری ہدایت کے ساتھ سمجھ کرنے کا حکم (۱۰) کرے۔

(۷) نگرانی کرنے کا طریقہ کار وہی ہوگا جو قواعد میں (۱۰) یہ ہے۔

تقسیم زکوٰۃ ۱۲۔

(۱) (۱۰) ی حلقہ کے مستحق لوگوں میں زکوٰۃ اسی (۱۰) ی حلقہ تقسیم کرنے کے لئے تحت قواعد (۱۰) ہ (۱۰) ہ (۱۰) ہ رہ اور کم سے کم تین (۱۰) اعتبار (۱۰) مشتمل (۱۰) کمیٹی تشکیل (۱۰) ی جائے گی۔

(۲) (۱۰) ی حلقہ کی زکوٰۃ کے مستحق لوگوں (۱۰) عام حالات میں صرف کی جائے گی۔

(۳) کسی حلقہ کی اس کی ضرورت سے (۱۰) زکوٰۃ (۱۰) اس (۱۰) افر تحت قواعد (۱۰) یگر حلقہ میں منتقل کر سکتا ہے۔

(۴) (الف) زکوٰۃ فنڈ میں خیان (۱۰) تحریر (۱۰) م تصور ہوگا جس کی سزا (۱۰) قوانین کے تحت (۱۰) ی جائے گی۔

(ب) مستحق (۱۰) کی فہرست (۱۰) گا ہے بگا ہے کمیٹی (۱۰) ر کرتی رہے گی اور مستحق (۱۰) ہنگامی حالات پیدا ہوئے (۱۰) زکوٰۃ فنڈ سے مالی (۱۰) مطابق ضرورت حاصل کرنے کے مجاز ہوں گے۔

(ج) عامل اس امر کا مجاز ہوگا کہ کمیٹی کے کسی رکن کو تقسیم زکوٰۃ کے کام میں غفلت

﴿﴾ کی یا ﴿﴾ میں شائبہ ﴿﴾ اس کی رکنیت معطل ﴿﴾ ۱۰ اُسے سبکدوش کر

۱۰ ے۔ اس طرح خالی شدہ جگہ ﴿﴾ ۱۵ ایچ کی جائے گی۔

۱۳ مصارف زکوٰۃ

(۱) فقیر (۲) مسکین (۳) عاقلین (۴) ﴿﴾ القلوب

(۵) عازمین (۶) رقاب (۷) فی سبیل اللہ

(۸) ابن ا ﴿﴾

۲۔ زکوٰۃ کی صورت میں وصول شدہ رقم ﴿﴾ ن مجید کی بیان کئے ہوئے ان مصارف

﴿﴾ نہ کے ۱۰ یگر کسی مدیہ ﴿﴾ چ کرنے کی حکم ﴿﴾ مجاز نہ ہوگی۔

۱۴۔ زکوٰۃ کی رقم سے کی کا اختیار صرفہ

﴿﴾ کی کو اختیار حاصل ہوگا کہ واجبہ ۱۰ ازکوٰۃ کا ﴿﴾ تہائی حصہ اپنے طہرہ تقسیم کرے

مدت میں ﴿﴾ چ کر ﴿﴾ بتی ﴿﴾ ہ زکوٰۃ محکمہ ۱۰ ﴿﴾ ہوگی کی کے لئے لازم ہے کہ وہ ﴿﴾

حصہ زکوٰۃ جو ﴿﴾ تقسیم کرے گا اس کا قاعدہ حساب عامل ۱۰ ے گا۔

۱۵۔ زکوٰۃ کا واجبہ ﴿﴾

﴿﴾ ﴿﴾ ۱۰ جموں و کشمیر کے مسلمان ﴿﴾ لغ شہر ﴿﴾ سوائے اس کے کہ وہ اپنی منقولہ غیر

منقولہ جائیداد ﴿﴾ و نہ کر ﴿﴾ سکونہ کر چکا ہو زکوٰۃ واجبہ ہوگی۔

۱۶۔ زکوٰۃ کی واپسی

﴿﴾ زکوٰۃ کی رقم کوئی حصہ کسی مالک یا صاحب نصاب کو قائل واپسی ہو تو ﴿﴾ بقواعد واپس

﴿﴾ ۱۰ جائے گا۔

۱۷۔ سروے کے اختیارات

(۱) محکمہ کے عاملین کو اختیار حاصل ہوگا کہ وہ اموال (زکوٰۃ کی قاعده ۱۰۱) کی نسبت معلومات حاصل معلومات حاصل کریں ۱۱ عامل کبیر کو خاص مواضع عام سروے کرانے کا اختیار بھی حاصل ہوگا۔

(۲) محکمہ کے عاملوں کے ساتھ تمام سرکاری و نیم سرکاری اور نجی ۱۰۱ اروں کا تعاون ۱۰۱ لازمی ہوگا۔

(۳) محکمہ زکوٰۃ کاریکارڈ کسی اور معاملہ میں قاعده ۱۰۱ خال ۱۰۱ ت نہیں ہوگا۔

۱۸۔ قواعد بنانے کے اختیارات:

حکومت کو شریعت کے مطابق زکوٰۃ کی تحصیل تقسیم انتظام اور انصرام کے متعلق قواعد و ضوابط مرتب کرنے کا اختیار ہوگا۔

بجول الف

شرحنامہ وصولی زکوٰۃ یہ ہوگا۔

مقدار نصاب	مقدار زکوٰۃ	کل زکوٰۃ	م اشیاء
ساڑھے ون تولہ	چالیسواں حصہ	ایک تولہ ۳ ماشہ ۴ راتی	چالی
		بزاری قیمت	
ساڑھے سات تولہ	ایضاً	اماشہ چھ راتی	اس کی بزاری
		قیمت	
اموال تجارت	ساڑھے سات تولہ	ایضاً	چالیسواں حصہ کی قیمت
		اس سے	
		قیمت کا	
مویشی	۱۵ اونچ	ایک گائے کا بچہ	(نچھڑا) ایک بکری سے
	۳۰ گاہینس	ایک بکری	
	۴۰ بکریاں		

۱۰	اونی سے ۹ اونی	ای بکری
۱۱	اونی سے ۱۴ اونی	۱۰ دیکھیں
۱۲	اونی سے ۱۹ اونی	تین دیکھیں
۱۳	اونی سے ۲۴ اونی	چار دیکھیں
۱۴	اونی سے ۳۵ اونی	ای سال کا اونہ کا بچہ جیسے ۷ خاص کرے
۱۵	اونی سے ۴۵ اونی	ای ۷ لیون ۱۰ وسال کا ہوا اور تیرے میں ۱۰ اخل ہو
۱۶	اونی سے ۶۰ اونی	ای حصہ جو تین سال کا ہوا اور چو ۱۰ میں ۱۰ اخل ہو
۱۷	اونی سے ۷۵ اونی	ای عہد چار سال کا ہوا پانچویں میں ۱۰ اخل ہو۔
۱۸	اونی سے ۹۰ اونی	ن، ل، و، اونی ۱۰ ویجے ۱۰ وسال کے ہو کر تیرے میں ۱۰ اخل ہوں
۱۹	اونی سے ۱۰۰ اونی	۱۰ وحصہ
۲۰	اونی سے ۱۴۴ اونی	۱۰ وحقہ کے علاوہ پانچ اونی ۷ بکر ۷ ای ۷ خاص ۱۰ وحقہ
۲۱	اونی ۱۵۰	۳ حقے
۲۲	اونی سے ۱۵۹ اونی	تین حقے عداور ۷ بکری
۲۳	اونی ۱۶۹ اونی	تین حقے عداور ۷ دیکھیں
۲۴	اونی سے ۱۷۴ اونی	تین حقے عداور چار دیکھیں
۲۵	اونی سے ۱۸۵ اونی	تین حقے عداور ۷ ۷ خاص
۲۶	اونی سے ۱۹۴ اونی	تین حقے عداور لیون
۲۷	اونی سے ۲۰۰ اونی	چار حقے عداور
۲۸	۲۵۰ اونی ہونے کی صورت میں ۱ پیاس کی تعداد ۱۰ اسی شرح سے زکوٰۃ دینے کی۔	

تشریح بھینس۔ زکوٰۃ کی ۱۰^۱ نیکی صرف معوضہ اونہ (۳^۱) کی صورت میں ہوگی۔

گائے بھینس

۳۱ سے ۳۹ جھینسوں

۲۰ سے ۲۰

۶۱ سے ۶۹

۷۰ سے ۷۹

♦ ۹۰ سے ۹۹



یہودیوں کا پورا ہو چکا ہوا ۱۵) دوسرے سال میں ۱۰) اخل ہو

ایسا بچہ ۱۰ سال ہو چکی ہو اور تیسرے سال میں داخل ہو۔



⑩ و مہنے

اس طریقہ سے سو سے زائد پتوں پر بھیج سکتے ہیں اور ای میل سے بھیج سکتے ہیں۔

بھڑیوں اور بکریاں

۴۰ سے ۲۰ سالہ ہو تو صرف

۱۲۱ سے ۲۰۰ تک ہوں تو صرف

۲۰۱ سے ۳۰۰ - ہوں تو صرف

۱۰۳۔ ہو تو صرف

پھر،  بکری زکوٰۃ ہوگی۔

ہو تو صرف  بکری زکوٰۃ ہوگی۔

⑩ بکریاں زکوٰۃ ہوگی۔

تین بکریاں زکوٰۃ ہوگی۔

چاہیں تو زکوٰۃ ہوگی۔

سیکڑی قانون

⑩ نسخہ

(محمد اکرم)

اسٹنٹ لیگل (محکمہ قانون)

 جموں و کشمیر

آ ۱۰ محکمہ حکومتی امور، جموں و کشمیر
محکمہ قانون مظہر

نمبر ۲۲۸۹ مرقم ۷۴ قانون ساز اسمبلی کا منظور ۱۰ منع ذیل ایکٹ جس کی توثیق صدر حکومت نے مورخہ ۳ ستمبر ۱۹۷۷ء کو کی ہے۔ اے اطلاع عام ۱۰ کی جا رہی ہے۔

ایکٹ نمبر XIX ۱۹۷۴ء

💣 ⑩ جموں و کشمیر زکوٰۃ پیداوار اراضی ایکٹ ۱۹۷۴ء

▲ گاہ کہ لازم ہے ● ⑩ جموں و کشمیر گورنمنٹ ایکٹ ۱۹۷۰ ⑩ دفعہ ۲۲ کی رو سے ✉

۱۰۔ جموں و کشمیر میں قوانین کے آ ن و کے مطابق بنائے جائے۔

👉 ذیل قانون وضع کیا جاتا ہے۔

۱۔ مختصر عنوان، وسعت اور نفاذ

(۱) یہ ۱۰ جموں و کشمیر زکوٰۃ پیداوار اراضی ۱۹۷۷ء کھلائے گا۔

(۲) اس کا اطلاق سارے ۱۰ جموں و کشمیر جو علاقے جو ۱۰ سالہ اس میں اٹل ہوں،

ہوگا۔

(۳) یہ ایکٹ فی الفور نافذ ہوگا۔

۲۲۔ تعریفات

اس ۱ ☐ عین وقتیکہ موضوع ☒ یہ عبارت میں کوئی امر اس کے نقیض نہ ہو۔

(۱) ”بِیۡیۡ (۱۰) یۡ ﴿۱۰﴾ سے ﴿۱۰﴾ زکوٰۃ پیداوار اراضی کی وصولی کے لئے وہ حلقہ ہے جو

تحت قواعد مقرر کیا جائے گا۔

(۳) ”ٹھیکہ کے ۱۰ حصے جس نے اراضی مالک کے ارہ سے ٹھیکہ چلی ہو۔

(۴) ”حکو سے ۱۰ حکو کے ۱۰ حصے جموں و کشمیر ہے۔

(۵) ”زرعی سے ۱۰ حکو کے ۱۰ حصے جموں و کشمیر میں راج مالی سال ہو گا۔

(۶) ”۱۰ حصے سے ۱۰ حصے وہ اہلکار ہوگا جس کو زکوٰۃ پیداوار اراضی کی وصولی کے لئے مقرر کیا جائے۔

(۷) ”زکوٰۃ پیداوار اراضی سے ۱۰ زمین کی پیداوار کا وہ حصہ ہے رانی زمین کا ۱۰ حصہ اور ابی زمین کی پیداوار کا بیسواں حصہ ہے۔

(۸) ”کھلیں سے ۱۰ حصے وہ جگہ ہے جہاں فصل کو صاف کیا جاتا ہے۔

(۹) ”مالک سے ۱۰ حصے وہ مسلمان شخص ہے جس کا راج کا غذات مال میں خانہ ملکیت میں ہو۔

(۱۰) ”۱۰ حصے سے ۱۰ حصے وہ مسلمان شخص ہے جس کا راج کا غذات مال میں خانہ کا ۱۰ حصے میں ہو۔

۳۔ مالک قابض اراضی کا اعلان

مسلمان مالک قابض اراضی جیسی بھی صورت ہو پیداوار سے متعلق ۱۰ نیابیان حلفیہ عامل ۱۰ حصے سے ۱۰ حصے مقررہ فائدہ ضبط تحریک میں لاکر اس کی نقل اس شخص کو مہیا کرے گا۔

تشریح

اعلان اس پیداوار اراضی کا کیا جائے گا جو حاصل شدہ پیداوار سے حصہ ۱۰ وری اور روائتی حقوق ۱۰ کرنے کے بعد کھلیان میں بچے۔

۴۔ ⑩ اینگی پیداوار اراضی

- (۱) ﴿مُحْسِنِينَ﴾ قابض جیسی بھی صورت ہو مقررہ نصاب کے مطابق زکوٰۃ پیداوار اراضی کا ذریعہ ہوگا۔
- (۲) زکوٰۃ پیداوار اراضی کی وصولی ﴿فَصْلًا﴾ کی جائے گی اور اس میں استثنیٰ کی مقدار پورے سال کی پیداوار ﴿تَعْنِينَ﴾ کی جائے گی۔

تشریح

۱۰؎ مسلمان زکوٰۃ پیداوار اراضی اپنے فقہی مسلک کے مطابق ۱۰؎ اکڑے گا اس میں استثنیٰ چنچ

- (۳) واجب الوصول زکوٰۃ پیداوار اراضی سے تیسرا حصہ مالک یا قابض اراضی از ۱۶ میں تقسیم کر سکے گا۔ زکوٰۃ پیداوار اراضی کا تیسرا حصہ جو اس ۱۶ میں تقسیم کرنے کے لئے چھ ۱۶ ہو۔ اس کا قاعدہ حساب عامل ۱۶ سے گا۔

۵۔ زکوٰۃ پیداوار اراضی کا طریقہ و حصول

- (۱) حکو ﴿﴾ یا اس ﴿﴾ شخص ﴿﴾ : ﴿﴾ ی حلقہ میں کسی مسلمان شخص کو عامل مقرر کرے گا۔
- (۲) بشرط ضرورت عامل کی معاونت کے لئے حکو ﴿﴾ یا اس ﴿﴾ کہ ﴿﴾ شخص ﴿﴾ ی حلقہ سے ﴿﴾ کمیٹی تشکیل کرے گا۔
- (۳) ﴿﴾ ی حلقہ میں زکوٰۃ پیداوار اراکین کی وصولی کی ذ ﴿﴾ اری عامل ﴿﴾ ہوگی۔

۶۔ تقسیم زکوٰۃ پیداوار اراضی

کسی ۱۰ ی حلقہ سے وصول ۱۰ زکوٰۃ پیداوار اراضی کسی ۱۰ ی حلقہ میں تحت قواعد تقسیم کرے گا ۱۱ معاون کیلئے کمیٹی ۱۲ کی گئی ہو تو اس سے بھی تقسیم زکوٰۃ پیداوار اراضی ۱۳ مشورہ کر لے گا۔

۷۔ مصارف زکوٰۃ پیداوار اراضی: زکوٰۃ پیداوار اراضی مندرجہ طبقات میں تقسیم ہوگا۔

- (۱) فقیر (۲) مسکین (۳) عامل (۴)  اقلوب
(۵) عازم (۶) رقاب (۷) ابن سبیل
(۸) فی سبیل اللہ

(۱) فقیر سے ⑩ ایسا مسلمان ہے جس کے پاس کوئی ✎ شہ نہ ہو اور مالی ⑩ کا ج

(۲) مسکین سے ۱۰؎ وہ مسلمان ہے جس ۱؎ پس مال ہو لیکن صاحب نصاب کہ ہو۔

(۳) عامل اس سے ۱۰؎ وہ شخص ہے جو زکوٰۃ پیداوار اراضی کی تحصیل ۱؎ تقسیم کے لئے مقرر کیا جائے۔

(۴) اقلوب سے اقلوب کے وہ لوگ ہیں جن کو اسلام اور اسلامی مملکت کے مخالفین اس کے خلاف کیے گئے اقدامات کی مخالفت ہو اور اس غرض کے لئے ماں باپ کے رانہ لیں یا سوا کوئی چارہ کار نہ ہو اس میں مسلم اور غیر مسلم دونوں مل ہیں۔

(۵) فی سبیل اللہ سے ﴿۱۰﴾ ﴿۱۰﴾ فی سبیل اللہ ﴿۱۰﴾ ﴿۱۰﴾ اور مبلغین اسلام اس میں اُل مل ہیں۔

(۶) ابن سبیل سے ﴿۱۰﴾ ایسا مٹ ہے جو گھر میں غنی نہ ہی کیوں نہ ہو لیکن وہ ایسے سفر ﴿۱۰﴾ وراں جو شرعی ہو اور فاسد مقصد کے لئے کہ نہ ہو ج کہلائے گا۔

۸۔ **فصل** زکوٰۃ پیداوار اراضی

۱۹) ی حلقہ کی ضرورت پوری ہو جانے کے بعد جو زکوٰۃ پیداوار اراضی فاضل ہو اس کو افسر مجاز کے حکم سے کس ۲۰) دوسرے ضرورت مند حلقہ میں منتقل کیا جاسکے گا۔



(۱) کوئی مسلمان شخص عداً زکوٰۃ پیداوار اراضی کی ۱۰ یگی میں لیت و لعل کرے تو ایسے شخص ۱۰ یگی زکوٰۃ پیداوار اراضی قید کیا جائے گا جو چھ ماہ سے ۴۰ نگی ہو اور واجب الوصول زکوٰۃ پیداوار اراضی جبراً وصول کی جائے گی۔

(۲) کوئی مسلمان پیداوار راضی  رے میں غلط بیان  ۱۰ رے تو ایسے شخص کو تین ماہ  ۱۰ قید کی  ۱۰ ی جا  ہے۔

۱۰۔ عامل کی سزا **مففلت** وغیرہ

۱۰۔ عامل اپنے انص میں غفلت نہ کرے۔ شناسی کے لئے ۱۰۔ نئی کا کسی طور مرتکب ہو تو اس کے خلاف فعل کی نوعیت کے مطابق ۱۰۔ یہی کارروائی کی جائے گی اور خیانہ کی صورت میں مرتکب کو نین کے تحت اُسے سزا دی جائے گی۔

۱۱۔ عدا  مجاز اور اپیل

(۱) ⑩ نفعہ (۹) کی ذیل ⑩ نفعہ (۱) و (۲)  رے میں فیصلہ تحصیل قاضی کی عدا  کریگی۔

(۲) ایسے کسی حکم کے خلاف اپیل  اتریں یوم ضلع قاضی کی عدا   پس ہوگی جس کا فیصلہ حتمی ہوگا۔

۱۲۔ حکومت  کو زکوٰۃ پیداوار اراضی کے نظام کے سلسلہ میں  ضرورت وقتاً فوقتاً قواعد و ضوابط مرتب کرنے اور ہدایت جاری کرے کا اختیار ہوگا۔

⑩  محمد اکرم  ہ
اسٹنٹ لیگل کونسل

محکمہ قانون

● ⑩ حکومت   جموں و کشمیر

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 14th September, 1974.

No. 2291/SL/74. The following Act of the Legislative Assembly received the assent of the President on 4th September, 1974, and is hereby published for general information:-

(ACT XX OF 1974)

An Act to provide for the constitution and jurisdiction of Judicial Board.

Whereas it is necessary to provide for the constitution and jurisdiction of the Judicial Board to hear and determine appeals from judgments decrees, orders or sentences of the Azad Jammu and Kashmir High Court;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act, 1974.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.
2. **Definitions.** In this Act, unless there is any thing repugnant in the subject or context,

(1) 'President' means the President of Azad Government of the State of Jammu and Kashmir; and

(2) 'High Court' means the Azad Jammu and Kashmir High Court.
3. **Appointment of members of the Judicial Board.**- (1) The Judicial Board shall consist of two or more members who shall be appointed by the President for such period and on such terms as to salary and other conditions of service as the President may determine.

(2) One of such members shall be designated as the Senior Member of the Judicial Board.

(3) If, at any time, a member of the Judicial Board is absent or is unable to perform the functions of his office due to illness or some other cause and it is not possible to hold or continue any sittings of the Court, or for any other reason it is necessary to increase temporarily the number of members of the Judicial Board, the Senior Member of the Judicial Board may, in writing (with the approval of the President) require a Judge or Chief Justice of the High Court to attend the sitting of the Judicial Board as an ad'hoc member for any case or period as may be necessary and while so sitting, such ad'hoc member shall have the same powers and jurisdiction as a member of the Judicial Board.

4. **Oath of Office.** Every member of the Judicial Board shall, before he enters upon his office, make before the President an oath in the form set out in the Schedule to this Act.

5. **Duration of session of the Board.** The President may direct that the Judicial Board shall hold its session at such place or places and for such period in a year as he may deem necessary in this behalf.

6. **Registrar of the Board.** (1) Any Officer nominated in this behalf by the President shall act as ex officio Registrar of the Judicial Board.

(2) The Registrar shall receive all appeals and applications addressed to the Judicial Board and shall issue notices to all concerned and call for any record from the High Court whether the Judicial Board is in session or not.

7. **Jurisdiction of the Judicial Board.** (1) Subject to the provisions of this section, the Judicial Board shall have jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the High Court.

(2) An appeal to the Judicial Board from any judgment, decree, order or sentence of the High Court shall lie as matter of right where:-

(a) the amount or value of the subject-matter of the suit or other proceedings in the Court of first instance was five thousand rupees or more or where the judgment, decree or order involves directly or indirectly some claim or question respecting property of the like amount or value; or

- (b) the case is certified by the High Court to be a fit one for appeal to the Judicial Board:

Provided that in cases mentioned in clause (a) where the decree or final order of the High Court affirms the decision of the Court immediately below, no appeal shall lie to the Judicial Board unless it involves substantial question of law;

- (c) a person has been sentenced to death or imprisonment for a period of ten years or above; or
- (d) the High Court has imposed punishment on a person for contempt of Court.

(3) An appeal to the Judicial Board from a judgment, decree, order or sentence of the High Court in cases to which sub-section (2) does not apply shall lie only if the Judicial Board grants leave to appeal.

- 8. **Decision of Judicial Board binding on other Court.** Any decision of the Judicial Board shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts of Azad Jammu and Kashmir.
- 9. **Review of Judgments and Order.** The Judicial Board shall have the power to review any judgment pronounced or order made by it.
- 10. **Decision in case of difference of opinion.** In case of difference of opinion between the members of a bench of the Judicial Board on any point, the view of the Senior Member of the Board shall prevail where the Board consists of two members. Where the Board consists of more than two members the view of the majority shall prevail.
- 11. **Decision of a single Member of the Board to be binding.** Any Judicial or other functions under this Act which is required to be performed by the Judicial Board may be performed by a Single Member of the said Board and his decision shall be binding on all the other Courts of Azad Jammu and Kashmir.
- 12. **Power to make rules.** The Judicial Board may, with the approval of the President make rules for regulating the practice and procedure of the Board.
- 13. **No appeal to lie in certain cases:-** Except as provided in sub-

section (4) of Section 14, no appeal shall lie to the Judicial Board against any judgment, decree, order or sentence passed by the High Court before the coming into force, of this Act.

14. **Period of limitation.** (1) The period of limitation for an appeal under this Act to the Judicial Board shall be:-
 - (a) ninety days from the date of the judgment, decree or order in cases falling under clause (a) of sub-section (2) of section 7;
 - (b) ninety days from the date of the grant of certificate by the High Court for filing such appeal under clause (b) of sub-section (2) of Section 7. Where the High Court refuses to grant such certificate, the period of limitation for filing an application to the Judicial Board for grant of leave to appeal shall be thirty days from the date of such order;
 - (c) ninety days from the date of the grant of leave by the Judicial Board for filing appeal under sub-section (3) of section 7;
 - (d) thirty days from the date of the judgment, order or sentence passed by the High Court in cases falling under clauses (c) and (d) of sub-section (2) of section 7;
- (2) The period of limitation for an application to the High Court for the grant of certificate for filing in appeal before the Judicial Board shall be thirty days from the date of the judgment, decree, order or sentence in cases where such a certificate is necessary.
- (3) In cases where the leave of the Judicial Board is necessary for filing an appeal under sub-section (3) of section 7 of this Act, the period of limitation for making an application to the Judicial Board shall be sixty days from the date of the judgment, decree, order or sentence to be appealed against.
- (4) In case of judgment, decrees, orders and sentences passed by the High Court after the eighteenth of August, 1971 and before the coming into force of this Act, the appeals referred to in Section 7 and the applications referred to in sub-section (1) (b), (2) and (3) of this section may be filed within a period of three months from the date of coming into force of this Act.
- (5) The provisions of the limitation Act, 1908 (IX of 1908)

in its application to Azad Jammu and Kashmir, shall, for the purpose of computing the period of limitation, apply to appeals preferred or applications made under this Act in the like manner in which the said Act applies to appeals preferred to the High Court.

15. **Stay of execution of orders.** When the Judicial Board is not in session the High Court may, on such terms and conditions, if any, as it may think fit, stay the execution of any judgment, decree, order or sentence appealed from.
16. **Amendment of the Azad Jammu and Kashmir Courts and laws Code, 1949.** (1) Sections 13-A, 13-B, and 13C of the Azad Jammu and Kashmir Court and Laws Code, 1949 are hereby repealed.

(2) Notwithstanding such appeal, all appeals preferred under Section 13-A or 13-B of the Azad Jammu and Kashmir Courts and Laws Code, 1949, and pending in the High Court immediately before the coming into force of this Act, shall stand transferred to the Judicial Board and shall be heard and disposed of by it as if they were appeals preferred under the provisions of this Act.

THE SCHEDULE (See Section 4)
OATH OF OFFICE

I, _____ having been appointed as member/Senior member of the Azad Jammu and Kashmir Judicial Board, do solemnly swear that I owe allegiance to Allah and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment and will administer justice according to the laws in force in the Azad Jammu and Kashmir without fear or favour, affection or ill will.

Sd/- (Sardar Mohammad Sharif Khan)
Secretary Law,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad dated the 27th September 1974.

No. 2443/SL/74. The following Act of the Legislative Assembly of Azad Jammu and Kashmir received the assent of the President on the 2nd of August, 1974, and are hereby published for general information

(ACT XXII OF 1974)

An Act to give effect to the Financial proposals of the Azad Government of the State of Jammu and Kashmir for the year beginning on the first day of July, 1973 and to amend the Law Relating to the Income Tax.

Preamble:

Whereas it is expedient to make provisions to give effect to the Financial proposals of the Azad Government of the State of Jammu and Kashmir, and to amend the Law relating to Income Tax for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short Title Extent and Commencement.** (1) This Act may be called the Azad Jammu and Kashmir Finance Act, 1974.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once and shall be deemed to have taken effect from the first day of July, 1973, and all orders, Notifications made not inconsistent with the provisions of this Act; shall be deemed to have been made-under this Act, and shall continue in force.
2. **Amendment of Act XI of 1922:-** The following amendments shall be made in the Income Tax Act, 1922 (XI of 1922), namely:-
 - (1) In section 2,
 - (a) in clause (7), after the words and "comma "Special Officer" the Words and comma "a Tax Recovery Officer", shall be inserted;
 - (b) after clause (16) the following new clause shall

be inserted, namely:-

"(16A)"valuer means a valuer appointed under Section 3A of the Estate Duty Act, 1950 (X of 195U)";

(2) in section 4, sub-section (2) shall be omitted;

2(A) in section 7, in sub-section (1) after third proviso, the following new proviso shall be added, namely;

"Provided further that the tax shall not be payable by an individual in respect of any sum deducted by employer from the salary on account of education cess levied by Azad Kashmir Government from the financial year beginning on the first day of July, 1972.

(3) in section 15, in sub-section (3) for the words, figure, letters and brackets" and Section 15 F and any sum exempted under sub-section (1) of section 58F "the commas, words, figures, letters and brackets" sections 15F, sub-section (1) of section 58F and section 58w" shall be substituted;

(4) in section 15-AA, in sub-section (3) in the proviso, after the word "Provided" the word "further" shall be inserted and before the Proviso amended as aforesaid, the following new proviso shall be inserted namely:-

“Provided that nothing contained in this sub-section shall apply in respect of the sale proceeds of such certificates, securities and shares referred to in subsection (1) as were purchased at a time not less than five year before the commencement of the said previous year;”

(5) In section 15H, the proviso shall be omitted;

(6) in section 16, in sub-section (1), in clause (c), the third proviso shall be omitted;

(7) in section I8A,

(a) in sub-section (6) for the words "the date of the said regular assessment the words and commas "thirteenth day of June of the year next following or up to the date of the said regular assessment, which ever is the earlier," shall be substituted; and

- (b) In sub-section (8) for the words "no payment of tax has been made" the words "payment of tax has not been made" shall be substituted;
- (8) in section 22, —
 - (a) sub-section (2), —
 - (i) the commas and words "not being less than thirty days" shall be omitted and;
 - (ii) in the proviso, for the words "extend the date for the delivery of the return" the word "reduce or extend the period within which the return is required to be furnished" shall be substituted;
 - (b) in sub-section (4A), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that, where the total income of an assessee is not less than fifty thousand rupees, he shall furnish such statement alongwith his return of total income irrespective of whether or not any notice under this sub-section has been served on him".

- (9) in section 23, after sub-section (2) the following new sub-section shall be inserted, tamely:-

"(2A) where, in the course of assessment Proceedings the Income tax-Officer, is of the opinion that any asset mentioned in a statement furnished under sub-section (4A) of section 22 has not been correctly valued by an assessee, he may refer the matter to a value for arriving at the proper value of such asset";

- (10) in section 26A,-
 - (a) in sub-section (3), for the words "a genuine firm in existence" the words, "commas and figures" in existence, a genuine firm registered under the Partnership Act, 1932, and" shall be substituted ; and
 - (b) in sub-section (5), after the figure"1932", the comma and words "or an application for registration under the said Act has been made" shall be inserted ;
- (11) in section 28,—

- (a) in sub-section (1),——
 - (i) after clause (b), for comma at the end, the semi-colon and words "or" shall be substituted and thereafter the following new clause shall be inserted, namely:-

"(c) has without reasonable cause failed to comply with a notice under section 37,";
 - (ii) in sub-clause (i), for the word:, "one thousand rupees" and the words "fifty rupees" the words "five thousand rupees" and the words "one hundred rupees" shall respectively be substituted; and the word "and" at the end shall be omitted ; and
 - (iii) in sub-clause (ii), for the colon at the end the semi-colon and word "and" shall be substituted and thereafter the following new sub-clause shall be inserted, namely :-
 - (iv) in the case referred to in clause (c), without prejudice to any action that may be taken under the Code of Civil Procedure, 1908, or the Azad Kashmir Penal Code, a sum of one thousand rupees;
- (b) in sub-section (2A),——
 - (i) for the word "twenty five" the word "fifty" shall be substituted ; and
 - (ii) after the word "as was not paid" the word and comma "or a sum of one thousand rupees, whichever is the greater" shall be added ; and
- (c) sub section (4) shall be omitted ;
- (12) in section 34, in sub-section (2) for the words "four years" twice occurring the words " five years" shall be substituted ;
- (13) in section 38, in sub-section 38A, in sub-section (1) and sub-section (2), after the word "The" the words and comma "Director of Inspection, "the" shall be inserted ;
- (14) section 38B shall be-re-numbered as sub-section (1) of

that section and, after sub-section (1) re-numbered as aforesaid, the following new sub-section shall be added, namely :-

"(2) notwithstanding anything contained in any other provisions of this Act, the Income-tax Officer may, with the prior approval of the Inspecting Assistant Commissioner, authorise a valuer to enter any place for ascertaining the value of any assets for the purposes of sub-section (2A) of section 23.";

(15) for section 43B the following shall be substituted, namely :-

"43B. Liability for payment of tax in the case of private Companies.— Notwithstanding anything contained in the Companies Act, 1913, (VII of 1913), where any tax payable by a private company (including a private company which is wound up or has gone into liquidation) in respect of any income of any previous year (whether ending before or after the date of commencement of the winding up or liquidation proceedings) cannot be recovered, every person who is, or was, at any time during that previous year a director of the company or a share-holder thereof owning not less than ten percent of its paid up capital shall be jointly and severally liable for the payment of such tax ;

Provided that no proceeding under this section shall be initiated except with the prior approval of the Central Board of Revenue.";

(16) in section 49AA, in sub-section (1), after the words "that territory" the words "and the prevention of fiscal evasion" shall be inserted ;

(17) in section 51,—

(a) in sub-section (1),—

(i) after clause (a), the following new clause shall be inserted, namely:—

"(aa) to comply with a notice under sub-section (2) of section 22 or sub-section (1) of section 34,";

(ii) in clause (b), the word "or" appearing at the end shall be omitted and thereafter the following new clause shall be inserted, namely:—

- "(bb) to comply with the provisions of section 38.";
- (iii) in clause (c) after the semi-colon at the end, the word "or" shall be added and thereafter the following new clause shall be inserted, namely:—
 - "(a) to comply with any of the provisions of a notice under section 37" and.
 - (b) after sub-section (1) amended as aforesaid, the following new sub-section shall be inserted namely:—
 - (1A) where any assessee furnishes under sub-section (2) or sub-section (3) of section 18-A an estimate of tax payable by him which he knew or had reason to believe to be untrue, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both";
- (18) in section 53,—
 - (a) in sub-section (i) for the words "Central Board of Revenue" the word "Commissioner" shall be substituted;
 - (b) after sub-section (1) the following new sub-section shall be inserted namely:—
 - "(1A) Notwithstanding anything contained in any law for the time being in force, a prosecution for an offence against this Act may be instituted in respect of the same facts on which a penalty has been imposed under section 28.";
- (19) in section 54,—
 - (a) in sub-section (3),—
 - (i) in clause (p), for the full stop at the end, the semi-colon and word; "or" shall be substituted; and
 - (ii) after clause (p) amended as aforesaid,

the following new clause shall be added, namely:—

(a) of such information and records as may be supplied by any income-tax authority to a value; and

(b) after sub-section (4), the following new sub-section shall be inserted, namely:-

" (4A) Nothing contained in this section shall prevent the Central Board of Revenue from disclosing, in the public interest, any particulars in respect of the declared or assessed income of an assessee and the tax paid by him,";

(20) in Chapter IXB, in the heading, for the full stop at the end, a comma shall be substituted and thereafter the words "RETIREMENT ANNUITY CONTRACTS AND TRUST SCHEMES" shall be added; and after section 58B, the following new section shall be added, namely:—

"58W Approval of retirement annuity contracts and trust schemes,—Subject to such rules as may be made in this behalf, where in any year of assessment, and individual being a resident of Azad Kashmir is (or would, but for the loss of profits or gains be chargeable to tax-

(a) in respect of any salary or remuneration from an office or employment hold by him, which is not a pensionable office or employment or which does not provide any other retirement benefits; or

(b) in respect of profits or gain accruing or arising from business, profession or vocation carried on by him the tax shall not be payable in respect of any sum paid by him under a contract or annuity with the State Life Insurance Corporation of Pakistan or the Pakistan Post Office Life Insurance Department approved by the Commissioner and having for its main object the provision on for the individual of an annuity in old age";

- (21) in the First schedule,—
- (a) for rules 1 and 2 the following shall be substituted, namely:—
- "1. The profits and gains of life Insurance business of an assessed, from what-ever source derived, shall be chargeable under the head "Income from business, profession or vocation.
- "2. The profits and gains of life insurance business, other than pension and annuity business, shall be taken to the annual average of the surplus arrived at by adjusting the surplus or debit disclosed by the actual valuation made for the 1st inter-valuation period eroding before the year for which the assessment is to be made, so as to exclude from it any surplus or debit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may, under the provisions of section 10 of this Act, be allowed for in computing the profits and gains of a business."; and
- (b) in rule 5, clause (ii) and clause (iii) shall be omitted.
3. **Income-tax and Super-Tax.**—(1) Subject to the provisions of sub-sections' (2), (3), (4), and (5) in making any assessment for the year beginning on the first day of July, 1973;
- (a) income-tax shall be charged at the rates specified in part I of the First Schedule, and
- (b) the rates of super-tax shall, for the purposes of section 55 of the Income tax Act, 1922 (XI of 1922) in this section referred to as the said section, be those specified in Part II of the First Schedule.
- (2) In making any assessment for the year beginning on the first day of July, 1973,—
- (a) where the total income of an assessee, not being a company, includes any income chargeable under the

head "Interest on Securities" the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income tax and super-tax payable according to the rates applicable under the operation of the Finance Act, 1973, on his total income the same proportion as the amount of such inclusion bears to his total income; and

(b) where the total income of a company includes any profits and gains from life insurance business, super-tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion.

(3) in making any assessment for the year beginning on the first day of July, 1973, where the assessee is a co-operative society the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph B of Part I and Paragraph A of Part II of the First Schedule as if the Assessee were in company to which the proviso to sub-paragraph (i) of paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee:

Provided that in calculating for the purposes of this subsection, the amount of income-tax at the rates specified in paragraph A of Part I of the First Schedule, no deduction in respect of any allowance or sums referred to in clause (i) of the proviso to the said paragraph shall be made.

(4) (a) In making any assessment for the year beginning on the first day of July, 1973, where the total income of an assessee not being a company to which the proviso to sub-paragraph (I) of paragraph, A of Part II of the First Schedule does not apply, includes any profits and gains derived from the export of goods out of Azad Kashmir, income-tax, and super-tax, if any, payable by him in respect of such profits and gains shall, subject to the provisions of clauses (b) and (c) be reduced by an amount computed in the manner specified hereunder:—

Amount

(i) Where the goods 15 per cent of the exported abroad has not income-tax and super-tax, if any, attributable the assessee who to export sales. exported them—

(a)	and where the export sales during the relevant year exceed the export sales of the preceding year.	plus an additional 1 percent for every increase of 10 percent in export sales over those of the proceeding year, subject to an overall maximum of 25 percent.
(b)	and where the export sales during the relevant year do not exceed the export sales of the proceeding year.	minus 1 per cent for every decrease of 10 percent in export sales over those of the preceding year, subject to an overall minimum 10 percent.
(ii)	Where the goods exported had been manufactured by the assessee who had exported them	
(a)	Where the export sales do not exceed 10 percent of the total sales,	Nil
(b)	Where the export sales exceed 10 percent but do not exceed 20 percent of the total sales.	15 percent of the income tax and super tax, if any, attributable to export sales.
(c)	Where the export sales exceed 20 percent but do not exceed 30 percent of the total sale.	20 percent of the Income tax and super-tax if any, attributable to export sales.
(d)	Where the export sales exceed 30 percent of the total sales.	25 percent of the income-tax, if any, attributable to export sales.

Provided that in the case of a registered firm super tax payable by it under paragraph C of Part II of the First Schedule shall be reduced under this clause by an amount calculated on the basis of the income-tax payable on its total income under paragraph A of Part I had it been the total income of an

unregistered firm:

(b) Nothing contained in clause (a) shall apply in respect of the following goods or class of goods, namely:-

- (a) raw cotton ;
- (b) such other goods as may be notified by the Cent Board of Revenue from time to time;
- (c) The general Board of Revenue may make rules providing for the computation of Profits and the tax attributable to export sales and for such other matte as may be necessary to give effect to the provision of this sub-section.

(5) In cases to which section 17 of the said Act applies the tax chargeable shall be determined as provided in that section, but with reference to the rates referred to in sub-section (1), and in accordance, where applicable, with the provisions of sub-section (2).

(6) For the purposes of making deduction of tax under section 18, of the said Act, the rates specified in Part I and Part II of the First Schedule shall apply as respects the years beginning on the first day of July, 1975, and ending on the thirtieth day of June, 1974.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total Income" means total income as determined for the purposes of income-tax or super tax, as the case may be, in accordance with the provisions of the said Act; and the expression "Public Company" means a company —

- (i) in which not less than fifty percent of the shares are held by the Government ; or
- (ii) Whose shares were the subject of dealings in a registered stock exchange in Azad. Kashmir at any time during the previous year and remained listed on the stock exchange till the close or that year.

(4) **Surcharge Under Act XI of 1922.** — Surcharge under the Income-tax Act, 1922 (XI of 1922), shall be charged in respect of any assessment for the year beginning on the first day of July, 1973, at the rates specified in part III of the First Schedule.

THE FIRST SCHEDULE (See Section 3)
PART I RATES OF INCOME TAX,

- A. In the case of every individual, unregistered firm, an association of persons, Hindu undivided family, and every artificial jurisdiction person referred to in clause (9) of Section 2 of the Income-Tax Act, 1922 (XI of 1922), not being a case to which paragraph B of this Part applies

RATES

1.	Where the Taxable Income does not exceed Rs. 1,000.	Rs. 25
2.	Where the Taxable Income exceeds Rs. 1,000 but does not exceed 2,000	Rs. 25 plus 5 percent of the amount exceeding Rs. 1,000
3.	Where the Taxable Income exceeds Rs. 2,000 but does not exceed 4,000	Rs. 75 plus 10 percent of the amount exceeding Rs. 2,000
4.	Where the Taxable Income exceeds Rs. 4,000 but does not exceed 6,500	Rs. 275 plus 15 percent of the amount exceeding Rs. 4,000
5.	Where the Taxable Income exceeds Rs. 6,500 but does not exceed 10,000	Rs. 650 plus 20 percent of the amount exceeding Rs. 6,500
6.	Where the Taxable Income exceeds Rs. 10,000 but does not exceed 15,000	Rs. 1,350 plus 25 percent of the amount exceeding Rs. 10,000
7.	Where the Taxable Income exceeds Rs. 15,000 but does not exceed 25,000	Rs. 2,600 plus 35 percent of the amount exceeding Rs. 15,000
8.	Where the Taxable Income exceeds Rs. 25,000 but does not exceed 35,000	Rs. 6,100 plus 50 percent of the amount exceeding

		Rs. 25,000
9.	Where the Taxable Income exceeds Rs. 35,000 but does not exceed 50,000	Rs. 11,100 plus 60 percent of the amount exceeding Rs. 35,000
10.	Where the Taxable Income exceeds 50,000	Rs. 20,100 plus 70 percent of the amount exceeding Rs. 50,000

Provided that———

- (i) no income-tax shall be payable on a total income which before deducting of the sums, if any exempt under the first, third and fourth provisos to sub- section (1) of section 7, section 15, section 15A, section 15AA, section 15C, section 15CC, section 15D, section 15F section 15H, section 58F, and section 58W, of the Income-tax Act, 1922 (XI of 1922), does not exceed Rs. 90000;
- (ii) the income-tax payable shall in no case exceed the amount by which the total income exceeds Rs. 9,000, or the amount representing seventy percent of the total income, whichever amount is the less and
- (iii) Where the total income includes any income from a share of the income, profit and gains of a firm to the super-tax payable C of Part II applies, such portion of the super-tax payable under the said paragraph as proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income-tax payable by such partner under this paragraph and, if the sum so arrived at exceeds seventy percent of the total income, profits and gains of the firm), the amount of income-tax payable by him under this paragraph shall be reduced by the amount of such excess.

Explanation:- the expression “taxable income”, as used in this paragraph, means,-----

- (a) in the case of an assessee to whom or to which sub-section (3) of section 3 or clause (a) of sub-section (1) of section 17 of the income-tax Act 1922 (XI of 1922), applies the total income;

- (b) in any other case, the total income of an assessee as diminished by the allowance admissible under the first third and fourth provisos the subsection (1) of section 7, section 15, section 15A, section 15AA, Section 15C, section 158F, section 15D, section 15F, section 15H, section 5bF and section 58W of the income tax Act, 1999 (XI of 1922).
- B. in the case of every local authority and 30 percent of the total income in every case in which, under the provisions of the Income Tax Act, 1922 (XI of 1922), income-tax is to be charged at the maximum rate.
- C. In the case of every company, being a 30 percent of public company or a foreign association such income declared to be a company by the Central Board of Revenue 30 percent of under clause (5A) of section 2 of the Income-tax such income. Act, 1922 (XI of 1922), on the total income, excluding such part of the total income as consists of any dividends or bonus or bonus shares to which sub-paragraph (3) or sub-paragraph (4) of paragraph A of Part II applies.
- D. In the case of every other company, on 30 percent of the 30 percent of total income, excluding such income such part thereof, as consists such income, of any bonus or bonus share to which sub-paragraph (4) of paragraph A of part II applies.

PART II RATES OF SUPER-TAX

- A. In the case of a company,----- **Rates**
- (1) on the total income, excluding 35 percent of such in such part of the total income come in the case of as consists of dividends or Banking company and bonus or bonus shares to 30 percent of such which sub-paragraphs (3) and income in the case of (4) apply, where such a company other tan company is a company 106 Banking Company; which paragraph C of Part I applies;

- (2) on the total income excluding such part of the total income as consists of bonus or bonus shares to which sub-paragraph (4) applies where such company is a company to which sub-paragraph (1) does not apply. 35 percent of such income in the case of a Banking company and 30 percent of such income in the case of a company other than a Banking Company.

Provided that where a company, in respect of profits and gains liable to tax under the Income-tax Act, 1922 (XI of 1922), has made such effective arrangements as may be prescribed by the Central Board of Revenue in this behalf for the declaration and payment in Azad Kashmir of dividends payable out of such profits and gains and for the deduction of tax from such dividends, rebate shall be allowed as follows:-

- (i) a rebate of 5 percent to such company not being a Banking Company if it is a public company ;
- (ii) a rebate of 5 percent to such Company not being a Banking Company if it is a public company to which clause (iii) does not apply, if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 50,0000 ;
- (iii) a rebate of 5 percent on so much of the income, profits and gains of such company, being a public company, as are derived by it from an industrial undertaking if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 10.00000.
- (iv) a rebate of 10 percent to such company in respect of its income, profits and gains to which sub-section (9) of section 10 of the Income-tax Act, (XI of 1922), applies or which are derived by it in Azad Kashmir from processing freezing, preserving and canning of food, vegetable, fruit, grain, meat, fish and poultry;
- (v) a rebate of 15 percent to such company on so much of the income, profits and gains accruing or arising outside Azad Kashmir to which sub-section (4) of section 3 does not apply as or brought by it into Azad Kashmir.

Explanation.— The term "industrial undertaking", as used in clause (iii), means an undertaking which is set up or commenced in Azad Kashmir on or after the 14th day of August, 1947, and

which employs (i) ten or more persons in Azad Kashmir and involves the use of electrical energy or any other form of energy when is machinery transmitted and is not generated by human or animal agency or (ii) twenty or more persons in, Azad Kashmir and does not involve the use of electrical energy or any other form of energy which mechanically transmitted and is not generated by human or animal agency and which is:---

- (i) engaged in -----
 - (a) the manufacture of goods or materials of the subjection of goods or material to any process, which substantially changes their original condition
 - (b) Ship Building;
 - (c) generation, transformation, conversion transmission or distribution of electrical energy, or the supply of hydraulic power.
 - (d) the working of any mine, oil-well or other source of mineral deposits not being an undertaking to which the second and Third Schedules to the Income-Tax Act, 1922 (XI of 1922),
- (ii) any other industrial undertaking which may be approved by the Central Board of Revenue for the purpose of this clause ;
- (3) to which paragraph C of Part I applies, on the amount representing income from dividends from a company having its registered office in Azad Kashmir.

	Rates
(a) Where such dividends are received by a company from a subsidiary company set up in the wing other than the wing in which the holding company has its registered office and carries on business.	Nil
(b) Where such dividends are received by a public company to which clause (a) does not apply and are declared and paid by a	15 percent such amount

company formed and registered in Azad Kashmir under the Companies Act, 1913 (VII of 1913), or a body corporate formed in pursuance of an act, of the legislature, in respect of the share-capital issued, subscribed and paid after the fourteenth day of August, 1947.

(c)	In other cases	20 percent of such amount

Explanation—————For the purposes of clause (a), a company shall be deemed to be a subsidiary of another company if that other company holds more than 50 percent of the face value of the equity share capital of the first mentioned company;

- (4) On the whole of the amount representing the face value of any bonus shares of the amount of any bonus issued by the company to its share-holders with a view to increasing its paid-up capital————

		Rates
(a)	Where a company which issues Bonus shares or bonus, as the case may be, is a public company.	15 percent of such amount
(b)	in other cases	20 percent of such amount
B.	In the case of every local authority on the whole of the total income	12.5 percent of such amount
C.	In the case of every registered firm	
(1)	Where the total income does not exceed 15,000	Nil
(2)	Where the total income exceeds Rs. 15,000 but does not exceed Rs.	5 percent of the amount exceeding

	30,000	Rs. 15,000
(3)	Where the total income exceeds Rs. 30,000 but does not exceed Rs. 60,000	Rs. 750 Plus 10 percent of the amount exceeding Rs. 30,000
(4)	Where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000	Rs. 3750 plus 20 percent of the amount exceeding Rs. 60,000
(5)	Where the total income exceeds Rs. 1,00,000	Rs. 11,750 plus 30 percent of the amount exceeding Rs. 1,00,000

Explanation: The term "registered firm" as used in this paragraph means a firm registered under section 26A of the income-tax Act 1922 (XI of 1922) or a firm treated as a registered firm under clause (B) of sub-section (5) of section 23 of the said Act.

PART III

(See section 4) Rates of Surcharge

- (a) In the case of persons deriving income from the business of manufacture, purchase or sale of Jewellery, including gold, silver, precious metals, stones and pearls and ornaments or other articles made thereof. 6 percent of such income

Sd/-
(Sardar Mohammad Sharif Khan)
Secretary Law & Parliamentary Affairs
Azad Government of the State of Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABD.**

(ORDINANCE I OF 1974)

An Ordinance to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970.

Whereas it is expedient to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 (Ordinance I of 1970) for the purposes hereinafter appearing;

And Whereas the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

Now, Therefore, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970, and all powers enabling him in that behalf, 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 Electoral Rolls (Amendment) Ordinance, 1974.

(2) It shall come into force at once.
2. **Addition of section 13-A in Ordinance I of 1970:-** In the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970, after Section 13, the following new section 13-A, shall be added, namely:-

"13-A. Revision of Electoral Rolls

- (1) the Commissioner may, at any time, require the revision of Electoral rolls of any electoral area, if he, for any reason, considers such revision to be necessary.
- (2) The Procedure provided for the preparation of the electoral rolls shall, as far as may be, followed for the purpose of revision of such rolls."

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of Jammu & Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT.
MUZAFFARABAD.**

Dated the June 3, 1974.

No. 1474/SL/74. The following Ordinance made and promulgated by the President on 3rd of June, 1974, is hereby published for general information:—

ORDINANCE (I) OF 1974

AN ORDINANCE to provide for the law relating to the formation of trade unions, regulation of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them.

WHEREAS it is expedient to provide for the law relating to the formation of trade unions, the regulations of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them or matters connected therewith and ancillary thereto:

AND WHEREAS the Legislative Assembly is not in Session and the President is satisfied that the circumstances exist which render immediate Legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all other powers enabling him in that behalf, the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent, application and commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Industrial Relations Ordinance, 1974.
 - (2) It extends to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall not apply to any person employed in the Police or any of the Defence Services of Azad Jammu and Kashmir and any services or installations connected with or incidental to the Armed Forces of Azad Jammu and Kashmir or to any person employed in the Administration of the State other than those employed as workmen by the Departments.
 - (4) It shall come into force at once.

2. **Definitions.-** In this Act, unless there is any thing repugnant in the subject or context.- (1) 'Arbitrator' means a person appointed as such under this Ordinance ;
- (2) 'Award' means the determination by a labour Court, Arbitrator or Appellate Tribunal of any industrial dispute or any matter relating thereto and includes an interim award;
- (3) 'Collective Bargaining Agent' in relation to an establishment or industry, means the trade union of workmen which under Section 25 is the agent of the workmen in the establishment or, as the case may be, industry, in the matter of collective bargaining;
- (4) 'Conciliation proceedings' means any proceedings before conciliator;
- (5) 'Conciliator' means a person appointed as such under Section 32;
- (6) 'Employer' in relation to an establishment means any person or body of persons, whether incorporated or not, who or which employs workmen in the establishment under a contract of employment and includes-
- (a) an heir, successor or assignee, as the case may be, of such person or body as aforesaid;
- (b) any person responsible for the management, supervision and control of the establishment;
- (c) in relation to an establishment run by or under the authority of any department of the Government, the authority appointed in this behalf or, where no authority is appointed, the Head of the Department;
- (d) in relation to an establishment run by or on behalf of a local authority, the-officer appointed in this behalf or where no officer is so appointed, the Chief Executive Officer of that authority;

Special provision:- For the purposes of destination from the category of "workers or workmen", officers and employees of a department of the Government or a local authority who belong to the superior, managerial, secretarial, directional, supervisory or agency staff and who have been notified for this purpose in the official Gazette shall be deemed to fall within the category of

employers,

- (e) in relation to any other establishment, the proprietor of such establishment and every Director, Manager Secretary, agent or officer or person, concerned with the management of the affairs thereof;
- (7) 'Establishment' means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;
- (8) 'Executive' means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;
- (9) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (10) 'High Court' means the High Court of Judicature, Azad Jammu and Kashmir State;
- (11) 'Illegal Lock Out' means -a lock out declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;
- (12) 'Illegal Strike' means a strike declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;
- (13) 'Industrial Dispute' means any dispute or difference between employers and employers or between employers and workmen or 'between workmen and workmen, which is concerned with the employment or non-employment or the terms of employment or the conditions of work of any person;
- (14) 'Industry' means any business, trade, manufacture, calling, service, employment or occupation:
- (15) 'Labour Court' means Labour Court established under Section 40;
- (16) 'Lock out means the closing of a place of employment or part of such place or the suspension, wholly or partly, or work by an employer or refusal absolute or conditional by an employer to continue to employ any number of workmen employed by him where such doing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workmen employed to accept certain term and

conditions of or affecting employment;

(17) 'Organisation' means any organization of workers or of employers for furthering and defending the interest of workers or of employers;

(18) 'Officer in relation to a trade union' means any member of the executive thereof but does not include in auditor or legal advisor;

(19) 'Prescribed' means prescribed by rules;

(20) 'Public Utility Service' means any of the services specified in the schedule;

(21) 'Registered Trade Union' means a trade union registered under this Ordinance;

(22) 'Registrar' means the Registrar of Trade Union appointed under Section 15;

(23) 'Rule' means rule made under section 78;

(24) 'Settlement' means a settlement arrived at in the course of conciliation proceeding and include an agreement between an employer and his workmen arrived at otherwise than in the course of any conciliation proceeding, where such as agreement is in writing, has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the Government, the conciliator and such other person as may be prescribed

(25) 'Strike' means cessation of work by a body or persons employed in any establishment acting in combination or a concerted refusal, or refusal under a common understanding of any number of persons who have been so employed to continue to work or to accept employment;

(26) 'Trade Union' means any combination of workmen or employers, formed primarily for the purpose of regulating the relations between workmen and employers, or workmen and workmen or employers and employers, or for imposing restrictive conditions on the conduct of any trade or business and includes a federation of two or more trade unions;

(27) 'Tribunal' means a Labour Appellate Tribunal constituted under section 46 of this Ordinance;

(28) 'Worker' and Workmen' means any person not falling within the definition of employer who is employed (including employment as a supervisor or as an apprentice) in an establishment or industry for hire or reward either directly or through a contractor whether the ten as of employment be expressed or implied and for the purpose of any proceeding under this Ordinance in relation to an industrial dispute include a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay-off, or removal has led to that dispute but does not include any person-

- (a) who is employed mainly in a managerial or administrative capacity; or
- (b) who, being employed in a supervisory capacity, draws wage exceeding Rupees Six hundred per men sum or performs, either because of the nature of duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

3. **Trade Union and freedom of Associate:-** Subject to the provisions contained in this Ordinance.

- (a) Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join associations of their own choosing without previous authorization;
- (b) Employers, without distinction whatsoever, shall have the right to establish and subject only to the rules of the organization concerned, to join associations of their own choosing without previous authorization;
- (c) trade unions and employers associations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom to organize their administration and activities and to formulate their programme;
- (d) worker and Employers organizations shall have the right to establish and join federations and confederations in Azad Jammu and Kashmir territory.

4. **Adherence to the law of the land:-** Workers and employers and their respective organization, in exercising the rights provided

for in Section 3, like other persons or organized collectives, shall respect the law of the land.

5. **Application for registration:-**Any trade union may, under the signature of its president the secretary, apply for., registration of the trade union under this Ordinance.
6. **Requirements of applications:-** Every application for registration of trade union shall be made to the Registrar and shall be accompanied by.
 - (a) statement showing-
 - (i) the name of the trade union and the address of its head office;
 - (ii) date of formation of the union;
 - (iii) the titles, name, ages, addresses and occupations of the officers of the trade union;
 - (iv) statement of total paid membership;
 - (v) the name of the establishment or group of establishments or the industry, as the case may be, to which the trade union relate.
 - (vi) in case of federation of trade unions, the names, addresses and registration number of member union;
 - (b) Three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the Chairman of the meeting;
 - (c) A copy of the resolution by the members of trade union authorising its President and the Secretary, to apply for its registration;and
 - (d) in case of a federation of trade unions, a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.
7. **Requirements of registration:-** (1) A trade union shall not be entitled to registration under this Ordinance unless the constitution thereof provides for the following matters namely:
 - (a) the name and address of the trade union;

- (b) the objects for which the trade union has been formed;
- (c) the purposes for which the general funds of the union shall be applicable ;
- (d) the number of persons forming the executive shall be from amongst the workmen actually engaged or employed in the establishment or the industry for which the trade union has been formed;
- (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him;
- (f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union ;
- (g) the manner in which the constitution shall be amended, varied or rescinded;
- (h) the safe custody of the funds of trade union, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the Officers and members of trade union;
- (i) the manner in which the trade union may be dissolved;
- (j) the manner of election of officers by the general body of the trade union and the term, not exceeding two years, for which an officer may hold office upon his election or re-election;
- (k) the procedure for expressing want of confidence in an officer of the trade union; and
- (1) the meeting of the executive and of the general body of the trade union, so that the executive shall meet at least once in every three months and the general body at least once every year.
- (2) Without prejudice to the provisions of sub-section (1) a trade union, of workmen shall not be entitled to registration under this Ordinance unless all its members are workmen actually engaged or employed in the industry with which the trade union is concerned.

8. **Disqualifications for being an officer of a trade union.-** Notwithstanding anything containing in the constitutions or rules of a trade union, a person who has been convicted of an offence under section 71 shall be disqualified from being elected as, or from being an officer of a trade union.
9. **Registered trade union to maintain register etc.-** Every registered trade union shall maintain in such form as may be prescribed-
 - (a) a register of members showing receipts particulars of subscriptions paid by each member;
 - (b) an accounts book showing particulars of expenditure; and
 - (c) a minute book for recording the proceedings of meetings.
10. **Registration:-** (1) The Registrar, on being satisfied that the trade union has complied with all the requirements of this Ordinance, shall register the trade union in a prescribed register and issue a registration certificate in the prescribed form within a period of fifteen days from the date of receipt of the application. In case the application is found by the Registrar to be deficient in a material respect or respects he shall communicate in writing his objections to the trade union within a period of fifteen days from the receipt of the application and the trade union shall reply thereto within a period of fifteen days from the receipt of the objections;
 - (2) When the objections raised by the Registrar have been satisfactorily met, the Registrar shall register the trade union as provided in sub-section (1) and issue a certificate of registration in the prescribed form within three days of the objections having been so met. In case the objections are not satisfactorily met, the Registrar may reject the application:
 - (3) In case the application has been rejected or the Registrar has delegated disposal of the application beyond the period of fifteen days provided in subsection (1) or has not issued a certificate of registration within the period of three days as provided in subsection (2), as the case may be, the trade union may appeal to the Labour Court who for reasons to be stated in its judgment may pass an order directing the Registrar to register the trade union and to issue a certificate of registration or may dismiss the appeal;

(4) Notwithstanding anything contained in any other provision of this Ordinance, every alteration made in the constitution of a registered trade union and even change of its officers shall be notified by registered post by the trade union to the Registrar within fifteen days of such change.

(5) The Registrar may refuse to register such change or alteration if it is in contravention of any of the provision of the Ordinance or if it is in violation of the constitution of the trade union.

(6) Subject to the provisions of sub-section (5), every inclusion or exclusion of any constituent unit of a federation a inions shall be notified by registered post by the federation to the Registrar within fifteen days of such inclusion or exclusion.

(7) In case there is a dispute in relation to the change of officers of a trade union, or any trade union is aggrieved by the refusal of the Registrar under sub-section (5), any officer or member of the trade union may appeal to the Labour Court who shall within seven days of receipt of the application or appeal as the case may be pass an order either directing the Registrar to register the change or alteration in the constitution or in the officer of the trade union or may, for reasons to be recorded in writing, direct the Registrar to hold fresh elections of the union under his supervision.

11. **Transfer, etc. of officer of trade union during tendency of application for registration:-** Save with the prior permission of the Registrar no officer of a trade union of workmen shall be transferred, discharged, dismissed or otherwise punished during the pendency of an application for registration of the trade union with the Registrar, provided that the union has notified the names of its officers to the employer in writing.
12. **Certificate of registration:-** The Registrar, on registering a trade union under Section 10 shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Ordinance.
13. **Cancellation of registration:-** (1) The registration of a trade union shall be cancelled if the Labour Court so directs upon a complaint in writing made by the Registrar that the trade union has
 - (i) contravened any of the provisions of this Ordinance or the rules ; or

- (ii) contravened any of the provisions of its constitutions ; or
- (iii) made in its constitution any provision which is inconsistent with this Ordinance or the rules ; or
- (iv) dissolved itself or has ceased to exist.

(2) Where any person who is disqualified under section 8 from being elected as, or from being, an officer of a trade union is elected as an officer of a registered trade union the registration of that union shall be cancelled if the Labour Court, upon a complaint in writing made in this behalf by the Registrar, so direct.

14. **Appeal against cancellation:-** Any trade union aggrieved by a decision given under section 13 may appeal to the a Labour Appellate Tribunal, which may uphold or reject the decision.
15. **Registrar of trade unions:-** For the purpose of this Ordinance the Government may by notification in the official Gazette appoint as many persons as it considers necessary to be Registrars of trade unions and where it appoints more than one Registrar, shall specify in the notification the area within which each one of them shall exercise and perform the powers and functions under this Ordinance.
16. **Powers and functions of Registrar:-** The following shall be the powers and functions of the Registrar:-if ,
 - (a) the registration of trade unions under this Ordinance and the maintenance of register for this purpose;
 - (b) to lodge or authorise any person to lodge complaints with the Labour Courts for action against trade unions for any alleged offence or any unfair Labour practice or violation of any provisions of this Ordinance;
 - (c) the determination of the question as to which one of the trade unions in an establishment or an industry is entitled to be certified as the collective bargaining agent in relation to that establishment or industry ; and
 - (d) such other powers and functions as may be prescribed.
17. **Incorporation of registered trade union:-** (1) Every registered trade union shall be a body corporated by the name under which it is registered, shall have perpetual succession and a common seal and the power to contract and to acquire, hold and dispose

of property, both moveable and immoveable and shall by the said name sue or be sued.

(2) The Societies Registration Act, 1860 (XXI of 1860), the co-operative societies Act, 1912, (IL of 1912) and Companies Act, 1913 (VII of 1913) shall not apply to any registered trade union and the registration of any trade union under any of these Acts shall be void.

18. **Unfair labour practices on the part of employers:-** (1) No employer or trade union of employers and no person acting on behalf of either shall-

- (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union, or
- (b) refuse to employ or refuse to continue to employ any person on the ground that such person is or is not a member or officer of a trade union, or
- (c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is or is not, a member or officer of a trade union, or
- (d) dismiss, discharge, remove from employment or transfer or threaten to dismiss, discharge or remove from employment or transfer a workmen or injure or threaten to injure him in respect of his employment by reason that the workmen—
 - (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union, or
 - (ii) participates in the promotion, formation or activities of a trade union;
 - (iii) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person ;
- (f) compel any officer of the collective bargaining agent to

sign a memorandum by using intimidation, coercion pressure, threat, confinement to a place, physical injury, this connection of water, power and telephone facilities and such other methods ;

- (g) interferes with or in any way influence "the balloting provided for in section 25;
- (h) recruit any new workmen during the period of notice of strike under section 33 or during the currency of a strike which is not illegal except where the conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, permitted temporary employment of a limited number of workmen in the section, where, the damage is likely to occur.

(2) Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon his appointment or promotion to managerial position shall cease to be and shall be disqualified from being a member or officer of a trade union of workmen.

19. **Unfair labour practices on the part of workmen:-** (1) No workmen or trade union of workmen and no person acting on behalf of such trade union shall-

- (a) persuade a workman to join or refrain from joining a trade union during working hours, or
- (b) intimidate any person to become, or refrain from becoming or to continue to be or to cease to be a member or officer of a trade union, or
- (c) induce any person to refrain from becoming, or cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on or by procuring or offering to procure any advantage for, such person or any other person, or
- (d) compel or attempt to compel the employer to sign a memorandum of settlement by using, intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities and such other methods.

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under section 25 by the exercise undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

RIGHTS & PRIVILEGES OF REGISTERED TRADE UNIONS AND
COLLECTIVE BARGAINING AGENTS

20. **Law and conspiracy limited in application:-** No officer or member of a registered trade union or collective bargaining agent as determined by the Registrar shall be liable to punishment under sub-section (2) of section 120-B of the Azad Jammu and Kashmir Penal Code, 1860 in respect of any agreement made between the members thereof for the purpose of furthering any such object of the trade union as is specified in its constitution referred to in section 7, unless the agreement is an agreement to commit an offence or otherwise violate any law other than this Ordinance.
21. **Immunity from civil suit in certain cases :-** (1) No suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or collective bargaining agent or any officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground only that such act induces some other person to break a contract of employment or that is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.
- (2) A trade union shall not be liable in any suit or other legal proceedings in any civil court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the trade union if it is proved that such person acted without to knowledge of, or contrary to express instruction given by the executive of the trade union.
22. **Enforceability of agreement:-** Notwithstanding anything contained in any other law for the time being in force an agreement between the members of a trade union shall not be void or avoidable by reason only that any of the objects of the agreement are in restraint of trade;
- Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing, of recovering damage for the breach of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business, or work, employ or be employed.
23. **Registration of Federation of Trade Union:-** (1) Any two or more registered trade unions may, if their respective general

bodies so resolve; constitute a federation by executing an instrument of federation and apply for the registration of the federation:

Provided that a trade union of workmen shall not join a federation which comprises a trade union of employer nor shall a trade union of employers join a federation which comprises a trade union of workmen:

Provided further that a trade union of workmen or employers shall not join a federation outside the territory of Azad Kashmir, not a trade union of workmen or employers, outside Azad Kashmir shall join a federation in Azad Kashmir.

(2) An instrument of federation referred to in sub-section (1) shall, among other things, provide for the procedure to be followed by federated trade unions and the right and responsibilities of- the federation and federated unions.

(3) An application for the registration of a federation of trade union shall be signed by the president of all the trade unions constituting the federation or by the officer of these trade unions respectively authorised by the trade unions in this behalf and shall be accompanied by three copies of the instrument of federation referred to in sub-section (1).

(4) Subject to sub-section (1), (2) and (3) provision of this Ordinance shall so, far as may be and with the necessary modifications apply to a Federation of trade union.

24. **Returns:-** (1) There shall be sent annually to the Registrar on or before such date as may be prescribed, a general statement audited in the prescribed manner of all receipts and expenditure of every registered trade union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of December as may be prescribed.

(2) Together with a statement of the total paid membership and the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the trade union during the year to which the general statement refers together with a copy of the constitution of the trade union corrected up to the date of the dispatch thereof to the Registrar.

(3) A copy of every alteration made in the constitution of a Registered trade union and of a resolution of the general body

having the effect of a provision of the constitution shall be sent to the Registrar within 15 days of the making of the alteration or adoption of resolution.

(4) In case the registered trade union is member of a federation, the name of that federation shall be given in the annual statement.

25. **Collective Bargaining agent:-** (1) Where there is only one registered trade union in an establishment or a group of establishments, that trade union shall if it has as its member not less than one-third of the total number of workmen employed in such establishment or group of establishments, to be deemed to be collective bargaining agent for such establishment or group.

(2) Where there are more registered trade union than one in an establishment or a group of establishments, the Registrar shall, upon an application made in this behalf by any such trade union which has as its members not less one-third of the total number of workmen employed in such establishment or group of establishments or by the employer or the Government, held within fifteen days from the making of the application, a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group;

Provided that the Registrar may, in the case of a large establishment having its branches in more than one town, hold the secret ballot within thirty days from the making of the application;

(3) Upon receipt of an application under sub-section (2) the Registrar shall, by notice in writing, call upon every registered trade union in the establishment or group of establishments to which the application relates-

(a) to indicate whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to such establishment or group ; and

(b) If it so desires, to submit to him within the time specified in the notice a list of its members showing in respect of each member, his parentage age, the section or department and the place in which he is employed, his ticket number and the date of his becoming a member and, if the trade union is a federation of trade unions, a list of its affiliated trade unions together with a list of

members of such trade union showing in respect of each such member the said particulars.

- (4) Every employer shall-
 - (a) on being so required by the Registrar, submit a list of all workmen employed in the establishment excluding those whose period of employment in the establishment is less than three months and showing in respect of each workmen, his parentage, age, the section or department and the place in which he is employed, his ticket number and the date of his employment in the establishment; and
 - (b) Provide such facilities for verification of the lists submitted by him and the trade unions as the Registrar may require;

Provided that, in computing the period of three months referred to in clause (a) in the case of a workman employed in a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), the period during which he was employed in that factory during the preceding season shall also be taken into account.

(5) The Registrar shall, after verification of the lists submitted by trade unions, prepare a lists of voters in which shall be included the name of every workman whose period of employment as computed in accordance with sub-section (4) is not less than three months and who is a member of any of the contesting trade unions and shall, at least four days prior to the date fixed for the poll, sent to each of the contesting trade unions a certified copy of the lists of voters so prepared.

(6) Every workman who is a member of any of the contesting trade unions and whose name appears in the lists of voters prepared under sub-section (5) shall be entitled to vote at the Poll to determine the collective bargaining agent.

(7) Every employer shall provide all such facilities in his establishment as may be required by the Registrar for the conduct of the poll but shall not interfere with, or in any way, influence, the voting.

(8) No person shall canvass for vote within a radius of fifty yards of the polling station.

(9) For the purpose of holding secret ballot to determine the collective bargaining agent, the Registrar shall-

- (a) fix the date for the poll and intimate the same to each of the contesting trade unions and also to every employer;
- (b) on the date fixed for the poll so place in the polling station set up for the purpose the ballot boxes which shall be sealed in the presence of the representative of the contesting trade unions as to receive the ballot papers;
- (c) conduct the poll at the polling station at which the representatives of the contesting trade unions shall have the right to be present;
- (d) after the conclusion of the poll and in the presence of such of the representatives of the contesting trade unions as may be present, open the ballot boxes, and count the votes ; and
- (e) after the conclusion of the count, declare the trade union which has received the highest number of votes to be the collective bargaining agent;

Provided that no trade union shall be declared to be the collective bargaining agent for an establishment or group of establishments unless the number of votes receive by it is not less than one third of the total number workmen employed in such establishment or group.

(10) Where a register trade union has been declared under clause (e) of sub-section (9) to be the collective bargaining agent for an establishment or group of establishments, no application for the determination of the collective bargaining agent for such establishment or group shall be entertained within a period of two years from the date of such declaration, except where the registration of such a registered trade union is cancelled before the expiration of the period.

(11) A collective bargaining agent may without prejudice to its own position, implead as a party to any proceedings under this Ordinance to which it is itself a party any federation of trade unions of which it is a member.

(12) The collective bargaining agent in relation to an establishment or group of establishments shall be entitled to-

- (a) undertake collective bargaining with the employer or employers on matters connected with employment non-employment, the terms of employment or the conditions

of work;

- (b) represent all or any of the workman in any proceedings;
- (c) give notice of, and declare, a strike in accordance with the provisions of this Ordinance.

(13) The Registrar may authorise in writing an officer to perform all or any of his functions.

26. **Check Off:-** (1) If a collective bargaining agent so requests the employer of the workmen who are members of a trade union shall deduct from the wage of the workmen such amounts towards their subscription to the funds of the trade union as may be specified with the approval of each individual workman named in the demand statement furnished by the trade union.

(2) An employer making any deductions from the wages under sub-section (1) shall, within 15 days of the end of the period for which the deductions have been made, deposit the entire amount so deducted by him in the account of the trade union on whose behalf he has made the deductions.

(3) A collective bargaining agent shall maintain with a branch of any scheduled Bank of Pakistan or with a Post Office Savings Bank an account to which shall be credited the entire amount deducted by the employer under sub-section (1) from the wages of the member of Trade Union.

(4) The employer shall provide facilities to the collective bargaining agent for ascertaining whether deduction from the wages of its members are being made under subsection (1).

JOINT CONSULTATION CONCILIATION & MEDIATION

27. **Shop Stewards to act as link between labour and management:-**(1) In every establishment in which fifty or more workmen are employed shop stewards, from amongst the workmen in a shop, section or department of the establishment, shall-

- (a) Where there is a collective bargaining agent in the establishment, be nominated by it;
- (b) where there is no collective bargaining agent in the establishment, be elected at a secret ballot held in the prescribed manner;

Provided that any shop Steward elected before the commencement of the Ordinance shall continue to hold till the expiry of his term.

(2) The employer shall provide all such facilities in this establishment as may be required for the holding of a ballot under sub-section (1) but shall not interfere with or in any way influence, the voting.

(3) A Shop Steward shall hold office for a period of one year from the date of his election or nomination, as the case may be.

(4) Any dispute arising out of or in connection with the election of a shop steward shall be referred to the Registrar whose decision shall be final and binding on, all parties to this dispute.

(5) The Shop Steward shall act as a link between the workers and the employer, assist in the improvement of arrangements for the physical working conditions and production work in the shop, section or department for which he is elected and help workers in the settlement of their problems either connected with work or with any such individual grievance of a workman as is referred to in sub-section (1) of section 30.

28. **Works Council:-** (1) In every establishment in which 50, or more workmen are employed or were employed on any day in the preceding 12 months, the employer shall constitute, in the prescribed manner a works council consisting of representatives of the employers and the workmen so however that the number of the representatives of the workmen is not less than the number of the representatives of the employer in the work council.

(2) In the case of an establishment where there are one or more trade unions, the collective bargaining agent shall nominate the representatives of the workmen on such works council:

Provided that where there is no collective bargaining agent representatives of workmen on a works council shall be chosen in the prescribed manner from amongst the workmen engaged in the establishment for which the works council is constituted.

29. **Functions of works council.** The functions of a works council shall be to promote measures for securing and preserving good relations between an employer and his workmen are in

particular-

- (a) to endeavor to maintain continuous sympathy and understanding between the employer and workmen ;
- (b) to promote settlement of differences through bilateral negotiations;
- (c) to promote security of employment for the workmen and conditions of safety, health and job satisfaction in their work;
- (d) to encourage vocational training within the establishment;
- (e) to take measures for facilitating good and harmonious working conditions in the establishment, to provide educational facilities for children of workmen in secretarial and accounting procedures and to promote their absorption in these departments of the establishment; and
- (f) to discuss any other matter of mutual interest with a view to promoting better labour management relations.

30. **Redress of individual grievances:-** (1) A worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law for any award or settlement for the time being in force to the notice of his employer in writing, either himself or through his shop Steward or Trade Union, within three months of the day on which the cause of such grievance arises.

(2) Where a worker himself brings his grievance to the notice of the employer, the employer shall, within fifteen days of the grievance being brought to his notice, communicate his decision in writing to the worker.

(3) Where a worker brings his grievance to the notice of his employer through his shop Steward or Trade Union, the employer shall within seven days of the grievance being brought to his notice, communicate his decision in writing to the shop steward, as the case may be, the Trade Union.

(4) If the employer fails to communicate a decision within the period specified in sub-section (2) or, as the case may be, sub-section (3), or if the worker is dissatisfied with such decision, the worker or the Shop Steward may take the matter to his Trade Union or the Labour Court or as the case may be the

Trade Union may take the matter to the Labour Court, and, where the matter is taken to the Labour Court it shall give a decision within fifteen days from the date of the matter being brought before it as if such matter were an industrial dispute:

Provided that a worker who desires so to take the matter to the Labour Court shall do so within a period of two months from the date of the communication of the employer or, as the case may be, from the expiry of the period mentioned in sub-section (2) or sub-section (3), as the case may be.

(5) In adjudicating and determining a grievance under subsection (4) the labour Court shall go into all the facts of the case and pass such orders as may be just and proper in the circumstances of the case.

(6) Notwithstanding anything contained in sub-section (1) to (4) any workman aggrieved by the termination of his employment as result of retrenchment, dismissal, discharge, lay off, lock-out or otherwise not earlier than two months preceding the commencement of this Ordinance, may within a period of two months from the commencement of this Ordinance, or the termination of the employment, whichever is later, either himself or through his Trade Union takes the matter directly to a labour Court having jurisdiction in the area in which the establishment is situated.

31. **Negotiations relating to differences and disputes:-** (1) If at any time an employer or a collective bargaining agent finds that an industrial dispute has arisen or is likely to arise, the employer or, as the case may be, the collective bargaining agent, may communicate his or its views in writing either to the work Council or the other party so, however, that where the views are so communicated to the Works Council, a copy of the communication shall also be sent to the other party.

(2) On receipt of the communication under sub-section (1), the Work Council or the party receiving it shall try to settle the dispute within ten days of the receipt of the communication by bilateral negotiations, and if the parties reach a settlement, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded to the Conciliator and the authorities mentioned in clause (24) of section 2.

(3) Where a settlement is not reached between the employer and the collective bargaining agent or, if the views of the employer

or collective bargaining agent; have been communicated under sub-section (1) to the works Council, there is a failure of bilateral negotiations in the Works Council, the employer or the collective bargaining agent may, within seven days from the end of the period referred to in sub-section (2), serve on the other party to the dispute a notice of lock-out or strike, as the case may be, in accordance with the provisions of this Ordinance.

32. **Conciliator:-** (1) The Government shall, by notification in the Official Gazette, appoint as many persons as it considers necessary to be conciliators for the purposes of this Ordinance and shall specify in the notification the area within which, or the class of establishments or industries in relation to which, each one of them shall perform his functions.
33. **Notice of strike or lock-out.-** The period of notice of lock-out or strike given under sub-section (3) of section (31) shall be 21 days.
34. **Conciliation after notice of strike or lock-out.-** Where a party to an industrial dispute serves a notice of strike or lock-out under section 31 it shall simultaneously with the service of such notice deliver a copy thereof to the conciliator who shall proceed to .conciliate in the dispute, and to the labour court.
35. **Proceedings before Conciliator.-** (1) The conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.
- (2) The parties to the dispute shall be represented before the conciliator by persons nominated by them and authorised to negotiate and enter into an agreement binding on the parties:
- Provided that if, in the opinion of the Conciliator, the presence of the employer or any officer of the trade union connected with the dispute is necessary in a meeting called by him, he shall give notice in writing requiring the employer or such officer to appear in person before him at the place, date and time, specified in the notice, and it shall be the duty of the employer or the officer of the trade union to comply with the notice.
- (3) The conciliator shall perform such functions in relation to a dispute before him as may be prescribed and may, in particular suggest to either party to the dispute such conciseness or modification in its demand as are in the opinion of the conciliator likely to promote an amicable settlement of the

disputes.

(4) If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings before him the conciliator shall send a report thereof to the Government together with the memorandum of settlement signed by the parties to the dispute.

(5) If no settlement is arrived at within the period of the notice of strike or lock-out, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

36. **Arbitration:-** (1) If the conciliation fails, the conciliator shall try to persuade the parties to agree to referee the dispute to an arbitrator. In case the parties agree, they shall make joint request in writing for reference of the dispute to an arbitrator agreed upon by them.

(2) The arbitrator to whom a dispute is referred under subsection (1) may be a person borne on a pannel to be maintained by the Government or any other person agreed upon by the parties.

(3) The arbitrator shall give his award within a period of thirty days from the date on which the dispute is referred to him under subsection (1) or such further period as may be agreed by the parties to the dispute.

(4) After he has made an award, the arbitrator shall forward a copy thereof to the parties and to the Government who shall cause it to be published in the official Gazette.

(5) The award of the arbitrator shall be final and no appeal shall lie against it. It shall be valid for a period not exceeding two years or as may be fixed by the arbitrator.

37. **Strike and Lock-out:-** (1) If no settlement is arrived at during the course of conciliation proceedings and the parties to the dispute do not agree to refer it to an arbitrator under section (36), the workmen may go on strike or, as the case may be, the employer may declare a lock-out on the expiry of the period of the notice under section (33) or upon a declaration by the conciliator that the conciliation proceeding have failed, which ever is the later.

(2) The party raising a dispute may at any time, either before or after the commencement of a strike or lock-out, make an

application to Labour Court for adjudication of the dispute.

(3) Where a strike or lock-out lasts for more than 30 days the Government may, by order in writing, prohibit the strike or lock-out:

Provided that the Government may by-order, in writing prohibit a strike or lock-out at any time before the expiry of 30 days if it is satisfied that the continuance of such strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.

(4) In any case in which the Government prohibits a strike or lock-out, it shall forthwith refer the dispute to the Labour Court.

(5) The Labour Court shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible but not exceeding thirty days from the date on which the dispute was referred to it:

Provided that the Labour Court may also make an interim award on any matter of dispute. Provided also that any delay by the Labour Court in making an award shall not affect the validity of any award made by it.

(6) An award of the Labour Court shall be for such period, as may be specified in the award, which shall not be more than two years.

38. **Strike or Lock-out in Public Utility Services:-** (1) In the case of any of the public utility services, the Government may, by order in writing, prohibit a strike or lock out at any time before or after the commencement of the strike or lock-out.

(2) The provisions of sub-section (3), (4) and (5) of section 37 shall also apply to an order made under sub-section (2) of that section.

39. **Application to Labour Court:-** Any collective bargaining agent or any employer may apply to the labour court for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.

40. **Labour Court:-** (1) The Government may, by notification in the official Gazette, establish as many Labour Courts as it considers necessary and where it establishes more than one Labour Court, shall specify in the notification the territorial

limits within which or the industry or classes of cases in respect of which each one of them shall exercise jurisdiction under this Ordinance.

(2) A labour court shall consist of one presiding officer appointed by the Government.

(3) A person shall not be qualified for appointment, as Presiding Officer unless he has been or is, or is qualified to be a District Judge or an Additional District Judge.

(4) Labour Court shall;

(a) adjudicate and determine an industrial dispute which has been referred to or brought before it under this Ordinance.

(b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Government.

(c) try offences under this ordinance, and such other offences under any other law as the Government may by notification in the official gazette specify in this behalf.

(d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Ordinance or any other law.

(5) Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (VII of 1923), or the payment of wages Act, 1936 (VI of 1936) as in force in Azad Jammu and Kashmir, the Government may, by notification in the official gazette, appoint a Labour Court to be or confer upon it any power or function of, any authority under any of the said Acts, and upon such notification, the Labour Court shall be deemed to be such authority and shall exercise the powers -and perform the function of such authority under the relevant Act.

41. **Procedure and powers of Labour Court:-** (1) Subject to the provisions of this Ordinance, while trying an offence a Labour Court shall follow as nearly as possible summary procedure as prescribed under the Code of Criminal procedure, 1898.

(2) A Labour Court shall, for the purpose of adjudicating and determining any industrial dispute 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 the powers of :

- (a) enforcing the attendance of any person and examining him on oath,
- (b) compelling the production of documents and material objects, and
- (e) issuing commissions for the examination of witnesses or documents.

(3) A Labour Court shall, for the purpose of trying an offence under the Ordinance, have the same powers as are vested in the Court of a Magistrate of the first class, specially empowered U/S 30 of the Code of Criminal procedure, 1898 (Act V of 1898) and shall for the purpose of appeal from a sentence passed by it, be deemed to be a Court of Sessions under that Code.

(4) No Court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from a Labour Court.

42. **Appeal against the decision of Labour Court:-** Any party aggrieved by a decision of a Labour Court under Section 41 may prefer an appeal to a Labour Appellate Tribunal within thirty days of the delivery thereof and a decision of the Labour Appellate tribunal in such appeal shall be final.
43. **Penalty:-** If an order or direction under section 41 or a decision under section 42 is not given effect to or complied with within a week or within a period specified in such order direction or decision, the defaulter shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.
44. **Cognizance of cases:-** No person shall be prosecuted under Section 43 except on a complaint in writing--
- (a) by the workman if the order in his favour is not implemented within the period specified in section 43, or
 - (b) by the Labour Court, if a decision or direction is given under section 41 and 42 is not complied with.
45. **Awards and decisions of labour court:-** (1) An award or

decision of a labour court shall be given in writing and delivered in open Court and two copies thereof shall be forwarded forthwith to the Government.

(2) The Government shall, within a period of one month from the receipt of the copies of the award or decision, publish it in the official Gazette.

(3) Any party aggrieved by an award given under sub-section (1) may prefer an appeal to Labour Appellate Tribunal within 30 days of the delivery thereof and the decision of the Tribunal in such appeal shall be final.

(4) All decisions of Labour Court, other than awards and decision referred to in sub-section (3) of this section, and sentences referred to in sub-section (3) of section 41 shall be final and shall not be called in question in any manner by or before any court or other authority.

46. **Labour appellate Tribunal:-** (1) The Tribunal shall consist of one member to be appointed by the Government by notification in the official Gazette.

(2) The members of the Tribunal shall be a person who is or has been a judge (or an Additional Judge) of High Court and shall be appointed on such terms and conditions as Government may determine.

(3) The Tribunal may, on appeal, confirm, set aside, vary or modify the award or decision and shall exercise all the powers conferred by this Ordinance on the Labour Court, save as otherwise provided. The decision of the Tribunal shall be delivered as expeditiously as possible, within a period of 60 days following the filing of the appeal: Provided that such decision shall not be rendered invalid by reason of any delay in its delivery.

(4) The Tribunal shall follow such procedure as may be prescribed.

(5) The Tribunal shall have authority to punish for contempt of its authority, or that of any Labour Court Subject to its appellate jurisdiction, as if it were the High Court.

(6) Any person convicted and sentenced by the Tribunal under Sub-section (5) to imprisonment for any period, or to pay a fine exceeding Rs. 50/- may prefer an appeal to the High Court.

47. **Settlement and awards on whom binding:-** (1) A settlement arrived at in the course of a conciliation proceedings, or an award of an arbitrator published under section 36 or an award or decision of a Labour Court delivered under section 45 or the decision of a Tribunal under section 46 shall.
- (a) be binding on all parties to the industrial dispute;
 - (b) be binding on all other parties summoned to appear in any proceedings before a Labour Court as parties to the industrial dispute unless the court specifically otherwise directs in respect of any such party;
 - (c) be binding on the heirs, successors or assignees of the employer in respect of the establishment to which the industrial dispute relates where an employer is one of the parties to that dispute; and
 - (d) where a collective bargaining agent is one of the parties to the dispute, be binding on all workmen who were employed in the establishment or industry to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after the date.
- (2) A settlement arrived at by agreement between the employer and a trade union otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.
48. **Effective date of settlement, award, etc.-** (1) A settlement shall become effective.
- (a) if a date is agreed upon by the parties to the dispute to which it relates, on such date; and
 - (b) if a date is not so agreed upon, or the date on which the memorandum of the settlement is signed by the parties.
- (2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the aforesaid period until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the settlement,

(3) An award given under sub-section (1) of section 45 shall, unless an appeal against it is preferred to the Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Tribunal shall specify date from which the award on various demands shall be effective and the limits by which it shall be implemented in each case:

Provided that if, at anytime before the expiry of the said period any party bound by an award applied to the Labour Court which made the award for reduction of the period on the ground that the circumstances in which the award was made have materially changed, the Labour Court may, by order made after giving to the other party an opportunity of being heard, terminate the said period on a date specified in the order.

(4) A decision of the Tribunal in appeal under sub-section (3) of section 46 shall be effective from the date of award.

(5) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (3) the award shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the award.

49. **Commencement and conclusion of proceedings:-** (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out is received by the conciliator under section 33.

(2) A conciliation proceeding shall be deemed to have concluded:-

(a) where a settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and

(b) where no settlement is arrived at:-

(i) If the dispute is referred to an, Arbitrator under section 36 on the date on which the Arbitrator has given his award; or otherwise

(ii) On the date on which the period of the notice of strike or lock-out expires.

(3) Proceedings before the Labour Court shall be deemed to

have commenced:-

- (a) in relation to an industrial dispute, on the date on which an application has been made under section 37 or section 39 or on the date on which it is referred to the Labour Court by the Government under section 37 or 38 and-
- (b) in relation to any other matter, on the date on which it is referred to the Labour Court.
- (4) Proceedings before a Labour Court shall be deemed to have concluded on the date on which the award or decision is delivered under sub-section (1) of section 45.

50. **Certain matters to be kept confidential:-** There shall not be included in any report, award or decision under this Ordinance any information obtained by a Registrar, Conciliator Labour Court, Arbitrator or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such authority, if the trade union, person, firm or company in question has made a request in writing to the authority that such information shall be treated as confidential, nor shall such conciliator or any person present or concerned in proceedings disclose any such information without the consent in writing of the secretary of the trade union or person, firm or company in question as the case may be:

Provided that nothing contained in this section shall apply to disclosure of any such information for the purpose of prosecution under section 193 of the Azad Kashmir penal Code.

51. **Raising of industrial disputes:-** No industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a collective bargaining agent or an employer.
52. **Prohibition on serving notice of striking or lock-out while proceedings pending:-** No notice of strike or lock-out shall be served by any party to an industrial dispute while any conciliation proceedings or proceedings before an arbitrator or a Labour Court or an appeal to the Tribunal under sub-section (3) of section 46 are or is pending in respect of any matter constituting such industrial dispute.
53. **Powers of Labour Court and Tribunal to prohibit strike etc.**
(1) When a strike or lock-out in pursuance of an industrial dispute

has already commenced and is in existence at the time when, in respect of such industrial dispute, there is made to, or is pending before, a Labour Court, an application under section 39 the Labour Court may, by an order in writing, prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to a Tribunal under section 46. The Tribunal may, by an order in writing, prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which had already commenced and was in existence on the date on which the appeal was preferred.

54. **Illegal strike and lock-out:-** (1) A strike or lock-out shall be illegal if:-

- (a) it is declared, commenced or continued without giving to the other party to the dispute, in the prescribed manner, a notice of strike or lock-out or before the date of strike or lock-out specified in such notice, or in contravention of section 52 or
- (b) it is declared, commenced or continued in consequence of an industrial dispute raised in the manner other than that provided in section 51, or
- (c) it is continued in contravention of an order made under section 37 or section 53.
- (d) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of any of the matters covered by a settlement or award.

(2) A lock-out declared in consequence of an illegal strike and a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

55. **Procedure In case of illegal strike or lock-outs:-** (1) Notwithstanding anything contained in any other provision of this Ordinance or in any other law for the time being in force, an "officer of the Labour Department not below the rank of Assistant Director, Labour Welfare, hereinafter in this section referred to as the officer may make enquiries in such manner as he may deem fit into an illegal strike or illegal lock-out in a factory and make a report to the Labour Court.

(2) After completing the enquiry the officer shall serve a notice on the employer and the collective bargaining agent or the

registered trade union concerned with the dispute to appear before the labour Court on a date to be fixed by that Court.

(3) The Labour Court, may within ten days following the day on which it receives a report under sub-section (1) after considering the report and hearing such of the parties as appear before it order the strike to be called off or the lock-out to be lifted.

(4) If the employer contrivance the order of the Labour Court under sub-section (3) and the court is satisfied that the continuance of the lock-out is causing serious heard-ship to the community or is prejudicial to the national interest, it may issue an order for the attachment of the factory and for the appointment of an official receiver for such period as it deems fit, and such period may be varied from time to time.

(5) The official receiver shall exercise the powers of management and may transact business, enter into contract give valid discharge of all moneys received and do or omit to do all such acts as or necessary for conduction the business of the factory.

(6) The Labour Court may, in appointing and regulating the work of an official receiver exercise the powers of a Civil Court under the Code of Civil procedure (Act V of 1908).

(7) If the workers contrivance the order of the Labour Court under sub-section (3) the court may pass orders of dismissal against all or any of the striking workers:

Provided that the court may review its orders if good and sufficient cause is shown by an affected worker within seven days of such orders of dismissal.

(8) Subject to any rules made by the Government in this behalf the officer may for the purpose of enquiry under sub-section (1) within the local limits for which he is appointed, enter with such assistants if any being persons in the service of Azad Jammu and Kashmir, as he thinks fit in a factory, where he has reason to believe an illegal strike or lock-out to be in progress, and make such examination of the premises and plant and of any registers maintained therein and take on the spot or otherwise such evidence of persons and exercise such other powers as he may deem necessary for carrying out the purpose of this section.

(9) The officer shall have authority to call any party to such

dispute to his office or secure his presence in the factory and shall also have the power to bind any party to the dispute to appear before the Labour Court.

(10) Where a part to an illegal strike or lock-out on being required or bound under this section to appear before the officer or the Labour Court, does not so appear, the officer or Labour Court, as the case may be may, besides taking such other action as may be admissible under this Ordinance proceed Exparte.

56. **Conditions of service to remain unchanged while proceedings pending:-** (1) No employer shall, while any conciliation proceeding or proceedings before an Arbitrator a Labour Court or Tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any workman concerned in such dispute, the conditions of service applicable to him before the commencement of the conciliation proceedings or of the proceedings before the Arbitrator, the Labour Court or Tribunal, as the case may be, not shall be-
- (a) save with the permission of the conciliator, while any conciliation proceedings are pending, or
 - (b) save with the permission of the Arbitrator, the Labour Court or Tribunal, while any proceedings before the Arbitrator, Labour Court or Tribunal are pending, discharge, dismiss or otherwise punish any workman except for misconduct not connected with such dispute.
- (2) Notwithstanding anything contained in sub-section (1) an officer of a registered trade union shall not, during the tendency of any proceedings referred to in sub-section (1) be discharged, dismissed or otherwise punished for misconduct, except with the previous permission of the Labour Court.
57. **Removal of fixed assets:-** No employer shall remove any fixed assets of the establishment during the currency of illegal lock-out or a strike which is not illegal.
58. **Protection of certain persons:-** (1) No person refusing to take part or to continue to take part in any illegal strike illegal lock-out, shall, by reason of such refusal, be subject expulsion from any trade union or to any fine or penalty to the deprivation of any right or benefit which he or his legal representatives would otherwise have been entitled; or liable to be placed in any respect, either directly or indirectly, under any disability or disadvantage as compared w other members of the trade union.

(2) Any contravention of the provisions of sub-section (1) may be made the subject-matter of an industrial dispute, and nothing in the constitution of trade union providing the manner in which any dispute between its executive members shall be settled, shall apply to proceedings for enforcing any right or exemption granted by sub-section (1). In any such proceeding, the Labour Court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the funds of the trade union such sum by way of compensation or damages as the court thinks just.

59. **Representation of parties:-** (1) A workman who is a party to an industrial dispute shall be entitled to be presented in any proceedings under this ordinance by an officer of a collective bargaining agent and subject to the provision of sub-section (2) and sub-section (3) any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceeding by a person duly authorised by him.

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Ordinance.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before the Labour Court, or before an Arbitrator, with the permission of the Court on the Arbitrator as the case may be.

60. **Interpretation of Settlement and awards:-** (1) If any difficulty or doubt arises to the interpretation of any provisions of an award or settlement, it shall be referred to the Tribunal constituted under this Ordinance.

(2) The Tribunal to which a matter is referred under subsection (1) shall after giving the parties an opportunity of being heard, decide the matter and its decision shall be final and binding on the parties.

61. **Recovery of money due from an employer under a settlement or award.** (1) Any money due from an employer under a settlement or under an award or decision of the arbitrator, Labour Court or Tribunal may be recovered as arrears of land revenue or as a public demand. If upon the application of the person entitled to the money the Labour Court so directs.

(2) Where any workman is entitled to receive from the

employer any benefit, under a settlement or under an award or decision of the Arbitrator, Labour Court or Tribunal, which is capable of being computed in terms of money, the amount at which such benefit shall be computed may, subject to the rules made under this Ordinance, be determined and recovered as provided for in sub-section (1) and paid to the workman concerned with in a specified date.

62. Any act or function which is by this Ordinance required to be performed by or has been conferred upon a collective bargaining agent may, until a collective bargaining agent has been ascertained under the provisions of this Ordinance be performed by a registered trade union which has been recognized by the employer or employers.

PENALTIES AND PROCEDURE.

63. **Penalty for unfair labour practices:-** (1) Whoever contravenes the provisions of Section 11 shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both.

(2) Whoever contravenes the provisions of section 18 shall be punishable with imprisonment which may extend to four years, or with the fine, which may extend to five thousand rupees or with both.

(3) Any workman who contravenes the provisions of Section 19 shall be punishable with imprisonment which may extend to three years, or with fine which may extend to two hundred rupees or with both.

(4) An Officer of a Trade Union, a workman or person other than a workman who contravenes or abets the contravention of the provisions clause (d) of sub-section (1) of section 19 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to two thousand rupees or with both.

(5) Where the person accused of an offence under sub-section (4) is an officer of Trade Union, he shall cease to hold the office of such officer and be disqualified from holding any office in any Trade Union during the term immediately following the term in which he so ceases to hold office.

(6) Whoever contravenes the provisions of Section 57 shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or

with both.

64. **Penalty for Committing breach of settlement:-** Whoever committing any breach of any term or any settlement, award or decision which is binding on him under this Ordinance shall punishable:-
- (a) for the first offence, with imprisonment for a term which may extend to one year or with fine which, may extend to five hundred rupees, or with both; and
 - (b) for each subsequent offence with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.
65. **Penalty for failing to implement settlement etc:-** Whoever wilfully fails to implement any term of any settlement, award or decision which it is his duty under this Ordinance to implement, shall be punishable with, imprisonment for a term which may extend to one year, or with a fine which may extend to rupees five hundred or with both, and in the case of continuing failure, with a further fine which may extend to two hundred rupees for every day after the first during which the failure continues,
66. **Penalty for false statement, etc:-** Whoever wilfully makes or causes to be made in any application or other document submitted under this Ordinance or the rules thereunder any statement which he knows or has reason to believe to be false, or wilfully neglecting or fails to maintain or furnish any list, document or information one he is required to maintain or furnish under this Ordinance or the rules thereunder, shall be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to five hundred rupees, or with both.
67. **Penalty for illegal strike or lock-out:-** (1) Any workman who commences, continues otherwise acts in furtherance of, an illegal strike shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.
- (2) Any employer who commences, continues or otherwise acts in furtherance of an illegal lock-out shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing offences with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

68. **Penalty for instigating illegal strike or lock-out:-** Whoever instigates or incites others to take part in or expends or supplies money or otherwise acts in furtherance or support of an illegal strike or an illegal lock-out shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.
69. **Penalty for taking part in or instigating go-slow:-** Whoever takes part in, or instigates or incites others to take part in or otherwise acts in furtherance of a go-slow shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation:- In this section go slow means an organized, deliberate and purposeful slowing down of normal out-put of work by body of workmen acting in a concerted manner, but does not include the slowing down of normal output, of work which is due to mechanical defect, break-down of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.
70. **Penalty for discharging officer or trade union in certain circumstance etc:-** Any employer who contravenes the provisions of section 56 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.
71. **Penalty for embezzlement or mis-appropriation of funds:-** Any officer or any other employee of a registered trade union guilty of embezzlement or mis-appropriation of trade union funds shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to a fine, which shall not exceed the amount found by the court to have been embezzled or mis-appropriated upon realisation, the amount of fine may be reimbursed by the court to the trade union concerned.
72. **Penalty for other offences:-** Whoever contravenes, or fails to comply with any of the provisions of this Ordinance, shall, if no other penalty is provided by this Ordinance for such contravention or failure be punishable with fine which may extend to two hundred and fifty rupees.
73. **Offences by corporations:-** Where the person guilty of any offence under this Ordinance is a company or other body corporate, every Director, Manager, Secretary or other officer or

agent thereof shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

74. **Trial of offences:-** No court other than a Labour Court or that of a Magistrate of the First Class shall try any offence punishable under this Ordinance.

MISCELLANEOUS

75. **Indemnity:-** No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this ordinance or any rule.
76. **Registrar, etc., to be public servants:-** A registrar, a Conciliator the Presiding Officer of a Labour Court and the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Azad Jammu and Kashmir penal Code (Act XIV of 1860),
77. **Limitation:-** The provisions of Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply in computing the period within which an application is to be made, or any other thing is to be done, under this Ordinance.
78. **Powers to make rules:-** (1) The Government may make rules for carrying out the purposes of this Ordinance.
- (2) Rules made under this Section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.
79. **Offences to be non-Cognizable:-** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) no police Officer shall be competent to arrest without warrant an employer or a worker for an offence under this Ordinance.

SCHEDULE.

Public utility Service:- see Section 2 (20)

1. The generation, production, manufacture or supply of electricity, gas, oil or water to the public.
2. Any system of public conservancy or sanitation.
3. Hospital and ambulance service.
4. Fire fighting Service.
5. Any postal, Telegraph and telephone Service.
6. Watch and Ward staff and security services maintained in any establishment.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated Muzaffarabad, the 4th June, 1974.

No. 1483/SL/74. The following Ordinance made and promulgated by the President on the 3rd of June, 1974 is hereby published for general information;-

(ORDINANCE IV OF 1974)

AN ORDINANCE to establish Mirpur Development Authority, preamble. Whereas it is expedient to establish a "Development Authority" for making all arrangements for the planning and development of the specified areas of District Mirpur within the framework of a regional development plan;

AND WHEREASE the legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

CHAPTER-I (Preliminary).

1. **Short title, extent and commencement.** (1) This Ordinance may be called the Mirpur Development Authority Ordinance, 1974.
 - (2) It extends to specified Areas of Mirpur District.
 - (3) It shall come into force at-once.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context:-
 - (a) 'Agency' means any department or organization of the Government and includes a corporation, or other autonomous or semi-autonomous body set up by the Government;
 - (b) 'Authority' means the Mirpur Development Authority established under Section-4

- (c) 'Board' means the Board constituted under Section-6;
- (d) 'Building' includes any factory, industrial or business establishment, shop, godowns, warehouse, house, outhouse, hut, hutment, shed, garage, stable, well or platform, and any other structure, whether meant for residential or business purposes or not, made of masonry, bricks, wood, mud, thatch, metal or any other material, but does not include a temporary structure made for purposes connected with agriculture;
- (e) 'Chairman' means the Chairman of the Authority;
- (f) 'Commissioner' means the Revenue Commissioner of Azad Government of the State of Jammu and Kashmir, and includes any other Officer appointed by the Government to exercise the powers of the Commissioner under this Ordinance;
- (g) 'Deputy Commissioner' means the Deputy Commissioner of the Mirpur District, and includes any other officer appointed by the Government to exercise all or any of the powers and discharge all or any of the functions of the Deputy Commissioner under this Ordinance;
- (h) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (i) 'Land' includes buildings and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (j) 'Local Body' means the local body, the local council or the municipal body as established under law for the time being in force having jurisdiction in the area concerned, and includes an Improvement Trust within such area;
- (k) 'Member' means a member of the Authority;
- (l) 'President' means the President of Azad Government of the State of Jammu and Kashmir;
- (m) 'Rules' means rules made under this Ordinance;
- (n) 'Scheme' means a planning scheme or a development scheme made under this Ordinance;

- (o) 'Specified Areas' means the areas specified in the schedule, and such other area or areas as may from time to time be included therein by the Government by notification in the official Gazette;

3. **Declaration of Specified Areas.**

(1) The Government may, from time, to time by notification in the Official Gazette, declare any part or parts of Mirpur District to be Specified Areas.

(2) Notwithstanding anything contained in this Ordinance or in any other law any such notification as aforesaid may be made so as to be retrospective to any day not earlier than the first day of June 1974, and where a notification is so made, the provisions of this Ordinance shall, in so far as they affect the Areas Specified, apply as if this Ordinance were promulgated on the day to which the notification is made retrospective.

CHAPTER-II (Constitution of the Authority)

4. **Constitution of the Authority.**

(1) There shall be established an authority to be known as the Mirpur Development Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with powers subject to the provisions of this Ordinance, to acquire and hold property, both moveable and immoveable, and shall by the said name sue and be sued.

5. **Management.**

(1) The general direction and administration of the Authority and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board in discharging its functions shall act on sound principles of development, town planning and housing and shall be guided on questions of policy by such directions as the Government may from time to time give.

(3) If any question arises as to whether any matter is a matter of policy or not the decision of the Government shall be final.

6. **Constitution of the Board.**

- (1) The Board shall consist of not less than three members to be appointed by the Government.
- (2) The Government shall appoint a Chairman and a Financial Adviser from amongst the members.
- (3) The Chairman and other members shall hold office during the pleasure of the Government and unless sooner removed the Chairman and the Financial Adviser shall hold office for a period of five years and other members shall hold office for a period of four years.
- (4) Any person, ceasing to be Chairman, Financial Adviser or member of the Board, by reason of the expiry of the term of his office, shall be eligible for re-appointment for another term or for such shorter term as the Government may decide.
- (5) No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Board.
- (6) The Chairman, Financial Adviser, or any member may at any time resign; provided that his resignation shall not take effect until accepted, by the Government.

7. **Remuneration and conditions of Service.** The Chairman and each member shall receive such salary and allowances and shall be subject to such conditions of service as may be determined by the Government.

8. **Dis-qualification of the members.** No person shall be or shall continue to be a member, who:-

- (a) is, or, at any time, has been, convicted of an offence involving moral turpitude; or
- (b) is, or, at any time, has been adjudicated insolvent; or
- (c) is found to be a lunatic or of un-sound mind; or
- (d) is a minor; or
- (e) has financial interest in any scheme or a conflicting interest directly or indirectly between his interests as a member and his private interests and has failed to disclose such interest in writing to the Government;

- (f) if he is for the time being dis-qualified for membership of an elective body under any law for the time being in force.

9. **Duties and functions of Chairman and other members,-**

(1) The Chairman and other members shall discharge such duties and perform such functions as are assigned to them by or under this Ordinance .

(2) Until the Board is duly constituted, the Chairman shall, subject to such directions as the Government may from time to time give, exercise the powers, discharge the duties and perform the functions of the Board.

10. **Headquarters of the Authority and Meetings of the Board.-**

(1) Headquarters of the Authority shall be situated at Mirpur.

(2) The meetings of the Board shall be held at such time and places and in such manner as the regulations may provide;

Provided that until regulations are made in this behalf, the meetings of the Board shall be held at such time and place as determined by the Chairman.

CHAPTER-III
(Functions and Powers of the Authority).

11. **Master- plan and Master-programme.-** The Authority may, or if so directed by the Government, shall prepare master-plan and phased master-programme for the development of any part or whole of the specified areas of the District of Mirpur and all such plans and programmes prepared from time to time shall be submitted to the Government for approval;

Provided that the Authority may issue interim development orders for areas for which master plan is being contemplate or is under preparation and restrict or prohibit by general or special order any change in the use of land and alteration in building structures and installations.

12. **Preparation of Schemes by local bodies or Agencies.**

(1) The Authority may, pursuant to the master plans and the master programmes, call upon any local body or agency operating in the specified areas to prepare, in consultation with

the Authority, a scheme or Schemes in respect of matters ordinarily dealt with by such local body or agency, and thereupon the local body or agency shall be responsible for the preparation of the Scheme or Schemes within reasonable time.

- (2) Such Schemes, may relate to :-
- (a) land use, zoning and land reservation;
 - (b) public buildings;
 - (c) industry;
 - (d) transportation and communications, highways, roads, streets, railways, aerodromes and in land water transport;
 - (e) telecommunications including wireless, television, radio, telephone;
 - (f) utilization of water, power and other natural resources;
 - (g) a forestation, range-management and horticulture;
 - (h) Vegetable farming, Dairy farming, Poultry farming, Fish farming, Cattle farming and other operations for ensuring regular fish supplies of daily use;
 - (i) Establishment of consumers stores, ware housing facilities, cold storage and other marketing facilities;
 - (j) community planning, housing, slum clearances, amelioration;
 - (k) Community facilities including water supply sewerage, drainage, sewerage disposal, electricity supply, gas supply and other public utilities;
 - (1) preservation of objects and places of historical and scientific interest or natural beauty.
- (3) The Government may by notification in the official Gazette, and to, alter or amend the list of subjects given in sub section (2), and any such addition, alteration or modification shall take effect as if it had been enacted in this Ordinance.
- (4) The expenditure incurred on the preparation of any such schemes as aforesaid shall be borne as agreed to between the authority and the local body or agency, and in the event of disagreement between them as may be determined by the

Government;

(5) No planning or development scheme shall be prepared by any person or by any local body or agency except with the concurrence of the Authority.

13. **Preparation of schemes by Authority.** The Authority may, pursuant to the master-programmes, itself prepare, when it considers it desirable to do so in the Public interest, schemes for the specified areas relating to the matters enumerated in sub section (2) of Section 12.
14. **Manner and form etc. of Scheme.** All schemes under Section 12 and Section 13 shall be prepared in such manner and form as the Government may specify, and shall contain among other things the following information, namely:-
 - (a) description of the scheme and the manner of its execution;
 - (b) estimate of costs and benefits;
 - (c) allocation of costs to the various purposes to be served by the scheme.
15. **Power of the Authority.-** (1) Subject to the other provisions of this Ordinance and the rules, the Authority may take such measures and exercise such powers as may be necessary for the carrying out of the purposes of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by sub section (1) the Authority may:-

 - (i) Power to purchase or lease by agreement. The Authority may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange of any land which the Authority is authorised to acquire, or any interest in such land.
 - (ii) Power to acquire land under the Land Acquisition Act, 1894. The Authority may with the previous sanction of the Government, acquire for carrying out the purposes of this Ordinance land under the provisions of the Land Acquisition Act, 1894 (I of 1894), as in force in Azad Kashmir.
 - (iii) undertake any works in the specified areas in pursuance of any scheme prepared under Section 13;

- (iv) incur any expenditure;
- (v) procure plant, machinery, instruments and materials required, for its use;
- (vi) enter into and perform all such contracts as it may consider necessary;
- (vii) spouser, for the purpose of giving effect to any of the provisions of this Ordinance, limited liability companies under the Companies Act, Cooperative Societies under the Cooperative Societies Act or Registered Societies under the relevant Acts, and .upon its request be represented on the Management of any such Company or Society;
- (viii) cause studies, survey, experiments and technical researches to be made or contribute towards the cost of any such studies, survey, experiments or technical researches made by any other agency at the request of the Authority;
- (ix) cause removal, of any works obstructing the execution of its schemes;
- (x) seek and obtain advice and assistance for the preparation of any planning scheme or for the execution of any schemes from any local body or agency and such local body or agency shall give the advice and assistance sought by the Authority to the best of its ability, knowledge and judgment, and the additional expenditure, if any, involved in giving such advice or assistance shall be borne by the Authority.
- (xi) undertake any work or perform any function connected with or incidental to the purposes of this Ordinance that may be assigned to it by the Government from time to time.
- (xii) recover such development cess from the beneficiaries for improvement or development of any area as may be approved by the Government by a general or special order.

16. **Execution of schemes etc. through local bodies and agencies.-** (1) The Authority may require a local body or agency within whose jurisdiction any particular area covered by

a scheme lies:-

- (a) to execute a scheme in consultation with the Authority;
- (b) to take over and maintain any of the works and service in that area;
- (c) to enforce regulations, on behalf of the Authority.

(2) The expenditure incurred on the execution of any scheme, or on the taking over or maintenance of any work or the enforcement of regulations, under this section, shall be borne as may be agreed to between the Authority and the local body or agency, and in the event of disagreement as may be determined by the Government

17. **Consultation with the Authority.** (1) The Authority shall be consulted in the utilization and allocation of natural resources in the specified areas to various uses.

(2) Without prejudice to the general provision of sub-section (1) and notwithstanding anything contained in any other law for the time being in force or in any contract or agreement, no person shall, without the prior concurrence of the Authority, allocate, exploit, or in any manner utilize, except for the purposes or his own personal use, such natural resources used as building material as the Authority may, by notification in the official Gazette, specify in this behalf.

18. **Amendment of Schemes.** Any scheme prepared under Section 12 or Section 13 may at any time be amended or modified;

- (a) in cases where the amended or modified scheme should exceed the financial powers of the Authority, by the authority, with the previous approval in writing of the Government; and
- (b) in other cases, by the Authority.

19. **Performance of Municipal Functions by the Authority.** (1) For facilitating the preparation or execution of any scheme under section 12, the discharge of any functions under different provisions of this Ordinance, or the overall improvement of the working of any Local Body, the Government may by a Notification in the official Gazette declare subject to such restrictions and modifications as may be prescribed, that the Authority shall, notwithstanding anything contained in any other law for the time being in force, exercise the powers and

discharge the functions of the Local Body, under the provision of Act constituting that Local Body.

(2) When a notification under Sub Section (1) is issued all powers and functions under the Act, constituting that local body

(a) vested in the Government shall be discharged by the Authority;

(b) vested in the Controlling Authority/Commissioner and the Deputy Commissioner shall be discharged by the Chairman;

(3) The Authority or the Chairman may delegate subject to any limitation any powers exercisable by it or by him under Sub section (2) to any officer or servant of the Authority.

20. **Regulatory Functions of the Authority.** (1) The Government may, when it is considered expedient. or conclusive to better performance of different functions under this Ordinance, declare subject to such restrictions and modifications as may be prescribed by a notification in the official Gazette that specified regulatory functions or powers under the provisions of relevant Acts, shall be performed or exercised by the Authority or its Chairman;

(2) The Authority or the Chairman may delegate subject to any limitations any powers exercisable by it or him under Sub-section (1) to any officer or servant of the Authority.

21. **Removal etc., of building after hearing.** The Authority shall not order or cause any building in specified areas, to be removed or demolished unless an opportunity of being heard has been given to the owner or occupier thereof, and his objections, if any, have been duly considered and the Authority is satisfied that removal or demolition of the building is essential to the execution of its schemes.

22. **Scheme to be executed after calling objections.** The Authority shall not execute or cause to be executed any scheme in the specified Areas, unless the persons whose rights and interests are thereby affected have been given a reasonable opportunity to file their objection to such execution and the Authority has heard such of them as it considers necessary.

CHAPTER - IV (ESTABLISHMENT)

23. **Appointment of Officers and servants etc.** (1) The Authority may, from time to time, appoint such Officers, servants, experts or Consultants as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit.

Provided that a salaried officers and servants whose remuneration exceeds two thousand rupees per mensem shall not be appointed except with the previous approval in writing of the Government.

(2) Subject to the proviso to sub-section (1), the Chairman may, in cases of urgency, appoint such officers, servants, experts or consultants and on such terms and conditions as he deems fit ;

Provided that every appointment made under this sub section shall be reported to the Authority without unreasonable delay.

24. **Recruitment, conditions of service and disciplinary Powers.** The Authority may lay down the procedure for the appointment of its officers, servants, experts and consultants and shall be competent to take disciplinary action against them.
25. **Members, Officers, Experts, Public servants** The Chairman, members, officers, servants, experts and consultants of this Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance be deemed to be public servants within the meaning of Section 21 of the Azad Kashmir Penal Code (Act XIV of 1860).
26. **Indemnity.** No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, any member, officer, servant, expert or consultant of the Authority in respect of any thing done or intended to be done, in good faith under this Ordinance.
27. **Delegation of Powers to Chairman etc.** The Authority may, by general or special order, delegate to the Chairman, or a member or an officer of the Authority, any of its powers, duties or functions under this Ordinance, subject to such conditions as it may think fit to impose.

CHAPTER-V (FINANCE).

28. **Mirpur Development Authority Fund.** (1) There shall be formed a fund to be known as the Mirpur Development Authority Fund' which shall vest in the Authority and shall be utilized by the Authority to meet charge's in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Chairman, members, Officers, servants, experts and consultants of the Authority.
- (2) To the credit of Mirpur Development Authority Fund shall be placed:-
- a) grant made by the Government from time to time for the execution of its schemes and conduct of its business ;
 - b) loans obtained from the Government ;
 - c) grants made by the local bodies ;
 - d) sale proceeds of movable and immovable property and receipts for services rendered ;
 - e) loans obtained by the Authority with the special or general sanction of the Government ;
 - f) all other sums receivable by the Authority.
29. **Budget.** (1) In accordance with the time schedule to be laid down by the Government from time to time each year the Authority shall submit to the Government for approval a statement of estimated receipts and expenditure in rupees in respect of the next financial year ;
- (2) In the manner prescribed by the Government the Authority shall also submit to the Government for approval a statement of estimated receipts and expenditure in foreign exchange in respect of the next financial year.
- (3) The Authority shall obtain specific sanction of the Government in respect of each individual scheme to finance out of the Mirpur Development Authority Fund.

Provided that the Authority may without reference to the Government execute any scheme the provisional estimated cost of which does not exceed rupees five lacs and specific provision for which exists in its annul estimates of receipts and expenditure.

30. **Accounts and Audit.** (1) The Authority shall maintain accounts in such manner as may be prescribed by rules framed by it with the approval of the Government.
- (2) The Authority shall with the previous approval of the Government appoint Auditors for auditing its accounts.
- (3) The Auditors appointed under sub-section (2) shall send three copies of the Audit Report to the Authority which shall forward two copies thereof with its comments to the Government.
- (4) The Authority shall comply with such directions as the Government may give for the rectification of any matter objected to in audit.
31. **Consultation with the Financial Advisor.**- Save as provided in the rules or regulations the Financial Advisor shall be consulted on every proposal of expenditure and when his opinion differs from majority opinion of the Board, the decision of the majority shall prevail, however such cases shall be reported by the Chairman in writing to the Government.
- 31-A. Notwithstanding anything contained in any other law for the time being in force, all property of the following nature situated within the 'Specified Areas' shall vest in and be under the control of the authority and shall be held and applied by it for the purposes of this Ordinance.
- (i) All lands or other property already acquired for the construction of new Mirpur town and Hamlets and other townships on the periphery of the Mangla Reservoir;
 - (ii) All lands or other property which may be acquired by purchase, lease, exchange or compulsory acquisition under Land Acquisition Act, 1894, by the Authority;
 - (iii) All lands or other property which may be transferred to the Authority by the Government or any other agencies for purposes of control and management or for any other purposes under this Ordinance.

CHAPTER-VI
(Penalty and Procedure).

32. **Penalty.** Whoever contravenes any provision of this Ordinance or of any rules or regulations made or scheme sanctioned thereunder shall, if no other penalty is provided for such contravention, be punishable with imprisonment which may extend to 3 month or with fine, or with both.
33. **Causing damage to property.** Whoever wilfully causes damage or allows damage to be caused to any property which vests in the Authority or unlawfully converts it to his own use or to that of any other person shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.
34. **Disobedience of orders.** Whoever, without lawful excuse, fails or refuses to comply with any direction or order issued by the Authority under this Ordinance shall be guilty of an offence punishable under Section 32.
35. **Attempts and abetments.** Whoever attempts to commit or abets the commission of an offence punishable under this Ordinance shall be deemed to have committed the offence.
36. **Summary trial of offences.** Any Magistrate or Bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub section (1) of Section 260 of the Code of Criminal Procedure, 1898, may, if such Magistrate or Bench of Magistrates thinks fit, on application being made in this behalf by the prosecution, try any offence punishable under this Ordinance in accordance with the provisions contained in Sections 262 to 268 of the said Code.
37. **Cognizance of offences by Courts.** No court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Authority or by an officer authorised for the purpose by the Authority.

CHAPTER—VII
(Miscellaneous).

38. **Submission of yearly reports and returns etc.** (1) The Authority shall submit to the Government, as soon as possible after the end of every financial year but before the last day of December next following, a report on the conduct of its affairs for that year.

(2) The Government may, after giving sufficient notice to the Authority, require it to furnish the Government with:-

- (i) any return, statement, statistics, or other information regarding any matter under the control of the Authority, or
- (ii) a report on any subject with which the Authority is concerned, or
- (iii) a copy of any document in the charge of the Authority, and the Authority shall comply with every such requisition.

39. **Power to dispose of land.** The Authority may retain or may lease, sell, exchange, rent or otherwise dispose of any land vested in it.

40. **Recovery of dues etc.** Any sum due to the Authority from, or any sum wrongly paid to, any person under this Ordinance shall be recoverable as arrears of land revenue.

41. **Summary ejectment of unauthorized occupants.** The Deputy Commissioner or any person authorised by him or the Authority in this behalf may, after giving fifteen days notice, summarily eject any person in unauthorized occupation of any land or property vested in the Authority and may, for such ejectment, use such force including police force as may be necessary.

42. **Removal of building etc. erected or used in contravention of this Ordinance.** (1) If any building, structure, work or land is erected, constructed or used in contravention of the provisions of this Ordinance or of any rule, regulation or order made thereunder, the Deputy Commissioner, or any person empowered in this behalf by the Authority, may, by order in writing, require the owner, occupier, user or person in control of such building, structure, work or land to remove, demolish or so alter the building, structure or work, or to desist from using or to so use the land, as to be in accordance with the said provisions.

(2) If an order under sub section (1) in respect of any building, structure, work or land is not complied with within such time as may be specified therein, the Deputy Commissioner, or any person empowered in this behalf by the Authority, may, after giving the person affected by the order an opportunity of being heard, remove, demolish or alter the building, structure or work, or stop the use of the land and, in so

doing, may use such force including police force as may be necessary and may also recover the cost thereof from the person responsible for the erection, construction or use of the building, structure, work or land in contravention of the provisions as aforesaid.

42-A **Removal of encroachment, etc.-** (1) The Deputy Commissioner or any other person authorized by the Authority in this behalf may after giving reasonable opportunity of being heard, direct any person to remove any movable or immovable encroachment made by him without any lawful authority or any land or property vesting in the Authority.

(2) If any direction under sub-section (1) is not complied within such time as may be specified therein, the Deputy Commissioner or any person empowered in this behalf by the Authority, may get the encroachment removed and so doing may use such force including Police force as may be necessary and may also recover the cost thereof from the person responsible for the encroachment:

Provided that the Authority may instead of requiring the removal of encroachment accept by way of compensation such sum consisting of penalty and market price of the land or property encroached upon as it may prescribe by a general or special order:

Provided further that the Authority may require an encroachment to be held altered partially so far as is necessary so avoid contravention of a scheme approved by it.

43. **Police assistance,** The Officer-in-charge of a Police Station shall render such police assistance as the Deputy Commissioner or any person empowered in this behalf by the Authority may require in the discharge of his functions under this Ordinance.

44. **Jurisdiction of Courts barred.** Save as otherwise provided by this Ordinance or by the Azad J&K Govt. Act, 1970, as amended, no court or other authority shall have jurisdiction to question the legality of anything done or any action taken under this Ordinance by or at the instance of the Authority.

45. **Admissibility of document or entry as evidence.** A copy of any receipt, application, plan, notice, order or other document or of any entry in a register, in the possession of the Authority shall, if duly certified by the legal keeper thereof or other person authorised by the Authority in this behalf, be admissible in

evidence of the existence of the document of entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters.

46. **Power to make rules.** (1) Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particulars and without prejudice to the generality of the foregoing powers, such rules may provide for:-

- (a) the manner of keeping accounts of the Authority;
- (b) the recruitment and terms and conditions of service of officers and servants of the Authority;
- (c) the form and manner in which and the authorities to whom returns, reports or statements shall be submitted;
- (d) the date by which, and the forms in which, the annual budget statement shall be submitted in each year;
- (e) the procedure for appropriation and re-appropriation of moneys at the credit of the Authority; and
- (f) such other matters relating to the administration of the affairs of the Authority as Government may think fit to regulate by rules.

47. **Power to make regulations.-** (1) The Authority may, with the previous sanction of the Government, make regulations to provide 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 said rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for:-

- (a) the meetings of the Board ;
- (b) development of residential and commercial localities;
- (c) construction of buildings ; and
- (d) removal of encroachments on roads, streets and other public places.

48. **Repeal Constitutional provisions.-.** (1) The New Mirpur Town (Allotment of Land) Act, 1964, hereinafter referred to as the said Act, and rules and orders made thereunder by the Government, are hereby repealed. All assets, rights and all property, movable and immovable and all interests therein and all debt, liabilities and obligations of this Allotment committee be constituted under the said Act shall stand transferred to and be deemed to be assets, rights, property and interests of the Authority established under the Ordinance.
- (2) Without prejudice to the general provision under sub-section (1) above, the Authority shall exercise all the powers of Allotment Committee constituted under the said Act, in respect of the plots/ property allotted/disposed of to different persons by the said Allotment Committee, including the powers of cancellation in cases of infringement of any condition of allotment.
- (3) The Allotment Committee established, altered or substituted by the Government from time to time under the Mirpur Development Authority Ordinance, 1974, shall stand dissolved and all its powers of allotment and cancellation of Allotment shall be exerciseable by the Authority. In future the Authority shall prescribe the procedure and make necessary arrangements for the disposal of Estates developed by it. Subject to such regulations, if any, made in this behalf.
- (4) The Authority may constitute an Allotment Committee consisting of such number of members as may be determined in consultation with and approval of the Government.
- (5) The Allotment Committee constituted under sub-section (4) shall have all the powers of allotment exerciseable by the Authority under the provisions of the Ordinance or Rules or Regulations framed thereunder. The Allotment Committee may delegate its powers to a sub-Allotment Committee consisting of not less than three of its Members.
- (6) (i) Whenever the Government is satisfied that any property, plots or estates have been disposed of or allotted by any previous Allotment Committee or by the Authority, in an illegal or improper manner, or to under serving persons or any other irregularity or impropriety has been committed in respect of any matter relating to the Allotment or disposal of property etc. then it may appoint an revising authority for scrutiny and suitable order in respect of such cases.

(ii) All appeals and other proceedings pending with the Appellate Authority created under the said Act, or any other Authorized, in respect of any orders of allotment, shall be forwarded by the Authority/ Authorities with whom such appeals or proceedings are pending to the Revising Authority constituted under clause (i) above, and the Revising Authority shall make suitable orders, in all cases.

48-A. Nothing in this Ordinance or in any rules or regulation shall be construed to limit or abridge the power to the Government to deal with any case in such manner as may appear to it to be just and equitable.

49. **Dissolution of Authority and transfer of its assets and liabilities to the Government and other Agency determined by the Government.** (1) The Government may, by notification in the official Gazette, declare that the Authority shall be dissolved on such date as may be specified in such notification, and the Authority shall stand dissolved accordingly.

(2) On and from the said date:--

(a) (i) all properties, funds and dues placed at the disposal of the Authority, by the Government and;

(ii) all properties, funds and dues, exchanged for, derived from, or otherwise attributable to the properties, funds and dues referred to in sub clause (1), which, immediately before the said date, were held by or were realisable by the Authority shall vest in, and be realisable by, the Government;

(b) all properties, funds and dues other than those referred to in clause (a), which, immediately before the said date were vested in or were realisable by the Authority shall vest in and be realisable by such agency as the Government may determine, and its decision thereon shall be final;

(c) all liabilities which, immediately before the said date, were enforceable against the Authority shall be assumed by and be enforceable against the Government or such Agency as the Government determines under clause (b), as the case may be;

(d) for the purpose of completing the execution of any scheme which has not been fully executed by the

Authority and of realizing properties, funds and dues referred to in clauses (a) and (b), the functions of the Authority under this Ordinance shall be discharged by the Government or by the Agency determined by the Government under clause (b) and (c), as the case may be; and

- (e) the Agency referred to in clauses (b), (c) and (d) shall keep such accounts of all moneys respectively received and expended by it under this Ordinance, as the Government may prescribe.

THE SCHEDULE
Limits of the Specified Area

The limits of the Specified Areas of Mirpur District shall be coterminous with the Revenue limits of Mirpur Tehsil.

Sd/-
(Sardar Mohammad Abdul Oayyum Khan)
President,
Azad Government of the State of Jammu & Kashmir.

Sd/-
(Malik Mohammad Aslam Khan)
Secretary Law and Parliamentary Affairs
Azad Government of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

No. 1489/SL/74. The following ordinance made and promulgated by the President on 5th June 1974 is hereby published, for general information.

(ORDINANCE No. VI 1974)

AN ORDINANCE to consolidate at and regularize Nautors of Khalsa land.

WHEREAS it is expedient to consolidate and to regularize Neuters of Khalsa land made on or is or before the issuance of the Ordinance and made provision for grant of Khalsa land in future;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which rendered immediate legislation necessary.

NOW THEREFORE in exercise of the powers conferred by section 24 of the Azad Jammu and Kashmir Government Act 1970 and all other powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance :-

1. **Short title, extent and commencement** (i) This ordinance, may be called the Azad Jammu and Kashmir Regularization of Nautors and grant of Khalsa land Ordinance 1974.

(ii) It shall extend to the whole of Azad Jammu and Kashmir

(iii) It shall come into force at-once.
2. In this ordinance unless there is anything repugnant in the subject or context :-
 - (i) "Commissioner, Collector and Revenue Officer" shall have the same meaning as defined in the Land Revenue act.
 - (ii) "Demarcated forest" means such arc a as was under the control of the Forest" Department before the commencement of this ordinance, and such areas as are brought under demarcation in accordance with the provisions of any other law for the time being inforce.
 - (iii) "Government' means the Azad Government of the State

of Jammu and Kashmir.

- (iv) "Holding" means a cultivated land holding of a person which shall comprise the proprietary land together with the evacuee land, if any, his possession.
- (v) "Khalsa land" means the land which is entered in the revenue record as such or which may be entered as such on any future date under any law but it does not include the demarcated forest and such other lands which are required for Village common purpose.
- (vi) "Land owner" shall have- the same meaning as defined in the Land Revenue Act.
- (vii) "Land Revenue" shall have- the same meaning is defined in the Land Revenue Act.
- (viii) "Nautors " means the existing Neuters made out of Khalsa land on or before the issuance of this ordinance or such Nautors which may be sanctioned in future.
- (ix) "Village common purposes" includes such purposes as grazing land, public roads, village paths, grave yards, water points, cattle ponds, public meeting places or such other purposes as may be past usage or common custom be established to be community or such other purposes as may be prescribed by the Government.
- (x) "Prescribed" means as prescribed by rules under this ordinance.

3. **Regularization of Existing Nautors may be regularized as under :-**

- (i) A person to whom right in respect of Khalsa land had accrued under council orders No. 38/C, 140/C of Dogra Regime or any order of Poonch State or Government order No. 282/57, and the right could not be granted due to absence of entry in the revenue record as required under Government order No. 282/57, will be milled to grant of proprietary rights :

Provided it is proved before the Collector of the district, after such enquiry as may be prescribed, that such person or persons have been in continuous possession of Khalsa land and are recorded as such in the revenue record before RABI 1957

A.D. Such grant may be made on payment of premium and subject to limitations as laid down in the aforesaid orders, as amended from time to time.

Provided further that Nautors which do not fulfill the conditions laid in Government order No. 149/60 dated 11.3.60 shall not be regularized.

(ii) (a) Where the Nautors has been made after RABI 1957 A.D by a land owner whose holding is less than 30 Kanals, such a Nautors may, subject to the conditions of plantation herein after contained, be regularized upto the extent of 30 Kanals including the holding of the Nautor Kunandah, by recording him as tenant at will under Sarkar:

Provided it is proved before a Revenue officer that such person or persons have been in continuous possession of such Khalsa land and are recorded as such on or before the commencement of this ordinance and that the Neuter adjoins the revenue assessed land of the Nautor Kunandah. Such an entry will be made by a mutation to be attested by an officer not below the rank of Assistant Collector 2nd grade:

Provided further that no such Neuters shall lie regularized in respect of land likely to be required for any village common purposes.

(b) A land owner in possession of any portion of Nautor in access of 30 Kanals including his own holding, shall be liable to summary ejectment by an officer not below the rank of Naib Tehsildar.

(iii) All Nautors regularized under sub-section (ii) (a) above shall be used by the land owner for plantation of fruit trees, fuel trees etc, as the land owner may choose and no cultivation shall be, undertaken in such areas after the mutation.

Plantation in the said area shall be started within one year of the mutation. Any land owner cultivating in such areas shall be liable to summary ejectment and cancellation of his mutation.

(iv) A land owner in whose name a mutation under subsection (ii) (a) above has been sanctioned shall be eligible for the grant of proprietary rights in such land with-out any payment provided that:-

- (a) a minimum period of seven years has elapsed since he started plantation.
- (b) The minimum density of plantation per kanal shall be 15 trees in the case of fruit trees and 30 trees in the case of other trees and in the same proportion in the case of mixed plantation.

Proprietary rights shall be sanctioned by the Collector of the district after due enquiry that conditions prescribed in clauses (a) and (b) above have been fulfilled. The proprietary rights may be cancelled, at any time, if any breach of the prescribed conditions occurs after the sanction.

- (v) The holding of a Nautor Kunindah for the purposes of sub sections above shall be the holding as it stood on 1st January 1960 and any transfer made by him after this date shall be reckoned in his holding.
- (vi) No Nautor exceeding 30 kanals including the holding of a Nautor Kunindah shall be regularized in any case and the; said Neuter Kunindah shall be summarily ejected by a revenue officer not below the rank of a Naib Tehsildar and the area thus vacated may be granted to other persons in accordance with the succeeding provisions of this ordinance.

4. **Nautors In the demarcated forests.-** Nautors in the demarcated forests shall not be regularized in any case and the Neuter Kunandah shall be ejected forthwith
5. **Landless resident/tenant.-** A land less resident/tenant of a village who is himself a head of the family and whose main means of livelihood is agriculture will be eligible to get Khalsa land sanctioned in his favour to the extent of 30 kanals subject to the conditions as may be prescribed
6. **Land owner holding less than 30 kanals.-** A land owner whose holding is less than 30 kanals may be Khalsa land sanctioned in his favour to the extent that his holding becomes 30 kanals subject to the conditions as may be prescribed.

7. **Special grant of Khalsa Land.-** The Government may make special grants of Khalsa land for such purposes on payment subject to such limitations as may be prescribed.
8. **Grant of Khalsa Land on the Zamini.-** Khalsa land may be granted for residential, commercial or industrial purposes on payment of surface rent as may be prescribed from time to time.
9. **Appeal, review and revision.-** The provisions of the Punjab Land Revenue Act 1887 and the rules made thereunder, as in force in Azad Kashmir, shall be applicable in matters of appeal, review, revision and other proceedings, unless otherwise provided in this ordinance.

Provided that only one appeal shall lie against an order or ejectment passed by a Revenue officer.

10. **Bar of jurisdiction of Civil Courts.** (1) No civil court shall have jurisdiction on any matter which the Government or any revenue officer is competent to dispose of under this ordinance and shall not take cognizance of the manner in which the Government or any revenue officer exercises any powers vested in it or in him by or under this ordinance or under Government order No. 282/57.

(ii) No civil court shall be competent to issue a temporary injunction in respect of any matter referred to in subsection (i) above.

11. **Power to make Rules.-** The Government may by notification in the official gazette make rules to carrying out the purposes of this ordinance.

12. **Penalties.-** (i) Any person who contravenes any direction or order issued pursuant of the provisions of this ordinance shall be liable to a fine Rs. 200/- to be imposed by the Collector of the district.

(ii) Any person who, without lawful authority, clear or breaks up any land in a freest or erects a fence or enclosure for cultivation or for any other purpose or otherwise encroaches upon or takes possession of such land by illegal trespass shall be punishable with imprisonment of either description for a term which may extend to three years and with fine.

(iii) Where any person is convicted by a court under this section or under any other law for the time being in-force for breaking, clearing or otherwise encroaching upon any land in a forest, such court shall order, his ejectment and shall restore

possession of such land to the forest officer or other authority entitled to the possession thereof.

(iv) All offences under this ordinance shall be cognizable and bailable. They will be however compounded like any other offence under the Azad Jammu and Kashmir Forest Regulation 1930.

- 13. Savings.-** The provisions of this ordinance shall not affect the provisions of the Azad Jammu and Kashmir Grant of Khalsa Waste Land as Shamlat Deh Act, 1966.

(Sardar Muhammad Abdul Oayyum Khan)
President,
Azad Govt. of the State of Jammu & Kashmir.

Sd/-

(Malik Mohammad Aslam Khan)
Secretary Law,
Azad Govt. of the State of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 3, 1974.

No. 2305/SL/74. The following Ordinance made by the President on the 3rd of September, 1974, is hereby published to general information:-

(ORDINANCE X OF 1974)

AN ORDINANCE to amend the Azad Jammu and Kashmir Delimitation a Constituencies Ordinance, 1970.

WHEREAS, in pursuance of Sub-section (1) of Section 22 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, is expedient to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance VII of 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 immediate legislation necessary ;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President, Azad Government of the State of Jammu and Kashmir 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 Delimitation of Constituencies (Amendment) Ordinance, 1974.

(2) It shall come into force at once.
2. **Amendment of Section 2, Ordinance VII of 1970.-** In the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance, VII of 1970) hereinafter referred to as the said Ordinance, in Section 2, in clause (b) for the figure '1961' the figure '1971' shall be substituted.
3. **Amendment of Schedule I to Ordinance VII of 1970.-** In the said Ordinance, for Schedule I, the following shall be substituted, namely:-

SCHEDULE I
(See Section 7 (1) (a))

Seats in the Legislative Assembly for the Azad Jammu
Kashmir Territory.

District	Seats
Poonch	10
Mirpur	7
Muzaffarabad	6
Kotli	5

4. **Amendment of Schedule II to Ordinance VII of 1970.**-the said Ordinance, in Schedule II:-
- (i) In entry (a), in column 2 for the figure '4' the figure '6' shall be substituted.
- (ii) In entry (b), in column 2 for the figure '4' the figure '6' shall be substituted.
5. **General amendment.**- In the said Ordinance for the words 'State Council' wherever occurs the words 'Legislate Assembly' shall be substituted.

Sd/-(Sardar Mohammad Abdul Qayyum Khan
President, Azad Govt. of the State of J & K.

(Mohammad Akram Shah)
Assistant Legal Remembrance
Azad Govt. of the State of J& K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 14, 1974.

No. 2283/SL/74. The following Ordinance made by the President on the 11th September, 1974, is hereby published for general information:-

(ORDINANCE XVII OF 1974)⁷

AN ORDINANCE further to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970.

WHEREAS, in pursuance of Section 50 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, it is expedient to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance VII of 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 immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President Azad Government of the State of Jammu and Kashmir 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 Delimitation of Constituencies (Second Amendment) Ordinance, 1974.
(2) It shall come into force at once.
2. **Amendment of Section 4, Ordinance VII of 1970.**- In the Azad Jammu and Kashmir D. limitation of Constituencies Ordinance, 1970 (Ordinance VII of 1970) in section 4, in sub-section (1), before the words 'Election Commissioner' the word 'Chief shall be inserted.

Sd/- (Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K.

Sd/- (Sardar Mohammad Sharif Khan)
Secretary Law & Parliamentary Affairs,
Azad Government of the State of J & K.

⁷ This law was issued as an Ordinance but got force of an Act in view of Section 51 of AJ&K Interim Constitution Act, 1974.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 14, 1974.

No. 2291/SL/74. The following Ordinance made by the President of Azad Government of the State of Jammu and Kashmir on the 11th of September 1974, is hereby published for general information:-

(ORDINANCE XXI OF 1974)

AN ORDINANCE to amend the Azad Jammu and Kashmir (Board of Intermediate and Secondary Education) Ordinance, 1973.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir (Board of Intermediate and Secondary Education) Ordinance, 1973, for the purposes hereinafter appearing;

AND, WHEREAS the Legislative Assembly is not in session and the President is satisfied that the circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, and all other powers enabling him in that behalf, 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 (Board of Intermediate and Secondary Education) (Amendment) Ordinance, 1974.

(2) It shall come into force at once.
2. **Amendment of sub-section (I) of Section 3.-** In the Azad Jammu and Kashmir (Board of intermediate and Secondary Education) Ordinance, 1973, hereinafter referred to as the said Ordinance, in sub-section (1), of Section 3, the words 'of Secondary Education' shall be deleted.
3. **Amendment of Section 4.-** In the said Ordinance, in sub-section (1) of Section 4, clauses (vii) and (viii) shall be omitted and clause (ix) renumbered as (vii).
4. **Insertion of Section 9-A.-** In the said Ordinance, after Section 9, the following new Section 9-A shall be inserted, namely:-

"9-A. Ceasure of jurisdiction of the Lahore Board.- From the date of commencement of this Ordinance, the Board of Intermediate and Secondary Education, Lahore, shall cease to exercise its powers in respect of the institutions within Azad Jammu and Kashmir:

Provided that Government may, by, Notification in the Official Gazette, authorise the Board of Intermediate and Secondary Education, Lahore to exercise the powers of a Board under this Ordinance for the supplementary Examination of Secondary School Certificate and Intermediate Examinations for the year, 1973."

5. **Addition of proviso to sub-section (2) of Section 14.-** In the said Ordinance, in sub-section (2) of Section 14, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the Controlling Authority may, at any time, review the work of the Chairman and if on such review it is satisfied that in the interest of the Board, or for any other sufficient cause, it is necessary so to do, it may after giving the Chairman an opportunity of showing cause against the proposed action, reduce the term of office of the Chairman to such period as it may determine."

Sd/- (Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K.

Sd/- (Sardar Mohammad Sharif Khan)
Secretary Law & Parliamentary Affairs,
Azad Government of the State of J&K Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 30th September 1974

No. 2479/SL/74. The following Ordinance made by the President Azad Government of the State of Jammu and Kashmir on the 25th September, 1974, is hereby published for genera information:-

(ORDINANCE XXIII OF 1974)

AN ORDINANCE to amend the Azad Jammu and Kashmir State Council Ordinance, 1970.

WHEREAS in pursuance of Sub-section (1) of Section 22 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, it is expedient to amend the Azad Jammu and Kashmir State Council Ordinance, 1970, (Ordinance VI of 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 immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred be Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance :

1. **Short title and commencement**— (1) This Ordinance may called the Azad Jammu and Kashmir State Council (Amendment) Ordinance, 1974.

(2) It shall come into force on the twenty-fifth day of August, 1974:-
2. **Amendment of Section 2, Ordinance VI of 1970.**— In the Azad Jammu and Kashmir State Council Ordinance, 1970 (Ordinance VI of 1970) hereinafter referred to as the said Ordinance, in section 2, —
 - (a) in sub-section (1), for the word 'sixteen' the words 'twenty-eight' shall be substituted.
 - (b) In sub-section (2), for the word 'four' the word 'six' shall be substituted;

- (c) in sub-section (3), for the word 'four' the word 'six' shall be substituted;
 - (d) in sub-section (4),—
 - (i) for the word 'one' the word 'two' shall be substituted ; and
 - (ii) for the word 'twenty four' the word 'forty' shall be substituted.
3. **General.-** In the said Ordinance, for the words 'State Council' wherever occurring, the words 'Legislative Assembly' shall be substituted.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan;
President,
Azad Government of the State of J&K.

Sd/- (Sardar Mohammad Sharif Khan)
Secretary Law & Parliamentary Affairs,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad, dated the 15th October, 1974.

No. 2607/SL/74. The following Ordinance made by the President on the 2nd of October, 1974, is hereby published for general information:-

(Ordinance XXIV of 1974)

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

WHEREAS, in pursuance of sub-section (2) of section 24 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 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 immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President, Azad Government of the State of Jammu and Kashmir 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, 1974.
(2) It shall come into force on the twenty fifth day of August, 1974.
2. **Amendment of section 5 (Ordinance X of 1970).-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) in Section 5, clause (d) of sub-section (2) shall be deleted.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K.

Sd/-
(Mohammad Akram Shah)
Assistant Legal Remembrance,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the November 10, 1974.

No. 3005/SL/74. The following Ordinance made by the President on the 10th of November, 1974, is hereby published for general information:—

(ORDINANCE XXV OF 1974)

AN ORDINANCE to amend the Azad Jammu and Kashmir Land Reforms Act, 1960 (Act V of 1960)

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Land Reforms Act, 1960, for the purpose hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President Azad Government of the State of Jammu and Kashmir 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 Land Reforms (Amendment) Ordinance, 1974.

(2) It shall come into force at once and shall be deemed to have taken effect from the 20th of August, 1974.
2. **Omission of Section 25-B of the Azad Jammu and Kashmir Land Reforms Act, 1960-** In the Azad Jammu and Kashmir Land Reforms Act, 1960 as amended by the Azad Jammu and Kashmir Land Reforms (Amendment) Act, 1974, hereinafter referred to as the said Act, Section 25-B shall be omitted.
3. **Amendment of Section 28, Azad Jammu and Kashmir Land Reforms Act, 1960-** In the said Act, in Section 28, in sub-section (1),
 - (i) the following clause (a) shall be inserted:-

"(a) Where the occupancy tenants are evacuees and the landlords are non-evacuees under the law

relating to the Administration of Evacuee
Property Act; or"

- (ii) Clause (a) of sub-section (1) shall be re-numbered as
clause (b).

Sd/- (Sardar Mohammad Abdul Oayyum Khan)
President,
Azad Govt. of the State of J&K
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated December 15, 1974

No.3482/SL/74 The following Ordinance made by the President on the 29th November, 1974, is hereby published for general information:-

(ORDINANCE XXVI OF 1974)

AN ORDINANCE to facilitate the collection of statistics of certain kinds relating to industries;

WHEREAS it is expedient to facilitate the collection of statistics of certain kinds relating to industries;

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 Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 the president of Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement-** (1) This Ordinance may be called the Azad Jammu and Kashmir Industrial Statistics Ordinance, 1974.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at.
2. **Definitions:-** In this Ordinance "prescribed" means prescribed in rules made under this Ordinance or in any form prescribed by those rules.
3. **Collection of statistics:-** (1) the Government may, by notification in the official Gazette, direct that statistics shall be collected relating to any of the following matters, namely:-
 - (a) any matter relating to factories,
 - (b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely:-

- i) prices of commodities,
- ii) attendance,
- iii) living conditions, including housing, water supply and sanitation,
- iv) indebtedness
- v) rents of dwelling houses,
- vi) wages and other earnings,
- vii) provident and other funds provided for labour,
- viii) benefits and amenities provided for labour,
- ix) hours of work,
- x) employment and unemployment,
- xi) industrial and labour disputes,

and thereupon the provisions of this ordinance shall apply to the collection of those statistics.

(2) in clause (a) of subsection (1) "Factory" means a factory as defined in clause (b) of section 2 of the factories Act, 1934 (XXV of 1934) or any premises deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of that Act:

- 4. **Appointment of statistics Authority:-** The Government may appoint an officer to be the statistics authority for the purposes of the collection of any statistics under this ordinance.
- 5. **Delegation of powers and functions:-** The statistics authority may, with the previous approval of the Government, direct that all or any of the powers and functions to be exercised and performed by the statistics authority under this Ordinance shall be exercised and performed by any other officer or authority subordinate to the Government subject to such conditions, if any, as may be specified in the direction.
- 6. **Power of statistics authority to call for returns and information:-** (1) The statistics authority may serve or cause to be served on any person a notice requiring him to furnish at such intervals and in such forms and with such as may be prescribed, which information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

(2) The notice referred to in sub- section (1) may be served by post,

7. **Right of access to record or documents:-** The statistics authority or any person authorised by him in writing in this behalf shall for the purpose of the collection of any statistics under this Ordinance, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Ordinance and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Ordinance.
8. **Restriction on the Publication of returns and information:-**
(1) No individual return and no part of an individual return, made; and no information with respect to any particular undertaking given, for the purposes of this ordinance, shall without the previous consent in writing of the owner for the time being of the undertaking in which information was made or given, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

(2) Except for the purposes of a prosecution under this ordinance or under the penal code (XLV of 1860) no person not engaged in connection with the collection of statistics under this ordinance shall be permitted to see any individual return or information referred to in sub-section (1).
9. **Penalties:-** if any person required to furnish any information or any return:-

(a) wilfully refuses or without lawful excuse neglect to furnish such information or return as required under this Ordinance, or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false, or

(c) refuses to answer or wilfully given a false answer to any question necessary for obtaining any information required to be furnished under this ordinance.

Or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 7, he shall for each offence be punishable with fine which may

extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for each day after the first during which the offence continues; and in respect of false information, returns or answer the offence shall be deemed to continue until true information or true return or answer has been given or made,

10. **Penalty for improper disclosure of information or returns:-** if any person engaged in connection with collection of statistics under this ordinance wilfully discloses any information or the contents of any return given or made under this ordinance other wise than in the execution of his duties under this ordinance or under the penal code (XIV or 1860) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.
11. **Cognizance of offences:-** No prosecution under section shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 10 shall be instituted except by or with the sanction of the Government.
12. **Power of the government the make rules:-** the Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this ordinance.

(2) without prejudice to the generality of the foregoing powers, rules may be made under the section regulating the exercise of the right of access to documents and the right of entry conferred by section 7.

Sd/-(Sardar Mohammad Abdul Qayyum Khan)
President

Azad Government of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

No. 3483/SL/74/74. The following Ordinance made by the President on, the 29th of November 1974, is hereby published for general information:-

(ORDINANCE XXVII OF 1974)

AN ORDINACE to regulate the hours of work and other conditions of employment of road transport workers in Azad Jammu and Kashmir

WHEREAS it is expedient to regulate the hours of work and other conditions of employment of road transport workers in Azad Jammu and Kashmir;

AND WHEREAS, the Legislative Assembly is not in session and the President is satisfied that circumstances exist which renders it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by section 41, of the Azad Jammu and Kashmir Interim Constitution, Act, 1974 the President of Azad Government of the state of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent act commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Road Transport workers Ordinance 1974.
 - (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 any thing repugnant in the subject or context.-
 - (1) “Day” means a period of 24 hours beginning at midnight;
 - (2) “Employer” means the owner of any road transport service in which workers are employed, and where the business of such service is not directly managed by the owner, means the Manager, Agent or Representative of such owner in the said service and where the owner is a minor, the guardian of such minor, and in relation to any vehicle which is the subject of hire

purchase agreement, the person in possession of the vehicle under that agreement;

(3) “Government” means the Azad Government of the State of Jammu and Kashmir;

(4) “Hours of work” means the time during which the workers employed are at the disposal of the employer excluding any interval allowed for rest and meals;

(5) “Prescribed” means prescribed by Rules made under this Ordinance;

(6) “Public Place” means a road, street, way or other place, whether a thorough fare or not, which the public have a right of access, and includes any place or stand at which passengers are picked up or down by a vehicle;

(7) “Road transport service” means a service carrying passengers or goods or both by road in vehicle for hire or reward;

(8) “vehicle” means any mechanically propelled vehicle, used or capable of being used for the purposes of road transport and includes a trame car a trolley vehicle and a trailer;

(9) “Week” means a period of seven days;

(10) “Workers” means a person engaged on mobile duty, and includes drivers, cleaners, conductors and checkers employed by or in road transport service;

(11) “Year” means a period of twelve months starting from the date a worker is employed in a road transport service and ending on the date immediately preceding in the following year.

3. **Age Limit:-** (1) No person, other than a driver, shall be employed in any road transport service unless he has attained the age of fifteen years.

(2) No person shall be employed in any road transport service for the purposes of driving a vehicle unless he has attained the age of twenty one years.

4. **Hours of work and rest:** (1) No workers shall be employed on a vehicle;

(a) For more than five hours at a time before he has had an

interval for rest of at least half an hour nor more than eight hours before he has had at least two such intervals;

(b) For more than nine hours in a day; and

(c) For more than fifty-four hours in a week.

(2) Every worker shall be entitled to have at least twenty-four hours of consecutive rest in week.

(3) The Government may, by rules made under section 10, grant such exemptions from the provisions of sub-section (1) and sub-section (2) as it thinks fit, to meet cases of emergency or of delay by reason of circumstance which could not be foreseen:

Provided that:

(a) No worker shall be employed over time in any year in excess of one hundred and fifty working hours; and

(b) The worker employed overtime shall be paid remuneration at the rate of his normal wages calculated by the hours.

(4) Whereas a result of the making of a rule exempting any worker from the provision of sub-section (2) a worker is deprived of any of the weekly hours of rest for which provision is made in the sub-section he shall be allowed, as soon as circumstances permit, compensating hours of rest of equal number so lost:

Provided that no worker shall be caused or allowed to work for more than ten consecutive days without compensative rest for at least twenty hours at one time.

(5) The Government or if, authorize in this behalf by the Government by rules made under section 10, the competent authority, may require an employer to fix before hand the hours of work of the workers so as to conform with the provisions of sub-section (1) and may provide for the recording of the hours so fixed.

(6) No worker shall or cause or allow any other worker to work outside the hours fixed or recorded of the work of the said worker in compliance with any rules made under sub-section (2)

5. **Restriction on cumulative hours of work:** No worker shall work or be allowed to work on a vehicle or two or more vehicle

in excess of the period during which he may be law-fully employed under this Ordinance.

6. **Leave:** (1) In a added to the period of daily and weekly rest, every worker, who has been in continuous employment for a period of one year, shall be entitled to not less than 14 days leave with full pay or, if he has been continuously employed for a period of six months, he shall be entitled to not less than seven day's leave with full pay.

(2) For the purposes of computing the period during which a worker has been in continuous employment with in the meaning of sub-section (1), the period during which he was on leave under this section shall be included.

7. **Restriction on termination of service etc:** (1) The service of a worker shall not be terminated without sufficient cause not unless and until one months previous notice or one months pay in lieu thereof has been given to him and he has been paid his pay for any period of leave admissible to him of which he did not avail himself while in service.

(2) Nothing in sub-section (1) shall apply to the case of a worker whose service are terminated on account of his having been found guilty of miss-conduct.

Explanation: For the purposes of this-subsection the following act, and omissions shall be treated as misconduct, namely:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) Willful damage to or loss of employer's goods or property;
- (d) Taking or giving bribes or any illegal gratification.
- (e) Habitual absence without leave or absence without leave for more than 10 days.
- (f) Habitual late attendance.
- (g) Habitual breach of any law applicable to the establishment;

- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline.
- (i) Habitual negligence or neglect of work.
- (j) Sticking work or inciting others to strike work in contravention of the provisions of any law or rules having the force of law.

(3) If in any case instituted for the contravention of the provision of sub-section (1) the services of a worker are found to have been terminated without sufficient cause the amount payable as compensation under this section shall be in addition to any fine as payable under section 11.

(4) No person who has been awarded compensation under this Section shall bring a civil suit in respect of the same claim.

8. **Maintenance of Register etc:** (1) Every employer shall, in the prescribed form and in the prescribed manner, keep in the office of the road transport service a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to, every worker in accordance with the provision of this Ordinance and particulars of all employment overtime shall be separately entered in the record.

(2) Every employer shall for the purposes of this Ordinance maintain such other records and registers and display such notice or other documents as may be prescribed.

9. **Inspection of registers and calling for information:** It shall be the duty of every employer to produce for inspection of such inspectors as may be appointed by the Government all account or other records required to be kept for the purposes of this Ordinance and to give such officer any other information in connection therewith as may be required.

10. **Powers to make rules:** The Government may make rules for the purposes of carrying into effect the provisions of this Ordinance.

11. **Penalties:** Whoever contravenes any of the provision of this Ordinance, or any of the rules made there under shall be liable on first conviction to fine not exceeding fifty rupees for the first offence and two hundred rupees for every subsequent offence provided that-

- (a) In the case of any contravention of the provisions of section 8, the employer shall be liable, on conviction, to a fine not exceeding ten rupees for every day on which the contravention occurs or continues, and
- (b) If any employer, with intent to deceive makes or causes or allows to be made in any record, register, notice or other document as provided under section 8 an entry which is to his knowledge false in any material particular, or willfully omit or causes or allows to be omitted from any such record, register, notice or document an entry required to be made therein, shall be liable on conviction to simple imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees or both.

12. **Protection of action taken under the Ordinance:** No suit, prosecution or other proceeding shall lie against any person for any thing which is in good faith done or intended to be done in pursuance of this Ordinance or rules made there under.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K.

**AZAD GOVT OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENATARY AFFAIRS SECRETARIAT
MUZAFFARABAD.**

No. 3479/SL/74. The following Ordinance made by the President on 29th November 1974, is hereby published for general information:

(ORDINANCE XXVIII OF 1974)

The Azad Jammu and Kashmir Shops and Establishments Ordinance,
1974

AN ORDINANCE to provide the Law relating to the hours and other conditions of work and employment of persons employed in shops and commercial, Industrial and other establishments in Azad Kashmir and matters connected therewith.

PREAMBLE

WHEREAS it is expedient to provide the law relating to the hours and other conditions' of work and employment of persons employed in shops and commercial, industrial and other establishments in Azad Kashmir and matters connected therewith;

AND WHEREAS the legislative Assembly is not in session and the President is satisfied that the circumstances exist which render it; necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Section 41, of the Azad Jammu and Kashmir interim Constitution Act, 1974-, the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short Title, Extent And Commencement.**- (1). This Ordinance may be called the Azad Jammu and Kashmir Shops and Establishments Ordinance, 1974.
 - (2) It shall come into force at once.
 - (3) It extends to the whole of Azad Jammu and Kashmir territory.
 - (4) Government may, by notification in the official Gazette extend the operation of this Ordinance or any provision thereof to any area of establishment or exclude any area or establishment to which it extends, from its operation.
2. **Definitions:-** In this ordinance, unless the context otherwise requires:-

- (a) “adult” means a person who has completed 17th year of age;
- (b) “apprentice” means a person who is employed his payment of wages or not, for the purposes of being trained in any trade, craft or employment in any establishment;
- (c) "child" means a person who has not completed his twelfth year of age;
- (d) "close" means not open for the service of any customer or to any business connected with the establishment;
- (e) "commercial establishment" means an establishment which carries on any business, trade or profession or any work In connection with, or incidental or ancillary to, any business, trade or profession, and includes:-
 - (i) a society registered' under the Societies Registration Act, 1860 (XXI of 1860) , and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession, or any work in connection with or incidental or ancillary thereto;
 - (ii) an establishment wherein there is conducted the business of advertising, commission, forwarding or a commercial agency;
 - (iii) a clerical department of a factory or of any industrial or commercial undertaking;
 - (iv) an insurance company, joint stock company bank, brokers, offices or exchange and office of lawyers, income-tax practitioners, registered accountants, contractors and engineers;
 - (v) such other professional establishments or class thereof as Government may, by notification in the official Gazette, declare to be commercial establishments for the purposes of this Ordinance; but does not include a factory, shop, residential hotel, restaurant, eating houses, theatre or other place of public amusement or entertainment;

- (f) "day" means the period of twenty-four hours beginning at midnight, provided that in the case of an employee, whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences, irrespective of mid-night;
- (g) "employee" means any person employed whether directly or otherwise, about the business of an establishment for the owner or occupier thereof, even though he receives no reward or remuneration for his labour, but does not include a member of the employers family;
- (h) "employer" means a person owning or having charge of the business or an establishment, and includes an agent; or manager or any other person acting on behalf of such person in the general management or control of such establishment;
- (i) "employer's family" means the employer's family, husband or wife as the case may be, sons, daughters, father, mother, and brothers and sisters living with and dependent on the employer;
- (j) "establishment" means a shop, commercial establishment industrial establishment, private dispensary, maternity home, residential hotel restaurant, eating house, cafe, cinema, theatre, circus, or other place of public amusement, or entertainment, and such other establishments, or class thereof as Government may, by notification in the official Gazette, declare to be establishments for the purposes of this Ordinance;
- (k) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934);
- (l) "Form" means a form specified in the schedule;
- (m) "Government" means the Azad Government of the State of Jammu and Kashmir; -
- (n) "hours of work" or "working hours" with reference to an establishment means the time during which the employees in the establishment at the disposal of the employer, exclusive of any interval allowed for rest and meals;

- (o) "industrial establishment" means a workshop or other establishment in which the Work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery, or disposal is carried on, or where any such service is rendered to a customer, and includes such other class or classes of establishments as Government may, by notification in the official Gazette, declare to "be industrial establishments for the purposes of; this Ordinance, but does not include a factory;
- (p) "Permanent employee" means an employee who has been engaged on a permanent basis, and includes an employee who has completed nine month continuous service in one or different occupations in the same establishment, including breaks due to sickness, accident, leave, illegal lock-outs, legal strikes involuntary closure of the establishment, and has satisfaction completed a probationary period of three months;
- (q) "Prescribed" means prescribed by rules made under this Ordinance;
- (r) "Residential hotel" means any premises in which a bonafide business is carried on for the supply of dwelling; accommodation and meals on payment of a sum of money by a traveler or any other member or the public or class of the public and includes a club.
- (s) "restaurant" and "eating house" means any premises in which is carries on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;
- (t) "retail trade" includes the business of a barber or hairdresser, the sale of refreshments and sales by auctions;
- (u) "shop" means any premises used wholly or in part for the whole-sale or retail sale of commodities or articles, either for cash or on credit, or where services are rendered to customers, and includes an office, a store room, godowns warehouse or place of Work, whether in the same premises or otherwise, mainly used in connection with such trade or business;

- (v) "temporary employee" means an employee who has been engaged for work which is of an essentially temporary nature likely to be finished within period not exceeding nine months ;
 - (w) "wages" means wages as defined in the payment of wages Act, 1936 (IV of 1936);
 - (x) "week" means a period of seven days beginning at mid-night on Thursday -night;
 - (y) "Young person" means a person who is not a child and has not completed his seventeenth year of age.
3. **Reference to time of day:-** Reference to time of day in this Ordinance are references to Pakistan standard time.
4. **Power to grant exemption:-** Government may, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Ordinance any establishment or any class thereof or any employer or employee or class of employers or employees on such conditions as it may think fit.
5. **Ordinance not applicable to certain establishments and person:-**
- (i) Nothing in this Ordinance shall apply to-(i) Offices of or under the Azad Government of the State of Jammu and Kashmir;
 - (ii) Offices of or under any local authority, a trust, a corporation or any other public statutory body, which is not run for profit or gain or in the course of its business does not make any profit or gain;
 - (iii) shops or stalls in any public exhibition or show, in so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purpose of such exhibition of show;
 - (iv) shops or stalls in any public fair or bazaar held for religious or chair table purposes;
 - (v) clubs, hostels, and messes not maintained for profit or gain;
 - (vi) establishments for the treatment or care of the sick, infirm, destitute or eventually unfit persons;

- (vii) any person employed as manager, traveling agent, canvasser, messenger watchman etc are taker or conservancy staff or any person employed exclusively in connection with the collection dispatch, delivery, and conveyance of, or custom formalities on goods;
 - (viii) any person employed for the business of any shop or commercial establishment mentioned in clauses (i) to (vii)
- (2) Nothing in clause (a) of sub-section(l) of section ,6 and in section 7 shall apply to:-
- (i) clubs, hostels and messes maintained for profit or gain, so far as service and attendance upon customers is concerned;
 - (ii) shops dealing solely in any vegetables, meat, fish, dairy products, bread, pastries, sweet-meats, and flowers, so far as the sale of these articles is concerned;
 - (iii) shops dealing' mainly in medicines, surgical appliances, bandages or other medical requisites so far as the sale of these articles is concerned;
 - (iv) shops dealing in articles required for funerals, burials or cremations, so far as the sale of these article is concerned;
 - (v) shops dealing mainly in tobacco, Cigar Cigarettes biries, pan, liquid refreshments sold retail for consumption on the premises, ice, newspapers or periodicals, so for as the sale of these articles is concerned;
 - (vi) automobile service stations (not being repair shops) and petrol pumps for the retail sale of petrol.
 - (vii) barbers and hair-dressers shops, so far as service to customers is concerned;
 - (viii) cinemas, theaters and other places of public entertainment.
- (3) Notwithstanding anything contained in sub-section Government may, by general or special order, fix the opening and closing hours for all or any of the classes of establishments specified therein.

(4) Notwithstanding anything contained in sub-sections (1) and (2), Government may, by notification in the official Gazette, direct that any of the establishments or persons specified therein shall not be exempted from the operation of such provisions of this Ordinance as specified in such notification, and thereupon the provisions of this Ordinance specified in such notification shall apply to such establishments or persons.

6. **Weekly holiday in establishments.-**

(1) (a) Except as otherwise provided in this Ordinance every establishment shall remain entirely closed for at least one, day in each week.

(b) Every person employed in any establishment shall, in addition to the leave and holidays as may be admissible to him under sections 14, 15 and 16, be allowed as holiday, one day in each week, and such holiday may be on the day on which the establishment is closed under clause (a).

(2) No deduction on account of any holiday allowed under sub-section (1)., shall be made from the wages of any employee of any establishment.

(3) If an employee is employed on daily wages, he shall none-the-less be paid his daily wages for the holiday, and where an employee is paid on piece-rate, he shall receive for the holiday the average of the wages received during the week.

(4) The day on which an establishment shall be entirely closed shall be either Friday or Sunday.

(5) The choice of a closed day shall rest with the employer, who shall intimate such choice to the prescribed authority:-

(a) in the case of an establishment existing at the time this Ordinance comes into force, within two months thereof; and

(b) in the case of an establishment set up after coining into face of this Ordinance or to which the provisions of this Ordinance are subsequently applied, within two months of the setting up of the establishment or the application of the provisions of this section thereto, as the case may be.

(6) An employer who has intimated his choice of/closed day under the provisions of sub-section (5) shall not change the closed day for the establishment without the prior approval in writing of the prescribed authority,

7. **Opening and closing hours of establishments:-** (1) No establishment shall on any day remain open after 8 p.m.

Provided that any customer who was being or was waiting in the establishment to be served at such hours, may be served during the period of thirty minutes immediately following such hour:

Provided further that Government may, by notification in the official Gazette, fix any other hour after which establishments generally or any class of establishment shall not remain open.

(2) Every employer shall display, at a prominent place in the establishment, a board specifying the hours during which the establishment will remain open.

(3) No employee shall be required or permitted to work continuously in any establishment for more than six hours in the case of an adult and for more than three and half hours in the case of a young person, unless he has been allowed an interval for rest or meals of not less than one hour.

(4) Except with the permission of Government, no women young person shall be employed in any establishment otherwise than between the hours of 9.00 a.m. and 7-00 p.m.

8. **Daily, weekly hours and overtime.-** Save as otherwise expressly provided in this Ordinance, no adult employee shall be required or permitted to work in any establishment excess of 9 hours in a day and forty-eight hours a week, and no young person in excess of seven hours a day and forty-two hours a week;

Provided that in any day or in any week, in which there occurs stock taking, making up of accounts, settlement or such other business operation, and during such other periods as may be prescribed, an adult employee or an establishment may be required or permitted to work over-time in such establishment for more than nine hours in such day and for more than forty-eight hours in such week, and a young person for more than seven hours in such day and for more than forty-two hours in

such week, but so that the total number of hours so worked by an adult does not exceed one hundred and fifty hours and by a young person one hundred hours in any one year.

9. **Over-Time Wages:-** When any employee is required to work overtime in any establishment, as provided in the proviso to section 8, the wages payable to such employee in respect of such over-work shall be calculated at double the ordinary rate of wages time payable to him.
10. **Spread-over:-** The period of work of an adult and a young person shall be so arranged that inclusive of the interval for the rest or meals, under section 7 it shall not spread-over more than hoard in winder and eleven hours in summer in the cane adult, and nine hours in winter and eight hours in case of a young person.
11. **Time and conditions of payment of wages.-** (1) Every employer or his agent or the manager of an establishment shall fix the period in respect of which wages to employees shall be payable and shall be responsible for the payment to persons employed by him of all wages required to be paid under this Ordinance.
 - (2) No wage period, so fixed, shall exceed one month.
 - (3) The wages of every employee in any establishment shall be paid on, a working day before the expiry of the Seventh day of the last day of the wages period in respect of which the wages are payable
 - (4) All wages shall be paid in legal tender.
 - (5) Where the employment of any person is terminated by or on behalf of the employer, the wages and other dues earned person shall be paid before the expiry of the second working day after the day on which his employed is terminated.
12. **Claims arising out of delay in payment of wages and penalty for malicious or vexations claims:** (1) Government may by notification in the official appoint any person to be the Authority to hear and decide for any specified area all claims arising out of delay in the payment or non-payment of the wages of employees in that area.
 - (2) When contrary to the provisions of this Ordinance, wages of any employee have been delayed or with held, such

employee himself or through any other person when he may authorise in this behalf, may within four months from the day on which such payment was to be made, apply to the Authority appointed under sub-section (1):

Provided that an application may be admitted after the said period of four months but not later than six months, If the applicant satisfies the authority that he had sufficient for not making the application within such period,

(3) when any application under sub-section (2) is entertained the Authority shall hear the applicant and the employer or person responsible for the payment of wages or give them an opportunity of being heard and, after such further inquiry, if any, as may be necessary, may without prejudice, to any other penalty to which such employer or other person is liable under this Ordinance, direct that payment be made to the applicant delayed wages together with the payment of such penalty exceeding fifty rupees, as the authority may fix:

Provided that no direction for the payment shall be made in the case of delayed wages if the authority is satisfied that the delay was due to:-

- (a) A bona-fide error or bona fide dispute as to the amount payable to the employed; or
 - (b) the occurrence of an emergency, or the existence exceptional circumstances that the person responsible payment of the wages was unable to make prompt payment; or
 - (c) the fault of the employee.
- (4) If the authority hearing any application under this section is satisfied that it was either malicious or vexations, the Authority may direct that a penalty not exceeding fifty rupees be paid or wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered.

- (a) If the Authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(b) If the Authority is not a Magistrate by any magistrate to whom the Authority makes application in this behalf as if it were a fine imposed by such Magistrate.

(6) An Appeal against a direction made by the Authority under subsection (3) or sub-section (4) may be preferred to the District Court within thirty days of the date on which the direction was made:-

(a) by the employer or other person responsible for the payment of wages under section 11 of the total sum directed to be paid by way of wages and penalty exceeds one hundred rupees; or

(b) by an employee, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees; or

(c) by any person directed to pay a penalty under sub-section (4)

(7) If there is no appeal, the direction of the authority made under sub-section (3) or sub-section (4) shall be final, and where there is an appeal shall be final.

(8) A authority appointed under sub-section (1) shall for the purposes of determining any matter referred to in sub-section (3) of sub-section (4).

(a) have all the powers as are vested in a civil court under the code of civil procedure 1908 (V of 1908), for enforcing the attendance of witnesses, compelling the production of documents, and the taking of evidence; and

(b) be deemed to be a civil court for all the purposes of section 195 and chapter XXXV of the code of criminal procedure 1898 (V of 1898).

13. **Bar of Suits:-** No court shall entertain any suit for the recovery of wages in so far as the sum so claimed:-

(a) forms the subject of an application made under sub-section (2) of section 12, which is pending before the Authority appointed under sub-section (1) of that section; or of an appeal under sub-section (6) of the said section;

- (b) has formed the subject of a direction made under sub-section (3) of section 12;
 - (c) has been adjudged in any processing under section under section 12 not to be owed to an employee; or
 - (d) could have been recovered by an application under section 12.
14. **Annual Leave:-** (1) Every employee shall be allowed leave with full wages for a period of fourteen days after continuous employment capacities, for a period of twelve months.
- (2) If an employee does not in any period of twelve months avail of the whole or any part of the leave allowed to him under sub section (1).-
- (a) any leave not 'availed of by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months; provided' that when the total leave due to an employee under this section amounts to thirty days, no further accumulation of or addition to such leave will be permissible;
 - (b) he, may, at his request, in lieu of the leave not availed of by him, be paid by the employer full wages for such leave.
 - (3) for the purposes of computing the period during which an employee has been in continuous employment within the meaning of sub-section (1), the period during which he was on leave under this section or sections 15 and 16, shall be included
15. **Casual and Sick Leave:-** (1) Every employee shall be entitled to casual leave with full wages for ten days in a calendar year. Such leave shall not ordinarily be granted for more than three days at a time and shall not be accumulated.
- (2) Every employee shall be entitled to sick leave with full wages for a total period of eight days in every year such leave, if not availed of by any employee during calendar year, may be carried forward, but the total accumulation of such leave shall not exceed sixteen day at any one time
16. **Festival holidays:-** Every employee shall be allowed ten days festival holidays with full wages in a year. The day and dated for such festival holidays shall be notified to employees by the

employer in the employers in the beginning of the calendar year.

17. **Wages during leave or holiday period.**- (1) For each day of the leave or holidays allowed to an employee under sections 14, 15 and 16 he shall be paid at the rate equivalent the daily wage amount which, during the three months the leave or holidays, was being earned by the employee.
- (2) An employee, who has been allowed leave under section 14 for any period not less than four days in the case of 155 adult and five days in the case of a young person, shall before the leave begins, be paid his wages for the period of the leave allowed.
18. **Section 14, 15, 16, and 17 not to apply to certain ESTABLISHMENTS.**- The provisions of sections, 14, 15, 16 and 17 shall not apply in relation to employees employed in commercial establishment as defined in clause (b) of section 2 of the Azad Jammu and Kashmir Industrial and Commercial employment (standing Orders) Ordinance, 1974.
19. **Termination of employment:**- (1) for terminating employment of a permanent employee, one month's notice in writing shall be given either by the employer or by the employee and in lieu of the notice, one month's wages calculated on the basis of average of wages earned during the proceeding three months shall be paid.
- (2) No temporary employee, whether monthly rated, weekly rated or daily rated, and no apprentice shall be entitled to any notice or pay in lieu thereof if his services are terminal, but the services of temporary employee shall not be terminated as a punishment; unless he has been given an Opportunity explaining the charge, leveled against him.
20. **Prohibition of employment of children.**- No child shall be required or allowed to work in any establishment
21. **Contracting out.**- Any contract or agreement, whether made before or after his commencement of this ordinance whereby an employee relinquishes any right conferred by this ordinance shall be null and void in so far as it purports to deprive him of such right.
22. **Guarding of machinery.**- In every industrial establishment all mechanically or electrically propelled machine guarded in the prescribed manner.

23. **Maintenance of records and registers.-** Every employer shall for, the purpose of this Ordinance, maintain such records and registers and furnish such information may be prescribed.

24. **Registration of establishment and fee for Registration:-** (1) Every establishment, other than at one man shop, as hereinafter defined, and factories employing clerical staff within the factory premises, shall be registered with the Deputy Chief Inspector for the area within which' such establishment is situated.

(2) An application for registration of an establishment shall be made by the employer in form 'A' and shall be accompanied by a Treasury Challan under Head "XXXII INDUSTRIES" sub head Registration fee of shops "for an amount of:-

Rs. 2.00 in the case of an establishment employing 1 to 5 workers.

Rs. 3.00 in the case of an establishment employing 6 to 10 workers.

Rs. 5.00 in the case of an establishment employing 11 to 20 workers.

Rs. 10.00 in the case of an establishment employing more than 20 workers;

EXPLANATION:- For the purposed of this section, "one man shop" means a shop run by an employer or by any member of his family without engaging an employee.

(3) An application for registration of an establishment shall be made-

(a) In the case of an establishment existing at the time this Ordinance, comes into force, within three months thereof; and

(b) In the case of an establishment set up after the coming into force of this Ordinance or to which the provision of this .ordinance are subsequently applied, within twomonths of the setting up of the establishment or the application of this Ordinance there to, as the case may be.

(4) On receipt of the application and the fees specified in sub-section (2), the Deputy Chief Inspector shall, on being

satisfied about the correctness of the application, register the establishment in the Register of establishment to be maintained in form 'B' and shall issue a registration certificate to the employer in form "C".

(5) The registration certificate shall be prominently displayed by the employer at the establishment and shall be renewed after every two years on depositing fee as prescribed in sub-section (2).

25. **Appointment of chief inspector, deputy chief inspectors and inspectors** :-(1) Government may, by notification, in the official Gazette, appoints

- (a) a Chief Inspector of shops for the whole of Azad Jammu and Kashmir territory;
- (b) Deputy Chief Inspectors of shops for such areas as may be notified; and
- (c) such persons or class or persons as it thinks fit to be Inspectors for the purposes of this Ordinance within such local limits as may be specified by the Chief Inspector of shops.

(2) The Chief Inspector of shops and the Deputy Chief Inspectors of shop:-

- (a) shall supervise the work of the Inspectors appointed under clause (c) of sub-section (1) in such manner as may be prescribed; and
- (b) may exercise all or any of the powers of an inspector.

(3) The Chief Inspector of shops, Deputy Chief inspectors of shops and Inspectors appointed under sub-section (1) shall be deemed to be public servants within the meaning of Section 21 of the Azad Penal Code.

26. **Powers of inspectors.**- An Inspector appointed under" section 25 may, for the purposes of this Ordinance and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, an establishment, with 'Such assistants, if any, being persons in the service of Government, and make such examination of that place or of any prescribed record, register, or other documents maintained therein, and may require such explanation of any

prescribed record, register or other documents and do all such things as he considers necessary for the purpose of this Ordinance,

27. **Penalties.-** (1) If any employer with intent to deceive, makes or causes or allows to be made, in any register, record or notice required to be maintained under the provisions of this Ordinance or the rules made thereunder, any entry, or wilfully Omits or causes or allows to be omitted from any such register, record or notice, any entry which is required to be made thereunder, or maintains or causes or allows to be maintained more than one set of any such register, record or notice except the office copy of such notice, or sends or cause allows to be sent to an Inspector any statement, inform or notice required to be sent under the provision of this Ordinance, or the rules made thereunder, which to his knowledge is false in any material particulars, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees
- (2) Whoever contravenes any of the provisions of sections 6, 7, 19 or 20 shall, on conviction, be punishable with fine which for the first offence may extend to rupees two hundred and fifty and for a second or subsequent offence with a fine which may extend to rupees five hundred or with simple imprisonment which may extend to three months, or with both.
- (3) whoever contravenes any other provisions of this Ordinance shall, on conviction, be punishable with fine which for the first offence may extend to rupees one hundred and fifty, and for second or any subsequent offence, to rupees two hundred and fifty or with simple imprisonment which may extend to three months, or with both.
28. **Procedure-** (1) No prosecution under this Ordinance or any rules made thereunder shall be instituted except by or with the previous sanction of an inspector, or other officer or authority specially empowered by Government in this behalf.
- (2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance or any rule made thereunder.
29. **Limitation of prosecutions.-** No Court shall take cognizance of any offence punishable under this Ordinance or any rule made thereunder unless Complaint there of is made within three

months from the date on which the alleged commission of the offence comes to the knowledge of an Inspector.

30. **Indemnity.**- No suit, prosecution or legal proceedings shall lie against any person in respect of any thing done in good faith under this Ordinance or the rules thereunder.
31. **Delegation of powers** - Government may, by notification in the official Gazette, delegate all or any of its powers under this Ordinance or the rules thereunder to any subordinate authority or agency as may be considered expedient by it.
32. **Power to make rules.**- (1) Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Ordinance.

(2) In Making rules under this section, Government may direct that any person committing breach thereof shall, on conviction, be punishable with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees for every day, after the first, during which the -breach continues.
33. **Saving of certain rights and privileges.**- Nothing in this Ordinance shall affect any right or privilege to which an employee is entitled on the date of the commencement of this Ordinance under any law for the time being in force or under any award, agreement, settlement, contract, custom or usage which is in force on that date, if such right or privilege is more favourable to him than any right or privilege conferred upon him by this ordinance.

SCHEDULE

See Section (2) (1) and Section 24

FORM 'A'

APPLICATION FORM

1. Name of the establishment, if any
2. Postal address of the establishment.
3. Full name of the employer (including his father's name).
4. Full name of the Manager, if any (including his father's name)
5. Category of the establishment, i.e. whether a shop industrial establishment, commercial residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.
6. Total number of employees (State separately the number of men, women and / or young persons (if any)).
7. Date on which the establishment commenced its work.
8. I hereby declare that the details given above are correct to the best of my knowledge.

Dated

Signature of the Employer.

Note:- This statement shall be sent to the Deputy Chief Inspector of the area concerned with such fees as are prescribed in section 24 (2) of the Azad Jammu & Kashmir shops and Establishment Ordinance, 1974.

SIGNATURE

Form 'B'
Register of Establishment:

Part I – Shops.
Part II - Commercial Establishments.
Part III- Residential Hotels.
Part IV- Resturant and Eating Houses.
Part V- Theatres and other places of public amusement or entertainment.

S. No			Registration Certificate No.	Name of the Manager, if any	Name of employee	Postal address of the Establishment	Name of the Establishment	Nature of the Establishment
1			2	3	4	5	6	7
Number of members of employee family			No. of other person occupying managerial positions and employees engaged in confidential capacity	Total number of employees		Date of Inspection	Date of Registration	Date of renewal
Male	Female	Young persons		Adult	Young persons			
8			9	10		11	12	13

Form 'C'

Registration Certificate

Name of the Establishment, if any.

Name of the employee.

Postal addresses of the Establishment.

Registration No.

It is hereby certified that the Establishment as mentioned herein has been registered as a _____ under the Azad Jammu and Kashmir Shops and Establishment Ordinance, 1973, this _____ day of _____.

**Chief Inspector of Shops
Azad Kashmir**

RENEWALS

Date of renewal.	Form.	To	Signature of the Chief Inspector of Shops with seatl
1.			
2.			
3.			
4.			
HERE INSERT CATEGORY OF THE ESTABLISHMENT			

(Sardar Muhammad Abdul Qayyum Khan)
President,
Azad Government of the State of Jammu and Kashmir.

Sd/-
(Sardar Muhammad Sharif Khan)
Secretary,
Law and Parliamentary Affairs,
Azad Government of the State J&K

**A ZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

No. 3486/SL/74. The following Ordinance made by the President on 29th November, 1974 is hereby published for general information:-

(ORDINANCE XXIX OF 1974)

The Azad Jammu and Kashmir Minimum Wages for Unskilled Workers Ordinance, 1974

AN ORDINANCE to fix the minimum a rates of wages for unskilled workers employed in certain commercial and industrial establishments in Azad Jammu and Kashmir

Preamble.

WHEREAS it is expedient to fix the minimum rates of waves for unskilled workers employed in certain commercial and industrial establishments 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 Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, by the president Azad Government of the state of Jammu and Kashmir is pleased to make and promulgate the following ordinance:-

1. **Short title, extent and commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Minimum Wages for unskilled workers Ordinance, 1974.
 - (2) It extends to the whole of the Azad Jammu & Kashmir Territory.
 - (3) It shall come into force at once.
 - (4) It shall apply to every commercial and Industrial Establishment wherein fifty or more persons are employed or were employed on any day during the preceding twelve months, but shall not apply
 - (a) any establishment, undertaking or installation relating to

the Defence Services, civil armed forces, postal, telegraph and telephone services, ports, fire-fighting services, electricity, gas, water-supply, public conservancy and hospitals; and

- (b) Any establishment or undertaking, which Government, by notification in the official Gazette, declares to be engaged in a public utility service for the purposes of this Ordinance.

2. Definition: In this Act, unless the context otherwise requires-

- (a) “Apprentice” means a learner who is paid an allowance during the period of training;
- (b) “Commercial establishment” means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory of a person who for the purposes of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employer workmen, a unit of a Joint-stock company or a bank, an insurance company, a banking company or a bank a broker’s office or stock exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act;
- (c) “Employer” means a person owing or having charge of the business of commercial or industrial establishment and includes and agent or manager or any other person acting on behalf of such person in the general management or control of such establishment.
- (d) “Government” means the Azad Government of the State of Jammu and Kashmir.
- (e) “Industrial area” means the districts of Muzaffarabad, Mirpur Poonch, and Kotali;
- (f) “Industrial establishment” means:-
 - (i) A mine or quarry;
 - (ii) A workshop or other establishment in which the work of making altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view of its use, as sale, transport, delivery or disposal is carried on, or where any such service is rendered to a

- customer; and
- (iii) Any other establishment which Government may, by notification in the official Gazette, declare to be an industrial establishment.
- (g) “Wages” means all cash remuneration payable to a workman, and includes dearness allowance, house rent, conveyance allowance, any other fixed allowance but does not includes traveling allowance, gratuity or bonus.
- (h) “Unskilled worker” means a worker employed to be unskilled, Labour; and
- (i) “Worker” means any person employed in a commercial or industrial establishment.

3. **Minimum wages in commercial and industrial establishment:** Every unskilled worker, other than an apprentice, employee in commercial or industrial establishment situated in an area specified in column 1 of the schedule, shall to paid wages at a rate not lower than the minimum wages per months specified against such area in column 2 of the schedule;

Provided that where a employer provides housing accommodation to a worker, he may deduct from the wages of such worker, an amount, not exceeding that specified in column 3 of the Schedule, and where the employer provides a worker with transport to and from the place of work, he may deduct form the wages of such a worker an amount not exceeding that specified in column 4 of the Schedule.

Explanation: In this section months means a normal working period of twenty six days, calculated at the rate of forty-eight hours of work per week.

4. **Responsibility for payment of Minimum wages:** Every employer shall be responsible for the payment of minimum wages required to be paid under this Act to unskilled workers, employed, either directly or through a contractor, in his commercial or industrial establishment.
5. **Agreements under Duress to be void:** All agreement arrived at between the employers and the workers under duress shall, form the date of coming into force of this Ordinance, be void.

Explanation: In this Section the word “Under duress” includes circumstances in which due to fear either party is in state of

mental incompetence to resist pressure improperly brought to bear due to violence or threat of violence.

6. **Effect of Law, Orders, agreements, etc, inconsistent with this Ordinance:** The provision of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any order or notification made or issued under any such law or in any award, agreement or contract of service;

Provided that where under any such law, order, notification, award agreement or contract of service, other than an agreement declared to be void under section 5, and unskilled worker is entitled to wages which are higher than the minimum wages required to be paid under this Ordinance, he shall continue to be paid such higher wages.

7. **Penalty:** Any employer who contravenes any provisions of this Ordinance shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both.
8. **Cognizance of offences:** No Court shall take cognizance of any offence under this Ordinance save on complaint made by an aggrieved worker or by an officer of a registered trade union of which such worker is a member, or any person authorized in this behalf by Government.

**AZAD GOVT. OF THE STATE OF JAMMU & KAHMIR
LAW & PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated December, 15, 1974

No. 3481/SL/74. The following Ordinance made by the president on **29th November**, 1974, is hereby published for general information.

(Ordinance XXX of 1974)

Preamble:- THEREAS it is the expedient to provide for the law relating to industrial employed 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 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 Jammu and Kashmir Industrial and commercial employment (Standing Orders) Ordinance 1974.
- (2) It shall extent to the whole of Azad Jammu and Kashmir.
- (3) It shall come into force at once and shall be deemed to have taken effect to and from 30tg day of March 1975
- (4) It applies to-
 - (a) Every industrial establishment or commercial establishment where in twenty or more workman are employed, directly or through any other person whether on behalf of himself or any other person, or where so employed on any day during the preceding twelve months; and
 - (b) Such classes of other industrial and commercial establishment as Government may, from time to time, by notification in the official Gazette, specify in this behalf;

Provided that noting in this Ordinance shall apply to

industrial and commercial establishment carried on by or under the authority of the Government where statutory rules of service conduct or discipline are applicable to the workman employed therein:

Provided further that the provisions of standing orders 1974 and 13 clauses (6) and (8) of standing order 15 and standing order, 19 shall not apply, in the first instance, to any industrial establishment where in not more than forty nine persons were employed on any day during the preceding twenty months but Government may, by notification in the official Gazette extend all or any of the said provisions to any such industrial establishment or any class of such establishment.

2. Definitions: In this Ordinance, unless there is anything repugnant in the subject of context-

- (a) “Collective agreement” means agreement in writing intended to specify the conditions of employment, and entered into between one or more employers on the one hand and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other;
- (b) “Commercial establishment” means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes as clerical department of factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial undertaking employs workman, a unit of a joint stock company, an insurance company a banking company or a bank a broker’s office of stock exchange, club a hotel a restaurant or an eating house, a cinema or theater, and such other establishment or class thereof, as government may, by not fiction in the official Gazette, declare to be a commercial establishment for the purposes of this Ordinance;
- (c) “Construction industry” means an industry engaged in the construction, reconstruction, maintenance, repair, alteration, or demolition of any building pier, canal, inland waterway, road, tunnel, bridge, dame viaduct, sewer, drain, water work, well, telegraph installation, electrical undertaking, gas work, or other work of

construction as well as the preparation or, or laying the functions of, any such work of structure;

- (d) “Employer” means the owner of an industrial or commercial establishment to which this Ordinance, for the time being applies, and includes---
 - (i) In a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934) as manager of the factory;
 - (ii) In any industrial establishment under the control of any department of the Government, the authority appointed by such Government, in this behalf, or where no such authority is so appointed, the head of the department;
 - (iii) In any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such establishment;
- (e) “Go-slow” means an organized, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner and which is not due to any mechanical defect, break-down of machinery failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;
- (f) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (g) “Industrial establishment” means:-
 - (i) An industrial establishment as defined in clause (ii) of section 2 of the payment of wages Act 1936 (IV of 1936), or
 - (ii) A factory as defined in clause (1) of section 2 of the factories Act, 1934 (XXV of 1934); or
 - (iii) The establishment of a contractor, who, directly or indirectly employe workmen in connection with the execution of a contract which he is a party and includes the premises in which, or the site at which any process connected with such execution is arrived on; or

- (iv) The establishment of a person who, directly or indirectly employs workman in connection with any construction industry;
 - (h) “Standing Orders” means the order contained in the schedule, read with such modifications, if any, as may be made in pursuance of the provisions of section 4;
 - (i) “Trade union” means a trade union for the time being registered under the Azad Jammu and Kashmir Industrial Relations Ordinance 1974;
 - (j) “Workman” means any person employed in any industrial or commercial establishment to do any skilled or unskilled or unskilled manual or clerical work for hire or reward.
3. **Enforcement of Standing Orders:** In every industrial or commercial establishment, conditions of the employment of workman and other incidental matters shall, subject to the other provisions of this Ordinance, be regulated in accordance with the Standing Orders.
4. **Modification of Standing Orders:** The standing order may be modified by means of a collective agreement and not otherwise;
- Provided that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workman under the provisions of the schedule.
5. **Posting of Standing Orders:** The text of the Standing orders shall be prominently posted and kept in a legible condition by the employer in Urdu, on special boards to be maintained for the purposes at or near the entrance through which the majority of the Workman Enter the industrial or commercial establishment and in all department thereof where the work-men are employed.
6. **Inspector:** (1) The Inspector appointed under section 10 of the factories Act, 1934 (XXV of 1934), and such other persons, not being conciliators appointed under the Azad Jammu and Kashmir industrial relation Ordinance 1974, as Government may, by notification in the official Gazette, appoint, shall be the inspectors for the purposes of this Ordinance within the local limits signed to each.
- (2) An Inspector may at all reasonable hours enter on any premises and makes such examination of any register or document relating to the maintenance or enforcement of the

standing orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance.

(3) Every Inspector shall be deemed to be public servant within the meaning of the penal Code (XLV of 1860)

7. **Penalties and procedure:** (1) An employer who modifies the Standing orders as applicable to his industrial or commercial establishment, otherwise than in accordance with section 4, shall be punishable with fine which may extend to five thousand, rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.

(3) Whoever contravenes of the provisions of this Ordinance, shall if no other penalty is elsewhere provided by or under this Ordinance for such contravention be punishable with fine which may extend to one hundred rupees.

(4) Whoever, having been convicted of any offence punishable under sub-section (1) (2) or (3) again commits such offence shall, on conviction, be liable to double the punishment prescribed for such offence under the aforesaid sub-section.

(5) No prosecution for an offence punishable under this Ordinance shall be instituted except by, or with the previous permission in writing of, the Inspector.

(6) No Court inferior to that of a Magisterial of the first class shall try offence under this Ordinance.

8. **Power of Exempt:** Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any industrial or commercial establishment or class of such establishment from all or any of the provisions of this Ordinance.

9. **Protection of Existing Conditions of Employment:-** Nothing in this Ordinance shall affect any law, custom, usage, award or

agreement in force immediately before the enforcement of this Ordinance in so far as such law, custom, usage, award or agreement ensures conditions of employment more favorable to workman than those provided in the Standing Orders.

**SCHEDULE
STANDING ORDERS**

Section 2 (h)

1. Classification of workman:

- (a) Workman shall be classified as:-
 - (1) Permanent,
 - (2) Probationers,
 - (3) Badlis,
 - (4) Temporary,
 - (5) Apprentices.
- (b) A “permanent workman” is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, including breaks due to sickness, accident, leave lockout, (not being an ill legal lock out or strike) or involuntary closure of the establishment and includes a ‘badli’ who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months.
- (c) A “Probationer” is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period of three months, be reverted to his old temporarily post.
- (d) “Badli” is a workman who is appointed in the post of permanent workman or probationer who is temporarily absent.

- (e) A “temporary workman” is a workman who has been engaged for work, which is of a essentially temporary nature likely to be finished within a period not exceeding nine months.
 - (f) An “apprentice” is a learner who is paid an allowance during the period of his training.
2. **Tickets:** (1) Every workman employed in an industrial establishment shall be given a Permanent ticket unless he is a probationer, a ‘badli’ a temporary workman or an apprentice.
- (2) Every permanent workman shall be provided with a departmental ticket, showing his number, and shall on being required to do so, show it to any person authorized by the employer to inspect it.
- (3) Every “Badli” shall be provided with a “badli” card on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.
- (4) Every temporary workman shall be provided with a temporary ticket, which he shall surrender on his discharge.
- (5) Every apprentice shall be provided with an apprentice card, which shall be surrendered if he obtains permanent employment.
- (6) Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing, showing the terms and conditions of his service.
3. **Publication of working time:** The period and hours of work for all classes of workman each shift shall be exhibited in Urdu for the workman employed in the industrial or commercial establishment on notice boards maintained at or near the main entrance of the establishment and at the time keepers office if any.
4. **Publication of holidays and pay days:-** Notice specifying (a) the days observed by the industrial or commercial establishment as holidays and (b) pay days shall be posted on the said notice boards.
5. **Publication of Wages Rates:-** Notices specifying the rates of wages payable to all classes of workman and for all classes of work shall be displayed on the said notice boards.

6. **Shift Working:-** More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of the employer. If more than one shifts is worked, the workman shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given prior to such discontinuance, provided that no such notice shall be necessary, if as a result of the discontinuance of the shift, no permanent employee will be discharged. If as result of discontinuance of shift working, any permanent workman are to be discharged they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first, If shift working is resulted a week's notice thereof be given by posting a notice at the entrance of the establishment and the time keepers office if any, and the workman discharged as a result of the discountenance of the shift, shall, if they person themselves at the time of the restricting of the shift, have preconceive in being re-employed having regarded to the length of their previous service under the establishment those with the longest rest term of service being re-employed first.
7. **Attendance and late coming:** All workman shall be work at the establishment at the time fixed and notified under standing order³ workman attending late shall be liable to the deductions provided to in the payment of wages Act 1936 (IV of 1936)
8. **Leave:** (1) Holiday and leave with pay shall be allowed as hereinafter specified;
 - (a) Annual holiday and festival holidays, casual leave and sick leave as provided for in Chapter IV A of the factories Act, 1934 (XXV of 1934) and;
 - (b) Other holidays in accordance with the law, contract, custom and usage.(2) A workman who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave is refused or postponed, the fact of such postponement or refusal and the reasons there for shall be recorded in writing in a register to be maintained for the purpose, and if the workman so desires, a copy of the entry in the

register shall be supplied to him. If the workman after proceeding on leave desire as extension thereof he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the workman if his address is available, and if such reply is the likely to reach him before the expiry of the leave originally granted to him.

9. **Payment of Wages:** (1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workman shall be paid wages on a working day before the expiry of the 7th to 10th day after the last day of the wages period, in respect of which the wages are payable if the total number of workman employed in the establishment is 1.000 or less exceeds 1.000 respectively.

10. **Group Incentive Scheme:-** (1) In every industrial establishment which is a factory and in which fifty or more workman are employed there shall be introduced from such date as may be specified by the Government by notification in the official Gazette, a group incentive schema to provide incentive for greater production to groups of workman employed in the factory. The Scheme shall provide the manner in which the performance of different groups of workman, whether in the same section, Shop department or shift or in different sections, shops—department or shift shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the groups of workman whose production exceeds that of the other groups or wages of all the groups, the incentive shall be according to such scales as may be prescribed and shall be related to the extent of the excess production achieved by the groups with the best performance.

11. **Compulsory Groups Insurance:** (1) The employer shall have all the permanent workmen employed by him insured against death and injury arising out of contingencies not covered by the workman's compensation Act, 1923 (VIII of 1923)

(2) The employer shall in all cases be responsible for the payment of the amount of premium and for all administrative arrangements whether carried out by himself or through an insurance company.

(3) The amount for which cash workman shall be insured shall not be less than the amount of compensation specified in schedule IV of the workman's compensation Act, 1923 (VIII of 1923)

12. **Payment of Bonus:-** (1) Every employer making profit in any year shall pay for that year with in with in three months of the closing of that year to the Workman who have been in his employment in that year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such workman.

(2) The amount of the bonus payable shall

(a) If the amount of the profit is not less than the aggregated of one Months wages of the workman employed, be not less than the amount of such aggregate, subject to the maximum of thirty percent of such profit;

Illustration:

(1) If the profit is Rs, 1,20,000 and the aggregate of one month's wages of the workman is Rs, 30,000 the amount of bonus payable shall be not less than aggregate of one month's wages that is to day Rs, 30,000.

(2) If the profit is Rs, 30,000/ and the aggregate of one months wages of the workman is also Rs, 30,000 the amount of bonus payable be not less than thirty percent of the profit, that is to say Rs, 9,000.

(b) If the amount of the profit is less than the aggregate referred to in paragraph (a), be not less than fifteen percent of such profit.

(3) The bonus payable to workman entitled thereto under clause (1) shall bear to his monthly wages the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to tin paragraph (a) of clause (2) and shall be paid in cash;

(4) Nothing in this section shall be deemed to affect the right of any workman to receive any bonus other than that payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court establishment

under that Azad Jammu and Kashmir Industrial Relations Ordinance 1974.

Explanation:

For the Purposes of this Section: Profit means the net profit as defined in section 87C of the Companies Act, 1913 (VII of 1913) and

“Wages” does not for the purposes of calculating the bonus payable to a person under clause (1) include the bonus referred to in clause (vi) of section 2 of the payment of the payment of wages Act 1936 (IV of 1936).

13. **Stoppage of work:** (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of Power supply, epidemics, civil commotion of other cause beyond his control, stop any section or sections of the establishment, wholly or partially or any period or periods without notice.

(2) In the event of such stoppage during working hours, the workman affected shall be notified by notice put up in the departments concerned or of the office of the employers, as soon as practicable when work will resume and whether they are to remain or leave their place of work. The workman shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage, if the period of detention does not exceed one hour, the workman so detained shall not be paid for the period of detention, if the period of detention exceeds one hour, the workman so detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage, In the case of piece rate workers, the average daily earning for the previous months shall be taken to be the daily wages. Wherever practicable reasonable notice shall be given of resumption of normal work.

(3) In cases where workman are laid off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1) they shall be paid by the employer an amount equal to one half of their daily wages during the first fourteen days of lay off as compensation when, however, the workman have to be laid off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them, due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting

either wholly or partially any section or department to the establishment close down, either wholly or partially, such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notice put on the notice board in the section or department concerned and in the time Keepers office, if any, as soon as practicable, The workman concerned shall also be notified by a general notice prior to resumption of work, as to when work will be resumed.

14. **Closure of Establishment:** Notwithstanding anything contained in Standing Order 13 no employer shall close down the whole of the establishment prior without permission of the Labour Court in this behalf, except in the event of fire, catastrophe, Stoppage, of powers supply, epidemics or civil commotion.

Explanation.- “Close down” in this Standing Orders includes lay-off of workman beyond fourteen days where such lay-off results in closure of an establishment but does not includes lock-out declared, commenced or contained in accordance with the provisions of the Azad Jammu and Kashmir Industrial Relation Ordinance, 1974.

15. **Termination of Employment:** (1) For terminating employment of a permanent workman, for any reason other than misconduct, one month’s notice shall be given either by the employer or the workman, one month’s wages calculated on the basis of average wages earned by the workman during the last three months shall be paid in issue of notice.

(2) No temporarily workman, whether monthly rated, weekly rated daily rated or piece rated and no probationer or badli, shall be entitled to any notice if his service are terminated by the employer, nor shall any such workman be required to give any notice or pay any wages in lieu thereof to the employer if he leaves employment of his own accord.

(3) The service of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed form service, except by an order in writing which shall explicitly state the reason for the action taken, in case a workman is aggrieved by the termination of his service or removal, retrenchment, discharge or dismissal he may take action in accordance with the provisions of section 30 of the Azad Kashmir Industrial Relations Ordinance 1974 and there upon the provision of the said section shall apply as they apply to the redress of an individual grievance.

(4) Where the services of any workman are terminated, the wages earned by him and other dues, including payment of run availed leaves as defined in clause (1) of Standing Orders shall be paid. Before the expiry of the second working day from the day on which this service are terminated.

(5) The service of a permanent or temporary workman shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in standing order 19.

(6) Where a workman resign form service or his services are terminated by the employer, for any reason other than misconduct, he shall, in addition to any other benefit to which he may be entitled under this Ordinance or in accordance with the terms of his employment or any custom, usage or any settlement or an award of a Labour Court under the Azad Jammu and Kashmir Industrial Relations Ordinance 1974, be paid gratuity equivalent to twenty days wages calculated on the basis of the wages, admissible to him in the last months of service if he is a fixed rated workman or the highest pay drawn by him during the last twelve months if he is a piece rated workman, for every completed year of service or any part the real in excess of six months:

Provided that, where the employeeer has established a provident fund to which the workman is a contractor the combustion of employer to which s not less than the contribution made by the workman, no such graduity shall be payable for the period during which such provident fund has been in existence.

(7) A workman shall be entitled to receive the amount standing to his credit in the provident Fund, including the contributions of the employer to such fund, even if he resigned or is dismissed form service.

(8) Where a workman dies while in service of the employer, his dependents shall be paid gratuity in accordance with the provisions of clause (6):

Provided that no payment of gratuity in such cases shall be made otherwise than by a deposit with the commissioner, who shall proceed with the allocation of the deposit to the dependent of the deceased in accordance with the provisions of section 8 of the workman's compensation Act, 1923 (VIII of 1923).

(9) If the employer fails to deposit the amount of the gratuity under clause (8) the dependent of the deceased may

make an application to the Commissioner for the recovery of the amount thereof.

Explanation: “Commissioner and dependent” in this standing Order shall have the same meanings as are respectively assigned to them in the workman’s Compensation Act, 1923 (VIII of 1923).

16. **Procedure for Retrenchment:** Where as workman is to be retrenched and he belongs to a particular category of workman, the employer shall retrench the workman who is the last person employed in that category.
17. **Re-Employment of Retrenched Workman:-** Where any number of workman are retrenched and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrenched workmen belonging to the category concerned, by sending a notice by registered post to their last known address to offer themselves for reemployment and they shall have preference over other persons, each having priority according to the length of his service under the employer:

Provided that, in the case of seasonal factory within the meaning of section 4 of the Factories Act 1934 (XXV of 1934) a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season shall be given preference for employment by the employer.

18. **Special Provision for Construction Workers:** Where any workman is retrenched or discharge by a contractor or any employer engaged in the construction industrial due to completion, Cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge;

Provided that where a workman is re-employed within one months of his retrenchment or discharge, he shall be deemed to have been in continuance service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharge but no wages shall be paid to him for the period of interruption.

19. **Punishment:** (1) A workman may be reprimanded or fined up to three paise in the rupee of the wages payable to him in a months, for any of the following acts or omissions, namely:-

- (i) In other case, the following shall be the list of acts and omissions:-
 - (a) Disregard disobedience of rules or orders;
 - (b) Improper behavior, such as drunkenness;
 - (c) Making false or misleading statements in efficient, dilatory, careless or wasteful working;
 - (d) Inefficient.
 - (e) Malingering.
- (2) A workman found guilty of misconduct shall be liable to any of the following punishments:-
 - (i) With-holding of increment or promotion for a specified period not exceeding one year;
 - (ii) Dismissal without payment of any compensation in lieu of notice;
 - (iii) Reduction to a lower post; or
- (3) The following acts and omissions shall be treated as misconduct:-
 - (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
 - (b) Theft, fraud, or dishonestly in connection with the employer's business or property;
 - (c) Willful damage to or loss of Employers goods or property;
 - (d) Taking or giving bribes or any illegal gratification;
 - (e) Habitual absence without leave or absence without leave for more than ten days;
 - (f) Habitual late attendance;
 - (g) Habitual breach of any law applicable to the establishment;
 - (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline;
 - (i) Habitual negligence or neglect of work;
 - (j) Frequent repetition of any act or omission referred to in

clause (1);

(k) Go-slow

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal, and, the employer shall institute independent inquiries before dealing with charge against a workman:

Provided that the workman proceeded against may, if he so desires for this assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.

(5) Where, for the purposes of conducting an inquiry in to the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time. The orders of suspension shall be in writing and may take effect immediately on delivery to the workman. During the period of suspension, the workman concerned shall be paid by the employer subsistence allowance of not less than fifty percent of the wages. If the workman is found not guilty, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been suspended.

20. **Certificate of Termination of Service:** Every permanent workman shall be entitled to a Service certificate at the time of his dismissal, discharge, retirement or retrenchment from service.

21. **Liability of Employer:** The employer of the industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the standing order, whether or not the workman of such Establishment are employed through contractors.

(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K

(Muhammad Akram Shah)
Secretary Law & Parliamentary Affairs
Azad Govt. of the State of J & K

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad, the 24th July 1975

The following Act of the Assembly received the assent of the President on the 21st July, 1975, and is hereby published for general information:-

(ACT I OF 1975)

AN ACT To amend the Azad Jammu and Kashmir State Council Ordinance, 1970

WHEREAS in pursuance of sub-section (i) of Section 22 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 it is expedient to amend the Azad Jammu and Kashmir State Council Ordinance, 1970 (Ordinance VI of 1970) in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir State Council (Amendment) Act 1975.

(2) It shall be come into force at once and shall be deemed to have effect on and from the 23rd day of June 1975.
2. **Amendment of Section 2, Ordinance VI of 1970:** In the Azad Jammu and Kashmir State Council Ordinance, 1970 (Ordinance VI of 1970) hereinafter referred to as the said Ordinance, in section 2-
 - (a) In sub-section (1) for the word 'sixteen' the words 'twenty-eight' shall be substituted.
 - (b) In sub-section (2), for the word 'four' the word 'six' shall be substituted;
 - (c) In sub-section (3), for the word 'Four' the word 'six' shall be substituted;
 - (d) In sub-section (4)-
 - (i) For the word 'one' the word 'two' shall be substituted; and
 - (ii) For the words 'twenty-four' the word 'forty' shall be substituted.
3. **GENERAL:** In the said Ordinance, for the words "State Council" wherever occurring, the words 'Legislative Assembly' shall be substituted.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 24th July 1975

The following Acts of the Assembly received the assent of the President on 21st July, 1975, and is published for general information.

(ACT II OF 1975)

AN ACT to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance 1970

WHEREAS in pursuance of sub-section (1) of Section 22 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, it is expedient to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance VII of 1970) in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and Commencement:** (1) This Act may be called the Azad Jammu and Kashmir Delimitation of Constituencies (Amendment) Act, 1975.
(2) It shall come into force at once and shall be deemed to have taken effect on the 24th day of June, 1975.
2. **Amendment of Section 2, Ordinance VII of 1970:** In the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance 1970 (Ordinance VII of 1970) hereinafter referred to as the said ordinance, in section 2, in clause (b) for the figure '1961' the figure '1971' shall be substituted.
3. **Amendment of Schedule to Ordinance VII of 1970:-** In the said Ordinance, for Schedule I, the following shall be substituted, namely:- see section 7(1)A

“SCHEDULE I”

Seats in the Legislative Assembly for the Azad Jammu and Kashmir Territory;

District	Seats
Poonch	10
Kotali	5
Muzaffarabad	6
Mirpur	7

4. **Amendment of Schedule II to Ordinance VII of 1970:** In the said Ordinance In Schedule II.-

- (i) In entry (a), in column 2 for the figure '4' the figure 'six' shall be substituted.
 - (ii) In entry (b), in column 2 for the figure '4' the figure 'six' shall be substituted.
5. **General Amendment:** In the said Ordinance, for the words 'State Council' wherever occurring the words 'Legislative Assembly' shall be substituted.

**THE AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABD.**

Muzaffarabad, the 24th July, 1975

The following Act of the Assembly received the assent of the President on 21st July 1975 and is hereby published for general information:-

(ACT III OF 1975)

AN ACT to amend the Azad Jammu and Kashmir Courts and Laws Code, 1949.

WHEREAS it is expedient amend the Azad Jammu and Kashmir Courts and Laws Code 1949 for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Courts and Laws Code (Amendment) Act 1975.

(2) It shall come into force at once.
2. **Amendment of section 13 of the Azad Jammu and Kashmir Courts and Laws Code 1949:** In the Azad Jammu and Kashmir Courts and Laws code 1949 hereinafter called the said Code in section 13.-
 - (a) Sub-section (2) shall be deleted; and
 - (b) The existing sub-section (3) and (4) shall be re-numbered as (2) and (3).
3. **Amendment of Section 24:** of the Azad Jammu and Kashmir Courts and Laws code 1949 In the said Code, in subsection (i) of section 24, for the words 'the opinion of the senior Judge shall prevail the words 'the case shall be referred to a Third Judge and his opinion shall prevail' Shall be substituted.
4. **Amendment of section 31 of the Azad Jammu and Kashmir court and Laws Code 1949:**

In the said Code, in Section 3,-
 - (a) In sub-section (1) between the word 'have' and the word

‘Jurisdiction’ the word “unlimited shall be inserted, and the words and figures ‘up to the value of Rs, 10,000/- shall be deleted;

- (b) In sub-section (2), for the words and figures Rs, 5,000/- the words and figure Rs, 25,000/- shall be substituted.

5. **Amendment of Section 36 of the Azad Jammu and Kashmir Courts and laws Code 1949:** In the said Code, in sub-section (2) (a) of section 36, for the and figures Rs, 2,500/- the words and figures Rs 5,000/- shall be substituted.

5-A All pending cases form existing courts shall stand transferred to the Court having proper pecuniary jurisdiction.

6. **Repeal:** The Azad Jammu and Kashmir Courts and Laws Code (Amendment) Ordinance, 1975 is hereby repealed.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 24th July 1975

The following Acts of the Assembly received the assent of the President on the 21st July 1975 and are hereby published for general information:-

(ACT IV OF 1975)

AN ACT to Consolidates the Laws relating to the levy of Education Cess in Azad Jammu and Kashmir Territory.

WHEREAS it is expedient to consolidate the Laws already in force, relating to the levy and collection of education Cess, and also to provide legislation for the levy of education on the amounts of salaries paid to Bank Employees working in Azad Kashmir territory for the purposes of meeting expenditure on expansion, improvement and administration of education institution;

It is hereby enacted as follows:-

1. **Short title, extent and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Education Cess Act, 1975.
(2) It shall extend to the whole of Azad Kashmir.
(3) It shall come into force at once and shall be deemed to have taken effect from the first day of July, 1971, and all orders, Notifications made in inconsistent with the provisions of this Act, shall continue in force
2. **Charge of Education Cess.-** There shall be levied a Cess known as Education Cess chargeable on the following items at the rates specified against each head, namely:-
 - (1) Cess on Timber:- Paisas 50 Per CFT on timber extracted in Azad Jammu and Kashmir for commercial purposes;
 - (2) Cess on Road Toll:- Paisas 15 on every rupees or part thereof payable by passenger Buses as Road Toll under the Road Toll Act, 1948 and one rupees per trip on Vehicle used exclusively for carrying load.
 - (3) Cess on Income Tax:- 5% on the amount of Income Tax/ super Tax% assessed and payable by the assesses under Income Tax Act 1922 excepting Government employees and all employees of autonomous and Semi Government bodies and Banks.

(4) Cess on Trial Register:- Five rupees per Trial Register Number issued under Income Tax Rules made under Income Tax Act 1927.

(5) Cess on Registration and transfer of property:- In respect of registration and transfer of property, the education Cess shall be levied at the rates given below:-

- (i) When the amount or value of the property does not exceed Rs. 20/ Rs. 10,000/-
- (ii) When the amount or value of the property exceeds Rs. 10,000/- but does not exceed Rs. 50,000/-
 - (a) On Rs. 10,000/- as above.
 - (b) On remainder on the rate of 3 rupees per thousand
- (iii) When the amount or value of the property exceeds Rs. 50,000/-
 - (a) On Rs. 50,000/- Rs. 140/-
 - (b) On the remainder the rate of 4 rupees per thousand.

(6) Cess on vehicular Transport:-

- (i) In case of private car. One rupees per quarter
- (ii) In case of light vehicles. Two rupees per quarter
- (iii) In case of heavy vehicles. Five rupees per vehicle, per quarter.
- (iv) On registration of vehicle. Five rupees per vehicle.

(7) Cess on passport.- 25 rupees per passport for issue and for renewal.

(8) Cess on issuance and renewal of Arms licenses:- 5 rupees per license issued or renewed for all type of arms excepting pistol, Revolver and muzzle loading.

(9) Cess on cinema Tickets.- In case of cinema Tickets rates of education Cess payable shall be as under:-

- i) First class and gallery 25 paisa per ticket
- ii) Second Class. 10 paisa per ticket
- iii) Third Class 5 paisa per ticket.

(10) Cess on Medical Certificate:- In Cess of Medical certificate issued by Medical officers in connection with the Journeys abroad, education Cess shall be charged at the rate of Rs. 10.- Per certificate.

(11) Cess on Salaried person

(a) In case of Government employees, the education Cess shall be levied as under:-

(i) All class I Government officer (in grade 17 and above)	One rupee per centum of their salary per months.
(ii) All other government servants except Class IV employee who are getting the salary in Grade 1.	½ rupees per centum of their salary per months.
(iii) All other persons drawing salary or honorarium from the Government exchequer.	One rupee per centum of their salary or honorarium of month.

(b) In case of Semi-Government employees and employers of autonomous bodies and Banks the education Cess shall be levied as under:-

(i) All employees who are getting the salary equivalent to the scale as mentioned in (a) (i) above.	One rupee per centum of their salary per months.
(ii) All employees who are getting the salary equitant to the scale as mentioned in (a)(ii) Above, excepting those employees whose scale of pay is not more than the scale prescribed for Grade 1.	½ rupee per centum of their salary per months.

3. **Offences and penalties:** Responsibility of collection of education Cess shall lie upon the authority which disburses the salaries, or recovers any amount or releases any thing, upon which education Cess is livable. If an authority, responsible for collection of education Cess, fails to recover from him as penalty a sum not exceeding the amount of education cess not so recovered, in addition to the amount of the Cess recoverable by such collecting authority.
4. **Power of Making Rules:** For carrying out the purposes of the Act, the Government may makes rules and may also appoint or notify any Government, Agency or Head of the Department to act and controlling authority whose control and supervision, recovery of education Cess shall be made.
5. **Repeal:** The Azad Jammu and Kashmir Finance (Amendment) Act, 1973 is hereby repealed.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad, 24th July 1975

The following Acts of the Assembly received the assent of the President on the 01 July, 1975 and are hereby published for general information:-

(ACT V OF 1975)

AN ACT to amend the Azad Jammu and Kashmir Finance Act 1971 (Act, VII of 1971)

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Finance Act, 1971 (Act VII of 1971) in the manner hereinafter appearing;

It is hereby enacted as follows:-

- 1. Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Finance (Amendment) Act 1975.

(2) It shall come into force at once.
- 2. Amendment of section 2, Act VII of 1971:** In the Azad Jammu and Kashmir Finance Act, 1971 (Act VII of 1971) clause (q) of section 2, shall be omitted.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 24th July 1975

The following Acts of the Assembly received the assent of the President on the 01st July 1975 and are hereby published for general information:-

(ACT VI OF 1975)

AN ACT to provide for the Registration of Citizen of Azad Jammu and Kashmir State and issue of identity Cards to them.

WHEREAS it is expedient to provided for the registration of citizen and issue of identity cards to them, and for matters ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, extent, commencement and application:** (1) This Act may be called the National Registration Act, 1975.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
 - (4) It shall apply to all citizens wherever they may be.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context:-
 - (a) 'Citizen' means a person who is or is deemed to be, a 'State Subject' as defined in the Azad Jammu and Kashmir Interim Constitution Act 1974;
 - (b) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (c) 'Prescribed' means prescribed by rules;
 - (d) 'Registration Officer' means the Registrar General or Deputy Registrar General or a District Register or Registrar appointed under section 3, and includes any officer to whom the powers of any officer have been delegated under this Act, and
 - (e) 'Rules' means rules made under this Act.
3. **Registration Officer:** (1) For the purposes of this Act, Government may appoint;

- (a) A Registrar General for the whole of Azad Kashmir.
- (b) A District Registrar for each revenue district; and
- (c) As many Registrars for the local areas as it may consider necessary.

(2) Every District Registrar and Registrar shall exercise his powers and perform his functions under this Act and rules under the general supervision and control of, and in accordance, with such instructions as may be given in this behalf by, the Registrar General.

4. Registration of citizen: (1) Within such time as the Government may, by notification in the official Gazette specify in this behalf;

- (a) every citizen in or out of Azad Kashmir who has attained the age of eighteen years shall get himself; and
 - (b) a parent or guardian of every citizen who has not attained that age shall get such citizen registered in accordance with the provisions of this Act.
- (2) an application for registrar;
- (a) under clause (a) of sub-section (1) shall be in Form A of Schedule to this Act; and
 - (b) under clause (b) of sub-section (1) shall be in Form of that Schedule.

And shall be made to such authority as may be prescribed.

IDENTITY CARDS

5. (1) The Registrar General shall cause to be issued to every citizen who has attained the age eighteen years and got himself registered under section 4, a card containing the particulars set out in Schedule II to this Act hereinafter referred to as the Identity Cards.

(2) Every person to whom an identity card is issued shall be responsible for its safe custody and for maintaining it in proper shape.

6. Inspection of Identity Card: A Registration Officer or any Gazetted Officer under the control of, and authorized by, the Registrar General in this behalf may require a person to whom an identity card has been issued to produce the card for inspection before him or, if it is not in his possession when so required, to produce it within such time, before such officer and

at such place as the Registration officer or the officer so authorized may direct.

7. **Surrender of identity card:** (1) In case of the death of any holder of an identity card, his identity card shall be surrendered or given up to the District Registrar by the spouse, heir or next of Kin, as the case may be, of such holder within sixty days of such death.

(2) The holder of an identity card who ceases to be a citizen shall surrender or give up his identity card to the District Registrar within sixty days of his ceasing to be a citizen.

8. **Identify cards necessary for certain purposes.-** (1) No citizen who has attained the age of eighteen years but does not possess or produce an identity card shall be granted a passport, permit or other travel documents for going out of Pakistan.

(2) Any officer charged with the duty of conducting the poll at an election to the Azad Kashmir Assembly or to a Municipal Committee, or other local authority may, for the purpose of satisfying himself as to the identity of any person, require such person to produce his identity card.

(3) The Government may, by notification in the official gazette specify any other purposes for which the production of an identity card shall be necessary.

(4) The identity card issued to any person shall be proof of his identity for any purposes for which his identity is required to be established.

9. **Power to call for proof of information:** The Registrar General or any person authorized by him in this behalf may require a person who has given any information in pursuance of this Act, to furnish such documentary or other evidence of the truth of that information as it is within the power of that person to furnish.

10. **Information not be divulged.-** Any person who --

- (a) Being a person employed for the purposes of this Act, publishes or communicates to any person, otherwise than in the ordinary course of such employment, any information acquired by him in the course of the employment; or
- (b) Having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any

other person, shall be punishable with imprisonment for an term which may extend to six months, or with fine which may extend to one thousand or with both;

Provided that nothing in this section shall apply to any publication; or communicating or information made-

- (i) For the purpose of an judicial proceedings; or
- (ii) To any Gazette Officer authorized by the Government or the Register General.

11. Penalties.- Any person who-

- (a) does not, without reasonable cause, apply for Registrant as required by section 4;
- (b) for any of the purposes of this Act makes any statement or furnishes any information which he knows or has reason to believe to be false in any material particular or which he does not believe to be true'
- (c) conceals, or refuses to furnish, any information which he ought to disclose or furnish;
- (d) obliterates or changes any particulars written in the identity card;
- (e) forges any identity card or makes or has in his possession any document so closely resembling an identity card as to be a calculated to deceive;
- (f) fails, without reasonable cause, to report to any registration officer any loss of the identity card within thirty days of such loss;
- (g) allows any other person to have possession of an identity card of the custody of which he is responsible;
- (h) refuses or fails to produce or surrender an identity card as required under Section 6 of this Act.
- (i) does not, without reasonable cause, apply for a identity card within ninety days of his attaining the age of eighteen years; or
- (j) knowledge contravenes any other provision of this Act or the rules, shall in addition to any other penalty to which he may be liable under any other law, be

punishable with fine not exceeding fifty rupees or, in default of payment of fine, with simple imprisonment for a period not exceeding fifteen days.

12. **Cognizance of offence.-** No court shall take cognizance of any offence under this Act except upon complaint in writing made by the Registrar General or any Gazetted officer authorized by him in this behalf.
13. **Offence triable summarily:** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) an offence under this Act shall be triable summarily by any Magistrate, exercising the powers of a Magistrate of the first class.
14. **Officers, etc. deemed to be public service:** Every Registration Officer and every other person employed in connection with Registration and issue of identity cards shall be deemed to be a Public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860)
15. **Power to make rules:** The Government may, by notification in the official Gazette make rules for carrying out the purposes of this Act.
16. **Delegation of powers:** The Government may, by notification in the official Gazette, direct that all or any of the powers conferred on it by this Act or the rules shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by any officer of the Government.
17. **Identity:** No suit, prosecution or other legal proceeding shall lie against the Government, any Registration Officer or any other person exercising any powers or performing any function under this Act, for any thing which is in good faith done or purporting or intended to be done under this Act or any rules.
18. **Removal of difficulties:** If any difficulty arises in giving effect to any provision of this Act, the Government may make such order, not inconsistent with the provision of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.
19. **Repeal:** National Registration Ordinance 1975 (Ordinance No, XII of 1975) is hereby repealed.

SCHEDULE I
AZAD JAMMU AND KASHMIR GOVERNMENT
REGISTRATION ORGANIZATION
(HOME DEPARTMENT)
APPLICATION FOR REGISTRATION (FOR AZAD KASHMIR
CITIZENS)
FORM A
(See Section 4 (I) (a))

Post Office _____

No _____

Date _____

Code No, (To be written in Registration Office).

- (1) Full Name (With alias) _____
- (2) Sex (male or female) _____
- (3) Religion _____
- (4) Father Name _____
- (5) Husband's Name in case of married woman _____
- (6) Present Address _____ Street No _____
Mohalla _____ City/Village _____ Post Office _____
Tehsil _____ District _____
- (7) Permanent Address House No _____ Street No _____
Mohallah _____ City/Village _____ Post Office _____
Tehsil _____
District _____
- (8) Date of birth or age _____
- (9) District of Birth _____
- (10) Identification Marks _____
- (11) Education (General/ Technical) _____
- (12) Occupation _____
- (13) If employed, write here address of office/ firm _____

I solemnly declare that the information given by me to the best of my knowledge and belief is correct and that I have not concealed any information. Further I have not provisory applied for registration any where else in Azad Kashmir or Pakistan.

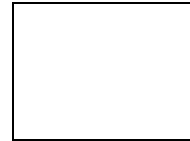
Date _____ Signature/Thumb Impression.

Photo	for
ladies	is
optional	

Signature/Thumb impression
of the applicant

ATTESTATION:

I certify that I personally known _____ and
that the particulates given by him/her true to the best of my knowledge.



Seal of attesting
Person.

Signature of attesting _____
Full Name and designation _____
Date _____

FORM B
(See Section 4 (1) (b))

TO BE FILLED BY HEAD OF THE HOUSE-HOLD IN RESPECT OF
HIS DEPENDENTS/ BELOW THE AGE OF 18 YEAR

I have the following dependents in my household, who are
naturally living with me:-

S. No	Name	Date of Birth or age	Sex	Relationship
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Signature/Thumb Impression of the

head of the household

Attestation Date _____

I certify that I personally know _____ and
the particulars given by him/her are true to the best of my knowledge.

Signature of attesting person _____

Full Name with designation _____

Date _____

Seal of attesting person.

SCHEDULE II

(See Section 5 (1))

Front

Government of Azad Kashmir
Identity Card
Photo Monogram
Signature or thumb impression
Post Office No, Date of issue

Back

Identification No _____
Name _____
Name of Father/
Husband _____
Address _____
Previous Address _____
Date of Birth _____
Identification _____
Marks _____
1. In case of loss, report to any
registration officer,
2. If lost card is found, drop it
the post office letter box.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 24 July 1975.

The following Act of the Assembly received the assent of the President on the 21st July 1975 and are hereby published for general information:-

ACT VII OF 1975

An Act to amend the Azad Jammu and Kashmir Land Reforms Act, 1960 (Act V of 1960)

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Land Reforms Act, 1960 for the purposes hereinafter appearing; It is hereby enacted as follows:

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Land Reforms (Amendment) Act, 1975.
(2) It shall come into force at once.
2. **Omission of Section 25-B, the Azad Jammu and Kashmir Land Reform Act, 1960.-** In the Azad Jammu and Kashmir Land Reform Act, 1960, as amended by the Azad Jammu and Kashmir Land Reform (Amendment) Act, 1974, hereinafter referred to as the said Act, Section 25-B, shall be omitted.
3. **Amendment of Section 28, Azad Jammu and Kashmir Land Reform Act, 1960.-** In the said Act, in Section 28, in sub-section (1)-
 - (i) The following clause (a) shall be inserted-
 - (a) Where the occupancy tenants are evacuees and the landlords are non-evacuees under the law relating to the Administration of Evacuee Property Act, or
 - (ii) Clause (a) of sub-section (1) shall be renumbered as clause (b)
4. **Repeal:** The Azad Jammu and Kashmir Land Reform (Amendment) Ordinance, 1975 (Ordinance VI of 1975) is hereby repealed.

Mohammad Akram Shah
Deputy Secretary
Law, Parliamentary Affairs

Azad Government of the
State of Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 4 August 1975

The following Act of the Assembly received the assent of the President on the 29th July, 1975 and are hereby published for general information:-

(ACT VIII OF 1975)

AN ACT to amend the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act 1974

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act, 1974 for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) (Amendment) Act, 1975.

(2) It shall come into force at once.
2. **General amendment:** In the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act, 1974, hereinafter called the said Act,-
 - (a) For the words 'Senior Member' wherever occurring the words 'Chief justice of the State of Azad Jammu and Kashmir' Shall be substituted; and
 - (b) For the word 'Member' or 'Members' wherever occurring the word 'Judge' or 'Judges' shall be substituted as the case may be.
3. **Amendment of section 6, Azad Jammu and Kashmir judicial Board (Constitution and Jurisdiction) Act, 1974:** In the said Act, in section 6, for sub section (1), the following shall be substituted, namely:-

“(1) The Government, on recommendation of the Chief-Justice of the State of Azad Jammu and Kashmir, Shall appoint a District and session Judge as Registrar of the Judicial Board.”

4. **Repeal.-** The Azad Jammu and Kashmir judicial Board (constitution and Jurisdiction) (Amendment) Ordinance, 1975 (Ordinance IV of 1975) is hereby repealed.

Mohammad Akram Shah
Deputy Secretary,
Law, Parliamentary Affairs,
Azad Government of the
State of Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated: November 12, 1975

No. 3485/SL/75. The following Act of the Joint Sitting of the Legislative Assembly and Council received the assent of the President Azad Jammu and Kashmir on the 7th day of November 1975 is hereby published for general information.

(ACT IX OF 1975)

AN ACT to amend the Azad Jammu and Kashmir Interim Constitution Act 1974

WHEREAS, it is expedient to amend the Azad Jammu and Kashmir Interim Constitution Act 1974 (Act VIII of 1974), for the purposes hereinafter appearing;

AND WHEREAS, in the discharge of its responsibilities under the UNCIP Resolutions, the Government of Pakistan has authorized the introduction of the present Bill in the Assembly for consideration and passage;

It is hereby enacted as follows:-

- 1 Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (First Amendment) Act, 1975.

(2) It shall come in to force at once.

- 2. Substitution of section 2, Act VIII of 1974:** In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), hereinafter referred to as the said Act, for section 2 the following shall be substituted and shall be deemed always to have been so substituted, namely:-

“2. Definitions: (1) In this Act, unless there is anything repugnant in the subject or context,-

‘Agricultural income’ means agriculture income as defined for the purposes of the law relating to income-tax-

‘Assembly’ means the Legislative Assembly of Azad Jammu and Kashmir

‘Azad Jammu and Kashmir’ means the territories of the State of Jammu and Kashmir which have been liberated by the people of that state and are for the time being under the administration of Government and such other territories as may hereafter come under its administration;

‘Corporation tax’ means any tax on income that is payable by companies and in respect of which the following conditions apply:-

(i) The tax is not chargeable in respect of agricultural income-

(ii) No deduction in respect of the tax paid by companies is, by any law which may apply to the tax authorities to be made from dividends payable by the companies to individuals;

(iii) No provision exists for taking the tax so paid into account in computing or the purposes of income-tax the total income of Individuals receiving such dividends, or in computing the income tax payable, or refundable to, such individual;

‘Council’ means the Azad Jammu and Kashmir Council constituted under this Act.

‘Financial year’ means the year commencing on the first day of July and ending on the thirtieth day of June;

‘Joint Sitting’ means a joint sitting of the Assembly and the elected member of the Council;

‘Government’ means the Azad Government of the State of Jammu and Kashmir;

‘Judge’ in relation to the Supreme Court of Azad Jammu and Kashmir or the High Court includes the Chief Justice of the supreme Court of Azad Jammu and Kashmir or, as the case may be, High court and also includes an additional Judge of the high Court;

‘Muslim’ means a person who believes in the

Unity and ones of Almighty Allah, His angles, the Books of Allah. The Holy Quran being the last of them, His prophets, the absolute finality of the Prophet hood of Muhammad (P.B.U.H), the day of judgment and all the requirements and teaching of the Holy Quran Sunnah;

‘Person’ includes any body politic or corporate;

‘President’ means the President of Azad Jammu and Kashmir and includes a person for the time being acting as, or performing the functions of, the President of Azad Jammu and Kashmir;

‘Prescribed’ means prescribed by law or rules made there under;

‘Property’ includes any right, title or interest in property, movable or immovable, and any means and instruments of production;

‘Remuneration’ includes salary and pension;

‘Service of Azad Jammu and Kashmir’ means any service, post or office in connection with the affairs of Azad Jammu and Kashmir, including the Council, but does not include service as Chairman of the Council, President, Speaker, Deputy Speaker, Prime Minister, Minister Federal Minister in Charge of the council Secretariat or Advisor appointed under section 21, or member of the Assembly or member of the Council;

‘Speaker’ means Speaker of the Assembly and includes any person acting as the Speaker of the Assembly;

‘State Property’ means any movable or immovable property as belonged to the State of Jammu and Kashmir or its former Ruler or a Raja and is within the territories of Pakistan;

‘State Subject’ means a person for the time being residing in Azad Jammu and Kashmir or Pakistan who is a State Subject as defined in the late Government of the State of Jammu and Kashmir Notification No I-L/84 dated the 20th April 1927 as amended from time to time;

‘Taxation’ means the imposition of any tax or duty, whether general, local or special, and tax shall be construed accordingly;

‘Tax on income’ includes a tax in the nature of an excess profit tax or a business profits tax.

(2) In this Act, ‘act of the Assembly’ or ‘act of the Council’ shall include an ordinance promulgated by the President under sub-section (1) of Section 41, or as the case may be under sub-section (4) of that Section.

3. Amendment of Section 4, Act VIII of 1974: In the said Act, in section 4,-

- (a) In sub-section (2), for the words ‘The Government shall not make any law’ the words ‘No Law shall be made’ shall be substituted; and
- (b) In sub-section (4):-
 - (i) In paragraph 8, in the proviso, for clause (c) the following shall be substituted, namely:-
 - [(c) The carrying on, by Government or the Council, or by a corporation controlled by Government or the Council, of any trade business, industry or service, to be exclusion, complete or partial, or other persons]; and
 - (ii) In paragraph 14 in sub-paragraphs (3), for clauses (c) and (d) the following shall be substituted, namely:-
 - [(c) any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law; or]
- (d) Any law providing for the taking over of the management of any property by the Government for a limited period, either in the public interest or in order to secure the proper management of the property, or for the benefit of its owner; or
- (e) Any law providing for the acquisition of any class of

property for the purposes of-

- (i) Providing education and medical aid to all or any specified class of State Subject; or
 - (ii) Providing housing and public facilities and services such as road, water supply, sewerage, gas and electric power to all or any specified class of State Subjects; or
 - (iii) Providing maintenance to those who, on account of unemployment, sickness, infirmity or old age, are unable to maintain themselves; or
- (f) Any law in force immediately before the coming into force of this Act.

4. Amendment of section 5, Act VIII of 1974: In the said Act, in section 5,-

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

“(1) There shall be a president of Azad Jammu and Kashmir, who shall be elected by the members of the joint sitting by the votes of majority of the total membership of the joint sitting in such manner as may be prescribed;

Provided that if no person secures such majority in the first poll, a second poll shall be held between the persons who secure the two highest numbers’ of votes in the first poll and the person who secures a majority of votes of the member present and voting shall be declared to have been elected as Presiden:

Provided further that, if the number of votes secured by two or more persons securing the highest number of votes is equal, further poll shall be held between them until one of them secure a majority of votes of the members present and voting.”

- (b) after sub-section (3) the following new sub-section shall be inserted namely:-

“3-A The election to the office of President shall be held not earlier than sixty days and not later than thirty days before the expiration of the term of the president in office or, if the election cannot

be held within that period because the Assembly is dissolved, within thirty days of the general election to the Assembly.”

- (bb) In sub-section (6), for the words ‘the high Court’ the words “Azad Jammu and Kashmir shall be substituted.”
 - (c) In sub-section (7), the words and commas or, in the absence of the Speaker, to the chief justice of High Court, shall be omitted; and
 - (d) For sub-section (8) the following shall be substituted, namely (8) the President shall not be a member, or a candidate for election as a member, of the Assembly and if a member of the Assembly is elected as President his seat in the Assembly shall become vacant on the day he enters upon his office.
5. **Amendment of section 6, Act VIII of 1974:** In the said Act, in section 6, for the word Assembly, wherever occurring except in the expression ‘Speaker of the Assembly’ the word Joint sitting shall be substituted.
 6. **Amendment of section 7, Act VIII of 1974:** In the said Act, in section 7, in sub-section (1), for the words “Subject to this Act, the words ‘Subject to an express provision to the contrary in this Act’ shall be substituted.
 7. **Amendment of section 8, Act VIII of 1974:** In the said Act, in section 8, the words and commas or, in his absence, the Chief Justice of the High Court of Azad Jammu and Kashmir shall be omitted.
 8. **Amendment of section 9, Act VIII of 1974:** In the said Act, in section 9,-
 - (a) The words and commas ‘or in his absence, the Chief Justice of the High Court of Azad Jammu and Kashmir’ shall be omitted;
 - (c) In clause (b),-
 - (i) For the words, ‘three months’ the words ‘thirty days’ shall be substituted; and
 - (ii) After the word ‘vacant’ at the end, the words and commas or, if the election cannot be held

with in the period because the Assembly is dissolved, within thirty days of the general election to the Assembly' shall be added.

9. **Amendment of section 12, Act VIII of 1974:** In the said Act, in section 12, after sub-section (3), the following new sub-section shall be added, namely:-

(4) Orders and other instrument made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the Government, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(5) The Government may regulate the allocation and transaction of its business and may for the convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it;

- 9.A- **Amendment of section 19, Act VIII of 1974:** In the said Act, in section 19, in sub-section (2), in clause (a), for the words and letters "under the UNCIP Resolutions or for the defense and security of Azad Jammu and Kashmir the words brackets and figures in relation to the matters specified in sub-section (3) of section 31; shall be substituted.

10. **Amendment of section 21, Act VIII of 1974:** In the said Act, in section 21,-

- (a) After sub-section (4), the following new sub-section shall be inserted, namely:-

(4A) The seat of a member of the Council elected by the Assembly, hereinafter referred to as an elected member, shall become vacant if-

(a) He resigns his seat by notice in writing under his hand addressed to the Chairman or, in his absence, to the Secretary of the Council;

(b) If he is absenct, without the leave of the Chairman, from thirty consecutive sittings of the Council;

(c) He fails to make the oath referred to in sub-section (6) within a period of ninety days after the date of his election, unless the

Chairman, for good cause shown, extends the period; or

(d) He ceases to be qualified for being a member under any provision of this Act or any other law.

(4B) If any question arises whether a member has, after his election, become disqualified from being an member of the Council, the Chairman shall refer the question to the Chief Election Commissioner and, if the Chief Election Commissioner is of the opinion that the member has become disqualified, the member shall cease to be a member and his seat shall become vacant.

(4C) An election to fill a vacancy in the office of a elected member shall be held not later than thirty days form the occurrence of the vacancy or, if the election cannot be held with in that period because the Assembly is dissolved, within thirty days of the general election to the Assembly.

(4D) The manner of election of elected members and filling of a causal vacancy in the office of an elected member shall be such as may be prescribed;

(b) In sub-section (5)-

(i) For the words 'A member of the Council elected by the Assembly' the words 'An elected member' shall be substituted; and

(ii) For the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

'Provided that an elected member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.'

- (c) In sub-section (6), for the words 'A member of the Council elected by the Assembly' the words An elected member shall be substituted and
- (d) For sub-section (7) and (8) the following shall be substituted, namely:-

'(7) The executive authority of the council shall extent to all matters with respect to which the council has power to make laws and shall be exercised in the name of the Council, by the Chairman who may act either directly or through the secretariat of the Council of which a Federal Minister nominated by the Chairman from amongst the members of the Council and not more than three advisors appointed by the Chairman shall be in charge.

Provided that Council may direct that, in respect of such matters as it may specify, its authority shall be exercisable by the Vice-Chairman of Council subject to the such conditions if any, as the Council may specified.

(8) An Adviser may be appointed form amongst the elected members or the members of the Assembly.

(9) An Advisor shall, before entering upon officer, makes before the Chairman oath in the form set out in the First Schedule.

(10) An Advisor who is a member of the Assembly shall have the right to speak in, and otherwise take part in the proceedings of the Council, but shall not by virtue of this sub-section be entitled to vote.

(11) The Council may makes rules for regulating in procedure and the conduct of its business and shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings of the Council shall not be invalid on the ground that a person who was not entitled to do so sat, voted or otherwise took part in the proceedings.

(12) Orders and other instruments made and executed in the name of the council shall be authenticated in such manner as may be specified in rules to be made by the Council and the Validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made executed by the Council.

(13) The Chairman may regulate the allocation and transaction of the business of the Council and May, for the convenient transaction of that business, delegate any of its functions to officers and authorities subordinate to it.

11. Amendment of section 25, Act VIII of 1975: In the said Act, in section 25,-

- (a) In sub-section (1), in clause (c), for the figure “21” the figure ‘(23)4’ shall be substitute;
- (b) After sub-section (1) amended as aforesaid, the following new sub-section shall be inserted, namely:-
 - ‘(1-A) If a member of the Assembly is elected to more than one seat, he shall, within a period of thirty days after the declaration of the result for the last such seat, resign all but one of his seat, and if he does not so resign, all the seat to which he has been elected shall become vacant at the expiration of the said period of thirty days except the seat to which he has been last elected or, if he has been elected to more than one seat on the same day, the seat for election to which his nomination was filled last.

12. Amendment of section 27, Act VIII of 1974: In the said Act, in section 27, after sub-section (3), the following new sub-section shall be added, namely:-

‘(4) On a requisition signed by not less than one- fourth of the total membership of the Assembly the Speaker shall summon the Assembly to meet, at such time and place as he thinks fit, within fourteen days of the receipt of the requisition; and when the Speaker has summoned the Assembly, only he may prorogue it.’

13. Amendment of section 29, Act VIII of 1974: In the said Act, in section 29,-

- (a) In subsection (1), after the word Speaker” the words ‘and a Deputy Speaker’ shall be inserted;
- (b) In sub-section (2) after the word ‘Speaker’ the words ‘or Deputy Speaker’ shall be inserted;
- (c) For sub-section (4) and (5) the following shall be substituted, namely:-

‘(4) The Speaker shall preside at the meetings of the Assembly and when the office of the Speaker is vacant or the Speaker is absent or is unable to perform his functions due to any cause, the Deputy Speaker shall act as Speaker, and if at that time, the Deputy Speaker is also absent or is unable to act as Speaker due to any cause, such member of the Assembly present as may be determined by the Rules of procedure of the Assembly shall preside at the meeting of the Assembly.

(5) So often as the office of Speaker or Deputy Speaker becomes vacant, the assembly shall elect one of its members to fill the office.’

(d) After sub-section (6), the following new sub-section shall be inserted, namely:-

‘(6A) The Deputy Speaker may resign his office by writing under his hand addressed to the Speaker, and

(e) In sub-section (7), after the word ‘Speaker’ the words ‘or Deputy Speaker’ shall be inserted.

14. Amendment of section 30, Act VIII 1974:

In the said Act, in section 30,-

(a) For the heading the following shall be substituted, namely:-

‘Voting in Assembly and quorum; and

(b) In sub-section (2), for the word ‘Seventeen’: occurring twice, the word ‘fourteen’ shall be substituted.

15. Insertion of new section 30A, 30B and 30C, Act VIII of 1974:

In the said Act, after section 30, amended as aforesaid, the following new section shall be inserted, namely:-

‘30-A Restriction on discussion in Assembly etc:- No discussion shall take place in the Assembly or the Council or the joint sitting with respect to the conduct of any judge of the Supreme Court of Azad Jammu and Kashmir or the High Court in the discharge of his duties.

30-B Finance Committee:-

(1) The expenditure of the Assembly within authorized appropriation shall be controlled by the Assembly acting on the advice of the Finance

Committee.

(2) The Finance Committee shall consist of the Speaker, the Finance Minister and such other members as may be elected thereto by the Assembly.

(3) The Finance Committee may make rules for regulating its procedure.

30C Secretariat of assembly:-

(1) The Assembly shall have a separate Secretariat.

(2) The Assembly may by laws regulate the recruitment and conditions of service of persons appointed to the secretarial staff of the Assembly.

(3) Until provision is made by the Assembly under sub-section (2), the person appointed to the secretariat staff of the Assembly shall continue to be governed by the conditions of service for the time being applicable to them.'

16. Amendment of section 32, Act VIII of 1974: In the said Act, in section 32, after the word 'Assembly' wherever occurring the words and commas 'or as the case may be the Council' shall be inserted.

17. Amendment of Section 33, Act VIII of 1974.- In the said Act in Section 33,

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

'(1) The provisions of this Act may be amended in accordance with the following provisions:

Provided that no amendment shall be made in section 31, this section or section 56 save with the prior approval of the Government of Pakistan; and

(b) In sub-section (3),-

(i) The words 'of the Council and the Assembly' shall be omitted; and

(ii) For the words 'of the aggregate of the total membership of the Assembly and the elected members of the Council' the words of the total

membership 'of the joint sitting' shall be substituted.

- 18. Insertion of new section 33A, Act VIII of 1974:** In the said Act, after section 33 amended as aforesaid, the following new section shall be inserted, namely:-

“33A Procedure at joint sitting,-

(1) The President may after consultation with the Chairman of the Council and the Speaker make rules as to the procedure with respect to the joint sittings.

(2) At a Joint sitting, the Speaker or, in his absence, such person as may be determined by the rules made under sub-section (1) shall preside.

(3) The President may address a joint sitting and send message in a joint sitting.

(4) The Advocate -General shall have the right to speak in, and otherwise take part in the proceedings of, a joint sitting or of any of its committee, but shall not by virtue of this section have the right to vote.

- 19. Amendment of section 37, Act VIII of 1974:** In the said Act, in section 37,-

(a) In sub-section (1) the words 'or otherwise' shall be omitted;

(b) For sub-section (2) the following shall be substituted, namely:-

‘(2) All other moneys-

(a) Received by or on behalf of the council; or

(b) Received by or deposited with the supreme Court of Azad Jammu and Kashmir or any other court establishment under the authority of the council;

Shall be credited to the Public Account of the Council;

(2A) The custody of the Council consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys there from, the custody of other moneys received by or on behalf of the council, their payment into, and withdrawal from, the Public Account of the

Council, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Council or, until provision in that behalf is so made, by rules made by the Chairman of the Council; and

- (c) After sub-section (4), the following new sub-section shall be added, namely:-
- (5) If in respect of any financial year it is found-
 - (a) That the amount authorized to be expended for a particular service for the current financial year is insufficient, or that need has arisen for expenditure upon some new service not included in the statement referred to in sub-section (3) for that year; or
 - (b) That any money has been spent on any service during a financial year in excess of the amount granted for that service for the year;

The Chairman of the Council shall have power to authorized expenditure from the council consolidated Fund and shall cause to be laid before the council a supplementary statement or, as the case may be, an excess statement, setting out the amount of that expenditure, and the provisions of sub-section (3) and (4) shall apply to those statement as they apply to the statement referred to in sub-section (3).

- (6) Notwithstanding anything contained in the foregoing provisions of this section, the Council shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding four months, pending completion of the procedure prescribed in sub-section (3) and (4);

20. Insertion of new section 37A, Act VIII of 1974: In the said Act, after section 37 amended as aforesaid, the following new section shall be inserted, a namely:-

“37 A Azad Jammu and Kashmir Consolidated Fund.-

- (1) All revenue received by the Government, all loans raised by the Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Azad Jammu and Kashmir consolidated Fund.

- (2) All other money-
 - (a) Received by or on behalf of the Government; or
 - (b) Received by or deposited with the High Court or any other Court establish under the authority of the Government shall be credited to the Public Accounts of government.

(3) The custody of the Azad Jammu and Kashmir consolidated Fund the payment of money into that Fund, the withdrawal of moneys therefore, the custody of other moneys received by or on behalf of the Government, their payment into, and with drawal from, public Account of the Government, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Assembly or, until provision in that behalf is so made, by rules made by the president, B.

21. Amendment of section 38, Act VIII of 1974: In the said Act, in section 38-

- (a) In sub-section (1), for the word ‘President’ the word ‘Government shall be substituted;’
- (b) In sub-section (3), for the word “President” the word ‘Government’ shall be substituted, and
- (c) For sub-section (5) the following shall be substituted, namely
 - ‘(5) If in respect of any financial year it is found-
 - (a) That the amount authorized to be expended for a particular service for the current financial year is insufficient, or that need has arisen for expenditure upon some new service not included in the Annual Budget for that year; or
 - (b) That any money has been spent on any service during a financial year in excess of the amount granted for that service during a financial year in excess of the amount granted for that service for that year;

The Government shall have power to authorize expenditure from the Azad Jammu and Kashmir Conciliated Fund and shall cause to be laid before the Assembly a Supplementary Budget or, as the case may

be, an Excess Budget, setting out the amount of that expenditure, and the provision of this section shall apply to those budgets as they apply to the Annual Budget.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding four months, pending completion of the procedure prescribed in sub-section (2) for the voting of such grant and the authentication of the Budget as passed by the Assembly in accordance with the provisions of sub-section (4) in relation to the expenditure.

22. Amendment of section 39, Act VIII of 1974: In the said Act, in section 39-

(a) For the heading the following shall be substituted namely:-

‘Special provisions regarding budget, etc.’ and

(b) in sub-section (1) and sub-section (2) for the word “President” the words “Prime Minister” shall be substituted.

23. Amendment of Section 41, Act VIII of 1974.- In the said Act, in Section 41, in sub-section (4),-

(a) for the word ‘may’ occurring for the first time, the word ‘shall’ shall be substituted; and

(b) for the words ‘promulgate and with draw’ shall be substituted.

24. Substituted of section 42, Act VIII of 1974: In the sand Act, for section 42 the following shall be substituted, namely:-

“42. Supreme Court of Azad Jammu and Kashmir;

(1) There shall be constituted a Supreme Court of Azad Jammu and Kashmir to be the highest Court of appeal.

(2) Subject to the provisions of this Act, the Supreme Court of Azad Jammu and Kashmir shall have such jurisdiction as is or may be conferred on it by this act or by or under any law.

(3) The Supreme Court of Azad Jammu and Kashmir shall consist of a Chief Justice to be known as Chief Justice of Azad Jammu and Kashmir, and so many other Judges as may be determined by an Act of the Council or, until so determined, as may be fixed by the President on the advice of the Council.

(4) The Chief Justice of Azad Jammu and Kashmir shall be appointed by the President on the advice of the Council and each of the other Judges of the Supreme Court of Azad Jammu and Kashmir shall be appointed by the President on the advice of the Council after consultation with the said Chief Justice.

(5) A person shall not be appointed a Judge of the Supreme Court of Azad Jammu and Kashmir unless he has-

- (a) For a period, of, or for periods aggregating, not less than five years been a Judge of a High Court, or
- (b) For a period of, or for periods aggregating, not less than fifteen years, been an advocate or pleader or a High Court.

Explanation: In this sub-section 'High Court' includes-

- (a) The High Court of Azad Jammu and Kashmir and a High Court or an equivalent Court that existed in Azad Jammu and Kashmir before the fourteenth day of August 1947; and
- (b) A High Court in Pakistan, including a High Court that existed in Pakistan at any time before the fourteenth days of August 1973.

(6) Before entering upon office, the Chief Justice of Azad Jammu and Kashmir shall make before the President and any other Judge Supreme Court of Azad Jammu and Kashmir shall make before the Chief Justice, oath in the form set out in the First Schedule.

(7) A Judge of the Supreme Court of Azad Jammu and Kashmir shall hold office until he attains the age of sixty-five years, unless he sooner resigns or is removed from office in accordance with law.

(8) At any time when the office of Chief Justice of Azad Jammu and Kashmir is vacant, or the Chief Justice, is absent or unable to perform the functions of his office due to any other cause, the President shall appoint the most senior of the other Judge of the Supreme Court of Azad Jammu and Kashmir to act as Chief Justice of Azad Jammu and Kashmir.

(8-A) If at any time it is not possible for want of quorum of Judges of the Supreme Court to hold or continue any sitting of the Court, or for any other reason it is necessary to increase temporarily the number of Judges of the Supreme Court, the Chief Justice of Azad Jammu and Kashmir may, in writing,-

- (a) With the approval of the president, request any person who has held the office of a Judge of that Court and since whose ceasing to hold that office three years have not elapsed; or
- (b) With the approval of the President and with the consent of the Chief Justice of High Court, requires a Judge of that Court qualified for appointment as a judge of the Supreme Court to attend sittings of the supreme Court as an and ad-hoc Judge for such period as may be necessary and while so attending an ad-hoc Judge shall have the same power and jurisdiction as a Judge of Supreme Court. Acquittal of an accused person and sentenced him of or to imprisonment for life; or, on revision, has enhanced a sentence to a sentence as aforesaid; or
- (b) If the High Court has withdrawn for trial before itself any case from any court subordinate to it and has in such trial convicted that accused person and sentence him as aforesaid; or
- (c) If the High Court has imposed any punishment on any person for contempt of the High Court; or
- (d) If the amount or value of the subject-matter of the dispute in the court of first instance was, and also in dispute in appeals is, not less than fifty thousand rupees or such other sum as may be

specified in that behalf by act of the Council and the Judgment, decree or final order appealed from has varied or set aside the Judgment, decree or final order the court immediately below, or

- (e) If the Judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value and the Judgment, decree or final order appealed from has varied or set aside the Judgment, decree or final order of the court immediately below; or
- (f) If the High Court certifies that the Case Involve a substantial question of law as to the interpretation of this Act.

(12) An appeal to the Supreme Court of Azad Jammu and Kashmir order or sentence of the High court in a case to which sub-section (11) does not apply shall lie only if the supreme court of Azad Jammu and Kashmir grants leave to appeal;

25. Amendment of section 43, Act VIII of 1974: In the said Act, in section 43:-

- (a) After sub-section (2), the following new sub-section shall be inserted, namely:-

‘(2A) A Judge of the High Court shall be appointed by the President on the advice of the Council and after consultation-

- (a) With the Chief Justice of Azad Jammu and Kashmir; and
- (b) Except where the appointment is that of Chief Justice, with the Chief Justice of the High Court’;
- (b) In sub-section (3), for the words ‘The Chief Justice and other Judge of the High Court shall be appointed by the President, but a person shall not be so appointed’ the words ‘A person shall not be appointed’ shall be substituted;

- (c) In sub-section (9) for the words 'Fourth Schedule' the words "Fifth Schedule" shall be substituted.

26. Amendment of section 44, Act VIII of 1974.- In the said Act, in section 44, in sub-section (2) -

- (a) After the words 'High Court' occurring for the first time, the word "may" shall be inserted;
- (b) In clause (a), in sub clause (ii), the words 'in Azad Jammu and Kashmir' shall be omitted;
- (c) In clause (b), in sub-clause (ii)-
 - (i) The words "in Azad Jammu and Kashmir" shall be omitted; and
 - (ii) After the words 'Public office' the words 'in concoction with the affairs of Azad Jammu and Kashmir' shall be inserted.

27. Insertion of new section 46A, Act VIII of 1974: In the said Act, after section 46-A Advisory Jurisdiction:-

- (1) If, at any time, the Chairman of the Council or the President desires to obtain the opinion of the Supreme Court of Azad Jammu and Kashmir on any question of law which he considers of public importance, he may refer the question to the supreme Court of Azad Jammu and Kashmir for consideration.
- (2) The Supreme Court of Azad Jammu and Kashmir shall consider a question so referred and report its opinion on the question to the Chairman of the Council or, as he case may be, the President.

28. Amendment of section 47, Act VIII of 1974: In the said Act, in section 47, in sub-section (1);-

- (a) For the word 'Assembly' the words and commas 'Council in respect of matters to which its executive authority extends, an the Assembly in respect of matters to which the executive authority of the Government extends' shall be substituted;
- (b) In clause (a), for the word 'Government' the words 'Azad Jammu and Kashmir' shall be substituted; and

- (c) In clause (b) –
 - (i) After the words ‘acts of’ the words ‘the Council or the’ shall be inserted; and
 - (ii) For the word ‘Government, occurring for the second time,’ the words ‘Azad Jammu and Kashmir’ shall be substituted.

29. Amendment of section 49 Act VIII of 1974: In the said Act, in section 49, for sub-section (2) and (3) the following shall be substituted and shall be deemed always to have been so substituted, namely:-

(2) Until an Act of the Council in respect of persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Council, or an Act of the Assembly in respect of such persons employed in connection with that affairs of the Government, makes provisions for the matter referred to in sub-section (1), all rules and orders in force immediately before the commencement of this Act, shall continue in force and may be amended from time by the Council or, as the case may be, the Government.

30. Amendment of section 50, Act VIII of 1974: In the said Act, in section 50, in sub-section (1), after the word “President” the words ‘on the advice of the Council’ shall be inserted.

31. Insertion of new section 50-A, Act VIII of 1974: In the said Act, after section 50 amended as aforesaid the following new section shall be inserted, namely:-

‘50-A. Auditor-General:-

(1) There shall be an Auditor-General of Azad Jammu and Kashmir who shall be appointed by the president on the advice of the council.

(2) Before entering upon office, the Auditor-General shall make before the Chief Justice of Azad Jammu and Kashmir oath in the form set out in the First Schedule.

(3) The terms and conditions of service, including the term of office, of the Auditor-General shall be determined by act of the Council and, until so determined, by rules made by the Council.

- (4) The Auditor-General shall, in relation to-
 - (a) The accounts of the Council and any authority or body established by the council; and
 - (b) The accounts of the Government and any authority or body established by the Government; perform such functions and exercise such powers as may be determined by or under Act of the council and, until so determined, by rules made by the Council.
- (5) The accounts of the Council and of the Government shall be kept in such form and in accordance with such principles and methods as may be determined by the Auditor General with the approval of the Council.
- (6) The reports of the Auditor-General relating to the accounts of the Council shall be submitted to the chairman of the Council who shall cause them to be laid before the Council and the reports of the Auditor-General relating to the accounts of the Government shall be submitted to the President, who shall cause them to be laid before the Assembly’.

32. Amendment of section 51, Act VIII of 1974: In the said Act, in section 51, the following explanation shall be added at the end, namely:-

Explanation: In this section;

- (a) ‘Law’ includes Ordinance, Order, rules, bye-laws, regulations and any notification and other legal instruments having the force of Law, and
- (b) ‘In force’ in relation to any law, means having effect as law whether or not the law has been brought into operation.

33. Amendment of section 52, Act VIII of 1974: In the said Act, in section 52-

- (a) In sub-section (1),-
 - (i) For the words ‘Neither the President nor a Minister shall’ the words and commas ‘The

President, the Prime Minister, a Minister or an Advisor shall not' shall be substituted; and

- (ii) For the words 'or a Minister' the commas and words 'the Prime Minister' a Minister or an Advisor' shall be substituted;

(b) In sub-section (2), (3) and (4), after the word "President" the words "or the Chairman of the council" shall be inserted; and

(c) In sub-section (5)-

- (i) For the words 'neither the President nor a Minister shall' the words and commas 'the President' the Prime Minister' the "Chairman the Council', the Federal Minister who is a member of the council, a Minister or an Advisor shall not' shall be substituted; and
- (ii) After the words 'Against the Words and commas' council or, as the case may be, the shall be inserted.

34. Insertion of new section 52-A, Act VIII of 1974.- In the said Act, after section 52 amended as aforesaid, the following new section shall be inserted, namely:-

'52A Power to acquire property and to make contracts, etc.- (1) The executive authority of the Government and of the Council shall extend, subject to any Act, of the appropriate authority, to the grant, sale, disposition or mortgage of any property vested in, and to the purchase or acquisition of property on behalf of, the Government of, as the case may be, the council, and to the making of contracts.

(2) All property acquired for the purposes of the Government or of the Council shall vest in the President or, as the case may be, in the Council.

(3) All contracts made in the exercise of the executive authority of the Government or of the Council shall be expressed to be made in the name of the President or, as the case may be, the council and all such contracts and all assurances of property made in the exercise of the authority shall be executed on behalf of the President or the Council by such persons and in such manner as the President or, as the case may be, the Council may direct or authorize.

(4) Neither the President, nor the chairman of the Council, shall be personally liable in respect of any contract or assurance made or executed in the exercise of the executive authority of the Government or, as the case may be, the Council, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof,

(5) Transfer of land by the Government or the Council shall be regulated by law.'

35. Amendment of section 53, Act VIII of 1974: In the said Act, in section 53,-

(a) In sub-section (1), for the words 'If the President is satisfied' the words and commas 'The President, is so advised by the Chairman of the Council' and for the word 'may' the word 'Shall' shall be substituted; and

(b) For sub-section (2), the following shall be substituted namely:-

(2) A proclamation shall be laid before a joint sitting which shall be summoned by the President to meet within thirty days of the Proclamation being issued and-

(a) Shall cease to be in force at the expiration of two months unless before the expiration of that period it has been approved by a resolution of the Joint sitting; and

(c) Shall, subject to the provisions of clause (a), cease to be in force upon a resolution disapproving the resolution being passed by the votes of the majority of the total membership of the joint sitting.

(2A) Notwithstanding anything contained in sub-section (2), if the Assembly stands dissolved at the time when the proclamation is issued, the proclamation shall continue in force for a period of four months but, if a general election to the Assembly is not held before the expiration of that period, it shall cease to be in force at the expiration of that period unless it has earlier been approved by a resolution of the council.

36. Amendment of section 56, Act VIII of 1974: In the said Act, in section 56, for the words and letters 'State of Jammu and Kashmir' under the UNCIP Resolutions the words, brackets and figures Matters specified in sub-section (3), of section 31' shall

be substituted.

37. **Insertion of new section 56A, 56B and 56C, Act VIII of 1974:**
In the said Act, after section 56, the following new sections shall be inserted, namely:-

‘56A Failure to comply with requirement as to time does not render an act invalid.- When any act or thing is required by this Act to be done with a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period.

56B Oath of office:-

(1) An oath required to be made by a person under this Act shall be made in a language that is understood by that person.

(2) Where, under this Act, an oath is required to be made before a specified person, and for any reason, it is impracticable, for the oath to be made before that person, it may be made before such other person as may be nominated by that person.

(3) Where, under this Act, a person is required to make an oath before he enters upon an office, he shall be deemed to have entered upon the office on the day on which he makes the oath.

56C Effect of repeal of laws:- Where a law is repealed, or is deemed to have been repealed, by under or by virtue of this Act, the repeal shall not, except as otherwise provided in this Act,-

- (a) Revive any thing not in force or existing at the time at which the repeal takes effect;
- (b) Affect the previous operation of the law or anything duly done or suffered under the law;
- (c) Affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;
- (d) Affect any penalty, forfeiture or punishment incurred in respect of any office committed against the law; or

- (e) Affect any investigation, legal proceeding or remedy in respect or any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

And any such investigation, legal proceedings or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.'

38. Amendment of section 57, Act VIII of 1974: In the said Act, in section 57, in sub-section (2);-

- (a) After the word 'including' the words 'the Supreme Court of Azad Jammu and Kashmir' shall be inserted; and
- (b) After the word 'Act' at the end, the words 'or an Act to amend it' shall be added.

39. Amendment of section 59, Act VIII of 1974: In the said Act, in section 59, sub-section (2) shall be omitted.

40. Amendment of the First Schedule, Act VIII of 1974: In the said Act, in the First Schedule:-

- (a) In the oath of Speaker of Legislative Assembly, after the word "Speaker" wherever occurring, including the heading, the brackets, and words, (or Deputy Speaker) shall be inserted.
- (b) after the oath of member of Legislative Assembly or Council the following new oath shall be inserted namely:-

Chief Justice of Azad Jammu and Kashmir-

Judge of Supreme Court of Azad Jammu and Kashmir

/See Section 42(6)/

I, ----- having been appointed Chief Justice of Azad Jammu and Kashmir (or Judge of the Supreme Court of Azad Jammu and Kashmir) do Solemnly swear that I owe allegiance to Allah and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment and will administer Justice according to the

- law in force in Azad Jammu and Kashmir, without fear or favour, affection or ill-will; and
- (c) After the oath of Chief Justice-Judge High court, the following new oaths shall be added, namely:-

OATH OF ADVISOR

See Section 21 (9)

I, -----, do hereby Solemnly swear in the name of Allah;

That I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan:

That I will perform my functions as Advisor honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Advisor;

So help me Allah;

AUDITOR-GENERAL

See Section 51 (2)

I, ----- do hereby solemnly swear in the name of Allah;

That, as Auditor-General of Azad Jammu and Kashmir,

1 will perform my functions honestly, faithfully, in accordance with the Azad Jammu and Kashmir Interim Constitution Act, 1974, and the law and to the best of my knowledge, ability and judgment, without fear or favour, affection or ill-will.

41. Amendment of the Third Schedule, Act VIII of 1974.- In the said Act, in the Third Schedule,-

- (a) In entry 26, for the words ‘Special Assistants’ the words “Advisor” shall be substituted; and
- (b) In entry 31, after the word “purpose” at the end, the words, ‘or the extension to Azad Jammu and Kashmir of the Jurisdiction of a Police force established in Pakistan for the investigation of offences committed in connection with matters concerning the Government of Pakistan’ shall be added.

42. Insertion of new Schedule, Act VIII of 1974: In the said Act, after the Third Schedule, the following new schedule shall be inserted, namely:-

‘FOURTH SCHEDULE’

See Section 42 (9)

1. There shall be paid to the Chief Justice of Azad Jammu and Kashmir a salary of Rs, 5,500 per mensem and to every other Judge of the Supreme Court of Azad Jammu and Kashmir a salary of Rs, 5,100 per mensem.
2. Every Judge of the Supreme Court of Azad Jammu and Kashmir privileges and allowance, and to such rights in respect of leave of absence and pension, as may be determined by the council, and until so determined, to be privileges, allowance and rights to which, immediately, before the commencement of this Act, the Judges of the Court were entitled.
3. The pension payable to a retired Judge of the Supreme Court of Azad Jammu and Kashmir shall not be less than Rs, 1,500 per mensem, or more than Rs, 1,950 per mensem, depending on the length of his service as Judge in the Court or a High Court.’

43. Amendment of the Fourth Schedule Act VIII of 1974: In the said Act, in the Fourth Schedule-

- (a) For the heading ‘Fourth Schedule’ the heading ‘FIFTH SCHEDULE’ shall be substituted; and
- (b) In paragraph 2, for the word ‘President’ the word ‘Council’ shall be substituted.

44. General Amendment, Act VIII of 1974: In the said Act, and in this Act, for the words ‘Judicial Board’ wherever occurring, the words ‘Supreme Court of Azad Jammu and Kashmir’ shall be substituted.

(Mohammad Akram Shah)

Deputy Secretary Law and Parliamentary Affairs
Azad Government of the State of Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated, the 25th November 1975.

No, 3610/ SL/ 75 The following Act of the Legislative Assembly received the assent of the President on the 25th day of November 1975, and is hereby published for general information:-

(ACT X OF 1975)

AN ACT to amend the Azad Jammu and Kashmir Legislative Assembly (Election) Ordinance 1970;

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Election) Ordinance 1970 (Ordinance X of 1970), in the manner hereinafter appearing;

It is hereby enacted as follows;

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Act, 1975.

(2) If shall come into force at once and shall be deemed to have taken effect on and from the 4th day of Sept 1975.
2. **Insertion of Section 15-A Ordinance X of 1970:** In the Azad Jammu and Kashmir Legislative Assembly (Election) Ordinance 1970 hereinafter referred to as the said Ordinance after Section 15, the following new section 15 A shall be inserted namely:-

15A Retirement from Election etc:-

- (1) A Contesting candidate may retire from the contest by notice in writing signed by him and delivered to the Returning Officer any day not later than seven days before polling day either by such candidate in person or by his propose or seconder authorized in this behalf in writing by such candidate.
- (2) A notice of retirement under sub-section (1) shall in no case be open to recall or cancellation.
- (3) On receiving a notice of retirement under sub-section (i) the Returning officer shall, if he is deemed that the Signature on the notice is that of the candidate cause a copy of the notice to be affixed at a conspicuous place in his office He shall publicise

this retirement in such other manner as deemed fit.

(4) A person in respect of whom a notice of retirement has been published under sub-section (3) shall cease to be a contesting candidate.

3. **Amendment of section 18, Ordinance X of 1975:** In the said Ordinance, in section (18), in sub-section (i) between the words and figures 'Section 15' and 'only one' the words and figures or where after retirement under section 15-A shall be inserted.

4. **Amendment of Section 35, Ordinance X of 1970.-** In the said Ordinance, in Section 35;

(1) In sub-section (4), clause (c), in sub clause (iv);

(a) The full-stop at the end shall be substituted by semicolon and there after the word "or" shall be added and

(b) After sub-clause (iv), the following new sub-clause (v) shall be added, namely:-

“v) mark in favour of a retired candidate;”

(2) In sub-section 12, after clause (i), the following new clause (j) shall be added namely;

(j) Allot papers marked in favour of a retired candidate.

5. **Amendment of Section 40, Ordinance X of 1970:** In the said Ordinance in Section 40, in sub-section (1), at the end the full-stop shall be omitted and thereafter the words or who has retired form the contest under section 15-A shall be added.

Sd/- (Mohammad Akram Shah)
Deputy Secretary, Law

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 25th November 1975.

No. 3611/ SL/ 75. The following Act of the Legislative Assembly received the assent of the President on the 25th day of November, 1975, and is hereby published for general information:-

(ACT XI OF 1975)

AN ACT to regulate the hours of work and other conditions of employment of road transport workers in Azad Jammu and Kashmir;

WHEREAS it is expedient to regulate the hours of work and other conditions of employment of road transport workers in Azad Jammu and Kashmir;

It is hereby enacted as follows:-

1. **Short title, extent and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Road Transport Workers Act, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come in to force at once.
2. **Definitions:** In this Act, unless there is any thing repugnant in the subject or context-

(1) 'Day' means a period of 24 hours beginning at midnight;

(2) 'Employer' means the owner of any road transport service where in which workers are employed, and where the business of such service is not directly managed by the owner, means the Manager, Agent or Representative of such owner in the said service and where the owner is a minor, the guardian of such minor, and in relation to any vehicle which is the subject of hire purchase agreement, the person in possession of the vehicle under that agreement;

(3) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(4) 'Hours of work' means the time during which the workers employed are at the disposal of the employer excluding any interval allowed for rest and meals;

(5) 'Prescribed' means prescribed by Rules made under this Act;

(6) 'Public Place' means a road, street, way or other place, whether a thorough fare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a vehicle;

(7) 'Road transport service' means a service carrying passengers or goods or both by road in vehicle for hire of reward;

(8) 'vehicle' means any mechanically propelled vehicle, used or capable of being used for the purposes of road transport and includes a frame care a trolley-vehicle and trailer;

(9) 'Week' means a period of seven days;

(10) 'Workers' means a person engaged on mobile duty, and includes drivers, cleaners, conductors and checkers employed by or in road transport service;

(11) 'Year' means a period of twelve months starting from the date a worker is employed in a road transport service and ending on the date immediately preceding in the following calendar year.

3. **Age Limit:** (1) No person, other than a driver, shall be employed in any road transport service unless he has attained the age of fifteen years.

(2) No person shall be employed in any road transport service for the purposes of driving a vehicle unless he has attained the age of twenty one years.

4. **Hours of work and rest:** (1) No workers shall be employed on a vehicle.-

(a) For more than five hours at a time before he has had an interval for rest of at least half an hour nor more than eight hours before he has had at least two such intervals;

(b) For more than nine hours in a day; and

(c) For more than fifty-four hours in a week.

(2) Every worker shall be entitled to have at least twenty-four hours of consecutive rest in week.

(3) The Government may, by rules made under section 10, grant such exemptions from the provisions of sub-section (1) and sub-section (2) as it thinks fit, to meet cases of emergency or of delay by reason of circumstances which could not be foreseen;

Provided that:

(a) No worker shall be employed over time in any year in excess of one hundred and fifty working hours; and

(b) The worker employed overtime shall be paid remuneration at the rate of his normal wages calculated by the hours.

(4) Whereas a result of the making of a rule exempting any worker from the provision of sub-section (2) a worker is deprived of any of the weekly hours of rest for which provision is made in the sub-section he shall be allowed, as soon as circumstances permit, compensating hours of rest of equal number so lost:

Provided that no worker shall be caused or allowed to work for more than consecutive days without a compensating rest for at least twenty four hours at one time.

(5) The Government, or if, authorized in this behalf by the Government by rules made under section 10, the competent authority, may require an employer to fix before hand the hours of work of the workers so as to conform with the provisions of sub-section (1) and may provide for the recording of the hours so fixed.

(6) No worker shall work or cause or allow any other worker to work outside the hours fixed recorded for the work of the said worker in compliance with any rule made under sub-section (2)

5. **Restriction on cumulative hours of work:** No worker shall work or be allowed to work on a vehicle or two or more vehicle in excess of the period during which he may be law-fully employed under this Act.

6. **Leave:** (1) In addition to the period of daily and weekly rest, every worker, who has been in continuous employment for a period of one year, shall be entitled to not less than 14 days leave with full pay or, if he has been continuously employed for a period of six months, he shall be entitled to not less than seven day's leave with full pay.

(2) For the purposes of computing the period during which a worker has been in continuous employment with in the meaning of sub-section (1), the period during which he was on leave under this section shall be included.

7. **Restriction on termination of service etc:** (1) The service of a worker shall not be terminated without sufficient cause not unless and until one months previous notice or one months pay in lieu thereof has been given to him and he has been paid his pay for any period of leave admissible to him of which he did not avail himself while in service.

(2) Nothing in sub-section (1) shall apply to the case of a worker whose service are terminated on account of his having been found guilty of miss-conduct.

Explanation.- For the purpose of this-subsection the following acts, and omissions shall be treated as misconduct, namely:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) Willful damage to or loss of employer's goods or property;
- (d) Taking or giving bribes or any illegal gratification.
- (e) Habitual absence without leave or absence without leave for more than 10 days;
- (f) Habitual late attendance;
- (g) Habitual breach of any law applicable to the establishment.
- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline.

- (i) Habitual negligence or neglect of work.
- (j) Sticking work or inciting others to strike work in contravention of the provisions of any law or rules having the force of law.

(3) If in any case instituted for the contravention of the provision of sub-section (1) the services of a worker are found to have been terminated without sufficient cause the amount payable as compensation under this section shall be in addition to any fine as payable under section 11.

(4) No person who has been awarded compensation under this Section shall bring a civil suit in respect of the same claim.

8. Maintenance of Register etc: (1) Every employer shall, in the prescribed form and in the prescribed manner, keep in the office of the road transport service a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to, every worker in accordance with the provision of this Act and particulars of all employment overtime shall be separately entered in the record.

(2) Every employer shall for the purposes of this Act maintain such other records and registers and display such notice or other documents as may be prescribed.

9. Inspection of registers and calling for information: It shall be the duty of every employer to produce for inspection of such inspectors as may be appointed by the Government all account or other records required to be kept of the purposes of this Act and to give such officer any other information in connection therewith as may be required.

10. Powers to make rules: The Government may make rules for the purposes of carrying into effect the provisions of this Act.

11. Penalties: Whoever contravenes any of the provision of this Act, or any of the rules made there under shall be liable on first conviction to fine not exceeding fifty rupees for the first offence and two hundred rupees for every subsequent offence provided that-

- (a) In the case of any contravention of the provisions of section 8, the employer shall be liable, on conviction to a fine not exceeding ten rupees for every day on which the contravention occurs or continues; and

- (b) If any employer, with intent to deceive makes, or causes or allows to be made in any record, registry, notice or other document as provided under section 8 an entry which is to his knowledge false in any material particular, or willfully omit or causes or allows to be omitted from any such record, register, notice or document an entry required to be made therein, shall be liable on conviction to simple imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees or both.

12. **Protection of action taken under the Act:** No suit, prosecution or other proceeding shall lie against any person for any thing which is in good faith done or intended to be done in pursuance of this Act or rules made there under.
13. **Repeal:** The Azad Jammu and Kashmir Road Transport workers Ordinance 1975 (Ordinance XXIV of 1975) is hereby repealed.

Sd/- (Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 25th November 1975.

No. 3612/ SL/ 75. The following Act of the Legislative Assembly received the assent of the President on the 25th day of November 1975, and is hereby published for general information.

(ACT XII OF 1975)

AN ACT to facilitate the collection of statistics of certain kinds relating to industries;

WHERE AS it is expedient to facilitate the collection of statistics of certain kinds relating to industries.

It is hereby enacted as follows:-

1. **Short title, extent and commencement:** (1) This Act may by called the Azad Jammu and Kashmir Industrial Statistics Act, 1975.
 - (2) It extents to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Act 'Prescribed' means prescribed in rules the made under this Act or in any form prescribed by the rules.
3. **Collection of statistics:** (1) The Government may be notification in the official gazette; direct that statistic shall collected relating to any of the following matters namely.
 - (a) Any matter relating to factories,-
 - (b) Any of the following matters so far as they relate to welfare of Labour and conditions of Labour namely:-
 - (i) Prices of commodities.
 - (ii) Attendance.
 - (iii) Living conditions, including housing, water supply and sanitation.
 - (iv) Indebtedness.

- (v) Rents of dwelling house.
- (vi) Wages and other earning.
- (vii) Provident and other funds provided for labours.
- (viii) Benefits and amenities provided for Labour.
- (ix) Hours of work.
- (x) Employment and unemployment.
- (xi) Industrial and Labour disputes, and thereupon the provisions of this Act, shall apply to the collection of those statistics.

(2) In clause (a) of sub-section (1), 'Factory' means a factory as define in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), or any premises deemed to be a factory pursuance of declaration made under sub-section (i) of section 5 of that Act.

4. **Appointment of Statistics Authority:-** The Government may appoint and officer to be the statistics authority for the purposes of the collection of any statistics under this Act.
5. **Delegation of Powers and Functions:-** The statistics authority may, with the previous approval of the Government, direct that all or any of the powers and functions to be exercised and performed by the statistics authority under this Act shall be exercised and performed by any other officer or authority subordinate to the Government subject to such conditions, if any, as may be specified in the direction.
6. **Power of Statistics Authority to call for returns and information:-** (1) the statistics authority may serve or cause to be served on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed such information or returns relating to any matter in respect of which statistics or to be collected and to such authority or person and in such manner and at such times as may be prescribed.

(2) The notice referred to in sub-section (1) may be served by post.
7. **Rights of Access to Record or document:-** The Statistics authority or any person authorized by him in writing in this

behalf shall for the purposes of the collected of any statistics under this Act have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Act.

8. Restriction on the Publication of Returns An information:-

(1) No individual return, and no part of an individual return, made, and no information with respect to any particular under taking given, for the purposes of this Act, shall without the previous consent in writing of the owner for the time being of the undertaking in which the return or information was made or given, or his authorized agent, be published in such manner as would enable any particulars to be identified as refereeing to particular undertaking.

(2) Except for the purposes of a prosecution under this Act or under the penal Code (XLV of 1860) no person not engaged in connection with the collection of statistics under this Act shall be permitted to see any individual return or information referred to in sub-section (1)

9. Penalties: If any person required to furnished any information or any return:-

- (a) Willfully refuses or without lawful excuse neglects to furnished such information or return as required under this Act, or
- (b) Willfully furnished or causes to be furnished any information or return which he know to be false, or
- (c) Refuses to answer or willfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act,

Or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 7, he shall for each offence be punished with fine which may extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for each day after the first during which the offence continues; and in respect of false information, return or answers the offence shall be deemed to continue until true information or true

return or answer has been given or made.

10. **Penalty for improper disclosure of information or returns:** If any person engaged in connection with collection of statistics under this Act willfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this act or for the purposes of the prosecution of an offence under this Act or under the penal Code (XLV of 1860), he shall be punishable with imprisonment for term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.
11. **Cognizance of offence:** No prosecution under section 8, shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 10 shall be instituted except by or with the sanction of the Government.
12. **Power of the Government to make rules:** The Government may, subject to the condition of previous publication by notification in the official Gazette, make rules of carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section regulating the exercise of the rights of access to documents and the right of entry conferred by section 7.
13. **Repeal:** The Azad Jammu and Kashmir Industrial Statistics Ordinance, 1975 (Ordinance XXII of 1975) is hereby repealed.

Sd/- (Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 24, 1975.

No. 3928/SL/75. The following Act of the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information:-

(Act XIII of 1975)

An Act to provide the law relating to the hours and other conditions of work and employment of persons employed in shops and commercial, industrial and other establishments in Azad Kashmir and matters connected, therewith.

Preamble. Whereas it is expedient to provide the law relating to the hours and other conditions of work and employment of persons employed in shops and commercial, industrial and other establishments In Azad Kashmir and matters connected therewith,

It is hereby enacted as follows:-

1. **Short title, Extent commencement and application:** (1) This Act may be called the Azad Jammu and Kashmir shops and establishments Act, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir territory.

(3) It shall come in to force at once.

(4) Government may, by notification in the official Gazette extend the operation of this Act or any provision thereof to any area or establishment, or exclude any area or establishment to which it extends, from its operation.
2. **Definitions.** In this Act, unless the context otherwise requires:-
 - (a) “adult” means a person who has completed his seventeenth year of age;
 - (b) “apprentice” means a person who is employed, whether on payment of wages or not, for the purposes of being

trained in any trade, craft or employment in any establishment;

- (c) "child" means a person who has not completed his twelfth year of age;
- (d) "close" means not open for the service of any customer or to any business connected with the establishment;
- (e) "commercial establishment" means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes:-
 - (i) a society registered under the Societies Registration Act, 1860 (XXI of 1960), and a charitable or other trust, whether Registered or not which carries on, whether for purposes of gain or not, any business, trade or profession, or any work in connection with or incidental or ancillary thereto;
 - (ii) an establishment wherein there is conducted the business of advertising, commission, forwarding or a commercial agency;
 - (iii) a clerical department of a factory or of any industrial or commercial undertaking;
 - (iv) an insurance company, joint stock company, bank, brokers, offices of exchange and office of lawyers, income-tax practitioners, registered accountants, contractors and engineers;
 - (v) such other professional establishments or class thereof as Government may, by notification in the official Gazette, declare to be commercial establishments for the purposes of this Act;

but does not include a factory, shop, residential, hotel, restaurant, eating house, theatre or other place of public amusement or entertainment ;
- (f) "day" means the period of twenty-four hours beginning at midnight, provided that in the case of an employee, whose hours of work extend beyond mid-night, day

means the period of twenty-four hours beginning when such employment commences, irrespective of mid-night;

- (g) "employee" means any person employed whether directly or otherwise, about the business of an establishment for the owner or occupier thereof, even though he receives no reward or remuneration for his labour, but does not include a member of the employer's family;
- (h) "employer" means a person owning or having charge of the business or an establishment, and includes an agent or manager or any other person acting on behalf of such person in the general management or control of such establishment;
- (i) "employer's family" means the employer's husband or wife, as the case may be, sons, daughters, father, mother, and brothers and sisters living with and dependent on the employer;
- (j) "establishment" means a shop, commercial establishment, industrial establishment, private dispensary, maternity home, residential hotel, restaurant, eating house, Cafe, cinema, theatre, circus, or other place of public amusement or entertainment, and such other establishments, or class thereof as Government may, by notification in the official Gazette, declare to be establishments, for the purposes of this Act;
- (k) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934);
- (l) "form" means a form specified in the schedule;
- (m) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (n) "hours of work or working hours" with reference to an establishment means the time during which the employees in the establishment are at the disposal of the employer, exclusive of any interval allowed for rest and meals;
- (o) "industrial establishment" means a workshop or other establishment in which the work of making, altering, repairing, ornamenting, finishing or packing or

otherwise treating any article or substance with a view to its use, sale, transport, delivery, or disposal is carried on, or where any such service is rendered to a customer, and includes such other class or classes of establishments as Government may, by notification in the official Gazette, declare to be industrial establishments for the purposes of this Act, but does not include a factory;

- (p) "permanent employee" means an employee who has been engaged on a permanent basis, and includes an employee who has completed nine month's continuous service in one or different occupations in the same establishment, including breaks due to sickness, accident, leave, illegal lock-outs, legal strikes or involuntary closure of the establishment, and has satisfactorily completed a probationary period of three months;
- (q) "prescribed" means prescribed by rules made under this Act;
- (r) "residential hotel" means any premises in which a bona-fide business is carried on for the supply of dwelling accommodation and meals on payment of a sum of money by a traveler or any other member of the public or class of the public and includes a club;
- (s) "restaurant" and "eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;
- (t) "retail trade" includes the business of a barber or hairdresser, the sale of refreshments and sales by auctions;
- (u) "shop" means any premises used, wholly or in part for the whole-sale or retail sale of commodities or articles, either for cash or on credit, or where services are rendered to customers, and includes an office, a storeroom, godown, ware house or place of work, whether in the same premises or otherwise, mainly used in connection with such trade or business;
- (v) "temporary employee" means an employee who has been engaged for work which is of an essentially temporary

nature likely to be finished within a period not exceeding nine months;

- (w) "wages" means wages as defined in the payment of Wages Act, 1936 (IV of 1936);
- (x) "week" means a period of seven days beginning at mid-night on Thursday-night;
- (y) "young person" means a person who is not a child, has not completed his seventeenth year of age.

3. **Reference to time of day:-** Reference to time of day in this Act are references to Pakistan standard time.

4. **Power to grant exemptions:-** Government may, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Act any establishment or any class thereof or any employer or employee or class of employers or employees on such conditions as it may think fit.

5. **Act not Applicable To Certain Establishment and Person:-**

(1) Nothing in this Act shall apply to :-

- (i) offices of or under the Azad Government of the State of Jammu and Kashmir,
- (ii) offices of or under any local authority, a trust, a corporation or any other public statutory body which is not run for profit or gain or in the course of its business does not make any profit or gain;
- (iii) shops or stalls in any public exhibition or show, in so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main, purpose of such exhibition or show;
- (iv) shops or stalls in any public fair or Bazar held for religious or charitable purposes;
- (v) Clubs, hostels, and messes not maintained for profit or gain;
- (vi) establishments for the treatment or care of the sick, infirm, destitute or mentally unfit persons;

- (vii) any person employed as manager, traveling agent, canvasser, messengers, watchman, caretaker or conservancy staff or any person employed exclusively in connection with the collection, dispatch, delivery, and conveyance of, or custom formalities on goods;
- (viii) any person employed for the business of any shop or commercial establishment mentioned in clause (i) to (vii).

(2) Nothing in clause (a) of sub-section (1) of section 6 and in section 7 shall apply to :-

- (i) clubs, hostels and messes maintained for profit or gain, so far as service and attendance upon customers is concerned;
- (ii) shops dealing solely in any vegetables, meat, fish, daily products, bread, pastries, sweet-meats and flowers, so far as the sale of these articles is concerned;
- (iii) shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites, so far as the sale of these articles is concerned;
- (iv) shops dealing in articles required for funerals, burials or cremations, so far as the sale of these articles is concerned;
- (v) shops dealing mainly in tobacco, cigars, cigarettes, pipes, pan, liquid refreshments sold retail for consumption on the premises, ice, newspapers or periodicals, so far as the sale of these articles is concerned;
- (vi) automobile service stations (not being repair shops) and petrol pumps for the retail sale of petrol;
- (vii) barbers and hair-dressers shops, so far as service to customers is concerned;
- (viii) cinemas, theatres and other places of public entertainment.

(3) Notwithstanding anything contained in sub - section (2), Government may, by general or special order, fix the opening and closing hours for all or any of the classes of establishments specified therein.

(4) Notwithstanding anything contained in sub-section (1) and (2), Government may, by notification in the official Gazette, direct that any of the establishments or persons specified therein shall not be exempted from the operation of such provisions of this Act as are specified in such notification, and thereupon the provisions of this Act specified in such notification shall apply to such establishments or persons.

6. **Weekly Holiday in Establishments:-** (1) (a) Except as otherwise provided in this Act, every establishment shall remain entirely closed for at least one day in each week.

(b) Every person employed in any establishment shall, in addition to the leave and holidays as may be admissible to him under sections 14, 15 and 16, be allowed as holiday, one day in each week, and such holiday may be on the day on which the establishment is closed under clause (a).

(2) No deduction on account of any holiday allowed under sub-section (1) shall be made from the wages of any employee of any establishment.

(3) if an employee is employed on daily wages, he shall non-the-less be paid his daily wages for the holiday, and where an employee is paid on piece-rate, he shall receive for the holiday the average of the wages received during the week.

(4) the day on which an establishment shall be entirely closed shall be either Friday or Sunday.

(5) The choice of closed day shall rest with the employer, who shall intimate such choice to the prescribed authority:-

a) In the case of an establishment existing at the time this Act comes into force, within two months thereof; and

b) In the case of an establishment set up after coming into force of this Act, or to which the provisions of this Act are subsequently applied, within two months of the

setting up of the establishment or the application of the provisions of this section thereto, as the case may be.

(6) An employer who has intimated his choice of (a) closed day under the provisions of sub-section (5) shall not change the closed day for the establishment without the prior approval in writing of the prescribed authority.

7. **Opening and Closing Hours of Establishments:-** (1) No establishment shall on any day remain open after 8 p.m. in winter and 9 p.m. in summer:

Provided that any customer who was being or was waiting in the establishment to be served at such hours, may be served during the period of thirty minutes immediately following such hours:

Provided further that Government may by notification in the official Gazette, fix any other hour after which establishments generally or any class of establishment shall not remain open.

(2) Every employer shall display, at a prominent place in the establishment, a board specifying the hours during which the establishment will remain open.

(3) No employee shall be required or permitted to work continuously in any establishment for more than six hours in the case of an adult and for more than three and half hours in the case of a young person, unless he has been allowed an interval for rest or meals, of not less than one hour.

(4) Except with the permission of Government, no women or young person shall be employed in any establishment otherwise than between the hours of 9-00 a.m. and 7-00 p.m.

8. **Daily, Weekly hours and over-time:-** Save as otherwise expressly provided in this Act, no adult employee shall be required or permitted, to work in any establishment in excess of nine hours a day and forty-eight hours a week, and no young person in excess of seven hours a day and forty-two hours a week:

Provided that in any day or in any week, in which there occurs stocktaking, making up of accounts, settlement or such other business operation, and during such other periods as may

be prescribed, an adult employee of an establishment may be required or permitted to work over-time in such establishment for more than nine hours in such day and for more than forty-eight hours in such week, and a young person for more than seven hours in such day and for more than forty-two hours in such week, but so that the total number of hours so worked by an adult does not, exceed one hundred and fifty hours and by a young person one hundred hours in any one year.

9. **Over-time Wages:-** When any employee is required to work over-time in any establishment, as provided in the proviso to section 8, the wages payable to such employee in respect of such over-time work shall be calculated at double the ordinary rate of wages payable to him.
10. **Spread-over:-** The period of work of an adult and a young person shall be so arranged that inclusive of the interval for rest or meals under section 7, it shall not spread-over more than ten hours in winter and eleven hours in summer in the case of an adult, and nine hours in winter and eight hours in summer in the case of a young person.
11. **Time and conditions of payment of wages:-** (1) Every employer or his agent or the manager of an establishment shall fix the period in respect of which wages to employees shall be payable and shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act.

(2) No wage period, so fixed, shall exceed one month.

(3) The wages of every employee in any establishment shall be paid on a working day before the expiry of the seventh day of the last day of the wages period in respect of which the wages are payable.

(4) All wages shall be paid in legal tender.

(5) Where the employment of any person is terminated by or on behalf of the employer, the wages and other dues earned by such person shall be paid before the expiry of the second working day after the day on which his employment is terminated.
12. **Claims arising out of delay in payment of wages and penalty for malicious or vexatious claims:-** (1) Government may by notification in the official Gazette, appoint any person to be the

authority to hear and decide for any specified area all claims arising out of delay in the payment or non-payment of the wages of employees in that area.

(2) When contrary to the provisions of this Act, wages of any employee have been delayed or with-held, such, employee himself or through any other person, when he may authorise in this behalf, may within four months from the day on which such payment was to be made apply to the authority appointed under sub-section (1):

Provided that an application may be admitted after the said period of four months but not later than six months, if the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages or give them an opportunity of being heard and, after such further inquiry, if any, as may be necessary may without prejudice, to any other penalty to which such employer or other person is liable under this Act, direct that payment be made to the applicant of delayed wages together with the payment of such penalty, not exceeding fifty rupees, as the authority may fix.

Provided that no direction for the payment of penalty shall be made in the case of delayed wages if the authority is satisfied that the delay was due to:-

- (a) a bona-fide error or bone-fide dispute as to the amount payable to the employee ; or
- (b) the occurrence of an emergency, or the existence of such exceptional circumstances that the person responsible for the payment of the wages was unable to make prompt payment ; or
- (c) the fault of the employee.

(4) If the Authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered:-

- a) if the authority is a Magistrate, by the Authority as if it were a fine imposed by his as Magistrate, and
- b) if the Authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate.

(6) An appeal against a direction made by the Authority under sub-section (3) or sub-section (4) may be preferred to the District Court within thirty days of the date on which the direction was made:-

- a) by the employer or other person responsible for the payment of wages under section 11 if the total sum directed to be paid by way of wages and penalty exceeds one hundred rupees ; or
- b) by an employee, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees; or
- c) by any person directed to pay a penalty under subsection (4).

(7) If there is no appeal, the direction of the authority made under sub-section (3) or sub-section (4) shall be final, and where there is an appeal as provided in sub-section (6) the decision in appeal shall be final.

(8) An authority appointed under sub-section (1) shall for the purposes of determining any matter referred to in sub-section (3) or sub-section (4):-

- a) have all the powers as are vested in a Civil Court under the Code of Civil Procedure 1908 (V of 1908), for enforcing the attendance of witnesses, compelling the production of documents, and the taking of evidence; and

- b) be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 {V of 1898).

13. **Bar of Suits:-** No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed. :-

- a) forms the subject of an application made under subsection (2) of section 12, which is pending before the authority appointed under sub section (1) of that section, or of an appeal under subsection (6) of the said section ;
- b) has formed the subject of a direction made under subsection (3) of section 12 ;
- c) has been adjudged in any proceedings under section 12 not to be owed to an employee ; or
- d) could have been recovered by an application under section 12.

14. **Annual Leave:-** (1) Every employee shall be allowed leave with full wages for a period of fourteen days after continuous employment in an establishment, whether in the same or different capacities, for a period of twelve months.

(2) If an employee does not in any period of twelve months avail of the whole or any part of the leave allowed to him under sub-section (1).-

- (a) any leave not availed of by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months; provided that when the total leave due to an employee under this section, amounts to thirty days, no further accumulation of or addition to such leave shall be permissible ;
- (b) he may, at his request, in lieu of the leave not availed of by him, be paid by the employer full wages for such leave.

(3) For the purposes of computing the period during which an employee has been in continuous employment within the

meaning of sub-section (1), the period during which he was on leave under this section or section 15 and 16, shall be included.

15. **Casual and Sick Leave.-** (1) Every employee shall be entitled to casual leave with full wages for ten days in a calendar year. Such leave shall not ordinarily be granted for more than three days at a time and shall not be accumulated.

(2) Every employee shall be entitled to sick leave with full wages for a total period of eight days in every year. Such leave, if not availed of by any employee during a calendar year may be carried forward, but the total accumulation of such leave shall not exceed sixteen days at any one time.
16. **Festival Holidays.-** Every employee shall be allowed ten days Festival holidays with full wages in a year. The days and dates for such festival holidays shall be notified to employees by the employer in the beginning of the calendar year.
17. **Wages During Leave or Holiday Period.-** (1) For each day of the leave or holidays allowed to an employee under section 14, 15 and 18, he shall be paid at the rate equivalent to the daily wage amount which, during the three months proceeding the leave or holidays, was being earned by the employee.

(2) An employee, who has been allowed leave under section 14 for any period not less than four days in the case of an adult and five days in the case of a young person, shall before the leave begins, be paid his wages for the period of the leave allowed.
18. **Section 14, 15, 16, and 17 not to apply to certain establishments.-** The provisions of sections 14, 15, 16, and 17 shall not apply in relation to employees employed in commercial establishments as defined in Clause (b) of section 2 of the Azad Jammu & Kashmir Industrial and Commercial Employment (Standing Orders) Act, 1975.
19. **Termination of Employment:-** (1) For terminating of employment of a permanent employee, one month's notice in writing shall be given either by the employer or by the employees and in lieu of notice, one month wages calculated on the basis of average of wages earned during the preceding three months shall be paid.

(2) No temporary employee, whether monthly rated, weekly rated or daily rated, and no apprentice shall be entitled to any notice or pay in lien thereof if his services are terminated but the services of temporary employee shall not be terminated as a punishment unless he has been given an opportunity or explaining the charge, leveled against him.

20. **Prohibition of Employment of Children:-** No child shall be required or allowed to work in any establishment.
21. **Counteracting out:-** Any contract or agreement, whether made before or after the commencement of this Act whereby an employee relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.
22. **Guarding of Machinery:-** In every industrial establishment all mechanically or electrically propelled machinery shall be guarded in the prescribed manner.
23. **Maintenance of records and Registers:-** Every employer shall, for the purpose of this Act, maintain such records and registers and furnish such information as may be prescribed.
24. **Registration of establishment and fee for Registration:-** (1) Every establishment, either than one man shop, as hereinafter defined, and factories employing clerical staff within the factory premises, shall be registered with the Deputy Chief Inspector for the area within which such establishment is situated,

(2) An application for registration of an establishment shall be made by the employer in form 'A' and shall be accompanied by a treasury chalan under Head "XXXII Industries" sub-head Registration fee of shops for an amount of :-

Rs. 2.00 in the case of an establishment employing 1 to 5 workers,

Rs. 3.00 in the case of an establishment employing 6 to 10 workers,

Rs. 5.00 in the case of an establishment employing 11 to 20 workers,

Rs. 10.00 in the case of an establishment employing more than 20 workers.

Explanation:- For the purposes of this section, "one man shop" means a shop run by an employer or by any member of his family without engaging an employee.

(3) An application for registration of an establishment shall be made:-

- (a) in the case of an establishment existing at the time this Act comes in to force, within three months thereof, and
- (b) in the case of an establishment set up after the coming into force of this Act or to which the provisions of this Act are subsequently applied, within two months of the setting up of the establishment or the application of this Act thereto, as the case may be.

(4) On receipt of the application and the fees specified in sub section (2), the Deputy Chief Inspector shall, on being satisfied about the correctness of the application, register the establishment in the Register of establishments to be maintained in form 'B' and shall issue a registration certificate to the employer in form 'C'.

(5) The registration certificate shall be prominently displaced by the employer at the establishment and shall be renewed after every two years on depositing fee as prescribed in sub-section (2).

25. **Appointment of Chief Inspector Deputy Chief Inspectors & Inspectors:-** (1) Government may, by notification in the official Gazette, appoint;

- (a) a Chief Inspector of shops for the whole of Azad Jammu and Kashmir Territory;
- (b) Deputy Chief Inspectors of shops for such areas as may be notified; and
- (c) such persons or class of persons as it thinks fit to be inspectors for the purposes of this Act within such local limits as may be specified by Chief Inspector of Shops.

(2) The Chief Inspector of shops and the Deputy Chief Inspectors of shops:-

(a) shall supervise the work of Inspectors appointed under clause (c) of sub-section (1) in such manner as may be prescribed ; and

(b) may exercise all or any of the powers of an Inspector.

(3) The Chief Inspector of shops, Deputy Chief Inspectors of shops and Inspectors appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Azad Penal Code.

26. **Powers of Inspectors-** An Inspector appointed under section 25 may, for the purposes of this Act and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, an establishment, with such assistants, if any, being persons in the service of Government, and make such examination of that place or of any prescribed record, register, or other documents maintained therein, and may require such explanation of any prescribed record, register or other documents and do all such things as he considers necessary for the purpose of this Act.

27. **Penalties.-** (1) If any employer with intent to deceive, makes or causes or allows to be made, in any register, record or notice required to be maintained under the provisions of this Act or the rules made there-under, any entry or willfully omits or causes or allows to be omitted from any such register, record or notice, any entry, which is required to be made there-under, or maintains or causes or allows to be maintained more than one set of any such register, record or notice except the office copy of such notice, or sends or causes or allows to be sent to an Inspector any statement, information or notice required to be sent under the provisions of this Act, or the rules made there under, which to his knowledge is false in any material particulars, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees.

(2) Where contravenes any of the provisions of section 6, 7, 19 or 20 shall, on conviction be punishable with fine which for the first offence may extend to rupees two hundred and fifty and for a second or subsequent offence with line which may extend to rupees five hundred or with simple imprisonment which may extend to three months, or with both.

(3) Whoever contravenes any other provision of this Act shall, on conviction be punishable with fine which for first offence may extend to rupees one hundred and fifty, and for a second or any subsequent offence with fine which may extend to five hundred or with rupees two hundred and fifty or with simple Imprisonment which may extend to three months, or with both.

28. **Procedure:-** (1) No prosecution under this Act or any rules made there under shall be instituted except by or with the previous sanction of an Inspector, or other officer or authority specially empowered by Government in this behalf.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made there under.

29. **Limitation of prosecutions.-** No Court shall take cognizance of any offence punishable under this Act or any rules made there under unless complaint thereof is made within three months from the date of which the alleged commission of the offence comes to the knowledge of an Inspector.

30. **Indemnity.** No suit, prosecution or legal proceedings shall lie against any person in respect of any thing done in good faith under this Act or the rules there under.

31. **Delegation of powers.-** Government may, by notification in the official Gazette, delegate all or any of its powers under this Act or the rules there under to any subordinate authority or agency as may be considered expedient by it.

32. **Power to make rules.-** (1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In making rules under this section, Government may direct that any person on committing breach thereof shall, on conviction, be punishable with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees for every day, after the first, during which the breach continues.

33. **Saving of certain Rights and Privileges.-** Nothing in this Act shall affect any right or privilege to which an employee is entitled on the date of the commencement of this Act under any law for the time being in force or under any award, agreement,

settlement, contract, custom or usage which is in force on that date, if such right or privilege is more favorable to him than any right or privilege conferred upon him by this Act.

34. **Repeal:-** The Azad Jammu and Kashmir Shops and Establishment Ordinance, 1975, (Ordinance XXI of 1975) is hereby repealed.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary,
Law and Parliamentary Affairs,
Azad Government of the State of J&K.

SCHEDULE

(See Section (2) (1) and Section 24)

FORM 'A'

APPLICATION FORM:

1. Name of the establishment, if any.
2. Postal address of the establishment.
3. Full name of the employer (including his father's name).
4. Full name of the manager, if any (including his father's name).
5. Category of the establishment, i.e. whether a shop, Industrial establishment, commercial establishment, residential hotel, restaurant, eating house theatre or other place of public amusement or entertainment.
6. Total number of employees sale separately the number of men, women and/or young persons (if any).
7. Date on which the establishment commenced its work.
8. I hereby declare that the details given above are correct to the best of my knowledge.

Dated:-

Signature of the employer.

Note:-

This statement shall be sent to the Deputy Chief Inspector of the area concerned with such fees as are prescribed in section 24 (2) of the Azad Jammu and Kashmir Shops and Establishment Act, 1975.

Signature

Form 'B'

Registrar of Establishment

Part I – Shops.

Parti II – Commerical Establishment.

Part III – Residential Hotels.

Part IV – Resturants and Eating Houses.

Part V – Theatres and other places of public Amusement of Entertainment.

S. No.	Registration certificate No.	Name of manager, if any	Name of employee	Postal address of the establishment	Name and the Nature of establishment	Nature of the Business	Number of members of the employer's family.
							Male Female Your person
1	2	3	4	5	6	7	8

Number of the persons occupying managerial positions and employees engaged in confidential capacity	Total number of employees	Date of Inspection	Date of Registration	Date of renewal
	Aduit Young persons			
9	10	11	12	13

Form 'C'

Name of establishment, if any.

Name of the employer,

Postal address of the establishment.

Registration No.

It is hereby certified that the establishment as mentioned herein has been registered as a under the Azad Jammu and Kashmir Shopt's and Establishments Act, 1975 this day of

Chief Inspector of Shops
Azad Kashmir

RENEWALS

Date of Renewal	From	To	Signature of the Chief Inspector of Shops with seal.
Here insert category of the Establishment			

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 24, 1975

No, 3929/ SL/ 75 The following Act the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information.

(ACT XIV OF 1975)

AN ACT to fix the minimum rates of wages for unskilled workers employed in certain commercial and industrial establishments in Azad Kashmir.

PREAMBLE:

WHEREAS it is expedient to fix the minimum rates of wages for unskilled workers employed in certain commercial and industrial establishments in Azad Kashmir:

It is hereby enacted as follows:-

- 1. Short title, extent, commencement and application:-** (1) This Act may be called the Azad Jammu and Kashmir minimum wages for unskilled workers Act 1975.
 - (2) It extends to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall come into force at once.
 - (4) It shall apply to every commercial and industrial establishment where in fifty or more persons are employed or were employed on any day during the proceeding twelve months, but shall not apply to:-
 - (a) Any establishment, undertaking or installation relating to the Defense service, Civil Armed Forces, Postal, telegraph and telephone services, ports, fire-fighting services, electricity, gas, water-supply, public conservancy and hospitals, and
 - (b) Any establishment or undertaking, which Government; by notification in the official Gazette, declares to be engaged in a public utility service for the purposes of this Act.

2. **Definition:** In this Act, unless the context otherwise requires-
- (a) ‘Apprentice’ means a learner who is paid an allowance during the period of training;
 - (b) ‘Commercial establishment’ means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employer workmen, a unit of a Joint-stock company, an insurance company, a banking company or a bank a broker’s office or stock exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act;
 - (c) ‘Employer’ means a person owing or having charge of the business of commercial or industrial establishment and includes an agent or manager or any other person acting on behalf of such person in the general management or control of such establishment.
 - (d) “Government” means the Azad Government of the State of Jammu and Kashmir.
 - (e) “Industrial area” means the districts of Muzaffarabad, Mirpur Poonch, and Kotli;
 - (f) “Industrial establishment” means:-
 - (i) A mine or quarry;
 - (ii) A workshop or other establishment in which the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view of its use, as sale, transport, delivery or disposal is carried on, or where any such service is rendered to a customer; and
 - (iii) Any other establishment which Government may, by notification in the official Gazette,

declare to be an industrial establishment.

- (g) “Wages” means all cash remuneration payable to a workman, and includes dearness allowance, house rent, conveyance allowance, any other fixed allowance but does not includes traveling allowance, gratuity or bonus;
- (h) “Unskilled worker” means a worker employed to be unskilled, Labour; and
- (i) “Worker” means any person employed in a commercial or industrial establishment.

3. **Minimum wages in commercial and industrial establishment:-** Every unskilled worker, other than an apprentice, employee in commercial or industrial establishment situated in an area specified in column 1 of the schedule, shall be paid wages at a rate not lower than the minimum wages per months specified against such area in column 2 of the schedule;

Provided that where an employer provides housing accommodation to a worker, he may deduct from the wages of such worker, an amount not exceeding that specified in column 3 of the Schedule, and where the employer provides a worker with transport to and from the place of work, he may deduct form the wages of such a worker an amount not exceeding that specified in column 4 of the Schedule.

Explanation: In this section, months means a normal working period of twenty six days, calculated at the rate of forty-eight hours of work per week.

4. **Responsibility for payment of Minimum wages:** Every employer shall be responsible for the payment of minimum wages required to be paid under this Act to all unskilled workers, employed, either directly or through a contractor, in his commercial or industrial establishment.

5. **Agreements under Duress to be void:** All agreement arrived at between the employers and the workers under duress shall, form the date of coming into force of this Act, be void.

Explanation: In this Section the word “Under duress” includes circumstances in which due to fear either party is in state of mental incompetence to resist pressure improperly brought to bear due to violence or threat of violence.

6. **Effect of Laws, Orders, agreements, etc, inconsistent with this Act:** The provision of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any order or notification made or issued under any such law or in any award, agreement or contract of service;

Provided that where under any such law, order, notification, award, agreement or contract of service, other than an agreement declared to be void under section 5, and unskilled worker is entitled to wages which are higher than the minimum wages required to be paid under this Act, he shall continue to be paid such higher wages.

7. **Penalty:** Any employer who contravenes any provisions of this Act shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both.
8. **Cognizance of offences:** No Court shall take cognizance of any offence under this Act save on complaint made by an aggrieved worker or by an officer of a registered trade union of which such worker is a member, or any person authorized in this behalf by Government.
9. **Repeal:-** The Azad Jammu and Kashmir Minimum Wages for unskilled worker Ordinance, 1975 (Ordinance XXIII of 1975) is hereby repealed.

Sd/- (Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 24, 1975.

No. 3930/ SL/ 75. The following Act of the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information:-

(ACT XV OF 1975)

AN ACT to Provide for the law relating to industrial an commercial employment in the Azad Jammu and Kashmir.

Preamble:

WHEREAS it is expedient to provide for the law relating to industrial employment in the Azad Jammu and Kashmir; it is hereby enacted as follows:-

1. **Short title extent and Commencement:** (1) This Act may be called the Azad Jammu and Kashmir Industrial and commercial employment (Standing Orders) Act, 1975.
 - (2) It shall extent to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
 - (4) It applies to-
 - (a) Every industrial establishment or commercial establishment where in twenty or more workman are employed, directly or through any other person whether on behalf of himself or any other person, or where so employed on any day during the preceding twelve months; and
 - (b) Such classes of other industrial and commercial establishments as Government may, from time to time, by notification in the official Gazette, specify in this behalf;

Provided that noting in this Act shall apply to industrial and commercial establishment carried on by or under the authority of the Government where statutory rules of service conduct or discipline are applicable to the workman employed therein;

Provided further that the provisions of standing orders 1911 and 13 clauses (6) and (8) of standing order 15 and standing orders, 19 shall not apply, in the first instance, to any industrial establishment where in not more than forty nine persons were employed on any day during the preceding twelve months but Government may, by notification in the official Gazette extend all or any of the said provisions to any such industrial establishment or any class of such establishment.

2. Definitions: In this Act, unless there is anything repugnant in the subject of context-

- (a) “Collective agreement” means an agreement in writing, intended to specify the conditions of employment, and entered into between one or more employers on the one hand and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other;
- (b) “Commercial establishment” means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employs workman, a unit of a joint stock company, an insurance company a banking company or a bank, a broker’s office of stock exchange, club a hotel a restaurant or an eating house, a cinema or theater, and such other establishment or class thereof, as government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act;
- (c) “Construction industry” means an industry engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any building pier, canal, inland waterway, road, tunnel, bridge, dame viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the functions of, any such work or structure;
- (d) “Employer” means the owner of an industrial or

commercial establishment to which this Act, for the time being applies, and includes.

- (i) In a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934) as manager of the factory;
- (ii) In any industrial establishment under the control of any department of the Government, the authority appointed by such Government, in this behalf, or where no such authority is so appointed, the head of the department;
- (iii) In any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such establishment;
- (e) “Go-slow” means an organized, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner and which is not due to any mechanical defect, break-down of machinery failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;
- (f) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (g) “Industrial establishment” means:-
 - (i) An industrial establishment as defined in clause (ii) of section 2 of the payment of wages Act 1936 (iv of 1936), or
 - (ii) A factory as defined in clause (1) of section 2 of the factories Act, 1934 (XXV of 1934); or
 - (iii) The establishment of a person who, for the purposes of fulfilling a contract with the owner of any industrial or commercial establishment, employs workmen; or
 - (iv) The establishment of a person who, directly or indirectly employs workman in connection with any construction industry;

- (h) “Standing Orders” means the order contained in the schedule, read with such modifications, if any, as may be made in pursuance of the provisions of section 4;
- (i) “Trade union” means a trade union for the time being registered under the Azad Jammu and Kashmir Industrial Relations Ordinance, 1974;
- (j) “Workman” means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical work for hire or reward.

3. **Enforcement of Standing Orders:** In every industrial or commercial establishment, conditions of the employment of workman and other incidental matters shall, subject to the other provisions of this Act, be regulated in accordance with the Standing Orders.

4. **Modification of Standing Orders:** The standing order may be modified by means of a collective agreement and not otherwise;

Provided that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workman under the provisions of the schedule.

5. **Posting of Standing Orders:** The text of the Standing orders shall be prominently posted and kept in a legible condition by the employer in Urdu, on special boards to be maintained for the purpose at or near the entrance through which the majority of the Workman Enter the industrial or commercial establishment and in all department thereof where the work-men are employed.

6. **Inspector:** (1) The Inspector appointed under section 10 of the factories Act, 1934 (XXV of 1934), and such other persons, not being conciliators appointed under the Azad Jammu and Kashmir industrial relation Ordinance, 1974, as Government may, by notification in the official Gazette, appoint, shall be the inspectors for the purposes of this Act within the local limits signed to each.

(2) An Inspector may at all reasonable hours enter on any premises and makes such examination of any register or document relating to the maintenance or enforcement of the standing orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as

he may deem necessary for carrying out the purposes of this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the penal Code (XLV of 1860)

7. **Penalties and procedure:** (1) An employer who modifies the Standing orders as applicable to his industrial or commercial establishment, otherwise than in accordance with section 4, shall be punishable with fine which may extend to five thousand, rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.

(3) Whoever contravenes any of the provisions of this Act, shall if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

(4) Whoever, having been convicted of any offence punishable under sub-section (1),(2) or (3) again commits such offence shall, on conviction, be liable to double the punishment prescribed for such offence under the aforesaid sub-section.

(5) No prosecution for an offence punishable under this Act shall be instituted except by, or with the previous permission in writing of, the Inspector.

(6) No Court inferior to that of a Magisterial of the first class shall try offence under this Act.

8. **Power to Exempt:** Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any industrial or commercial establishment or class of such establishment from all or any of the provisions of this Act.

9. **Protection of Existing Conditions of Employment:-** Nothing in this Act shall affect any law, custom, usage, award or agreement in force immediately before the enforcement of this Act in so far as such law, custom, usage, award or agreement ensures conditions of employment more favourable to workman than those provided in the Standing Orders.

**SCHEDULE
STANDING ORDERS**

Section 2 (h)

1. Classification of workman:

- (a) Workman shall be classified as:-
 - (1) Permanent,
 - (2) Probationers,
 - (3) Badlis,
 - (4) Temporary,
 - (5) Apprentices,
- (b) A permanent workman is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment including breaks due to sickness, accident, leave lockout, (not being ill legal lock out or strike) or involuntary closure of the establishment and includes a “badli” who has been employed for a continuous period of three months who has been employed and eighty-three days during any period of twelve consecutive months.
- (c) A Probationer’ is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period of three months, be reverted to his old permanent post.
- (d) “Badli” is a workman who is appointed in the post of permanent workman or probationer who is temporarily absent.
- (e) A temporary workman is a workman who has been engaged for work, which is of an essentially temporary nature likely to be finished within a period not exceeding nine months.
- (f) An “apprentice” is a learner who is paid an allowance

during the period of his training.

2. **Tickets:-** (1) Every workman employed in an industrial establishment shall be given a Permanent ticket unless he is a probationer, a 'badli' a temporary workman or an apprentice.

(2) Every permanent workman shall be provided with a departmental ticket, showing his number, and shall on being required to do so, show it to any person authorized by the employer to inspect it.

(3) Every "Badli" shall be provided with a "badli" card on which shall be entered the days on which he has worked in the establishment, and which he shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a temporary ticket, which he shall surrender on his discharge.

(5) Every apprentice shall be provided with an apprentice card, which shall be surrendered if he obtains permanent employment.

(6) Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing showing the terms and conditions of his service.
3. **Publication of working time:-** For period and hours of work for all classes of workman in each shift shall be exhibited in Urdu for the workman employed in the industrial or commercial boards establishment on notice maintained at or near the main entrance of the establishment and at the time keepers office if any.
4. **Publication of holidays and pay days:** Notice specifying (a) the days observed by the industrial or commercial establishment as holidays and (b) pay days shall be posted on the said notice boards.
5. **Publication of Wages Rates:-** Notices specifying the rates of wages payable to all classes of workman and for all classes of work shall be displayed on the said notice boards.
6. **Shift Working:-** More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of the employer.

If more than one shifts is worked, the workman shall be liable to be transferred from one shift to another, no shift working shall be discontinued without one months, notice being given prior to such discontinuance, provided that no such notice shall be necessary, if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workman are to be discharged they shall be discharged having regard to length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is restarted a week's notice thereof shall be given by posting a notice at the main entrance of the establishment and the time keepers office, if any, and the workman discharged as a result of the discountenance of the shift, shall, if they present themselves at the time of the restarting of the shift, have preconceive in being re-employed having regarded to the length of their previous service under the establishment those with the longest rest term of service being re-employed first.

7. **Attendance and late coming:-** All workman shall be at work at the establishment at the time fixed and notified under standing orders. Workman attending late shall be liable to the deductions provided for in the payment of wages Act 1936 (IV of 1936)
8. **Leave:** (1) Holiday and leave with pay shall be allowed as hereinafter specified;
 - (a) Annual holiday and festival holidays, casual leave and sick leave as provided for in Chapter IV A of the factories Act, 1934 (XXV of 1934) and;
 - (b) Other holidays in accordance with the law, contract, custom and usage.(2) A workman who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the workman. If the leave is refused or postponed, the last of such postponement, leave is refused and the reasons there for shall be recorded in writing in a register to be maintained for the purpose, and if the workman so desires, a copy of the entry in the register shall be supplied to him. If the

workman after proceeding on leave desire an extension thereof he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the workman if his address is available, and if such reply is likely to reach him before the expiry of the leave originally granted to him.

9. **Payment of Wages:-** (1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workman shall be paid wages on a working day before the expiry of the 7th to 10th day after the last day of the wages period, in respect of which the wages are payable if the total number of workman employed in the establishment is 1.000 or less exceeds 1.000 respectively.

10. **Group Incentive Scheme:-** (1) In every industrial establishment which is a factory and in which fifty or more workman are employed there shall be introduced from such date as may be specified by the Government by notification in the official Gazette, a group incentive scheme to provide incentive for greater production to groups of workman employed in the factory. The Scheme shall provide the manner in which the performance of different groups of workman, whether in the same section, Shop, department or shift or in different sections, shops, department or shift, shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the groups of workman whose production exceeds that of the other groups to be average of all the groups, the incentive shall be according to such scales as may be prescribed and shall be related to the extent of the excess production achieved by the group with the best performance.

11. **Compulsory Groups Insurance:-** (1) The employer shall have all the permanent workmen employed by him insured against death and injury arising out of contingencies not covered by the workman's compensation Act, 1923 (VIII of 1923).

(2) The employer shall in all cases be responsible for the payment of the amount of premium and for all administrative arrangements whether carried out by himself or through an insurance company.

(3) The amount for which cash workman shall be insured shall not be less than the amount of compensation specified in schedule IV of the workman's compensation Act, 1923 (VIII of 1923)

12. Payment of Bonus: (1) Every employer making profit in any year shall pay in for that year within three months of the closing of that year to the Workman who have been in his employment in the year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such workman.

(2) The amount of the bonus payable shall--

(a) If the amount of the profit is not less than the aggregated of one month's wages of the workman employed, be not less than the amount of such aggregate, subject to the maximum of thirty percent of such profit;

Illustration:

(1) If the profit is Rs. 1,20,000/- and the aggregate of one month's wages of the workman is Rs. 30,000/- the amount of bonus payable shall be not less than aggregate of one month's wages, that is to say Rs. 30,000/-

(2) If the profit is Rs. 30,000/- and the aggregate of one month's wages of the workman is also Rs. 30,000/- the amount of bonus payable shall be not less than thirty percent of the profit, that is to say Rs. 9,000/-

(b) If the amount of the profit is less than the aggregate referred to in paragraph (a), be not less than fifteen percent of such profit.

(3) The bonus payable to workman entitled thereto under clause (1) shall bear to his monthly wages the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to in paragraph (a) of clause (2) and shall be paid in cash;

(4) Nothing in this section shall be deemed to affect the right of any workman to receive any bonus other than that payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court established under that Azad Jammu and Kashmir Industrial Relations Ordinance, 1974.

Explanation:-

For the Purposes of this Section:

Profit means the net profit as defined in section 87C of the Companies Act, 1913 (VII of 1913), and “Wages” does not for the purposes of calculating the bonus payable to a person under clause (1) include the bonus referred to in clause (iv) of section 2 of the Payment of Wages Act, 1936 (IV of 1936).

- 13. Stoppage of work:** (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of Power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workman affected shall be notified by notice put up in the departments concerned or of the office of the employers, as soon as practicable when work will be resumed and whether they are to remain or leave their place of work. The workman shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour, the workman so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workman so detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage. In the case of piece rate workers, the average daily earnings for the previous months shall be taken to be the daily wages. Wherever practicable reasonable notice shall be given of resumption of normal work.

(3) In cases where workman are laid off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1), they shall be paid by the employer an amount equal to one half of their daily wages during the first fourteen days of lay off as compensation when, however, the workman have to be laid off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them, due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department to the

establishment close down, either wholly or partially, such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notice put on the notice board in the section or department concerned and in the time Keepers office, if any, as soon as practicable. The workman concerned shall also be notified by a general notice prior to resumption of work, as to when work will be resumed.

14. **Closure of Establishment:** Notwithstanding anything contained in Standing Order 13 no employer shall close down the whole of the establishment prior permission of the Labour Court in this behalf, except in the event of fire, catastrophe, Stoppage, of powers supply, epidemics or civil commotion.

Explanation: “Close down” in this Standing Orders includes lay-off of workman beyond fourteen days where such lay-off results in closure of an establishment but does not includes lock-out declared commenced or contained in accordance with the provisions of the Azad Jammu and Kashmir Industrial Relation Ordinance, 1974.

15. **Termination of Employment:** (1) For terminating employment of a permanent workman, for any reason other than misconduct, one month’s notice shall be given either by the employer or the workman, one month’s wages calculated on the basis of average wages earned by the workman during the last three months shall be paid in lieu of notice.

(2) No temporarily workman, whether monthly rated, weekly rated daily rated or piece rated and no probationer or badli, shall be entitled to any notice if his service are terminated by the employer, nor shall any such workman be required to give any notice or pay any wages in lieu thereof to the employer if he leaves employment of his own accord.

(3) The service of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed from service, except by an order in writing which shall explicitly state the reason for the action taken, in case a workman is aggrieved by the termination of his service or removal, retrenchment, discharge or dismissal he may take action in accordance with the provisions of section 30 of the Azad Kashmir Industrial Relations Ordinance 1974 and there upon the provision of the said section shall apply as they apply to the redress of an individual grievance.

(4) Where the services of any workman are terminated, the wages earned by him and other dues, including payment of run availed leave as defined in clause (1) of Standing Orders shall be paid. Before the expiry of the second working day from the day on which this service are terminated;

(5) The service of a permanent or temporary workman shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in standing order 19.

(6) Where a workman resign form service or his services are terminated by the employer, for any reason other than misconduct he shall in addition to any other benefit to which he may be entitled under this Act or in accordance with the terms of his employment or any custom, usage any settlement or an award of a Labour Court under the Azad Jammu and Kashmir Industrial Relations Ordinance 1947, be paid gratuity equivalent to twenty days wages calculated on the basis of the wages admissible to him in the last months of service if he is fixed rated workman or the highest pay drawn by him during the last twelve months if he is a piece rated workman, for every completed year of service or any part thereof in excess of six months.

Provided that, where the employer has established a provident fund to which the workman is a contributor and the contribution of the employer which is not less than the contribution made by the workman, no such gratuity shall be payable for the period during which such provident fund has been in existence

(7) A workman shall be entitled to receive the amount standing to his credit in the provident Fund, including the contributions of the employer to such fund, even if he resigned or is dismissed form service.

(8) Where a workman dies while in service of the employer, his dependents shall be paid gratuity in accordance with the provisions of clause (6);

Provided that no payment of gratuity in such cases shall be made otherwise than by a deposit with the commissioner, who shall proceed with the allocation of the deposit to the dependent of the deceased in accordance with the provisions of section 8 of the workman's compensation Act, 1923 (VIII of 1923).

(9) If the employer fails to deposit to amount of the gratuity under clause (8) the dependent of the deceased may make an

application to the Commissioner for the recovery of the amount thereof.

Explanation: “Commissioner and “dependent” in this standing Order shall have the same meanings as are respectively assigning to them in the workman’s Compensation Act, 1923 (VIII of 1923).

16. **Procedure for Retrenchment:** Where as workman is to be retrenched and he belongs to a particular category of workman, the employer shall retrench the workman who is the last person employed in that category.
17. **Re-Employment of Retrenched Workman:** Where any number of workman are retrenched and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrench workmen belonging to the category concerned, by sending a notice by registered post to their last known address to offer themselves for reemployment and they shall have preference over other persons, each having priority according to the length of his service under the employer’s

Provided that in the case of seasonal factory within the meaning of section 4 of the Factories Act 1934 (XXV of 1934) a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season shall be given preference for employment by the employer.

18. **Special Provision for Construction Workers:** Where any workman is retrenched or discharge by a contractor or any employer engaged in the construction industrial due to completion, Cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge;

Provided that where a workman is re-employed within one month of his retrenchment or discharge, he shall be deemed to have been in continuance service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharge but no wages shall be paid to him for the period of interruption.

19. **Punishment:** (1) A workman may be reprimanded or fined up to three paise in the rupee of the wages payable to him in a month,

for any of the following acts or omissions, namely;

(2) In case where the payment of wages Act, 1936 (IV of 1936) is applicable, the list of acts and omissions for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned;

(ii) In other case, the following shall be the list of acts and omissions;

- (a) Disregard or disobedience of rules or orders;
- (b) Improper behavior, such as drunkenness;
- (c) Making false or mislead statements, in efficient, dilatory, careless or wasteful working;
- (d) Inefficient, dilatory, careless or wastful working;
- (e) Malingering.

(2) A workman faunal guilty of misconduct shall be liable to any of the following punishments:-

- (i) With-holding of increment or promotion for a specified period not exceeding one year;
- (ii) Dismissal without payment of any compensation in lieu of notice.
- (iii) Reduction to a lower post, or

(3) The following acts and omissions shall be treated as misconduct:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonestly in connection with the employer's business or property;
- (c) Willful damage to or loss of Employers goods or property;
- (d) Taking or giving bribes or any illegal

gratification.

- (e) Habitual absence without leave or absence without leave for more than ten days.
- (f) Habitual late attendance;
- (g) Habitual breach of any law applicable to the establishment.
- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline;
- (i) Habitual negligence or neglect of work;
- (j) Frequent repetition of any act or omission referred to in clause (1);
- (k) Striking work or inciting others to strike in contravention of the provision of any law, or rules having the force of law;
- (l) Go-slow.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal and, (the employer shall) institute independent inquiries before dealing with charge against a workman;

Provided that the workman proceeded against may, if he so desires for this assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.

(5) Where, for the purposes of conducting an inquiry into the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time. The orders of suspension shall be in writing and may take effect immediately on delivery to the workman concerned. The workman concerned shall be paid by the employer subsistence allowance of not less than fifty percent of the wages. If the workman is found not guilty, he shall be deemed to have been on

duty during the period of suspension and shall be entitled to the same wages as he would have received if he has not been suspended.

20. **Certificate of Termination of Service:** Every permanent workman shall be entitled to a Service certificate at the time of his dismissal, discharge, retirement or retrenchment from service.
21. **Liability of Employer:** The employer of the industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the standing order, whether or not the workman or such Establishment are employed through contractors.
22. **Repeal:** The Azad Jammu and Kashmir Industrial and Commercial employment (Standing Orders) Ordinance, 1975 (Ordinance XXV of 1975) is hereby repealed;

SD/- (Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs
Azad Government of the State of
Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December, 24, 1975.

No.3931/SL/75. The following Act of the Legislative Assembly received the assent of the President on the 16th of December, 1975, and is hereby published for general information:-

(ACT XVI OF 1975)

AN ACT to amend the Pakistan (Administration of Evacuee Property) Act, 1957.

WHEREAS it is expedient to amend the Pakistan. (Administration of Evacuee Property) Act, 1957, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Administration of Evacuee property (Amendment) Act, 1975.

(2) It shall come into force at once.
2. Amendment of Section 25, Act XVI of 1957:- In Pakistan (Administration of Evacuee Property) Act, 1957. (as in force in Azad Jammu and Kashmir) in section 25, after sub-clause (x) of sub-section (2) the following sub-clause (aa) shall be added, namely:-

“(aa) make payments out of moneys held by him, for rehabilitation of the displaced persons form the occupied part of Jammu and Kashmir State”.
3. **Repeal:** - The Azad Jammu and Kashmir Administration of Evacuee property (Amendment) Ordinance, 1975 (Ordinance XXXII of 1975) is hereby repealed.

(Muhammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Government of the State of AJ&K

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Date the December 24, 1975

No, 3932/ SL/ 75 The following Act of the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information.

(ACT XVII OF 1975)

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly Speaker (Salary, Allowances, and Privileges) Act, 1975.

(2) It shall come in to force at once.

2. **Definitions:** (1) In this Act unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "Constitution" means the Azad Jammu and Kashmir Interim Constitution Act, 1974.
- (b) "Family" means the wife, children residing with and wholly dependent upon the Speaker.
- (c) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (d) "Maintenance" in relation to a residence includes the payment of local rates, taxes and the provision of electricity, water and gas;
- (e) "Official residence" means the house reserved from time to time for residence by Speaker and includes out-houses and gardens appurtenants thereto;
- (f) "Prescribed" means prescribed by rules framed under this Act, and
- (g) "Speaker" means the Speaker of the Legislative Assembly of Azad Jammu and Kashmir.

(2) Words and expressions used but not defined in this Act shall have the same meanings as are assigned to them in the constitution.

3. **Salary:** The salary of the Speaker shall be two thousand and five hundred rupees per mensem.
4. **Equipment Allowance:** The Speaker may draw a sum of one

thousand and five hundred rupees as equipment allowance on his appointment as such; provided that no such allowance was received by him during the preceding ten years on appointment to a diplomatic post, or as a president, Speaker or Minister.

5. **Allowance on taking up and laying down the office:** (1) The Speaker shall be entitled to claim actual expenses to the extent, mentioned mentioned below from his ordinary place of residence to the seat of Government and from the seat of Government to his ordinary place of residence on taking up or laying down office, as the case may be:-
 - (a) Actual Traveling expenses for himself and his family;
 - (b) Cost of transporting personal servants not exceeding two by the lowest class of accommodation; and
 - (c) Cost of transporting house hold effects, not exceeding one hundred and twenty mounds, by goods train, steamer, or other craft, excluding aircraft, and of his personal car, if any,

(2) No claim shall lie for any travel or transportation not performed within six months of the date of taking up or laying down office, as the case may be.
6. **Sumptuary Allowance:** The Speaker shall be entitled to receive sumptuary allowance at the rate of seven hundred and fifty rupees per mensem.
7. **Transport:** The Speaker shall be entitled to the use of official cars maintained at Government expense throughout his term of office.
8. **Official Residence:** (1) The Speaker shall be entitled, without payment of rent, to the use of an of official residence including accommodation on tour throughout his term of office, and for a period of fifteen days immediately thereafter, and the charge for its maintenance including electricity and gas charge shall be borne by Government, The residence shall be furnished by Government at a cost not exceeding twenty thousand rupees.

(2) If, at the time of entering upon office, an official

residence is not available, the Speaker shall, until such residence is provided by Government, be paid the actual expenditure incurred by him or furnished accommodation for himself and his family, subject to a maximum of one thousand and five hundred rupees per mensem.

(3) Where a Speaker choose to reside-

(i) In his own house; or

(ii) In a rented house occupied by him before his appointment as Speaker;

He may be paid a monthly sum of Rs, 1,500/- in lieu of the official furnished accommodation and to cover all expenses on its maintenance. The charges for consumption of electricity and gas in respect of the said house shall be borne by Government.

9. Traveling Allowance for touring in Azad Kashmir of Pakistan: (1) Subject to the provisions made hereafter, the Speaker traveling on official duty shall be Treated as a First Grade officer.

(2) The Speaker may, of the public interest so demands, travel by air, in which case he shall be entitled to-

(a) Actual air fare paid for himself;

(b) Cost of transporting personal luggage up to one hundred pound, inclusive of the free allowance given by the air Company;

(c) Requisition, at the cost of Government, if he considers it necessary in the public interest, a Pakistan Air Force airplane or an aeroplane belonging to the government subject to availability and in accordance with the rules made by the Federal Government or the provincial Government of Pakistan.

(d) Take with himself his wife whether traveling by a commercial aero plan or by a requisitioned aero plan;

Provided that no non-official shall be allowed to travel in Pakistan Air Force aero plan without the authority of the Ministry of Defense;

(e) Cost of transporting up to two personal servants

by the lowest class of accommodation by rail or steamer;

(f) Carriage of personal luggage by rail or steamer, subject to a maximum of three mounds; and

(g) Claim the actual premium paid for insuring himself for the air journey for an amount not exceeding one LAC rupees.

(3) Wherever possible, the Speaker shall purchase return air ticket.

(4) The Speaker, when traveling on duty by rail in Pakistan shall be entitled to--

(a) Requisition at the cost of Government--

(i) An ordinary first-cum-second class carriage or a "B" class tourist car, or an "A" class tourist car; if a "B" class tourist car is not available; or

(ii) if the vehicles specified at (i) above are not available, or are not desired, and ordinary four berthed first class compartment or a two berthed air conditioned (coups) compartment;

(b) Take with himself in the reserved accommodation without payment of any fare, his family members not exceeding four when traveling in a requisitioned railway compartment or saloon;

(c) Take with himself up to two personal servants, by the lowest class of accommodation available; and

(d) The carriage of personal luggage up to three mounds when traveling by a railway compartment or up to six mounds when traveling by a requisitioned railway saloon.

(5) The Speaker reserving accommodation in the Railway shall be required before beginning the journey, to have the number and other details of the tickets purchased for the persons traveling with him in the reserved accommodation entered on the requisition form by the Station Master of the Station from which the journey is to commence.

(6) The Speaker, when traveling on duty in Pakistan by

steamer or a launch, shall be entitled, to-

- (a) Draw the actual fare paid for himself;
- (b) Take with him up to two personal servants by the lowest class of accommodation available; and
- (c) The carriage of personal luggage up to three mounds.

(7) When the Speaker travels on duty, in the public interest, by road between place connected by railway and chooses to forego the privileges granted under sub-section (4) and (6) he may, where the journey is performed in a vehicle not owned or maintained by Government, draw-

- (a) Traveling allowance at the rate of seventy-five paisa per mile for his own journey by road, and
- (b) Actual expenses of the transport of-
 - (i) Two private servants; and
 - (ii) All his personal luggage, including stores carried for consumption on tour.

10. Compensation in case of accident: (1) If the Speaker, during his tenure of office, dies or received an injury as a result of an accident or by violence the government shall pay to person or persons referred to in sub-section (2), a sum of one Lac and twenty five thousand rupees, in case of death, and an amount to be determined by Government having regard to scales of compensation applied by insurance companies in like cases, in case of injury.

(2) The compensation shall be payable in case of injury, to the Speaker, and in case of death to such member or members of his family, or, if there be no such member, any other persons as may be nominated by him in this behalf, or, in the absence of such nomination, to his heirs.

(3) A nomination under sub-section (2) may be made, revoked or altered by a notice in writing signed by the Speaker and addressed to the Account-General Azad Jammu and Kashmir.

11. Daily Allowance during Halt:- The Speaker, while on tour shall

be entitled to draw an allowance of seventy-five rupees per day for the duration of his halts on tours;

Provided that in case of halt for less than eight hours one-half daily allowance shall be admissible:

Provided further that for such continuous halt on tour exceeding ten days daily allowance admissible for-

- (i) The first ten days shall be at the full rate;
- (ii) The next twenty days or part, thereof at three-fourth of the full rate; and
- (iii) The remaining period, at one-half of the full rate;

Explanation:

- (i) Time spent on journey shall be included in the included in the halt; and
- (ii) A halt or tour shall be treated as continuous unless terminated by an absence at a distance from the halting place exceeding five miles, for a period not less than seven nights.

- 12. **Controlling officer:** The Speaker shall be his own controlling officer for purposes of traveling allowance including the journey undertaken outside his jurisdiction in the discharge of his official duties.
- 13. **Traveling allowance for tour abroad:** Speaker traveling on official business outside Pakistan shall be entitled to such allowance as may be specified by Government.
- 14. **Medical Facilities:** The Speaker shall be entitled to medical facilities admissible in terms of Medical Attendance rules except that he and his family shall be entitled to Medical attendance at his residence.
- 15. **Leave** (1) The Prime Minister may, grant to the Speaker during his term of office, at any one time or from time to time leave of absence for urgent reasons of health or private affairs, for a period not exceeding three months in the aggregate.

(2) The leave allowance of the Speaker shall be two thousand and five hundred rupees per mansion.

16. **Provident fund:** (1) The Speaker may, at his option, become a subscriber to the General Provident Fund, and if he so opts he shall subscribe to the fund as a compulsory subscriber in accordance with the General Provident Fund Rules applicable to Azad Kashmir Government Servants.
- (2) A temporary advance may be granted to the Speaker from the amount standing to his credit in the General Provident Fund at the discretion of Government for the purposes of which such advance may be granted to a subscriber under the said rules.
- (3) The grant of temporary advance under sub-section (2) shall unless the Government otherwise direct be subject to the condition to which an advance granted to a subscriber under the said rules is subject.
17. **Charge:-** The Speaker shall not be required to sign a charge report on taking up office as Speaker or laying down that office.
18. **General report:**(1) All reasonable precautions shall be taken to see that the official residence transport and furniture provided to the Speaker by Government are used with the same care with which a person's own property is taken care of.
- (2) All furniture and furnishings provided in the official residence shall be marked by the Building Department, Azad Kashmir, for the purposes of identification.
- (3) When the Speaker occupies an official residence, it shall be the duty of the officer concerned of said Department to hand over charge of the furniture and furnishings in that residence to the Speaker or to a person authorized by him in writing according to an inventory to be drawn up and signed by such officer.
- (4) When the Speaker is about to vacate the official residence, he shall inform the office concerned of the said Department and shall arrange that the furniture and furnishings of the official residence are handed over to that officer according to an inventory to be drawn up and signed.
- (5) The officer concerned of the said Department may from time to time, inspect an official residence, its, furniture and furnishings with the prior approval of the Speaker.
19. **Holidaying Abroad:** (1) The Speaker may, while holidaying abroad, draw his full pay in foreign currency for the period of

holiday of holidays spent abroad,

(2) When the speaker is holidaying abroad and draws his pay in the currency, he shall not be liable to pay income tax provident fund subscription etc. in foreign currency, if he makes arrangements to pay such amount in rupees in Azad Kashmir.

(3) The expenditure in foreign exchange involved under this Act shall be adjusted against the foreign exchange allocation placed at the disposal of the Government for each relevant shipping period.

(4) Where the pay is drawn in foreign currency by the Speaker he shall not be eligible to receive foreign exchange allocation from the State Bank of Pakistan in any other capacity;

20. **Telephone:-** The Speaker shall be entitled at Government expense, to the use of two telephones at his office and two telephones at his residence both for official or private use throughout the term of his and for a period of fifteen days immediately thereafter, he will also be entitled to free telephone facility while on tour where such facility is available.
21. **Discretionary Grant:** A sum of Rs, 7,500/- per annum shall be placed at the disposal of the Speaker of making discretionary grants in such manner as may be prescribed.
22. **Power to make rules:** The Government may make rules to carry out the purposes of this Act.
23. **Repeal:** The Azad Jammu and Kashmir Legislative Assembly Speaker's (Salary Allowance and Privilege) Act, 1971 (Act IV of 1971) and the Azad Jammu and Kashmir Legislative Assembly Speaker (Salary, Allowance and Privileges Ordinance, 1975 (Ordinance XXIX of 1975) are hereby repealed.

Sd/- (Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs
Azad Government of the State of
Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 24, 1975

No. 3933/ SL/ 75 The following Act of the Legislative Assembly received the assent of the President on the 16th day of December 1975 and is hereby published for General information:-

(ACT XVIII OF 1975)

AN ACT to provide for the salaries, allowance and privileges of the Ministers of the Azad Jammu and Kashmir;

WHEREAS it is expedient to provide for the Salaries, allowance and privileges of the Ministers of the Azad Jammu and Kashmir, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Ministers (Salaries, Allowance and Privileges) Act, 1975.

(2) It shall come in to force at once.
2. **Definitions:** (1) In this Act, unless the context otherwise requires:-
 - (a) “Constitution” means the Azad Jammu and Kashmir Interim Constitution Act, 1974;
 - (b) “Family” means the wife and children residing with and wholly depended upon a Minister;
 - (c) “Government” means the Azad Government of the State of Jammu and Kashmir;
 - (d) “Maintenance” in relation to a residence includes the payment of local rates, taxes, the provision of electricity, water and gas;
 - (e) “Minister” means a Minister appointed under the constitution and includes the Prime Minister;
 - (f) “Official residence” means the house reserved form time to time for residence by a Minister and includes out-

houses and garden appurtenant thereto; and

(g) “Prescribed” means prescribed by rules framed under this Act;

(2) Words and expression used but not defined in this Act shall have the same meanings as are assigned to them in the Constitution.

3. **Salary:** The salary of a Minister shall be two thousand and five hundred Rupees per mensem.

4. **Equipment allowance:-** The Prime Minister and a Minister may draw a sum of three thousand and five hundred rupees and three thousand rupees respectively as equipment allowance on their appointment as such:

Provided that no such allowance was received by him during the life time of the Assembly on appointment as a President, Speaker, Prime Minister or a Minister.

5. **Allowance on taking up and laying down the office:** (1) A Minister shall be entitled to claim actual expenses to the extent mentioned below from his ordinary place of residence to the seat of Government and from the seat of Government to his ordinary place of residence on taking up or laying down office, as the case may be:-

- (a) Actual traveling expenses for himself and his family;
- (b) Cost of transporting personal servants not exceeding two, by the lowest class of accommodation, and
- (c) Cost of transporting house-hold effects, not exceeding one hundred and twenty mounds, by goods train, steamer or other craft, excluding aircraft, and his personal car, if any.

(2) No claim shall lie for any travel or transportation not performed within six months of the date of taking up or laying down office, as the case may be.

6. **Sumptuary Allowance:-** (1) The Prime Minister shall be entitled to receive sumptuary allowance at the rate of four thousand rupees per mensem.

(2) A Minister shall be entitled to receive sumptuary allowance at the rate of three thousand rupees per mensem.

7. **Transport:** A Minister shall be entitled to the use of official cars maintained at Government expenses throughout his term of office and for a period of 15 days immediately thereafter,

Provided that the Prime Minister may withhold this facility to a Minister who is removed from his office on the ground of misconduct or misbehavior.

8. **Official Residence:** (1) A Minister shall be entitled without payment of rent, to the use of an official residence including accommodation on tour throughout his term of office, and for a period of fifteen days immediately thereafter and the charges for its maintenance including the electricity and gas charges shall be borne by the Government. The residence shall be furnished by Government at a cost not exceeding one lac rupees in case of a building reserve for this purpose at the first term and rupees sixty thousand for any subsequent term.

(2) If at the time of entering upon office, an official residence is not available, a Minister shall, until such residence is provided by Government be paid the actual expenditure incurred by him on furnished accommodation for himself and his family, subject to a maximum of one thousand and five hundred rupees per mensem.

(3) Where a Minister chooses to reside,

(i) In his own house; or

(ii) In a rented house occupied by him before his appointment as a Minister; He may be paid a monthly sum of (eight thousand rupees) in lieu of official furnished accommodation and to cover all expenses on its maintenance. The charges for consumption of electricity and gas in respect of the said house shall be borne by Government.

9. **Traveling allowance for touring in Azad Kashmir or Pakistan:** (1) Subject to the provision made hereafter, a Minister traveling on official duty shall be treated as a first Grade Officer.

(2) A Minister may, if the public interest so demands travel by air, in which case he shall be entitled.

(a) Actual air fare paid for himself;

- (b) Cost of transporting personal luggage up to on hundred pounds, inclusive of the free allowance given by the air company;
- (c) Requisition, at the cost of Government, if he considers in necessary in the public interest, a Pakistan Air Force aero plane or an airplane belonging to Government subject to availability; and in accordance with the rules made by the Federal Government or the provincial Government, as the case may be;
- (d) Take with himself his wife whether traveling by a commercial airplane or by a requisitioned without the authority of the Ministry of Defense;
- (e) Cost of transporting up to two personal servants by the lowest class of accommodation by rail or steamer;
- (f) Carriage of personal luggage by rail steamer, subject to a maximum of three mounds; and
- (g) Claim the actual premium paid for insuring himself for the air journey for an amount not.

Exceeding one Lac rupees;

- (1) Wherever possible a minister shall purchase return air ticket.
- (2) A Minister, when traveling on duty by rail in Azad Kashmir or Pakistan shall be entitled to
 - (a) Requisition at the cost of Government-
 - (i) And ordinary first-second class carriage or a “B” class tourist car, or an “A” class tourist, if a “B” class tourist car is not available; or
 - (ii) If the vehicles specified at (I) above are not available or are not desired, and ordinary four berthed first class compartment or a two berthed air conditioned (coups) compartment.
 - (b) Take with himself in the reserved accommodation, without payment of any fare, his family members not exceeding four when traveling in a requisitioned railway compartment or saloon;

(c) Taken with himself up to two personal servants by the lowest class of accommodation available; and

(d) The Carriage of personal luggage up to three mounds when traveling by a railway saloon.

(5) A Minister reserving accommodation in the Railway shall be required, before beginning the Journey, to have the number and other details of the tickets purchased for the persons traveling with him in the reserved accommodation entered on the requisition form by the Station Master of the Station from which the journey is to commence.

(6) A Minister, when traveling on duty in Azad Kashmir or Pakistan by steamer or launch shall be entitled to

(a) Draw the actual fare paid for himself;

(b) Take with him up to two personal servants by the lowest class of accommodation available; and

(c) The carriage of personal luggage upto three mounds.

(7) When a Minister travels on duty, in the public interest by road between places connected by railway and chooses to forego the privileges granted under sub-section (4) and (6) he may where the journey is performed in a vehicle not owned or maintained by Government draw-

(a) Traveling allowance at the rate of seventy-five Paise per mile for his own journey by road, and

(b) Actual expenses of transport of-

(i) Two private servants; and

(ii) All his personal luggage including stores carried for consumption on tour.

10. Compensation in case of accident: (1) If a Minister, during his tenures of office, dies or receive an injury as a result of an accident or by violence the Government shall pay to the person referred to in sub-section (2), a sum of one Lac and twenty five thousand rupees, in case of death, and an amount to be determinate by Government having regard to scales of compensation applied by insurance companies in like cases, in case of injury.

(2) The compensation shall be payable in case of injury to the Minister and in case of death, to such member or member of his family, or if there be no such member, any other person or persons as may be nominated by him in this behalf, or, in the absence of such nomination, to his heirs.

(3) A nomination under sub-section (2) may be made, revoked or altered by a notice in writing signed by the Minister and addressed to the Accountant General of Azad Jammu and Kashmir.

- 11. Daily Allowance during halt:** A Minister, while on tour shall be entitled to draw an allowance of one hundred and twenty five rupees per day for the duration of his halts on tour;

Provided that in case of halt for less than eight hours one half daily allowance shall be admissible;

Provided further that for such continuous halt on tours exceeding ten days, daily allowance admissible for-

- (i) The first ten days shall be at the rate;
- (ii) The next twenty days or part thereof at three-fourth of the full rate; and
- (iii) The remaining period, at one half of the full rate.

Explanation: For the purpose of this section-

- (a) Time spent on journey shall be included in the halt; and
- (b) A halt on tour shall be treated as continuous unless terminated by an absence at a distance from the halting place exceeding five miles, for a period not less than seven nights.

- 12. Controlling Office:** A Minister shall be his own controlling office for purposes of traveling allowance, including the journey under-take outside his jurisdiction in the discharge of official business.

- 13. Traveling Allowance for tour abroad:** A Minister traveling on official business outside Pakistan shall be entitled to such allowance as May Specified by Government.

- 14. Medical Facilities:** A Minister shall be entitled to Medical facilities admissible in terms of the Medical Attendance Rules,

except that he and his family shall be entitled to Medical attendance at his residence.

15. **Leave:** (1) The Prime Minister may grant to a Minister, during his term of office, at any one time or from time to time leave of absence of urgent reasons of health or private affairs, a period not exceeding three months in the aggregate.
- (2) The leave allowance of the Prime Minister and a Minister shall respectively be two thousand rupees and five thousand rupees per mensem.]
16. **Personal Staff:** A Minister, except while on leave shall be entitled to have such personal staff as may be sanctioned from time to time by Government.
17. **Provided Fund:** (1) A Minister may, at his option, become subscriber to the General Provident Fund, and if he so opts, he shall be subscribed to the Fund as a compulsory subscriber in accordance with the General Provident Fund Rules.
- (2) A temporary advance may be granted to a Minister from the amount standing to his credit in the General Provident Fund at the discretion of Government for the purposes for which such advance may be granted to a subscriber under the said rules.
- (3) The grant of a temporary advance under sub-section (2) shall unless the Government otherwise directs, be subject to the conditions to which an advance granted to a subscriber under the said rules is subject.
18. **General:** (1) Such reasonable precautions shall be taken to see that official residence, transport and furniture provided to a Minister by Government are used with the same care with which a person's own property is taken care of.
- (2) The Building Department, Azad Jammu and Kashmir shall mark all furniture and furnishings provided in an official residence, for the purposes of identification.
- (3) When a Minister occupies an official residence, it shall be the duty of the official concerned of the said department to hand over charge of the furnishing and furnishings in that residence to the Minister or to a person authorized by him in writing according to an inventory to be drawn up and signed by such officer.

(4) When a Minister is about to vacate the official residence, he shall inform the officer concerned of the said department and shall arrange that the furniture and furnishings of the official residence are handed over to that officer according to inventory to be drawn up and

(5) The Officer concerned of the said department and furnishings with the prior approval of the Minister.

19. Holidaying abroad: (1) Minister may, while holidaying abroad, draw his full pay in foreign currency or the period of holiday spent abroad.

(2) A Minister who draws pay in foreign currency while holiday abroad shall not be liable to pay income-tax, provident fund subscription, etc, in foreign currency if he makes arrangement to pay amount in rupees in Azad Kashmir.

(3) The expenditure in foreign involved under this Act shall be adjusted against the foreign exchange allocation placed at the disposal of the Government for allocation placed at the disposal of the Government for each relevant shipping period.

(4) Where a Minister draws the pay in foreign currency he shall not be eligible to receive foreign exchange allocation from the State Bank of Pakistan in any other capacity.

20. Telephone: A Minister shall be entitled at Government expenses to the use of two telephone at his office and two telephone at his residence both for official or private purposes throughout the term of his office and for a period of fifteen days immediately thereafter he will also be entitled to free telephone facilities on official tour where such facility available.

21. Discretionary Grant: A sum of rupees (one) and an amount of rupees (seventy five thousand per annum shall be placed at the disposal of prime Minister and a Minister respectively for making discretionary grants in such manner as may be prescribed.

22. Powers to make rules: The Government may Make rules to carry out the purposes of this Act.

23. Repeal: The Azad Jammu and Kashmir Minister (Salaries, Allowance and privileges) Ordinance, 1975 (Ordinance XXVIII of 1975) is hereby repealed.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 24, 1975

No 3934/ SL/ 75 The following Act of the Legislative Assembly received the assent of the President on the 16th day of December 1975 and is hereby published for general information:

(ACT XIX 1975)

1. **Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir President's (Salary, Allowance and Privileges) Act, 1975.

(2) It shall come into force at once.
2. **Definitions:** In this Act, unless there is anything repugnant in the subject or context;
 - (a) 'Acting President' means a person appointed as President to act as President when the President is absent from Azad Kashmir/Pakistan or is unable to perform the functions of his office due to any cause;
 - (b) "Family" means the President's wife and such, of his children, step-children, parents, brothers and sisters as ordinarily reside with and are wholly dependent upon him;
 - (c) "Furnishing" means picture, paintings curious, linen, glass-ware, brass-ware cutlery, crockery, kitchen equipment, radios, radiograms, lamps, public address system, projectors, television set of all kinds, accoustical equipment and similar other articles;
 - (d) "Furniture" includes carpets, sofa-sets, curtains, refrigerators, air-conditioners, washing machines and similar articles;
 - (e) "Maintenance"
 - (i) In relation to official residence, includes the maintenance and repalishing of furniture, and furnishings, payment of local rates, and

taxes, maintenance of roads and electric, water, gas and sanitary fixtures, and installations, and the provisions of electricity gas and water; and

(ii) In relation to official cars and aircrafts, includes the pay and allowances of chauffeurs, pilots and other establishment and the provisions of oil and petrol;

(f) “Official cars”, “railway saloons” and “aircrafts” means such cars, railway saloons and aircraft, if any, as are from time to time provided for use by the President;

(g) “Official residence” means the house reserved from time to time for residence by the President and includes out-houses and gardens appurtenant thereto;

(h) “Year” means a year commencing on the first day of July and ending on the thirtieth day of June next following; and

(i) “Other words” and expressions used in this Act and not defined shall have the meanings assigned to them in the Azad Jammu and Kashmir Interim Constitution Act, 1974.

3. **Annual Salary:** The annual salary to be paid to the President shall be seventy-two thousand rupees.

4. **Equipment Allowance:** (1) The President may on his assumption of office as such, draw two thousand and five hundred rupees as an allowance for equipping himself;

Provided that, during the ten years immediately proceeding the assumption of that office, he had not drawn an allowance for the same purpose upon election or appointment to the office of President, Prime Minister, Speaker Minister, or a Diplomatic office.

(2) The Provisions of sub-section (1) shall not apply to an Acting President.

5. **Allowances on taking up and laying down the office:-** (1) The President shall be entitled to traveling allowance to the extent mentioned below for the join form ordinary place of residence to the official residence on taking up office and from the official residence to his ordinary place of residence on laying down

office-

- (a) The actual traveling expenses for himself and his family;
- (b) The cost of transporting personal servants not exceeding three by the lowest class of accommodation; and
- (c) The cost of transporting, house-hold effects, not exceeding one hundred and twenty mounds, by goods train or steamer excluding aircraft, and his personal car, if any,

(2) No claim shall lie for any travel or transportation not performed within six months of the date of assuming or laying down office, as the case may be.

(3) The Provisions of sub-section (1) shall not apply to an Acting President, but there shall be paid to an Acting President and allowance equal to his actual expenses on journeys undertaken within Azad Kashmir or Pakistan with his family, if any, and his family's effects, in connection with the taking up and relinquishment of his duties as Acting President.

6. **Privilege in case of journeys from Azad Kashmir to Pakistan:** The president shall, when traveling on official duty from Azad Kashmir to Pakistan, be entitled to take with him his wife, or one other member of his family, at Government expenses.

7. **Official Residence, Railway saloons, aircraft and official cars:** (1) Though out his term of office, the President shall be entitled, without payment of rent or hire, the use of his official residence, and of the railway saloons, aircraft and official cars, and no charge shall fall on him personally in respect of the maintenance thereof:

Provided that the President shall not, except when proceeding on or return in form leave, be entitled to the use of the railway saloons, aircraft or official cars during any period for which he is on leave.

(2) The provisions of subsection (1) shall apply to the family of the president.

8. **Sumptuary allowance:** The President shall be entitled to receive

sumptuary allowance of thirty thousand rupees per annum.

9. **Discretionary Grant:** A sum of Rs, 40,000/- per annum shall be placed at the disposal of the President for making discretionary grants in such manner as may be prescribed.
10. **Payment of further Amounts:-** There shall, from time to time, be paid to the President, for the replacement of official cars and for any other purposes considered necessary to enable him to discharge conveniently and with dignity the duties of the office, such further amounts as the President may, by general or special order, authorize and any such order may be given retrospective effect whenever necessary.
11. **Amounts to be included in estimates of expenditure:-** The President shall determine, the amounts to be included in any year in the estimates of expenditure for the purpose of giving effect to the provisions of this Act, and such amount shall be charged upon and paid out of the Azad Kashmir Budget Receipts.
12. **Compensation in case of accident:** (1) If the President, during his tenure of office dies or receives an injury as a result of an accident or by violence the Government shall pay to the person or persons referred to in sub-section (2), a sum of one Lac and fifty thousand rupees, in the case of death, and an amount to be determined by the Government having regard to scales of compensation applied by insurance companies in like cases, in the case of injury.

(2) The compensation shall be payable in the case of injury to the President and, in the case of death, to such member or members of his family or, if there be no such member such other person or persons as may be nominated by him, and in the absence of such nomination to his heirs.

(3) A nomination under sub-section (2) may be made, and may also be revoked or altered, by a notice in writing, signed by the President and addressed to the Accounts Officer concerned.
13. **Daily allowance during halt:-** The President, while on tour, shall be entitled to draw an allowance of seventy five rupees per day for the duration of his halts on tour:

Provided that in case of halt for less than eight hours one half daily allowance shall be admissible;

Provided further that for such continuous halt on tour

exceeding ten days, daily allowance admissible for-

- (i) The first ten days shall be at the full rate;
- (ii) The next twenty-days or part thereof at three-fourth of the full rate; and
- (iii) The remaining period, at one half of the full rate.

Explanation:- For the purpose of this section:-

- (a) Time spent on journey shall be included in the halt; and
- (b) A halt on tour shall be treated as continuous unless terminated by and absence at a distance from the halting place exceeding five miles, for a period not less than seven nights.

14. Leave of Absence:- (1) The president may at any one time or from time to time grant to him self-

- (a) During his term of office, at any one time or from time to time, leave of absence for urgent reasons of health or private affairs, for a period not exceeding four months in the aggregate;

Provided that the President may extend this period of four months in which case the reason for the extension shall be recorded in a minute;

- (b) upon the conclusion of his term of office leave (to which the provisions of the next succeeding sub-section apply) for a single period not exceeding four months, or if any leave has been availed of during the term of office, the difference between four months and the period of leave availed of.

(2) The leave allowance of the President shall at the rate of three thousand rupees per mensem:

Provided that, in the case of the President appointed from Govt. service, the rate of leave allowance shall, if the rate admissible to him immediately before his appointment is higher than the rate admissible to him under this Act as a President, be that former rate.

(3) Where payment is made in dollars, the rate of exchange taken shall be that ruling on that day of payment or on the last

day of the month in respect of which the payment is made, whichever day first occurs.

(4) An Acting President shall not be entitled to any leave allowance.

15. **Medical Facilities:-** The President and the family of the President shall be entitled to medical facilities in accordance with the Medical Attendance Rules:

Provided that he and his family shall ordinarily be entitled to receive medical treatment at his residence.

16. **Personal Staff:-** The President, except while on leave, shall be entitled to have such personal staff as may be sanctioned from time to time by the Government.

17. **Custom duties or sales tax not leviable on certain articles:-**

(1) No Custom duties or sales Tax shall be levied on the following articles if imported or purchased out of bond by the President on appointment or during his tenure of office, namely:-

- (a) Articles for the personal use, wear or consumption of the President or any member of the family of the President.

Provided that the cost thereof shall not exceed fifteen thousand rupees per annum;

- (b) One car the cost of which shall not exceed fifty thousand rupees, for his personal use during the tenure of his office;

- (c) Foodstuffs and tobacco for consumption by the President, members of his family and his guests, whether official or not;

- (d) Articles for furnishing of the President's official residence; and

- (e) Official cars and aircraft.

(2) No excise duties or sales tax shall be levied on tobacco imported by manufacture in Azad Kashmir or Pakistan for the manufacture of cigarettes, and no excise duty shall be levied on indigenous tobacco used in Azad Kashmir or Pakistan in manufacture of cigarettes and on cigarettes manufactured in Azad Kashmir or Pakistan, when such cigarettes are for consumption by the President, members of his family or the

guests referred to in clause (c) sub-section (1).

(3) No excise duty shall be levied on indigenus petrol and petroleum products when such petrol or petroleum products are for use in the official cars and aircrafts.

18. **Provident Fund:** The President may, at his option, become a subscriber to the General Provident fund; and if he so opts he shall subscribe to the fund as a compulsory subscriber in accordance with the General Provident Fund Rules.
19. **Act to have effect subject to instructions, etc:-** This Act shall have effect subject to such instructions, rules, exception, further concessions or casements, as the President may from time to time, prescribe or grant.
20. **Repeal:** The Azad Jammu and Kashmir President's Salary Allowance and Privileges Ordinance, 1975 (Ordinance XXVII of 1975) is hereby repealed.

Sd/-
President
Azad Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December, 24, 1975.

No, 3935/ SL/75 The following Act of the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information:-

(ACT XX OF 1975)

AN ACT to provide for the salaries, allowances and privileges of the Member of the Legislative Assembly of the Azad Jammu and Kashmir:

WHEREAS it is expedient to provide for salaries, allowanced and privileges of the Members of the legislative Assembly of the Azad Jammu and Kashmir, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

- 1. Short title and commencement:** (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly (Salaries, Allowance and Privileges of Members) Act, 1975.
(2) It shall come into force at once.
- 2. Definitions:** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) “Assembly” means the Legislative Assembly of Azad Jammu and Kashmir;
 - (b) “Committee” means a Select committee or other committees of the Assembly and includes any committees appointed by the Government of the purpose connected with the Assembly and declared by the Government to be a committee of the Assembly;
 - (c) “Family” means wife/ husband and such of his children, step-children parents, brother and sister as ordinarily reside with and are wholly dependant;
 - (d) Form the commencement of its business to the termination of the business of a day;
 - (e) “Member” means a Members of the Assembly other than minister, Parliamentary, secretary, Speaker or Deputy Speaker.
 - (f) “Period” of residence on duty means the period during

which a member resides at a place where a session of the Assembly or of a committee is held or where any other business connected with his duties as such member is transacted, for the purposes of attending to such other business and includes-

- (i) In the case of a session of the Assembly, a period of such residence, not exceeding three days, immediately preceding the commencement of the session and a period of such residence not exceeding three days, immediately following the end of the session; and
- (ii) In the case of a sitting of a committee or any other business a period of such residence not exceeding two days, immediately preceding the commencement of the business and a period of such residence, not exceeding two days immediately following the conclusion of the business of the committee or any other business; and
- (h) "Session" means the period commencing on the day of the first meeting of the Assembly after having been summoned and ending on the day the Assembly is prorogued or dissolved.

3. **Salary:-** (1) Subject to the provisions of sub-section (2) and sub-section (3) a member may draw salary at the rate of one thousand rupees per menses.

Provided that a member who, without permission of the Assembly,-

- (a) Fails to attend at least three-fourth of the total number of sittings held in a month; or
- (b) If elected during the course of month, fails to attend at least three-fourth of total number of meetings held in that month subsequent to the date on which he takes his oath shall be ineligible to draw salary for that month.

(2) In the case of a Member who, by virtue of his holding an office of profit in the service of Azad Kashmir or Pakistan declared by law not to disqualify its holder from being a Member, is entitled to receive a salary, the amount of salary to which he is entitled under this Act, shall be only such amount as would not, together with the amount of the salary, calculated on a monthly basis to which he is entitled by virtue of his holding

such an office, exceed one thousand rupees per mensem.

(3) No salary shall be paid to any Member in respect of any period during which he was under detention on conviction for an offence involving moral turpitude under any law for the time being in force.

4. **Daily allowance:** A Member shall be entitled to receive a daily allowance at the rate of seventy-five rupees per diem for the period of residence on duty.

5. **Traveling Allowance:** (1) For every journey performed for the purposes of attending a session or a meeting of a committee or for attending to any other business connected with his duties as Member from his usual of residence to the place where the session or meeting is held or other business is transacted and for return journey from such place to his usual place of residence, a Member shall be entitled to receive traveling allowance at the following rates:-

- (a) Where the journey is performed by rail, an amount equal to the fare of the class traveled, plus half fare of the Air conditioned class;
- (b) Where the journey is performed by air, the fare of the economy class; and
- (c) Where the journey or any part hereof is performed by road-
 - (i) If the journey is performed by personal car or by engaging a full taxi, rupee one per mile;
 - (ii) If the journey is performed by a borrowed car, at the rate of rupee one per mile; and
 - (iii) If the journey is performed by any public transport playing for hire, at the rate of twenty-Paisa per mile;

Provided that-

- (i) No traveling allowance shall be admissible for journeys made during a session between the place where the session is held and any other place; and
- (ii) A Member who ordinary resides or carries on business at any place within five miles of the place at which his attendance is required in

connection with his duties as a member, shall not be entitled to traveling allowance.

(2) Traveling allowance at the rates mentioned in subsection (1) shall be admissible to a Member for journey performed during the period of adjournment of a session, if the session is adjourned for a period of more than ten days.

6. **Form of certificate:-** Every claim by a Member for Traveling allowance or daily allowance shall be supported by a written certificate in the following form signed by the Member:-

“Certified that the amount has not been claimed by me in any other bill or drawn by me from any other source”

7. **Accommodation:** (1) Subject to availability and on payment of such charges as Government may determine, a Member may be provided with Government accommodation during the period of residence on duty.

(2) Where a Member is not provided with accommodation by Government or where he does not avail of the facilities of such accommodation he shall be paid a subsidy at the rate of twenty-five rupees per diem for the period of residence on duty.

8. **Medical Facilities:** A Member shall be entitled for himself and his family to free indoor as well as outdoor medical facilities of the standard admissible to class I officer of the Government.

9. **Traveling allowance and daily allowance for business other than assembly business:-** Where a member is called by a Government Department in connection with any official business in his capacity as a member, he shall be paid by the Department traveling allowance and daily allowance for the days of journey from and to his ordinary place of residence and for the day or days he is required to attend any such official business, at the rates admissible to him under this Act.

10. **Telephone:-** (1) A Member shall be entitled to, at Government expense the facility of a telephone at the place where he ordinarily resides, if the installation facility is available at such place:

Provided that Government shall pay only rupees one hundred and fifty per month as charges of rent of the telephone and the calls made there from irrespective of whether the telephone is a private connection or installed at Government expense:

Provided further that the Government shall not pay

expenses of reinstallation in case the place of residence is changed.

(2) A Member who has not been provided with a telephone or who has no telephone connection in his own name shall be entitled to get rupees one hundred and fifty per month in lieu of the telephone charges mentioned in sub-section (1).

11. Leader of opposition:- Leader of the Opposition shall, in addition to the salary, allowance and facilities admissible to him as a member, be entitled to-

- (a) An honorarium of rupees one thousand per mensem;
- (b) Office accommodation within the precincts of the Assembly Building;
- (c) The services of a whole time stenographer and two peons;
- (d) the installation of telephone at Government expenses at his office and at his residence at the place where the session is held, without payment of rent and charges for calls made; and
- (e) Accommodation at Muzaffarabad, free of rent.

12. Exemption from payment of toll tax:- A member shall be exempted from the payment of toll tax levied by Government or any local authority in the Azad Jammu and Kashmir.

13. Power to make rules:- After consultation with the Speaker of the Assembly, the Government may, by notification in the official Gazette make rules for carrying out the purposes of this Act.

14. Repeal: The Azad Jammu and Kashmir Members of the Legislative Assembly (Salary and Allowances) Act, 1971 and the Azad Jammu and Kashmir Legislative Assembly (Salary, Allowances and Privileges of Members) Ordinance, 1975 (Ordinance XXX of 1975) are hereby repealed.

Sd/-
President
Azad Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 24, 1975.

No, 3936/ SL/ 75 The following Act, of the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information:-

(ACT XXI OF 1975)

An Act to provided for re-adopting and regulating the use of State flag.

WHEREAS it is expedient to provided for re-adopting and regulating the use of the Stat flag, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir State Flag Act, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir territory and shall apply to all the state subject of Jammu and Kashmir wherever they may be.

(3) It shall come into force with effect from the commencing day.
2. **Definition:** In the Act, unless there is anything repugnant in the subject or context:-
 - (a) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (b) "State Flag" means the flag which was in use as the flag of Azad Jammu and Kashmir in the period commencing immediately after the setting up to the Azad Government of the State of Jammu and Kashmir in the year 1947 and ending with the twenty third day of August, 1947 as specified in schedule of this Act;
 - (c) "Commencing day" means the day fixed by the Government by Notification in the Government Gazette for coming into force of this Act;
 - (d) "Person" includes any body politic or corporate;

(e) “Prescribed” means as prescribed by rules made under section 7 of this Act;

3. **Re-adopting of state flag:** (1) The State flag shall be re-adopted as the flag of Azad Jammu and Kashmir with effect from the commencing day and shall continue to be used as such till the accession of the State of Jammu and Kashmir to Pakistan.

(2) The State flag shall be given due respect by the Government and the State subject wherever they may as the symbol, of freedom movement of the people of Jammu and Kashmir.

4. **Use of state flag:** (1) The manner in which the State flag will be used and the persons entitled to the use of the State flag shall be such as may be prescribed.

(2) The State flag shall not be hosted or used except as provided in sub-section (1) of this section.

5. **Ban of use of the discarded flag:** (1) The flag being used as the flag of Azad Jammu and Kashmir immediately before the commencing day, shall stand discarded from the commencing day and all such flag shall be deposited with the Govt, which will arrange for their preservation.

(2) No person shall use the flag so discarded or any flag of that design for any purposes whatsoever.

6. **Forfeiture and Punishment:** (1) Any person who contravenes the provisions of this Act or abets such contravention shall be punished with simple imprisonment which may extend to three months or with fine not exceeding two thousand rupees or with both and any flag being used in contravention of these provisions may be seized by a police officer not below the rank of a sub-inspector and shall be forfeited to the State.

(2) The offences under this Act shall be cognizable and non-bailable and shall be triable by magistrate of the First class.

7. **Rules:** The Government may make rules for carrying out the purposes of this Act.

8. **Repeal:** The Azad Jammu and Kashmir State Flag Ordinance 1975 (Ordinance XXXI of 1975) is hereby repealed.

SCHEDULE

- (a) Three fourth green background and the crescent star represents concept of Islam and Muslim population in the State.
- (b) One fourth orange (gold) color represents the minorities of the State of Jammu and Kashmir.
- (c) Four white stripes represent the rivers of the State.

ORANGE GOLD
GREEN COLOUR
WHITE STRIPES
GREEN STRIPES
WHITE STRIPES
GREEN STRIPES
WHITE STRIPES
GREEN STRIPES
WHITE STRIPES
GREEN STRIPES

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 30, 1975.

No, 4020/ SL/ 75 The following Act of the Legislative Assembly received the assent of the President on the 16th day of December, 1975, and is hereby published for general information:-

(ACT XXII OF 1975)

AN ACT to provide for the establishment of Service Tribunals to exercise jurisdiction regarding matters relating to the term and conditions of service in respect of persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government.)

WHEREAS it is expedient to provide for the establishment of Service Tribunals to exercise exclusive jurisdiction regarding the matters relating to the terms and conditions of service in respect of the persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government and for matters connected therewith or ancillary thereto in the manner hereinafter appearing.

It is hereby enacted as follows:-

1. **Short title, commencement and application:** (1) This Act may be called the Azad Jammu and Kashmir Service Tribunals Act, 1975.
 - (2) It shall come into force at once.
 - (3) It applies to all civil servants wherever they may be.
2. **Definitions:** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) “Chairman” means the Chairman of the Tribunal;
 - (b) “Civil servant” means a person who is or who has been a member of a civil service of the Azad Jammu and Kashmir in connection with the affairs of the Government or who holds or has held a civil post in connection with the affairs of the Government but does not include—
 - (i) A person who is or who has been on deputation to the Azad Jammu and Kashmir from the

Federation or any other province of Pakistan or authority;

- (ii) A person who is or has been employed on contract or on work-charged basis, or who is or has been paid form contingencies; or
- (iii) A person who is or has been a “worker” or “workman” as defined in the Factories Act, 1934 (XXV of 1934) or the workman’s Compensation Act, 1923 (VIII of 1923) as in force in Azad Jammu and Kashmir;
- (c) “Government” means the Azad Government of the Sate of Jammu and Kashmir;
- (d) “President” means the President of Azad Jammu and Kashmir;
- (e) “Member” means the Member of the Tribunal;
- (f) “Registrar” means the Registrar of a Tribunal and includes any other person authorised by a Tribunal to perform the functions and duties of the Registrar; and
- (g) “Tribunal” means service Tribunal established by this Act, or a Bench thereof.

3. Tribunals:- (1) There shall be one or more Tribunals, each consisting of a Chairman and one or two Members possessing the qualification hereinafter provided to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of Civil servants including disciplinary matters.

- (2) (a) Chairman of Tribunal shall be a person who is or is qualified to be a Judge of the High Court, and
- (b) Member of a Tribunal shall be a person who has, for a period of not less than fifteen years, service under the Azad Jammu and Kashmir Government and is not below the status of Deputy Secretary to the Azad Jammu and Kashmir Government.
- (3) The Chairman and Members of a Tribunal shall be

appointed by Government on such terms and conditions as are provided in the first Schedule.

Provided that if a person, who is a judge of the High Court is appointed Chairman of a Tribunal, he shall continue to be governed by the same terms and conditions as are applicable to him as Judge of the High Court.

(4) The Chairman or a Member of a Tribunal may resign his office by writing under his hand addressed to the President.

(5) The Chairman or a Member of a Tribunal shall not hold any other office of profit in the Service of Azad Jammu and Kashmir:

Provided that where a person who is a Judge of the High Court is appointed Chairman, he may, if the president in consultation with the Chief Justice of the High Court so decides, hold the office of the Chairman in addition to the performance of his functions as Judge of the High Court.

(6) (a) The terms of office of Chairman who is a Judge of the High Court may be determined by the President in consultation with the Chief Justice of the High Court.

(b) The term of office of the Chairman, other than a person who is a Judge of the High Court, and a Member of a Tribunal, unless he Resign earlier shall be four year;

Provided that the case of a person who before his appointment as Chairman or Member was in the Service of Azad Jammu and Kashmir, the terms of office shall not extend beyond his date of superannuation and in any other case beyond the age of sixty two years;

Provided further that the Chairman, other than a person who is a Judge of the High Court, or a Member of a Tribunal may be removed from office earlier than the expiry of the term of his office by an order of the president if on a reference by the president a Committee consisting of three persons who may be appointed by the President reports that-

(i) The Chairman, or as the case may be, the Member is incapable of performing the duties of office by reason of physical or mental incapacity;or

- (ii) has been guilty of misconduct.

Explanation: One of the persons appointed to the committee shall be person who has been, a Judge of the High Court and the other two persons shall not be lower in status than a Deputy Secretary to the Azad Jammu and Kashmir Government.

(7) Where there are established more than one tribunal the president shall specify by notification in the official gazette the class or classes of civil servants in respect of whom, or the territorial limits within which, each Tribunal shall exercise jurisdiction under this Act.

- 4. **Appeals to Tribunals:** Any Civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service including disciplinary matter may, within, thirty days of the communication of such order to him or within six months of the establishment of the appropriate Tribunal whichever is later, prefer an appeal to the Tribunal.

Provided that:

- (a) Where an appeal, review or representation to a departmental authority is provided under any law, regulations or rules of the time being enforced, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and period of ninety days has elapsed from the date on which such appeal, application or representation was to be preferred;
- (b) No appeal shall lie to a Tribunal against an order or decision of a departmental authority determined--
 - (i) The fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade; or
 - (ii) The quantum of departmental punishment or penalty imposed on civil servant as a result of a departmental

inquiry except where the penalty imposed is dismissal, removal, reduction in rank or compulsory retirement from service; and

- (c) No appeal shall lie to a Tribunal against an order or decision of a departmental authority made at any time before the first July 1969.

Explanation: In this section “departmental” authority means any authority other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of civil servants.

- 5. **Power to Tribunals:** (1) A Tribunal may, on appeal, confirm set aside, vary or modify the order appealed against.

(2) A Tribunal shall, for the purpose 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 the powers of—

- (a) Enforcing the attendance of any person and examining him on oath;
- (b) Compelling the production of documents; and
- (c) Issuing commission for the examination of witnesses and documents.

(3) No Court fee shall be payable for preferring an appeal to, or filing exhibiting or recording any document in, or obtaining any document from a Tribunal.

- 6. **Benches and procedure:** (1) The Chairman of a Tribunal may constitute a single or a division Bench of the Tribunal for hearing appeals under this Act.

(2) The conclusions arrived at after hearing an appeal under sub-section (1) by a Single Bench, or as the case may be, by a Division Bench along with the records of the appeal and written arguments, if any, shall be considered by the Tribunal as a whole and the decision shall be expressed in the terms of the views of the majority.

(3) The Chairman may at any stage transfer cases from one

Bench to another Bench or to the whole Tribunal.

(4) The Tribunal and its Benches shall conduct business in accordance with the provision contained in the Second Schedule, If a Tribunal consists of a Chairman and one member and there is difference of opinion between them, the opinion of the Chairman shall prevail.

7. **Casual vacancy:** If the Chairman or a member of a Tribunal is, for any reason, absent or unable to take part in the proceedings of the Tribunal, the Government shall appoint a duly qualified person to act as Chairman or, as the case may be member of the Tribunal to hear and finally dispose of the appeal, application or other matter, requiring decision of the Tribunal.
8. **Abatement of suits and other proceedings:** All suits, appeals and application regarding any matter within the jurisdiction of a Tribunal pending in any Court immediately before the establishment of the appropriate Tribunal shall abate on the establishment of such Tribunal:

Provided that any party to such suit, appeal or application may, with in ninety days of establishment of the appropriate Tribunal prefer an appeal to it in respect of any such matter which is in issue in such suit, appeal or application.

9. **Applicability of the provisions of the Limitation Act, 1908:-** The provisions of section 5 and 12 of the Limitation Act, 1908 (IX of 1908) shall apply to appeals under this Act.
10. **Power to make rules:-** The Government may, by notification in the official gazette made rules for carrying out the purposes of this Act.
11. **Repeal:** The Azad Jammu and Kashmir Administrative Tribunal Ordinance, 1975 (Ordinance XXVI of 1975) is hereby repealed.

FIRST SCHEDULE

(See Section 3 (3))

PART 1-Terms of office

1. **Maximum age for appointment as member:-** No person, who is more than 55 years of age, shall be appointed as a member.
2. **Oath of office:** Before entering upon his office, a Chairman other than a person who is Judge of the High Court, and a Member shall, before the Chief Justice of the Azad Kashmir High Court or a Judge nominated by the Chief Justice for the purpose, make an oath in the form appended to this Schedule.
3. **Seniority:** The seniority interse of the Members shall be determined in accordance with the respective dates of their entering upon their office as Member:

Provided that when a Member is appointed for a second or subsequent term, his seniority shall be reckoned form the date when he enters upon the second or subsequent term of office, as the case may be.

4. **Pay:-** (1) A Chairman shall:-
 - (a) If, before his appointment as Chairman, he has retired form the service of Azad Kashmir, draw the pay last drawn before retirement, and the amount of his full pension, including special additional pension (if it has not been held in abeyance), will be deducted form his pay thus fixed; and
 - (b) If any other case, draw pay as is admissible to a Government servant in the National pay Scale No, 20 or if he was, before his appointment as Chairman, in the service of Azad Kashmir, the pay which he would have received but for such appointment, whichever is higher.
- (2) A Member shall—
 - (a) In on the date of his appointment as Member of a Tribunal he was in the service of Azad Kashmir, receive the grade of pay that he was drawing immediately before his appointment as Member:

Provided that a Member in addition to the grade of pay, would get a special pay of Rs. 440/- per month subject to a maximum of Rs. 2300/- per month if his pay

is in National Pay Scale below grade 20.

- (b) If, before his appointment as member, he has retired from the service of Azad Kashmir, draw pay last drawn before retirement and the amount of his full pension, including special additional pension (if it has not been held in abeyance), will be deducted from his pay thus fixed.

Explanation: For the purpose of this Para, pay includes special pay which a Chairman or a Member was drawing before his appointment as such Chairman or Member.

- 5. **Pension:** (1) No pension shall attach to the office of a Chairman or a Member as such, but if a Chairman or a Member was on the date of his appointment in the service of Azad Kashmir, services as Chairman or Member shall count for pension under the rules applicable to the service or grade to which such Chairman or Member belongs; and unless a member be a Member of an All Pakistan Service or a Member be entitled to pension under Army Regulations, service as Member shall also count as service in the higher grade or upper grade for the special additional pension under the rules applicable to him on the date of his appointment to the Tribunal.

(2) In the case of a retired Government servant, service as a Member shall not count as qualifying service for the purpose of recalculating his pension at the expiry of his term of office as a Chairman or a Member.

- 6. **Provident Fund:-** (1) It shall be permissible for a Chairman or a Member, if he so elects, to subscribe to the General Provident Fund in accordance with the rules relating to that Fund.

(2) A Chairman or a Member who, on the date of his appointment was in the service of Azad Kashmir and had been admitted to the benefits of any Provident Fund maintained by Government shall be eligible, after appointment to the Tribunal, to continue to subscribe to the said Fund upon the same terms and condition and subject to the rules of that Fund:

Provided that he shall cease to subscribe to the Fund on attaining the age of superannuation in his previous service and the amount standing to his credit in the said fund after such deductions as are authorized under the rules applicable to him shall become payable to him.

PART II- LEAVE

7. **Leave:** A Chairman or a Member who on the date of his appointment was in the service of Azad Kashmir may be granted leave by the President under the rules applicable to him immediately before his appointment, and his service as a Chairman or a Member shall count for such leave.
8. A Chairman or a Member who on the date of his appointment was not in the service of Azad Kashmir may be granted leave by the President as follows:-
- (i) (a) Leave on leave salary equivalent to full pay up to one-eleventh of the period spent on duty as a Chairman or a Member, subject to a maximum of four months at any one time; or
 - (b) If a Chairman or a Member so elects, leave on leave salary equivalent to full pay (to be taken not more than once during his term of office) for a period not exceeding four months;
 - (ii) Leave on medical certificate on leave salary, equivalent to half pay up to two-elevenths of the period spent on duty as a Chairman or a Member, subject to a maximum of three months at any one time; and
 - (iii) Extraordinary leave without salary.

Explanation: A person who retires from the service of Azad Kashmir and is re-employed as Chairman or Member shall be governed by the provisions of this Para.

PART III

TRAVELING ALLOWANCE AND MEDICAL ATTENDANCE

9. **Traveling Allowance:** For the purpose of Traveling Allowance—
- (a) A Chairman shall be entitled to the allowance admissible to a Judge of a High Court; and
 - (b) A Member shall be entitled to allowance admissible to a secretary to Government.
10. **Medicinal allowance:** A Chairman and a Member shall be entitled to the medical facilities admissible in terms of the

Government Servant (Medicinal Attendance) Rules:

Provided that Chairman or a Member who, on the date of his appointment to the Tribunal, was in the service of Azad Kashmir may elect to be governed by the rules applicable to him immediately before the said date.

11. Where a person appointed as a Chairman or a Member was, immediately before his appointment as such, in the service of Azad Kashmir, his rights as a person in the service of Azad Kashmir shall not be affected by his appointments as Chairman or Member.

FORM OF OATH

(Vide paragraph 2)

I, ----- do solemnly swear that as Chairman/ Member of the Service Tribunal established under the Azad Kashmir Service Tribunal Act, 1975, I will discharge my duties and perform my functions honestly to the best of my ability, faithfully in accordance with the Constitution of the Azad Kashmir and the law, and without fear or favour, affection or ill will and that I will not allow my personal interest to influence my official conduct or my official decisions.

(SECOND SCHEDULE)

(See section 6 (4))

1. **Every memorandum of appeal shall--**
- (a) Be legibly, correctly and concisely hand-written, type written or printed;
 - (b) be divided into paragraphs numbered consecutively each paragraph containing as nearly as may be, a separate allegation;
 - (c) contain full name, official designation and place of posting of each party;
 - (d) Clearly set out the relief claimed;
 - (e) be accompanied by—
 - (i) a copies of the order of the competent authority against which the appeal is preferred; and

- (ii) copies of rules, orders and other documents on which the appellant proposed rely in support of his claim;
 - (f) be signed by the appellant; and
 - (g) be accompanied by three spare copies of the memorandum of appeal and as many other copies, thereof duly initialed by the appellant and accompanied by the documents referred to in sub-paragraph (e), as there are respondents.
- 2. An appeal may be sent to the Registrar by a registered post acknowledgment due or it may be presented to the Registrar during the working hours either by the appellant personally or through his Advocate.
- 3. In every memorandum of appeal, the competent authority shall be shown as the first respondent and thereafter all other parties to the dispute shall be shown as respondents.
- 4. (1) The Register shall scrutinize every Memorandum of appeal received by post or presented to him and shall—
 - (i) if it be in order and drawn up in accordance with the provisions of paragraph 1, cause it to be registered in the register of appeals to be maintained in Form “A” appended to this Schedule, and, with the approval of the Chairman, shall fix a date for its preliminary hearing before a Bench of the Tribunal as the case may be; or
 - (ii) if it is not drawn up in accordance with the provision of paragraph 1, return it to the appellant for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal, pointing out the deficiency.
- (2) If the memorandum of appeal is not re-submitted within the period specified under clause (ii) of sub-paragraph (1) of paragraph 4, the appeal shall stand dismissed.
- 5. (1) The Bench or the Tribunal as the case may be, after hearing the appellant or his Advocate on the date fixed for preliminary hearing or in such subsequent dates to which such hearing may be adjourned, may dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal ----- and of the day fixed or its regular hearing shall be served on the appellant, the respondents and such other persons as the Tribunal may deem proper.

6. (1) A notice under sub-paragraph (2) of paragraph 5, shall be in such form as may be approved by the Tribunal as may be served by registered post or in any other manner, including publication in one or more daily newspapers as the Bench admitting the appeal or the Tribunal may direct; provided that where the notice is directed to be served by publication in the newspapers, it shall not be issued until the costs of its publication are deposited by the appellant.

(2) The notice to the respondent shall be accompanied by a copy of memorandum of appeal and copies of other documents referred to in sub-paragraph (e) of paragraph 1.

(3) Service of notice in accordance with the provisions of this Paragraph shall be deemed to be due notice, and it shall not be necessary to prove that a party has actually received the notice.

7. (1) In response to the notice served under paragraph 6, the respondent may send his objections to the appeal by registered post acknowledgment due to the Registrar or deliver the same to him either personally or through this Advocate on or before the date fixed for hearing of the appeal.

(2) The objection shall be legible and concisely hand-written type-written or printed, shall be signed by the respondent and shall be accompanied by a copy of the order or other document on which the respondent wishes to reply in support of his objection.

(3) The written objections shall be accompanied by four spare copies thereof, complete in all respects, and containing copies of the order and documents referred to in sub-paragraph (2) three of those copies shall be supplied for the use of the Tribunal and the fourth copy for the appellant or his Advocate.

(4) In case objections are not received or delivered within the time allowed under sub-paragraph (1), the respondent may be proceeded against ex-parte.

8. (1) Questions arising for determination by a Tribunal shall be decided ordinarily upon affidavits and documents proved by

affidavits but the Tribunal may direct that such questions, as it may consider necessary, be decided on such other evidence and in such manner as it may deem fit.

(2) The party affected by an affidavit may be permitted by the Tribunal to cross-examine the deponent with reference to the statements in the affidavit.

9. (1) An Application for summoning witness before the Tribunal shall be made, as soon as possible, after the issue of notice of appeal under paragraph 5, It shall state----

- (a) The name, designation and address of the witnesses to be summoned;
- (b) A brief resume of the evidence which each witness is expected to give; and
- (c) A brief description of the document to be summoned and name and location of the office in which such document is expected to be.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witness given under subparagraph (1) may be of material assistance in the disposal of an appeal before, it shall direct him to be summoned, on a date to be fixed by the Tribunal and direct that the daily allowance and traveling charges of such witness at the rate should be deposited by the person calling him, within seven days of the date of the order.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness within the period specified in sub-paragraph (2) or within any extension thereof that may be granted by the Tribunal, the application for summoning of witness, so far as it relates to such witness, shall be deemed to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of any witness is necessary for the disposal of an appeal before it, it may direct him to be summoned.

(5) Where a Tribunal summons a witness under the provisions of sub-paragraph (4)

- (a) if such witness is a Government servant, his traveling and daily allowance, (if any) shall be borne by Government; and
- (b) if the witness is a private person his traveling allowance and daily allowance shall be borne by such parties and to

such extend as may be determined by the Tribunal.

10. (1) Process for service on witnesses of high rank shall be sent in the form of a letter and acknowledgment received.
(2) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the head of his office.
11. (1) A daily cause list shall be prepared under the order of the Registrars, which shall be affixed on the notice board of the court-room of the Tribunal.
(2) Except as otherwise directed by the Tribunal cases, will be set down in the cause list in the order of the date of admission.
12. (1) Evidence of a witness examined by the Tribunal shall be taken down under the superintendence of the Tribunal ordinarily in the form of a narrative and shall be signed by the members of the Tribunal and shall form part of the records.
(2) The parties or their Advocates may suggest any question to the Tribunal and the Tribunal may put such, besides any other question to the witness.
(3) The Tribunal may record such remarks as it thinks material respecting the demeanor of any witness while under examination.
(4) The Tribunal may close the evidence of any party if there is inordinate delay or expense involved in its production, provided that the interest of justice so permits.
13. (1) If on the date fixed for hearing of appeal or on any subsequent date to which the hearing may be adjourned, the appellant or his Advocate is not present before the Tribunal, the Tribunal may dismiss the appeal or, if it thinks fit, may proceed to hear the other party and decide the same.
(2) If on the date fixed for hearing of appeal or on subsequent date to which hearing may be adjourned the respondent or any one or more of the respondents, in case there are more than one respondents, or his or their Advocates, are not present before the Tribunal, the Tribunal may hear the appeal ex-parte against all or any of the respondents.
(3) Where an appeal has been dismissed under subparagraph. (1) or the ex-parte proceedings have been taken under

sub-paragraph (2), the Tribunal may on such order as to costs, as it may deem fit restore the appeal or set aside the ex-parte order as the case may be, or allow the defaulting party to rejoin the proceedings.

14. A copy of every order of final adjudication on an appeal shall be furnished by the tribunal free of cost to competent authority concerned.
15. Clerical or arithmetical Mistake in an order of final adjudication, arising therein from any accidental slip or omission may at any time to be corrected by the Tribunal either of its own motion or on the application of any of the parties:

Provided that where a party makes an application, it shall be duly supported by an affidavit.
16. The provisions Contained in the High Court Rules and or in regard to copies and inspection of record shall *mutatis-mutandis* and to the extend practicable apply to the proceedings before a Tribunal.
17. If a civil servant is unrepresented before a Tribunal and cannot afford to engage a counsel, the Tribunal may make arrangements to employ a council at Government expense.

FORM "A"
REGISTER OF APPEALS
(See Paragraph 5 (1) (i))

1.	Serial No.
2.	Date of presentation of appeal.
3.	Name and address of the appellant.
4.	Name and address of the respondent.
5.	Date of Registration of appeal.
6.	Whether admitted or dismissed in I mine with date of order.
7.	Amount of security and costs deposited by the appellant.
8.	Date of final order.
9.	Brief substance of the final order.
10.	Date on which copy of the final order sent to the competent authority.

Sd/ (Mohammad Akram Shah)
Deputy Secretary
Law and Parliamentary Affairs
Azad Government of the State of
Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 30, 1975.

No, 4019/ SL/ 75 The following Act of the Legislative Assembly received the assent of the President on the 30th day of December, 1975, and is hereby published for general information:-

(ACT XXIII OF 1975)

AN ACT to amend and consolidate the law relating to preservation, conservation and management of wildlife in Azad Kashmir;

Preamble:

WHEREAS it is expedient to amend and consolidate the laws relating to preservation, conservation and management of wildlife in Azad Jammu and Kashmir, for the purposes hereinafter appearing;

It is hereby enacted:-

1. **Short title, Commencement and extent:** (1) This Act may be called the Azad Jammu and Kashmir Wild Life Act, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir territory.

(3) It shall come in to force at once.
2. **Definitions:** In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-
 - (a) "Officer" means Chief Wild life Warden, Wild Life Warden Wild Life Ranger, Wild Life Deputy Ranger, Game Jamadars, Wild Life Scout, Game Watcher or any Forest Officer as defined in the Forest Act, (II of 1987 B) or any other officer empowered by the Government in this behalf, may from time to time, appoint by name or as holding an Office, to carry out all or any of the Purposes of this Act, or to do anything required by this Act or any rule made under this Act;
 - (b) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (c) "License" Special License "Permit" and "Special

Permit” means respectively, a license a special license a permit, or a special permit granted or issued under this Act or the rules.

- (d) “Wild Animal” means any vertebrate creature other than human beings, animals of usually domesticated species of fish and includes the eggs of birds and reptiles. The term including wild animal kept or born in captivity;
- (e) “Meat” means the fat, blood, flesh or any edible part of an animal, whether fresh or preserved;
- (f) “Trophy” means any dead animal or any born antler tooth, tusk, bone, claw, hoof, skin, hair, feather, egg shell or other durable part of any animal when here or not included in a manufactured or processed article;
- (g) “Dealer” when used in relation to animals, trophies or meat shall means any person who in the course of trade or business carried on by him whether on his own behalf or on behalf of any other person;
 - (i) Sell, Purchases or barter, preserves, Cleans, mounts or otherwise prepares any animal trophy or meat;
 - (ii) Cuts, carves, polishes, preserves, cleans, mounts or otherwise prepares any animal trophy or meat;
 - (iii) Manufactures an article form trophies or meat;
- (h) “Offence” means an offence punishable under this Act or under any rule made there under;
- (i) “Wildlife Sanctuary” means an area closed to hunting, shooting or trapping of animals and birds set aside as undisturbed breeding ground primarily for the protection of wild life, all organic resources such as animals, birds vegetation, soil and water. Public access is banned except as provided in the rules and no exploitation of forest is allowed except for reducing fire hazards, epidemic insect attacks or such other natural calamity in the area.
- (j) “National Park” means comparatively large area of outstanding science merit and natural interest with the primary object of protection and preservation of scenery

flora and fauna in the natural state to which access for public recreation, education and search may be allowed, No hunting or shooting or trapping or killing in any form or injuring of animals and birds is permitted. Management of the forest and range lands, for a sustained yield of forest produce may be allowed provided that the National Park values are not jeopardized. Construction of access roads and building of rest houses or hostels and provision of amenities for the Public shall be carefully planned so as not to impair the primary object of the establishment of National Parks.

- (k) “Game Reserve” means area where wildlife is protected for increase in population of the important species, Capturing of animals and birds is prohibited, Hunting and shooting are allowed with special permits in forms prescribed by Government with such restrictions as to the maximum number of animals and birds that can be killed and the area and duration of which such permits are valid.
- (l) “Private Game Reserve” means an area of private land set aside by the owner for the same purposes as a Game Reserve and recognized as such by being declared as a Private Game reserve in accordance with Section 32 of the Act;
- (m) “Game Animal” means a wild animal specified in the First Schedule”
- (n) “Prescribed” means prescribed by rules;
- (o) “Protected Animal” means a Wild animal specified in the third Schedule;
- (p) “Wild Life” including organic resources, animal birds, reptiles vegetating, soil and water.

3. Appointment of Officer: The Government may for the Purposes of this Act appoint:-

- (a) any officer to carry out the provisions of this Act;
- (b) any person to be a honorary Officer under the Act to assist in carrying out the provisions of this Act or may cancel such an appointment.

- (c) Except as may otherwise be prescribed, an honorary officer shall have all the powers conferred by this Act and shall hold office for a period of three year, unless the appointment is revoked earlier.

4. Formation of Azad Jammu and Kashmir Wildlife Board:

- (a) As soon as possible after the coming into force this Act the Government shall constitute a Board hereinafter called, the 'Azad Jammu and Kashmir Wildlife Board' consisting of the members as the Government may deem fit.
- (b) After the constitution of the Azad Jammu and Kashmir Wildlife Board" the Government be notification in the official Gazette shall specify the members and functions of the Board.

5. Wild Animals which shall not be killed or captured: The wild animals specified in the First Schedule shall be known as Game Animals and those specified in Third Schedule as protected animals, these animals shall not be hunted, killed, or captured except as provided in the Act.

6. Snare, Trap, Net and Cruel methods shall not be employed:
No person shall:-

- (i) Hunt any wild animal by means of a set gun, drop spear dead fall or gun trap;
- (ii) Hunt any wild animal by means of an explosive projectile, bomb or grenade;
- (iii) Hunt any wild animal by means of a baited hook or any other trap, whatsoever;
- (iv) Hunt any game animal by means of an automatic weapon or a weapon of caliber used by the Army or Police Force.
- (v) Hunt any game animal other than birds or hares with a shot gun or with a non-magum rifle of 22 Caliber or less;
- (vi) Hunt any game animal by means of a projectile contusing any drug or chemical substance having the property of anesthetizing parlaying stupefying or rendering and animal incapable, whether partly or totally;

- (vii) Use or have in his possession any poison or like injurious substance for the purposes of hunting a game animal;
- (viii) Use any motor vehicle, motor driven vessel, or aircraft to pursue any game animal or to drive or stampede game animals for any purpose whatsoever;
- (ix) Shoot any game animal from any aircraft, motor vehicle, rail trolley, cart, boat or from within 200 yards of any aircraft, motor vehicle, rail trolley, cart or other conveyance.
- (x) Hunt with help of live decoys or call birds;
- (xi) Construct or use or have in his possession for the purposes of hunting any game animal any pitfall, game pit, trench or similar excavation, any fence or enclosure, or use bhagwa or any contrivance.

Provided that:

- (a) It shall not be an offence to use a motor vehicle or aircraft to drive any wild animal away from an aerodrome or airstrip when such action is necessary to ensure the safety of aircraft using that aerodrome;
- (b) The officer authorized in this behalf may, at his discretion, grant capture licence and employment of one or more of the methods of hunting specified in the sub-paragraphs of this section;
- (xii) For the purpose of hunting or assisting in hunting any animal by fire or drive or sunset any animal by fire;
- (xiii) Drive any game animal water for the purposes of incapacitating and killing.
- (xiv) Hunt any game animal during the hours of darkness, which for the purposes of this paragraph shall mean the period commencing half an hour after sunset and ending half an hour before sunrise either with or without the aid of a torch or other artificial light.

7. **Game shooting licence:** Game shooting licence shall be of the following kinds:-

- (i) A small game shooting licence which shall subject to the provision of this Act, entitle the holder to hunt and kill the animal specified in column 1 of Part 1 of the First Schedule, up to the number specified in column II. Subject to the limitations of time and season specified in Column IV.
- (ii) A big game shooting licence which shall subject to the provisions of this Act, entitle the holder to hunt and kill a single individual of the animals specified in column 1 of part II of the First Schedule of the kind endorsed on that licence, subject to the limitations of season and locality specified in column IV and V.
- (iii) The fees chargeable in respect of such licence and the number and limitation of size of each species of game animals specified for each of them shall be fixed by Government or by the Chief Wild Life warden from time to time and notified in Government Gazette.

8. Issue of Game shooting licence: The Chief Wild Life Warden/Wildlife Warden may grant to any person, or may refuse without assigning any reason, game shooting licence of a kind specified and before granting such a licence he may require the applicant to furnish him with proof that;

- (i) he is conversant with the provisions of this Act
- (ii) he has access to and is entitled to carry a fire arm type suitable for use in hunting the animals for while licence is required; and
- (iii) he has adequate skill in the use of fire-arms.

9. Obligation to maintain a Register and return Licence: Any Person who has been granted a game shooting licence shall:-

- (i) carry it on his person when hunting.
- (ii) keep a register in the prescribed form.
- (iii) enter particulars of any animal killed or wounded, in the register within 24 hours of its being killed or wound.
- (iv) produce his licence or register for inspection at any reasonable time on being called upon to do so.
- (v) return his register and the game shooting licence to which

it refers to the wild life warden on the expiry of that licence or on his leaving the country, whichever the earlier:

Provided that a big game shooting licence may be remain as proof of lawful possession of the tropic licence meat of an animal killed under the licence under such time as if has been exchanged for a certificate of lawful possession.

10. **Hawks and Dogs shall not be possessed or used or killing wild birds or animals without a special licence:** No person shall possess or use Hawks for hawking the wild birds or dogs for coursing wild animals, specified in the Schedule I except under a special licence issued under the Act.
11. **Animals found dead or killed or caught unlawfully:** Any protected or game animal or the meat and trophy of any game or protected animal that is found dead or dying or which he been killed or caught otherwise than in accordance with the provisions of this Act shall be the property of the Government.
12. **Restrictions on number and use of Game, shooting licence:**
 - (1) No person shall hold more than one valid small game shooting licence at any time.
 - (2) Licence issued under this Act in the form prescribed shall be non-transferable and non-shareable.
13. **Prohibition against killing or shooting without licence:** It shall not be lawful for any person to kill game except by shooting under a licence or to proceed in search of or shoot or capture game, except under and in accordance with the terms and conditions of his licence.
14. **Prohibitions against shooting or capturing in close season:** It shall not be lawful to shoot, kill or capture game in the close season.
15. **Game capture licence:** (1) The Chief Wildlife Warden and Wildlife Warden may grant to any person, or may refuse without assigning any reason for his refusal, a game capture licence and before granting such a licence he may require the applicant to furnish him with proof that:-
 - (i) He has adequate experience of the capture and care of wildlife animals,

- (ii) The capture animal is required for a reputable purpose;
- (iii) The purposed method of capture is suitable;
- (iv) He has adequate crating and transport facilities at his disposal.

(2) A game capture licence shall be valid for a specified period from the date of its issue and shall entitle the holder to hunt and capture the kind and number of game animals endorsed therein in such locality and by such means and for such purposes as may be specified.

16. Obligation to maintain Register and return Licence: Any person who has been granted a game capture licence shall:-

- (i) Carry it on his person when hunting;
- (ii) Maintain a register in the prescribed form;
- (iii) Enter any animal caught, or accidentally killed or wounded and lost, in that register within 24 hours of its being caught, or killed or wounded and lost and enter the date of death of any animal that dies subsequent to being captured;

17. Restriction on transfer of Game Capture licence: Game capture licence shall be non-transferable and non-shareable.

18. Animal to count against Game shooting Licence and Games Capture Licence: (1) Any animal which is killed or wounded and lost, in any circumstance whatsoever, by the holder of a game shooting licence or a game capture licence which entitle the holder to kill or capture and animal of that kind shall count against that licence.

(2) Any animal that is caught by the holder of game capture licence which entitle the holder to capture and animal of that kind and which subsequently dies, shall count against that licence.

19. Certificate of Lawful possession:(1) The officer authorized in this behalf may issue certificate of Lawful possession to any person who is in the lawful possession of any animal, trophy or meat.

(2) No person shall be in possession of any animal, trophy or meat of a kind specified in the Second Schedule, of this Act,

Unless he is in possession of a Certification of lawful possession in respect thereof:

Provided that any person importing an animal, trophy or meat in accordance with this Act, or acquiring an animal, trophy or meat in accordance with the terms of licence or permit issued under this Act, shall be allowed 30 days from the date of importing or acquiring the animal trophy or meat to apply for a certificate of lawful possession.

(3) The Officer authorized in this behalf may mark or register an animal, trophy or meat in respect of which a certificate of Law full possession is issued, in any manner he deems fit, or he may seize, pending the taking of legal action under this Act, any animal, trophy or meat which he is not satisfied has been legally imported or acquired.

(4) Any person who:-

- (i) Fails to apply for a Certificate of Lawful possession for any animal, trophy or meat for the possession of which a certificate of Lawful possession is required;
- (ii) Counterfeits, exchanges or in any way interferes with any mark or registration put on any animal, trophy or meat for which a Certificate of Lawful possession has been issued, or alters or in any way changes a certificate of lawful possession, shall be guilty of an offence.

20. **Restriction on transfer of animals, trophies or meat:-**(1) No person shall transfer by gift, sale or otherwise to any other person any animal, trophy or meat of a kind specified in the Second Schedule to this Act unless he be in possession of a Certificate of Lawful possession in respect thereof, and that kind such Certificate be endorsed with details of the transaction and given to transferee at the time of the transfer.

21. **Restriction on import of animals and trophies:-**(1) No person shall import, or attempt to import into Azad Kashmir any live wild animal of an endemic or exotic species, or any trophy or meat of a kind specified in the Second Schedule to this Act except.-

- i) through a customs post of entry;
- ii) he produces to the Customs Officer satisfactory proof that such animal, trophy or meat has been lawfully exported from the country of export;

iii) he produces an import Permit issued under this Act.

(2) It shall be the duty of a Custom Officer to detain any live wild animal, or any trophy or meat of a kind specified in the Second Schedule until the documents required by paras (ii) and (iii), of subsection (1) of this section have been surrendered to him, and if those documents are not surrendered within a reasonable time the animal trophy or meat, shall be forfeited and disposed according to the instruction of the Officer authorized in the behalf.

22. **Restriction on Export of Animals, Trophies and Meat:** (1) No person shall of export or attempt to export any animal trophy or meat specified in the Second Schedule to this Act except.

(i) Through a custom post exit;

(ii) He produces to the customs officer an export permit issued under this Act.

(2) The Officer authorized in this behalf may issue, or refuse to issue without assigning any reason an Export Permit to the lawful possessor of any animal, trophy or meat of a kind specified in the second Schedule to this Act and on receiving Export Permit the owner of the Animal, trophy or meat shall immediately surrender the Certificate of lawful possession relating thereto.

23. **Animals, Trophies and Meat in transit through Azad Kashmir:** (1) Nothing in this part of this Act shall apply to any animal trophy or meat in transit through Azad Kashmir, provided that the animal, trophy or meat.

(i) Is accompanied by any necessary transit customs documents;

(ii) Is entered through a custom post of entry;

(iii) Is not unloaded from the ship or motor vehicle on which it is being carried or, in the case of rail or air transport, provided that it does not leave the precincts of the railway station or rail-post at which it is landed or trans shipped or remains there for more than 48 hours other than in a customs warehouse.

24. **Restriction on dealing in Animals, Trophies or Meat:** (1) No person shall as a profession, trade or business buy, sell or otherwise deal in animals trophies or meat, or processes or

manufacture goods on articles form trophies or meat, unless he be in possession of a valid permit to do so, issued by the Officer authorized in this behalf thereafter called a Dealer's Permit.

(2) The Officer authorized in this behalf may grant, or may refuse without assigned any reason a Dealer's Permit to any person, which shall entitle that person to deal in any animal trophy or meat, or any class of animals, trophies or meat specified in that permit.

(3) A Dealer's Permit shall be valid for a period of one year from the date of issue and shall be subject to the fee specified For the purposes assessing fees dealers may be divided into different classes and a different fee may prescribed of reach class.

(4) The holder, of a Dealer's Permit shall maintain such register or records of his dealings as the Officer authorized in this behalf may require and shall produce them for inspection at any reasonable time when called upon to do so.

(5) Nothing in this section shall be constructed to absolve the holder of a Dealer's Permit from complying with the provisions of Section 11, 9, 20, 21 and 22.

25. **Power to search without Warrant:** Any Officer or any other person authorized by Government in this behalf, may search any person, vessel vehicle, animal, package, receptacle or any suspected place so as to satisfy himself as to whether or not offence under this Act, has been committed.
26. **Powers of seizure:**Any Officer or any person authorized by the Government in this behalf, may seize any wild animal together with any fire-arm net trap, snare, bow arrow or any vehicle or vessel or any thing whatsoever used or suspected to have been used in the commission of an offence under this Act.
27. **Duty to produce Permit on demand made by any Officer or person authorized in this behalf:** Every person in possession of any wild animal specified in the Second Schedule shall produce his certificate of lawful possession on a demand made by any officer or any other person authorized by Government in this behalf.
28. **Duty of Coupe purchaser, Chowkidar, defender, Village Watchman etc:** Every coupe purchaser of forest produce, lambardar, Chowkidar, police man, village headman, chairman

and member of Union Council and all Government servant shall be bound in the absence of reasonable excuse, to give to any officer or any person authorized in this behalf by Government information in respect of any snaring, trapping netting unauthorized killing or any other offense under this Act committed within the limits of his jurisdiction, as soon as the commission of such offence comes to his knowledge.

29. Procedure as to perishable property seized under Section 26:

Notwithstanding any thing contained in this Act the Officer or any other person authorized in the behalf may, sell any property seized under section 26 and subject to speedy and natural decay, and may deal with proceeds as he would have dealt with such property if it had not been sold.

30. Killing or Capturing in self-defense: (1) Notwithstanding any other provisions of this Act, it shall not be an offence.

- (a) For any person to kill any bird or animal by any means in the immediate defense of his own life or that of any other person.
- (b) For the owner of standing crops or his employee to kill any bird or animal that is doing material damage to those crops by any means within the bounds of those crops.
- (c) For the owner of livestock or his employee to kill any animal that is doing damage to the livestock by any means within a reasonable distance of where that livestock is grazing or where it is enclosed for the night.

Provided that paragraph (b) and (c) of sub-section 1 of this section shall not apply to any unlawful cultivation in a National Park, Wildlife sanctuary Reserved and protected Force or any livestock illegally grazing or herded therein.

(2) The killing of wild animal specified in the First and Third Schedule under Sub-section 1 of section 30 shall be reported to the nearest competent authority with the least possible delay.

(3) The meat or trophy or any protected or game animal killed under section 30 of this Act shall be property of the Government and shall be disposed of as directed by the officer authorized in this behalf.

31. Owns of Proof: When in any proceedings taken under this Act

or in consequence of any things done under this Act, a question arises as to whether any wild animal, trophy or meat is the property of the Government such wild animal shall be presumed to be the property of the Government until the contrary is proved.

32. Powers to Declares any area to be a Wildlife sanctuary, a National Park or a Game Reserve for wild Animals. (1) The Government may be notification declare any area to be a Wildlife sanctuary.

(2) No personal shall:-

- (i) Enter or reside any Wildlife Sanctuary;
- (ii) Cultivate any land in Wildlife Sanctuary;
- (iii) Damage or destroy any Vegetation in Wildlife Sanctuary;
- (iv) Hunt, kill or capture any wild animal or carry any fir-arm in Wildlife Sanctuary or within 3 miles form the boundaries of a Wildlife Sanctuary;
- (v) Introduce any exotic species of animal plant into the Wildlife Sanctuary;
- (vi) Introduce any domestic animal or allow any domestic animal to starry into a Wildlife Sanctuary;
- (vii) Cause any fire;
- (viii) Pollute water flowing in and thought the wildlife Sanctuary;

Provided that Government may for scientific purposes or for any esthetic enjoyment or betterment of scenery Authorize the doing or the afore-mentioned prohibited act.

(3) The Government may declare any area to be a National Park, where the following Acts shall not be allowed.

- (i) Hunt, kill or capture any wild animal in a national Park or with in 3 miles radius of its boundary;
- (ii) Fire any gun or do any other act which may disturb and wild animal or do any act which integers with the breeding place of any wild animal;

- (iii) Fell, tap burn or in any way damage or destroy, take, collect or remove any plant or tree there from;
- (iv) Clear or break up any land for cultivation, mining or for any other purpose;
- (v) Pollute water flowing in and through the National Park;

Provided that the Government may for scientific purpose or betterment of the National Park Authorize the doing of any the above-mentioned prohibited acts.

(4) The Government may declare any area to be a Game Reserve where hunting and shooting of wild animals shall not be allowed, except under a special permit.

(5) Alteration in boundaries may be allowed by the authorities competent to constitute the National Park, wildlife sanctuary and Game Reserve.

(6) Whoever with intent to cause damage or injury to the public, or to any person, or to cause wrongful gain as defined in Azad Penal Code, or local and special law, alters, removes destroys or Defense any boundary mark or Game Sanctuary or of a Game Reserve or of a reserved area, or National Park shall be punished with imprisonment of either description for a term which may extend to one year or with fine not exceeding one thousand rupees or with both.

33. Rewards: Any person persons giving such bonafide information as shall lead to conviction under this act or the rules made there under shall be entitled to reward which may at the discretion of the Magistrate trying the case, extend to the full amount of the fine inflicted.

Explanation: Government employees who give such information shall not be debarred form receiving the above reward.

34. Private Wildlife Reserve: (1) Where the Government is satisfied that an area of private land has been dedicated by its owner to the same purposes as a game Reserve, the Government may, on the application of the owner declare that area of land to be private wildlife reserve by Gazette Notification.

(2) The Government may at any time by notice in the Gazette, declare that any private Wildlife Reserve shall cease to be private Wildlife Reserve.

(3) The owner of such a private Game Reserve shall exercise the powers of an officer under the Act within its boundary.

35. **Abetment of an offence:** An abetment of any offence under this Act shall be punishable as the main offence.
36. **Interference in duty:** Interference, by any one in due discharge of duties of the Government employees appointed under this Act shall be unlawful.

37. **Penalties:** (1) Whoever;

- (i) Contravenes or attempts to contravene the provisions of sections 5,8,19,20,21,23,24 and 32 of this Act, shall be punished with imprisonment which may extend to one year or with fine which shall extend to one thousand rupees, or both alongwith the cancellation of hi licence under the Act for a specified period;
- (ii) Contravenes or all attempts to contravene provisions of section 6 and 36 with imprisonment which may extend to two year or with fine which may extend to Rupees 1000/- or with both;
- (iii) Contravenes or attempts to contravene the provisions of sections 10, 27, 30, (2) and 36 of this Act shall be punished with a fine which may extend to five hundred rupees.
- (iv) Any Government employee who fails to report any infringement of the provisions of this Act or of any rule made there under on its being brought to his notice shall be liable to the punishment laid down in sub-section (iii)

(2) Any person contravening any provision of this Act or any rule made there under for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or both.

(3) Whoever, having already been convicted of an offence under Subsection 1 (I) of this section, is again convicted there under shall, on every subsequent conviction be punishable with imprisonment for a term of minimum of twelve months or with fine which shall extend to a minimum of one thousand rupees or with both and his fire arm, vehicle appliance or anything used in this commission of the offence shall be confiscated and his

hunting licence cancelled for a period of 10 year.

38. **Persons who may lodge complaints:** No court shall take cognizance of any offence under this Act except on the complaint of an officer or of any person appointed under this Act and authorized by the Government in this behalf.
39. **Prosecution of offence under any other Law:** Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or commission which constitutes an offence under this Act or from being liable under any law to any higher punishment or penalty than that provided by this Act.
40. **Procedure when offender not known or cannot be found:** When the offender is not known or cannot be found any officer authorized in this behalf may, if he, finds that an offence has been committed, confiscate the property used in the commission of the offence.
41. **Court:** No Court inferior to that of a Magistrate 1st Class or special Magistrate for trying the cases committed under this Act may set up a mobile court and when necessary.
42. **Power to arrest:** (1) Any officer or any other person authorized in this behalf may, without order from a Magistrate and without warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any offence under this Act.
- (2) Every officer making an arrest under this section shall without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case of the officer in charge of the nearest police station.
43. **Power to release on Bond of a person arrested:** Any officer not below the rank of Wildlife Ranger or equivalent rank who has arrested any person under the provisions of section 37 may release such person on his executing a bond to appear, if and such person on his executing a bond to appear, if and when so returned, before the Magistrate having jurisdiction in the case or before the officer in charge of the nearest police station.
44. **Power to prevent Commission of Offence:** Every Officer or any other person authorized in this behalf shall prevent and may interfere for the purpose of preventing the commission of any offence.

45. **Power to try offence summarily.-** (1) The Government may, by notification in the official Gazette, empower and officer-
- (a) To accept from any person against whom a reasonable suspicion exist that he has committed any offence, a sum of money by way of compensation for the offence which such person is suspected to have committed, and
 - (b) When any property has been seized as liable to confiscation to replace the same on payment of the value thereof as estimated by such officer.
- (2) On the payment of such sum of money, or such value or both as the case may be, to such officer, the suspected person if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against person or property.
- (3) The sum of money excepted as Compensation under clause;
- (a) Of sub-section (1) shall in no case exceed the sum of five hundred rupees.
- (4) No officer shall have power to compound a second and subsequent offence under this Act.
46. **Power to compound offence.-** (1) The Government may, by notification in the official Gazette, empower an officer--
- (a) to accept from any person against whom a reasonable suspicion exists that he has committed any offence, a sum of money by way of compensation for the offence which such person is suspected to have committed; and
 - (b) When any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.
- (2) On the payment of such sum of money, or such value or both as the case may be, to such officer, the suspected person if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.
- (3) The sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of five hundred rupees.

(4) No officer shall have power to compound a second and subsequently offence under this Act.

47. **Government may invest officers with certain powers:** The Government may invest any officer or any other person authorized in this behalf with all or any of the following powers, that is;
 - (a) The powers of a civil court to compete the attendance of witness and the production of documents and material objects;
 - (b) Power to issue a search warrant under the Code of Criminal Procedure, 1898.
 - (c) Power to hold an inquiry into offence under this Act and in the course inquiry to receive and record evidence; and
 - (d) Power to prosecute a case before a Magistrate.
48. **Officer under this Act deemed Public Servants:** All officers under this Act shall be deemed to be public servants within the meaning of Azad Penal Code.
49. **Protection of action taken under this Act:** No suit, prosecution or other legal proceedings shall lie against any officer for any thing in good faith done or intended to be done pursuance of any provisions of this Act or the rules made there under.
50. **Duty of Police Officer:** All police officer shall upon request made by any person employed under this Act, assist him in the discharge of his duties under this Act.
51. **Delegation of powers by the Government:**The Government may, by notification in the official Gazette delegate all or any of the powers conferred upon it under the provision of this Act to any officer subordinate to it.
52. **Rules when to have force of Law:** All rules made by the Government under this Act shall be published in the official Gazette, and shall there upon so far as they are consistent with this Act, have effect as if enacted therein.
53. **Power to Grant Exemption:** Notwithstanding any thing contained in this Act Government may, in the interest of scientific or any public purpose, allowance by notification in the official gazette killing and capturing of such wild animal in any specified place by any specified means.

54. **Power to add or exclude form Schedule:** Government may by notification, in respect to any specified area—
- (i) Add to or exclude from the Schedule any wild bird or animal, subject to such conditions as it may impose in each case.
 - (ii) Alter the period during which any wild bird or animal specified in the First Schedule may be killed.
55. **Power to make Rules:** (1) The Government may, make rules for the purposes of carrying into effect the provision of this Act.
- (2) In particular and without prejudice to the generality of the forging power, such rules, may prescribe—
- (a) The powers and duties of the officers and other person authorized in this behalf;
 - (b) The from in which, and the terms and conditions on which, a licence or an permit or a special licence or a special permit may be granted;
 - (c) The fees to be charged for any licence or permit or a special licence or special permit.
 - (d) In the case of any species of wild animal the number and the sex that may be killed under a licence.
 - (e) Rewards to person who render help in detection of offences under this Act;
 - (f) The authorities by whom, and the condition on, and the manner in which, licence may be issued or obtained, as the case may be;
 - (g) For the management and crecreation of wild life sanctuaries, National Parks an Game Reserve.
 - (h) The sale of arms and ammunition.
56. **Repeal an savings:** (1) The Jammu and Kashmir Game preservation Act of 1998 Bikermi is hereby repealed.
- (2) Notwithstanding the repeal of the enactment, emoted on sub-section (1), every thing done, action taken, obliging, liability, penalty or punishment, incurred, inquiry or proceeding commenced, officer appointed or person authored, jurisdiction or power conferred, rules made and licence or order issued under

the provision of the said enactment or rule made there under shall continue enforce and, so far as may be, deemed to have been respectively done, taken incurred, commenced appointed, authorized, conferred, made or issued under this Act and any enactment or document referring to any of the said provision shall, as far as may be construed to refer to this Act to the corresponding provision thereof.

SD/ (Mohammad Akram Shah)
Deputy Secretary Law and
Parliamentary Affairs Secretariat
Azad Government of the State of
Jammu and Kashmir

FIRST SCHEDULE

Game Animals, i.e. Animals which may only be Hunted. Killed or captured by the Holder of License Part I (Animals which may be Hunted on an Ordinary Game Hunting License)

Column I		Column II	Column III	
Name of Animal		Number Allowed	Time and season when Hunting permitted.	
Scientific	English	Local		
Anatidae, Ducks	Lesser	Silahi	Unlimited	1 st
Dendrocygna	Whistling		but not more	October
Javanica	Teal		than eight	to 1 st
	Large	Barna Silabi,	ducks of all	March
Dendrocygna	whistling Teal	Chuka	species	
bicolor	Ruddy Sheld	Surkhab,	comvined	
Tandorna	Duck or	Chuka, Lal	may be	
feruginea	Brahminy	Surkha	killed in any	
	Duck.	Safro Chakwa	one day.	
Tadorna tadorna	Common	sfed surkhab,		
Anas acuta	Sheld Duck	Sanh, Sikhpar,		
Anas Crecca.	Pintail	Digosh,		
	Common Teal			
Anas Formosa		Kerraputari,		
	Dikal Teal	Sucjuruka		
		Huraro		
		Keraputari,		
Anas		Suchu, uka		
platyrhynchos	Mallard	Burkani		
Anas Strepera	Gadwall	Chaka, Nilsir,		
		Nilrugi. Mila,		
		Bhur, Hurwa		

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Column I		Column II	Column III
Anas Penelope	Wigeon	Peaan, partarui, Lal Sir Chotiya, Wano	
Anas falcate	Falcated Teal	Hurwa.	
Anas	Gargany	Chai putari.	
querquedula	Shoveller	Tidari, Punan, Trakwala, Ghira	
Anas Clypeata	Red crested	Lalsir,	
Netta rufina	pochard	Burana, Thurhandao.	
Aythya forina	Common	Karachiya, Burar Mada,	
Aythya ayroca	pochard	Lalbigri Budha.	
	White eyed		
Aythya baeri	Pochard	Dubara, Abtak Bohwara.	
Aythya fuligula			
Aythya marila	Beer's		
Clangula	pochard		
Byemalis	Tufied Duck		
	Scaup		
	Old squaw,		
	longrial Duck		

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Column I		Column II	Column III	
Bucephalus	Goldeneye	Kumbara		
clangula	Duck	Dayali Jhalli		
Mer uas abellus	Smew			
Mergus merga-	Goosander			
nser	R d-breasted			
Mergus serrator	Merganser			
Phaesianidae	Dheasants,			
Lerwa Lerwa	Partridges,	Titu, Bhedu,	Unlimited	1 st Nov. to
	Quails,	Parahut	but not	1 st March
	Spurfols,		more than	
	Peafowls and	Kakki,	5 per day.	1 st Nov. to
	Junglefwls	Chauklau,	-do-	1 st March.
Amoperdax	Snow Partidge	Siali		
				1 st Nov. to
Griseogularis		Golind, Lip	Not more	1 st March
	Seesee		than 5 per	
Tetregallus	partridge	Lipva	year.	Wednesday,
Himalayensis		Chukor		Sunday and
	Snow cook	Chukro,	Unlimited	Gazetted
Loctoris graeca		Khank,	but not	Holidays
		Charu,	more than	from 1 st Nov
Francloinus	Chukor	Zarkar.	6 per.	to 1 st March.
Francolius				-do-
Francolinus				
		Kala Titar,	-do-	
Pondicerianus	Black Partridge	Taru, Karo		-do-
Francolius		Titar, Kodd		
Gularis		Tatar.		
			-do-	-do-
		Titar, Kyah,		
		Khyar..		
	Grey partridge		-do-	
	Swamp	Kajjah,		
	partridge	Bhuri Titar.		
		Gul Titar,		
		Bicel Titar.		

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Column I		Column II	Column III	
Coturnix	Common Qyall	Batter, Kurrai Bhatri,	Unlimited by not more than 12 of all species, of quail combined in any one day.	1 st Nov. to 1 st March
Coturnix coromandelica	Rain quail	Baster		
Coturnix Chinesis	Blue-breasted	Curru		
Perdicula argoonda	Quail	Lowwa		
Perdicular	Rock Bush	Lowwa		
Asiatica	Quail	Badkhi,		
Turnix	Jungle Bush	Chota		
Syivatica	Quail	Bater		
Turn x	Little	Bater,		
Tank	Bustard	Lowwa		
Turnix	Quail			
Suscitator	Button	Gulu		
	Quail			
Arborophila	Common Bustard			Wednesday
	Quail	Dau Bui.	Unlimited but not more than 5 per day.	Sundays and Gazetted holidays from 1 st Nov. to 1 st March
Rufogularis				
Arborphila	Rufous-throated	Pura, San Batai	-do-	
Vafogularis				
Gullus	Hill Partridge	Junghi Karghi	None in West Pakistan, Unlimited, but not more than 3 per day in	-do- Wednesday Sunday and Gazetted holidays from 1 st Nov. to 1 st March.
	White-checked Hill partridge. Red Jaungle fowl			

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Column I		Column II	Column III
Otidiae; Bustards Almdotis Undulate	Houbara	Tilor, Khermor, Kar Wanak	Unlimited but note more than 2 per day
Charadriidae	White-tailed		1 st Nov. to 1 st March
Plovers Sandpipers, Saipe and other waders		Lapwing	Unlimited by not more than 8 Lapwing of plovers of all species
Vanellus leucoris	Lapwing Grey-headed Red Wattled	Rodhur, Sabaz Titti Lapwing	combined in any one day.
Venellus vanellus	Super-winged Lapwing.	Papwing Tata, Titeri,	
Venellus!	Yellow-	Tachar	
Cineieus	wattled		
Vanellus Indicus	Lapwing Golden plover Esern Golver	Zirdi, Jithri	
Vanellus spinosus	Ploven	Chota Batan Sona Batan	
	Whimberal		1 st Nov to 1 st March.
Vanellus Malabaricus		Chota Goumgh,	Unlimited
Pluvialis apricaria		Chota	but not more
Pluvialis dominica		Golind	than 2 per day.
Numenius			
Phaeopus			

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Column I		Column II	Column III	
Numenius arquata	Cuilew	Goar, Goungh, Choppa	-do-	-do-
Capella nemoricola	Wood Snipe	Sada, Kastachura Chaha, Sumkiri Julkiri	Unlimited not more than twelve snipe of all species combined in anyone day.	-do-
Capella gallinago	Fanail Snipe	Pakhi, Jalakri		
Capella solita ia	Solitary Snipe	Ban Chaha		
Capella stonara	Pintail Snipe	Pakhi, Jaakri, Kadakoe		
Capella minima	Jack Snipe	Chota Chaba, Asraf Oak		
Capella modia	Great Snipe	Dum Pakhi		
Rostratula	Painted Snipe	Rajchaha Baggergi		1 st Nov. to 1 st March
Benghalensis				
Burhinidae; Store				
Curlews or stone				
Piovers				
Brhinus	Stone Cu lew	Lambi, Karakwanak, Basirl.	Unlimited but not more than 2 per day.	-do-
Oedienemus			-do-	
Esacus magnirostris	Great Stone plover			
Ptoriclidiae				
Sandgrouse				
Syrraptres tibetanus	Tibetan Sandrouse	Nok, Kaling, Kung, Bhattar	Unlimited but not more than twelve sandrouse of all, species combined in anyone day.	1 st Nov. to 1 st March
Ptreocles exustus	Indian Sandgrouse			
Pto ocles	Spotted Sandgrouse			
Senegalius				

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Column I		Column II	Column III	
Pterocles orientalis	Imperial Sandgrouse	Bhattitar Gero Bakh, Bakh		
Pterocles corenantus	Cor netted Sandgrouse	Bhatta, Bal Harisia, Sina		
Pterocles indious	Close-barred or Painted Sandgrouse	Dukru	Unlimited, but not more than 20 birds of all species in any one day.	1 st Nov. to 1 st March
Columbidae; Pigeons, Green Pigeons and Doves All species of Pigeons, Green Pigeons and Doves, other than members of the genus Ducula	White-brested	Dawak, Pampaira,	Unlimited but not more than 10 coots and Moorchens of all species combined in anyone day.	-do-
(Imperial Pigeons) which are protected	Moorhen	Kuraki		-do-
Rallidae: Coots and Moorhens	Moorhen Jal Murghi	Dakadpairs Kulang, Gajro		
Amauornis	Purple			
Phoenicurus	Moorchen, Kaim Coot	Khushkal, Dasari, Kanrambad		All year.
Gallinura chloropus		Khargosh	Unlimited, but not more than round 5 hares of a 1 species combined in anyone day.	
Porphyrio	Cape Hare	Khargosh		
Porphyrio	Indian Hare			
Fulicula atarta	Arabian Here	Khargosh		
Lepus; Hares, Lepus capensis Lepus nigricollis				
Lepus arabicus				

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Column I		Column II	Column III	
Name of Animal		Number Allowed	Time and season when Hunting permitted.	
Scientific	English	Local		
Martes foian	Beech or Store Marten		1 st Nov. to 1 st March	Wherever found except in National parks, wild life
Selenarctos Thibetanus	Black Bear (all races except S.T. gedrosanus Which is protected, and those occurring in East Pakistan)	Rich, Bhalu	1 st July to 1 st December	Sanctuaries or game reserves.
Felis lybica		Jhang Nemo	1 st Nov. to 1 st March	In areas to the north and east of the Kabil River that the Chief wildlife warden may from time to time specify.
Felis chaus	Desert cat.	Ban Bilar, Khats	-do- -do-	Wherever found except in National parks, Wildlife sanctuaries or Game Reserve.
Nemorhaedus Goral	Jungle cat	Pij, Pijur, Bai, Bom		-do- -do- -do-
Capra ibex Capra hircus	Goral	Sair, Sarah, Phasin or Born Kuhi		In such area as the Chief Wildlife Warden may from time to time specify.
	Ibex			-do- -do- -do-
	Sind Wild Goard			

THIRD SCHEDULE

Protected Animals; i.e. Animals which shall not be Hunted, Killed or captured.

1. All Games animals when immature or not fully grown.
2. All female game animals when:
 - a. Pregnant;
 - b. In a condition that indicates they are suckling or feeding young;
 - c. Accompanied by their immature offspring.
3. All females of the following species:-
Nemorhaedus goral. Goral or Piji, Ban-bakri, Gurrur, Gudh, Sar, Pijur, Rai, Rom.
Capra hircus. Sind wild goat or Ter, Sara, Pashin, Pachin.
Capra falconer. (all races) Markhor or Rawachi.
Capra ibex. Ibex or Tragul, Khail, Dabmo.
Ovis orientalis. (all races) Urial or Shapu, Hurian, Shah Kohi, Koch, Gad, Garand.

All individuals of the following species, genera, families or groups of birds:

- All members of the family ARDEIDAE: i.e. all Herons, Night Herons, Paddy Birds, Egrets or Bitterns,
All members of the family PELECANIDAE: i.e. all Pelicans.
All members of the family CICONIDAE i.e. all storks.
All members of the family THRESKIORNIDAE; i.e. all Ibis;s and Spoonbills.
All members of the family PHOENICOPTERIDAE ; i.e. all Greese, including the Bars headed Goos.
All members of the genus Cygnus; i.e. all swans.

The following species of Ducks:-

- Anas angustirostris.** Marbled Teal or Choi, Lanjho, Dudjalri.
Anas Poecilorhyncha. Spot – bill Duck, or Garmpai, Gugral, Hamjer.
Nettapus Coromandelicus. Cotton Teal or Giri, Girria.
Oxyura leucocephala. White-headed Duck or Stiff-tailed Duck, Udbalau
Cairinascutulata. White-winged Wool Duck.
Sarkidiornis melanotos. Comb Duck or Nukhta.
Rououessa Caryphillacea. Pind headed Duck.

- All members of the family ACCIPTRIDAE; i.e. all hawks, Vultures, Kites, Buzzards, Hawk-Eagles, Harriers and Ospreys.
All members of the family FALCONIDAE ; i.e. all Falcons, Kestrels, hobbies.
All members of the family PHASIANIDAE ; i.e. all pheasants, partridges quails, spurfowls, Junglefowls and peafowls other than those species in the First Schedule.
All members of the family GRUIDAE ; i.e. all Cranes.

All members of the genus *Heliopais* ; i.e. all Bustards other than the one species specified in the First Schedule.

Secolopex rusticola. Woodcock or Simkukri, Jalalkari, Julkari,, Wilaiti Chaha, Bumpal, Dhabba.

Pterocles alchata. Large Pin-Tailed Sandgrouse.

All members of the genus *Ducula* ; i.e. all imperial pigeons.

5. All individuals of the following races, species, genera or groups of mammals:-

Nycticebus coucang. Slow Loris or Sharmindi Billi, Lajja, Lajjawoti, Babar.

Mucaca Mulatta villosa. Himalian Rhesus Monkey (i.e. all Rhesus Monkeys found in West Pakistan) Bandar, Punj, Markat.

Macaca assamenis. Assames Macaque a Bandar.

Macaca irus. Crab-eating Macaque.

Macaca speciosa. Stump-tailed Macaque.

Presbytis pileatus. Capped Langur.

Presbytis entellus. Common Langur or Hanuman, Dendos.

Presbytis obscurus. Dusky leaf Monkey.

Hylobates hoolock. Hoolock or white-Browed Gibbon, Uluk, Mms Crass caudate. Pangolin or Bajra Kit, Bajra, Kapta, Suraj, Mukhli, Silu, Kishaur, Sibi, Mirun, Challa, Kat, Pohu.

Vulpes cana. Blanford's Fox.

Cuon alpinus. Wild Dog or Dhole, Ramkun, Bank Kutta.

Bhoonsa.

Melursus ursinus. Sloth Bear, of Bhalu, Rinch.

Selenarctos thibetanus, *gedrosianus*. Baluchistan Black Bear (i.e. all black Bears lound south and west of the Kabul River) Kala Rinch, Bhalu, Haput, Mam.

Urus arctos. Brown Bear or Red Bear Barf ka Rinch, Safed Bhalu, Chilla Rinch, Drengmo, Drin, Mor.

Helarctos malayanus. Sun Bear or Honey Bear.

Martles flavigula. Yellow-throated Mart or Tutrala. Chitrala, Chitrola.

Vormela peregusna. Marbled polecat

Mellivora capensis. Ratel or Honey Badge, Beju, Gopa, Ghurna.

Lutra lutra. Common otter or Laudher, ud-bilaw, pani Kutta, Sagi Ab.

Lutra perspicillata. Smmoth Indian Otter of Ludher, Ludra.

Aonyx cinerias. Oriental Clawless otter of Ludher.

Viverra zibetha. Large Indian Civet, Kettas, Mch Bhondar, Bagdos, Pudu, Gaula

Viverra indica. Small Indian Civet or Naundero, Gandogaula, Kasturi.

Paradoxurus hermaphroditus. Common paem civet or Toddy Cat, Kakti.

Paguma larbata. Himalayan Civet of Masked Palm Civet.

Arctitis binturong. Binturong or Bear Cat.

Felis caraca. Caracal or Siya-gush, Ech.

Felis manul. Pallas's Cat.

Felis lynx. Lynx or Patsalan, Phiauku.

Felis Bengalonis. Lepard Cat or Chita Billi, ank Bilar.

Felis viverrina. Fishing Ca t or Mash Billi. Mach Bagral.

Felis marmorata. Marbled.

Felis temmincki. Golden.*Neofelis nebulosa*. Clouded leopard or amchita,

Kung.
Panthera Tigris. Tiger or Bagh, Sher, Char.
Panthera uncial. Snow leopard or Ounce, Barhel Ne, Lkar.
Panthera pardus. Leopard or panther, tendwa Chita, Chita Bagh, Suh.
Acinonyx jubatus. Cheetah or Laggar.
Caprolagus hispidus. Hispid Hare or Assam Rabbit.
Callosciurus pygerthrus. Hoary-bellied Himalayan Squirrel.
Elephas maximum. Elephant or Hathi, Gaj.
Equus hemionus- Wild ass Ghor Khar, Ghuran Kiang, All members of the general Rhinoceros of Bidemoseros i.e. all Rhinoceros, Gainda, Gagadan.
Moschus moschiferus- Musk Deer or Kastura, Musch, Bina, Bijri, Ranwhin
Muntiacus Muntjak. Barking Deer or Muutjac, Kakar Maya.
Axis porcinus. High deer of para.
Cervus unicolor. Sambar.
Cervus duvavceli. Swamp Deer or Barasingha, Maha.
Cervus elaphus. Kashmir Stag or Barasingha, Hangul, Hanglu.
Bos Ganraus. Gaur or Blsom, Solni (Including the deral hybrid B.g. *frontalis* or M than, Gayal).
Bos banteng. Banteng of TSaine.
Gazella gazelle. Indian Gazelle or Chinkara, Kal punch, Gora Hiran, Chitka Hiran, Chiatika, Buast, Phakela, Area, gambit, Gajar, onashkai.
Gazella subgutterosa. Goitred or Persian Gazelle, Pharal Ghazal.
Buselaphus tragocamilus. Bluobull or Nilgai, Gond, Bain, Ranjb, Roz, Rojra.
Tetracerus quadricornis. Four horned Antilpe or Chowsingha.
Capricornis sumatrensis. Serew.
Nemitragus jemlahicus. Thar or Kras, Jagla, Tehr, Jbe.
Capra falconeri jerdoni. Anief Chialtanesis, straight Horned Races, on Markhor (i.e. Markhor found to the south and West of the North. Waziristan Agency) Sarah, Pachia, Buzkhuhi.
Pseudeis nayaaur. Blue Sheep or Bharal, Na, Sna, Maitu, GhardWarr.
Dvis ammon. Both the race O.a. Polii (Marco Polo's Sheep or Kichan, Roosh) and the race O.o. hodgsom (Great Tribeian Sheep or Nayan).
Ovis or-ientalis punjabiensis. Punjab Urial (i.e. all) Urial found on the West bank of the River Indus below the junction with the River Kabul) Hurian, Shah Kohli, Koch, Kargad.
Sus sylvanus. Pigmy Hog.
Platanista gangatica. Riv Dolphin or Sus, suswa, susuk, Sishuk, Baualan, Sansar.
 All individuals of the following species, general of families of reptiles:-
Grocodilus palustries. Marsh Crocodile or Muggar, Magar Mach.
Cricidukys oirisys, Estuarine Crocodile or Mugger.
Gavialis Gangeticus. Gharial or Soondy Mugger, Sansar.
 All snakes of the genus *Python* i.e. all phythons, Azdha or Arar.
 All lizards of the genus *Waranus* i.e. all montter Lizards Goah, Bari Chapkali, Ram Gaddi, Sunna Goddi or kala Godi.
 All marine turtles of the genera *Dermochelys*, *Chelona* Care and *Eretomocholys*, i.e. All Leatherback, Green or Ebibe, Hawks Bill, Loggerhead and Tortoise shall Turle.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad 22nd February, 1975.

No. 386/SL/75. The following Ordinance made and promulgated by the President Azad Government of the State of Jammu and Kashmir on the 22nd February, 1975 is hereby published for general information:-

(ORDINANCE I OF 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir State Council Ordinance, 1970.

WHEREAS in pursuance of sub- section (1) of Section 22 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, it is expedient to amend the Azad Jammu and Kashmir State Council Ordinance, 1970 (Ordinance VI of 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 immediate legislation necessary ;

NOW, THEREFORE, in exercise of the powers conferred by Section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974 the President Azad Government of the State of Jammu and Kashmir 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 State Council (Amendment) Ordinance, 1975.

(2) It shall come into force at once and shall be deemed to have taken effect from 25th of January, 1975.
2. **Amendment of Section 2, Ordinance VI of 1970:-** In the Azad Jammu and Kashmir State Council Ordinance, 1970, (Ordinance VI of 1970) hereinafter referred to as the said Ordinance, in Section 2—
 - (a) in sub-section (1), for the word ‘sixteen’ the word "twenty-eight" shall be substituted;
 - (b) in sub-section (2), for the word ‘four’ the word ‘six’ shall be substituted;
 - (c) in sun-section (3), for the word ‘four’ the word ‘six’

shall be substituted;

(d) in sub-section (4),-

- (i) for the word 'one' the word 'two' shall be substituted; and
- (ii) for the words 'twenty-four' the word 'forty' shall be substituted.

3. **General.-** In the said Ordinance, for the words "State Council wherever occurring, the words 'Legislative Assembly' shall be substituted.

Sd/-

(Sardar Mohammad Abdul Qayyum Khan)
President
Azad Government of the State of J&K

Sd/-

(Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the February 23, 1975.

The following Ordinance made by the President on the 23rd of February, 1975, is hereby published for general information:-

(ORDINANCE II OF 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir' Delimitation of Constituencies Ordinance 1970.

WHEREAS in pursuance of sub-section (1) of Section 22 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, it is expedient to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance VII of 1970) in the manner hereinafter appearing;

AND WHEREAS the Legislative Assembly is not session and the president satisfied that circumstances exist which render immediate legislation necessary;

NOW THEREFORE, in exercise of the power a conferred by Section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President the Azad Government of the State of Jammu and Kashmir 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 Delimitation of Constituencies (Amendment) Ordinance, 1975.

(2) It shall come into force at once and shall be deemed to have taken effect on the third day of January, 1975.
2. **Amendment of Section 2, Ordinance VII of 1970:-** in the Azad Jammu and Kashmir Delimitation of Constituencies Ordinanc, 1970, (Ordinance VII) of 1970) hereinafter referred to as the said Ordinance, in section 2, in clause (b) for the figure, 1961, the figure 1971, shall be substituted.
3. **Amendment of Schedule I of Ordinance VII of 1970:-** In the said Ordinance, for schedule I, the following shall be substituted, namely:-

SCHEDULE I

(See Section 7 (1) (a))

Seats in the legislative Assembly for the Azad Jammu and Kashmir Territory.

District	Seats
Poonch	10
Kotli	5
Muzaffarabad	6
Mirpur	7

4. **Amendment of Schedule II to Ordinance VII of 1970:-** in the said Ordinance, in Schedule II:-

- (i) In entry (a) in column 2 for the figure '4' the figure 'six' shall be substituted.
- (ii) In entry (b) in column to for the figure '4' the figure six shall be substituted.

5. **General amendment:-** In the said Ordinance, for the words 'State Council' wherever occurs the words Legislative Assembly shall be substituted.

Sd/- Sardar Muhammad Abdul Qayyum Khan)
President,
Azad Government of the State of J & K

Sd/- (Muhammad Akram Shah)
Deputy Secretary Law
Azad Government of the State of J & K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 8th of March, 1975.

No. 592/SL/75. The following Ordinance made by the President on the 6th March, 1975 is hereby published for General Information:-

(ORDINANCE III OF 1975)

WHEREAS it is settled practice governing conduct of affairs of democracy that the Members of Executive in offices without resigning their office offer themselves in election to a seat in the forthcoming Assembly election;

AND WHEREAS doubts have arisen, whether or not the President, the Prime Minister, Speaker, Ministers and Advisers and without vacating their offices offer themselves to be elected as members of the Assembly;

AND WHEREAS the Legislative power has been expressly reserved in the second schedule of the Azad Jammu and Kashmir Interim Constitution Act, 1974, that by means of an Act of the Assembly persons can be rendered immune from disqualifications to offer themselves for election as members of the Assembly;

AND WHEREAS the President is empowered under section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974, to make and promulgate ordinance, if satisfied that circumstances exist which render it necessary to take immediate action an such Ordinance when promulgated shall have the same force and effect as an Act of the Assembly;

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 the 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 Removal of Doubts (Disqualification of certain specified Office Holders from being elected in the forth-coming Election) Ordinance, 1975.
(2) It shall come into force at once.
2. **Definitions:-** (1) In this Ordinance, unless there is anything

repugnant in the subject or context:-

- (a) 'Adviser' means adviser to the president, adviser to the prime Minister and Includes Plebiscite Adviser.
- (b) 'Minister' means Minister appointed under the provisions of the constitution, 1974 and Act, 1970.
- (c) President means the president of Azad Government of the State of Jammu and Kashmir.
- (d) 'Prime Minister' means the Prime Minister or Azad Jammu and Kashmir.

(2) All words and expressions used in this Ordinance but not defined have the same meaning as in the interim constitution Act, 1974.

3. Notwithstanding anything contained in any other law for the time being in force, a person shall not be disqualified to be elected as and to be, a member of the assembly if he holds any of the following offices:-

- (i) the office of President;
- (ii) the office of Prime Minister;
- (iii) the office of Speaker;
- (iv) the office of Adviser to the Prime Minister;
- (v) the office of adviser to the president;
- (vi) the office of plebiscite Adviser;
- (vii) any office the holder whereof, by virtue of holding such office, is liable to be called up for military training or military service under any law providing for the constitution of raising of a force.
- (viii) The office of minister.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President
Azad Government of the state of J&K

Sd/-
(Sardar Mohammad Sharif Khan)
Secretary Law & Parliamentary Affairs Secretariat
Azad Government of the state of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the August 4, 1975.

(ORDINANCE IV OF 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act, 1974.

WHEREAS it is expedient to export and to amend the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act 1974, for the purpose thereafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) (Amendment) Ordinance, 1975.
(2) It shall come into force at once.
2. **General amendment:-** In the Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act 1974, hereinafter called the said Act;-
 - (a) for the words “Senior Member” wherever occurring the words “Chief Justice of the state of Azad Jammu and Kashmir shall be substituted and
 - (b) for the word “Member” or members wherever accruing the word Judge or judges shall be substituted as the case may be .
3. **Amendment of portion of Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) Act 1974:-** In the said Act in section 6, for subsection (1) the following shall be substituted, namely:-
 - (a) The Government, on recommendation of the Chief Justice of the State of Azad Jammu and Kashmir shall appoint a District and session Judge and Registrar of the Judicial Board,
4. **Repeal:** the Azad Jammu and Kashmir Judicial Board (Constitution and Jurisdiction) (Amendment) Ordinance 1975 (Ordinance IV of 1975) is hereby repealed.

(Mohammad Akram Shah)
Deputy Secretary Law & Parliamentary Affairs
Azad Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad Dated: April 3, 1975.

No. 954/SL/75. The following Ordinance made by the President on 1.4.1975, is hereby published for general Information:-

(ORDINANCE V OF 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir (Board of Intermediate and Secondary Education) Ordinance 1973.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir (Board of Intermediate and Secondary Education) Ordinance of 1973, for the purposes hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, and all powers enabling him in that behalf, 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 (Board of Intermediate and Secondary Education) (Amendment) Ordinance, 1975.

(2) It shall come into force at once and shall be deemed to have taken effect on the 15th day of January, 1975.
2. **Amendment of sub-section (1) of section 3:-** In the Azad Jammu and Kashmir (Board of Intermediate and Secondary Education) Ordinance, 1973, hereinafter referred to as the said Ordinance, in sub-section (1), of Section 3, the words of 'Secondary Education' shall be deleted.
3. **Amendment of Section 4:-** In the said Ordinance in sub-section (1) of Section 4 clauses (vii) and (viii) shall be omitted and clause (ix) shall be renumbered as (vii).
4. **Insertion of section 9-A:-** In the said Ordinance after section 9, the following new section 9-A, shall be inserted, namely:-

“9-A **Ceasure of jurisdiction of the Lahore Board:-** From the date of commencement of this Ordinance, the Board of Intermediate and Secondary Education, Lahore, shall cease to exercise its power in respect of the institutions within Azad Jammu and Kashmir.

Provided that Government may, by notification in the Official Gazette, authorise the Board of Intermediate and secondary Education of Secondary School Certificate and Intermediate Examinations for the years, 1973.”

5. **Addition of proviso to sub-section (2) of section 14:-** In the said Ordinance, in sub-section (2), of Section 14, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the Controlling Authority may, at any time, review the word of the Chairman and if on such review it is satisfied that in the interest of the Board, or for any other sufficient cause it is necessary so to do, it may after giving the Chairman an opportunity of showing cause against the proposed action, reduce the term of office of the Chairman to such period as it may determine.”

Sd/- Sardar Mohammad Abdul Qayyum Khan)
President
Azad Government of the state of J& K.

Sd/- (Raja Mohammad Khurshid Khan)
Secretary Law & Parliamentary Affairs
Azad Government of the state of J& K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Dated the March 3, 1975.

No. 954/SL/75. The following Ordinance made by the President on 1-4-1975, is hereby published for general information for general Information:-

(ORDINANCE VI OF 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir Land Reforms Act, 1960, (Act V of 1960)

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Land Reforms Act, 1960, for the purpose hereinafter appearing.

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1975 the President Azad Government of the State of Jammu and Kashmir 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 Land Reforms (Amendment) Ordinance, 1975.

(2) It shall be deemed to come into force on and from the 10th of March, 1975.
2. **Omission of Section 25-B, of the Azad Jammu and Kashmir Land Reforms Act, 1960:-** In the Azad Jammu and Kashmir Land Reforms Act, 1975, as amended by the Azad Jammu and Kashmir Land Reforms (Amendment) Act, 1974, hereinafter referred to as the said Act, section 25-B, shall be omitted.
3. **Amendment of Section 28, Azad Jammu and Kashmir Land Reforms Act, 1960.-** In the said Act, in section 28 in sub-section (1),-
 - (i) the following clause (a) shall be inserted:-

- ‘(a) Where the occupancy tenants are evacuees and the land lords are no evacuees under the law relating to the administration of evacuee property Act or (ii) clause (a) of sub-section (1) shall be renumbered as clause (a) of sub-section (1) shall be renumbered as clause (b).

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President
Azad Govt. of the State of J&K

**AZAD GOVT OF THE STATE OF JAMMU AND KASHMIR ,
LAW AND PARLIMENATARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Muzaffarabad Dated: the 12th April, 1975.

No. 1021/SL/75. The following Ordinance made by the President on 10th of April 1975, is hereby published for general information:

(ORDINANCE VII OF 1975)

AN ORDINANCE to provide the Law relating to the hours and other conditions of work and employment of persons employed in shops and commercial, Industrial and other establishments in Azad Kashmir and matters connected therewith.

Preamble:

WHEREAS it is expedient to provide the law relating to the hours and other conditions' of work and employment of persons employed in shops and commercial, industrial and other establishments in Azad Kashmir and matters connected therewith;

AND WHEREAS the legislative Assembly is not in session and the President is satisfied that the circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Section 41, of the Azad Jammu and Kashmir interim Constitution Act, 1974, the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short Title, Extent And Commencement.**- (1). This Ordinance may be called the Azad Jammu and Kashmir Shops and Establishments Ordinance, 1975.

(2) It shall come into force at once and shall be deemed to have taken effect on from the 30th day of March 1975.

(3) It extends to the whole of Azad Jammu and Kashmir territory.

(4) Government may, by notification in the official Gazette extend the operation of this Ordinance or any provision thereof to any area of establishment or exclude any area or establishment to which it extends, from its operation.
2. **Definitions:-** In this ordinance, unless the context otherwise

requires,-

- (a) “adult” means a person who has completed seventeenth year of age;
- (b) “apprentice” means a person who is employed his payment of wages or not, for the purposes of being trained in any trade, craft or employment in any establishment;
- (c) "child" means a person who has not completed his twelfth year of age;
- (d) "close" means not open for the service of any customer or to any business connected with the establishment;
- (e) "commercial establishment" means an establishment which carries on any business, trade or profession or any work In connection with, or incidental or ancillary to, any business, trade or profession, and includes:-
 - (i) a society registered under the Societies Registration Act, 1860(XXI of 1860) , and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession, or any work in connection with or incidental or ancillary thereto;
 - (ii) an establishment wherein there is conducted the business of advertising, commission, forwarding or a commercial agency;
 - (iii) a clerical department of a factory or of any industrial or commercial undertaking;
 - (iv) an insurance company, joint stock company bank, brokers, offices or exchange and office of lawyers, income-tax practitioners, registered accountants, contractors and engineers;
 - (v) such other professional establishments or class thereof as Government may, by notification in the official Gazette, declare to be commercial establishments for the purposes of this Ordinance; but does not\include a factory, shop, residential, hotel, restaurant, eating houses,

theatre or other place of public amusement or entertainment;

- (f) "day" means the period of twenty-four hours beginning at midnight, provided that in the case of an employee, whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences, irrespective of mid-night;
- (g) "employee" means any person employed whether directly or otherwise, about the business of an establishment for the owner or occupier thereof, even though he receives no reward or remuneration for his labour, but does not include a member of the employers family;
- (h) "employer" means a person owning or having charge of the business or an establishment, and includes an agent; or the manager or manager or any other person acting on behalf of such person in the general management or control of such establishment;
- (i) "employer's family" means the employer's husband or wife as the case may be, sons, daughters, father, mother, and brothers and sisters living with and dependent on the employer;
- (j) "establishment" means a shop, commercial establishment industrial establishment, private dispensary, maternity home, residential restaurant, eating house, cafe, cinema, theatre, circus, ,or other place of public amusement, or entertainment, and such other establishments, or class thereof as Government-may, by notification in the official Gazette, declare to be establishments for the purposes of this Ordinance;
- (k) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934);
- (l) "Form" means a form specified in the schedule
- (m) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (n) "hours of work" or "working hours" with reference to an establishment means the time during which the employees in the establishment at the disposal of the

employer, exclusive of any interval allowed for rest and meals;

- (o) "industrial establishment" means a workshop or other establishment in which the Work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery, or disposal is carried on, or where any such service is rendered to a customer, and includes such other class or classes of establishments as Government may, by notification in the official Gazette, declare to be industrial establishments for the purposes of this Ordinance, but does not include a factory;
- (p) "Permanent employee" means an employee who has been engaged on a permanent basis, and includes an employee who has completed nine month continuous service in one or different occupations in the same establishment, including breaks due to sickness, accident, leave, illegal lock-outs, legal strikes involuntary closure of the establishment, and has satisfaction completed a probationary period of three months;
- (q) "Prescribed" means prescribed by rules made under this Ordinance;
- (r) 'Residential hotel" means any premises in which a bonafide business is carried on for the supply of dwelling; accommodation and meals on payment of a sum of money by a traveler or any other member or the public or class of the public and includes a club;
- (s) "restaurant" and "eating house" means any premises in which is carries on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;
- (t) "retail trade" includes the business of a barber or hairdresser, the sale of refreshments and sales by auctions;
- (u) "shop" means any premises used wholly or in part for the whole-sale or retail sale of commodities or articles, either for cash or on credit, or where services are rendered to customers, 'and includes an office, a store room, godowns / warehouse or place of Work, whether

in the same premises or otherwise, mainly used in connection with such trade or business;

- (v) "temporary employee" means an employee who has been engaged for work which is of an essentially temporary nature likely to be finished within a period not exceeding nine months;
- (w) "wages" means wages as defined in the payment of wages Act, 1936(IV of 1936);
- (x) "week" means a period of seven days beginning at mid-night on Thursday night;
- (y) "Young person" means a person who is not a child and has not completed his seventeenth; year of age.

3. **Reference to time of day:-** Reference to time of day in this Ordinance are references to Pakistan standard time.

4. **Power to grant exemption:-** Government may, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Ordinance any establishment or any class thereof or any employer or employee or class of employers or employees on such conditions as it may think fit.

5. **Ordinance not applicable to certain establishments and person:-**

(1) Nothing in this Ordinance shall apply to-

- (i) Offices of or under the Azad Government of the State of Jammu and Kashmir;
- (ii) Offices of or under any local authority, a trust, a corporation or any other public statutory body, which is not run for profit or gain or in the course of its "business does not make any profit or gain;
- (iii) shops or stalls in any public exhibition or show, in so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purpose of such exhibition of show;
- (iv) shops or stalls in any public fair or bazaar held for religious or chair table purposes;
- (v) clubs, hostels, and messes not maintained for profit or

gain;

- (vi) establishments for the treatment or care of the sick, infirm, destitute or mentally unfit persons;
- (vii) any person employed as manager, traveling agent, canvasser, messenger, watchman care taker or conservancy staff or any person employed exclusively in connection with the collection dispatch, delivery, and conveyance of, or custom formalities on goods;
- (viii) any person "employed for the business of any shop or commercial establishment mentioned in clauses (i) to (vii).

(2) Nothing in clause (a) of sub-section(l) of section ,6 and in section 7 shall apply to:-

- (i) clubs, hostels and messes maintained for profit or gain, so far as service and attendance upon customers is concerned;
- (ii) shops dealing solely in any vegetables, meat, fish, dairy products, bread, pastries, sweet-meats, and flowers, so far as the sale of these articles is concerned;
- (iii) shops dealing' mainly in medicines, surgical appliances, bandages or other medical requisites so far as the sale of these articles is concerned;
- (iv) shops dealing in articles required for funerals, burials or cremations, so far as the sale of these article is concerned;
- (v) shops dealing mainly in tobacco, Cigar Cigarettes buries, pan, liquid refreshments sold retail for consumption on the premises, ice, newspapers or periodicals, so for as the sale of these articles is concerned;
- (vi) automobile service stations (not being repair shops) and petrol pumps for the retail sale of petrol.
- (vii) barbers and hair-dressers shops, so far as service to customers is concerned;
- (viii) cinemas, theaters and other places of public entertainment.

(3) Notwithstanding anything contained in sub-section (1) and (2), Government may, by general or special order, fix the opening and closing hours for all or any of the classes of establishments specified therein.

(4) Notwithstanding anything contained in sub-sections (1) and (2), Government may, by notification in the official Gazette, direct that any of the establishments or persons specified therein shall not be exempted from the operation of such provisions of this Ordinance as specified in such notification, and thereupon the provisions of this Ordinance specified in such notification shall simply to such establishments or persons.

6. Weekly holiday in establishments.-

(1) (a) Except as otherwise provided in this Ordinance every establishment shall remain entirely closed for at least one, day in each week.

(b) Every person employed in any establishment shall, in addition to the leave and holidays as may be admissible to him under sections 14, 15 and 16, be allowed as holiday, one day in each week, and such holiday may be on the day on which the establishment is closed under clause (a).

(2) No deduction on account of any holiday allowed under sub-section (1) shall be made from the wages of any employee of any establishment.

(3) If an employee is employed on daily wages, he shall none-the-less be paid his daily wages for the holiday, and where an employee is paid on piece-rate, he shall receive for the holiday the average of the wages received during the week,

(4) The day on which an establishment shall be entirely closed shall be either Friday or Sunday.

(5) The choice of a closed day shall rest with the employer, who shall intimate such choice to the prescribed authority:-

(a) in the case of an establishment existing at the time this Ordinance comes into force, within two months thereof; and

(b) in the case of an establishment set up after coining into force of this Ordinance or to which the provisions of this

Ordinance are subsequently applied, within two months of the setting up of the establishment or the application or the provisions of this section thereto, as the case may be.

(6) An employer who has intimated his choice of a closed day under the provisions of sub-section (5), shall not change the closed day for the establishment without the prior approval in writing of the prescribed authority,

7. **Opening and closing hours of establishments:-** (1) No establishment shall on any day remain open after 8 p.m.

Provided that any customer who was being or was waiting in the establishment to be served at such hours, may-be served during the period of thirty minutes immediately following such hour:

Provided further that Government may, by notification in the official Gazette, fix any other hour after which establishments generally or any class of establishment shall not remain open.

(2) Every employer shall display, at a prominent place in the establishment, a board specifying the hours during which the establishment will remain open.

(3) No employee shall be required or permitted to work continuously in any establishment for more than six hours in the case of an adult and for more than three and half hours in the case of a young person, unless he has been allow interval for rest or meals of not less than one hour.

(4) Except with the permission of Government, no women young person shall be employed in any establishment otherwise than 'between the hours of 9.00 a.m. and 7-00 p.m.

8. **Daily, weekly hours and overtime.-** Save as otherwise expressly provided in this Ordinance, no adult employee shall be required or permitted to work in any establishment excess of 9 hours in a day and forty-eight hours a week, and no young person in excess of seven hours a day and forty-two hours a, week:

Provided that in any day or in any week, in which there stock taking, making up of accounts, settlement or such other business operation, and during such other periods as may be

prescribed, an adult employee or an establishment may be required or permitted to work over-time in such establishment for more than nine hours in such day and for more than forty-eight -hours in such week, and a young person for more than seven hours in such day and for more than forty-two hours in such week, but so that the total number of hours so worked by an adult does not exceed one hundred and fifty hours and by a young person one hundred hours in any one year.

9. **Over-Time Wages:-** When any employee is required to work overtime in any establishment, as provided in the proviso to section 8, the wages payable to such employee in respect of such over-work shall be calculated at double the ordinary rate of wages time payable to him.
10. **Spread-over:-** The period of work of an adult and a young person shall be so arranged that inclusive of the interval for the rest or meals, under section 7 it shall not spread-over more than hours in winter and eleven hours in summer in the case adult, and nine hours in winter and eight hours in case of a young person.
11. **Time and conditions of payment of wages.-** (1) Every employer or his agent or the manager of an establishment shall fix the period in respect of which wages to employees shall be payable and shall be responsible for the payment to persons employed by him of all wages required to be paid under this Ordinance.
 - (2) No wage period, so fixed, shall exceed one month.
 - (3) The wages of every employee in any establishment shall be paid on, a working day before the expiry of the Seventh day of the last day of the wages period in respect of which the wages are payable
 - (4) All wages shall be paid in legal tender.
 - (5) Where the employment of any person is terminated by or on behalf of the employer, the wages and other dues earned person shall be paid before the expiry of the second working day after the day on which his employed is terminated.
12. **Claims arising out of delay in payment of wages and penalty for malicious or vexatious claims:** (1) Government may, by notification in the official gazette appoint any person to be the Authority to hear and decide for any specified area all claims

arising out of delay in the payment or non-payment of the wages of employees in that area.

(2) When contrary to the provisions of this Ordinance, wages of any employee have been delayed or with held, such employee himself or through any other person when he way authorise in this behalf, may within four months from the day on which such payment was to be made, apply to the Authority appointed under sub-section (1):

Provided that an application may be admitted after the said period of four months but not later than six months, If the applicant satisfies the authority that he had sufficient cause for not making the application within such period,

(3) when any application under sub-section (2) is entertained the Authority shall hear the applicant and the employer or other person responsible for the payment of wages or give them an opportunity of being heard and, after such further inquiry, if any, as may be necessary, may without prejudice, to any other penalty to which such employer or other person is liable under this Ordinance, direct that payment be made to the applicant of delayed wages together with the payment of such penalty exceeding fifty rupees, as the authority may fix:

Provided that no direction for the payment shall be made in the case of delayed wages if the authority is satisfied that the delay was due to:-

- (a) A bona-fide error or bona fide dispute as to amount payable to the employed; or
- (b) the occurrence of an emergency, or the existence exceptional circumstances that the person responsible payment of the wages was unable to make prompt payment; or
- (c) the fault of the employee.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexations, the Authority may direct that a penalty not exceeding fifty rupees be paid or wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered-

- (a) If the Authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and
- (b) If the Authority is not a Magistrate by any magistrate to whom the Authority makes application in this behalf as if it were a fine imposed by such Magistrate.

(6) An Appeal against a direction made by the Authority under subsection (3) or sub-section (4) may be preferred to the District Court within thirty days of the date on which the direction was made:-

- (a) by the employer or other person responsible for the payment of wages under section 11 of the total sum directed to be paid by way of wages and penalty exceeds on hundred rupees; or
- (b) by an employee, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees; or
- (c) by any person directed to pay a penalty under sub-section (4)

(7) If there is no appeal, the direction of the authority made under sub-section (3) or sub-section (4) shall be final, and where there is an appeal as provided in sub-section (6) the decision in Appeal shall be final.

(8) An authority appointed under sub-section (1) shall for the purposes of determining any matter referred to in sub-section (3) of sub-section (4)--

- (a) have all the powers as are vested in a civil court under the code of civil procedure 1908 (V of 1908), for enforcing the attendance of witnesses, compelling the production of documents, and the taking of evidence; and
- (b) be deemed to be a civil court for all the purposes of section 195 and chapter XXXV of the code of criminal procedure 1898 (V of 1898)

13. **Bar of Suits:-** No court shall entertain any suit for the recovery

of wages in so far as the sum so claimed:-

- (a) forms the subject of an application made under sub-section (2) of section 12, which is pending before the Authority appointed under sub-section (1) of that section; or of an appeal under sub-section (6) of the said section;
- (b) has formed the subject of a direction made under sub-section (3) of section 12;
- (c) has been adjudged in any processing under section under section 12 not to be owed to an employee; or
- (d) could have been recovered by an application under section 12.

14. **Annual Leave:-** (1) Every employee shall be allowed leave with full wages for a period of fourteen days after continuous employment in a establishment, whether in the same or different capacities, for a period of twelve months.

(2) If an employee does not in any period of twelve months avail of the whole or any part of the leave allowed to him under sub section (1).

(a) any leave not availed of by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months; provided' that when the total leave due to an employee under this section amounts to thirty days, no further accumulation of or addition to such leave will be permissible;

(b) he, may, at his request, in lieu of the leave not availed of by him, be paid by the employer full wages for such leave.

(3) for the purposes of computing the period during which an employee has been, in continuous employment within the meaning of sub-section (1), the period during which he was on leave under this section or sections 15 and 16, shall be included.

15. **Casual and Sick Leave:-** (1) Every employee shall be entitled to casual leave with full wages for ten days in a calendar year. Such leave shall not ordinarily be granted for more than three days at a time and shall not be accumulated.

(2) Every employee shall be entitled to sick leave with full wages for a total period of eight days in every Such leave, if not availed of by any employee during calendar year, may be carried forward, but the total accumulation of such leave shall not exceed sixteen day at any one time

16. **Festival holidays:-** Every employee shall be allowed ten days festival holidays with full wages in a year. The day and dated for such festival holidays shall be notified to employees by the employer in the employers in the beginning of the calendar year.

17. **Wages during leave or holiday period.-** (1) For each day of the leave or holidays allowed to an employee under sections 14, 15 and 16 he shall be paid at the rate equivalent the daily wage amount which, during the three months the leave or holidays, was being earned by the employee.

(2) An employee, who has been allowed leave under section 14 for any period not less than four days in the case of an adult and five days in the case of a young person, shall before 'the leave begins, be paid his wages for the period of the leave allowed.

18. **Section 14, 15, 16, and 17 not to apply to certain ESTABLISHMENTS.-** The provisions of sections, 14, 15, 16 and 17 shall not apply in relation to employees employed in commercial establishment as defined in clause (b) of section 2 of the Azad Jammu and Kashmir Industrial and Commercial employment (standing Orders) Ordinance, 1975.

19. **Termination of employment:-** (1) for terminations employment of a permanent employee, one month's notice in writing shall be given either by the employer or by the employee and in lieu of the notice, one month's wages calculated on the basis of average of wages earned during the proceeding three months shall be paid.

(2) No temporary employee, whether monthly rated, weekly rated or daily rated, and no apprentice shall be entitled to any notice or pay in lieu thereof if his services are terminal, but the services of temporary employee shall not be terminated as a punishment; unless he has been given an Opportunity explaining the charge, leveled against him.

20. **Prohibition of employment of children.-** No child shall be required or allowed to work in any establishment.

21. **Contracting out.**- Any contract or agreement, whether made employee relinquishes any right conferred by this ordinance shall be null and void in so far as it purports to deprive him of such right.
22. **Guarding of machinery.**- In every industrial establishment mechanically or electrically propelled machinery shall be guarded in the prescribed manner.
23. **Maintenance of records and registers.**- Every employer shall for, the purpose of this Ordinance, maintain such records and registers and furnish such information as may be prescribed.
24. **Registration establishment and fee for Registration:-** (1) Every establishment, other than one man shop, as hereinafter defined, and factories employing clerical staff within the factory premises, shall be registered with the Deputy Chief Inspector for the area within which such establishment is situated.

(2) An application for registration of an establishment shall be made by the employer in form 'A' and shall be accompanied by a Treasury Challan under Head "XXXII INDUSTRIES", sub head Registration fee of shops "for an amount of:-

Rs. 2.00 in the case of an establishment employing 1 to 5 workers.

Rs. 3.00 in the case of an establishment employing 6 to 10 workers.

Rs. 5.00 in the case of an establishment employing 11 to 20 workers.

Rs. 10.00 in the case of an establishment employing more than 20 workers.

EXPLANATION:- For the purposed of this section, "one man shop" means a shop run by an employer or by any member of his family without engaging an employee.

(3) An application for registration on an establishment shall be made.-

(a) In the case of an establishment existing at the time this Ordinance, comes into force, within three months thereof; and

(b) In the case of an establishment set up after the coming

into force of this Ordinance or to which the provision of this Ordinance are subsequently applied, within two months of the setting up of the establishment or the application of this Ordinance there to as the case may be.

(4) On receipt of the application and the fees specified in sub-section (2), the Deputy Chief Inspector shall, on being satisfied about the correctness of the application, register the establishment in the Register of establishment to be maintained in form 'B' and shall issue a registration certificate to the employer in form 'C'.

(5) The registration certificate shall be prominently displayed by the employer at the establishment and shall be renewed after every two years on depositing fee as prescribed in sub-section (2).

25. **Appointment of chief inspector, deputy chief inspectors and inspectors:-** (1) Government may, by notification in the official Gazette, appoints

- (a) a Chief Inspector of shops for the whole of Azad Jammu and Kashmir territory;
- (b) Deputy Chief Inspectors of shops for such areas as may be notified; and
- (c) such persons or class or persons as it thinks fit be Inspectors for the purposes of this Ordinance within such local limits as may be specified by the Chief Inspector of shops.

(2) The Chief Inspector of shops and the Deputy Chief Inspectors of shops:-

- (a) shall supervise the work of the Inspectors appointed under clause (c) of sub-section (1) in such manner as may be prescribed; and
- (b) may, or any of the powers of an inspector.

(3) The Chief Inspector of shops, Deputy Chief inspectors of shops and Inspectors appointed under sub-section (1) shall be deemed to be public servants within the meaning of Section 21 of the Azad Penal Code.

26. **Powers of inspectors.-** An Inspector appointed under" section

25 may, for the purposes of this Ordinance and within the local limits for which he is [appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, an establishment, with 'Such assistants, if any, being persons in the service of Government, and make such examination of that place or of any prescribed record, register, or other documents maintained therein, and may required such explanation of any prescribed record, register or other documents and do all such things as, he considers necessary for the purpose of this Ordinance.

27. **Penalties.-** (1) If any employer with intent to deceive, makes or causes or allows to be made, in any register, record or notice required to be maintained under the provisions of this Ordinance or the rules made thereunder, any entry, or wilfully Omits or causes or allows to be omitted from any such Register record or notice, any entry which is required to be made thereunder, or maintains or causes or allows to be maintained more than one set of any such register, record or notice except the office copy of such notice, or sends or causes or allows to be sent to an Inspector any statement, information or notice required to be sent under the provision of this Ordinance or the rules made thereunder, which to his knowledge is false in any material particulars, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees

(2) Whoever contravenes any of the provisions of sections 6, 7, 19 or 20 shall, on conviction, be punishable with fine which for the first offence may extend to rupees two hundred and fifty and for a second or subsequent offence with a fine which may extend to rupees five hundred or with simple imprisonment which may extend to three months, or with both,

(3) whoever contravenes any other provisions of this Ordinance shall, on conviction, be punishable with fine which for the first offence may extend to rupees one hundred and fifty, and for second or any subsequent offence, to rupees two hundred and fifty or with simple imprisonment which may extend to three months, or with both.

28. **Procedure-** (1) No prosecution under this Ordinance or any rules made thereunder shall be instituted except by or with the previous sanction of an inspector, or other officer or authority specially empowered by Government in this behalf.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance or any rule made thereunder.

29. **Limitation of prosecutions.**- No Court shall take cognizance of any offence punishable under this Ordinance or any rule made thereunder unless Complaint there of is made within three months from the date on which the alleged commission of the offence come to the knowledge of an Inspector. .
30. **Indemnity.**- No suit, prosecution or legal proceedings shall lie against any person in respect of any thing done in good faith under this Ordinance or the rules thereunder
31. **Delegation of powers** - Government may, by notification in the official Gazette, delegate all or any of its powers under this Ordinance or the rules thereunder to any subordinate authority or agency as may be considered expedient by it,
32. **Power to make rules.**- (1) Government may, by notification in, the official Gazette, make, rules for carrying out the purpose of this Ordinance.
- (2) In Making rules under this Section, Government may direct that any person committing breach thereof shall, on conviction, be punishable with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees for every day, after the first, during which the -breach continues.
33. **Saving of certain rights and privileges.**- Nothing in this Ordinance shall affect any right or privilege to which an employee is entitled on the date of the, commencement of this Ordinance under any law for the time being inforce or under any award, agreement, settlement, contract, custom or usage which is in force on that date, if such right or privilege is more favorable to him than any right or privilege conferred upon him by this ordinance.

SCHEDULE

See Section (2) (1) and Section 24

FORM 'A'

APPLICATION FORM

1. Name of the establishment, if any.
2. Postal address of the establishment.
3. Full name of the employer (including his father's name).
4. Full name of the Manager, if any (including his father's name)
5. Category of the establishment, i.e. whether a shop industrial establishment, commercial residential hotel, restaurant eating house, theatre or other place of public amusement or entertainment.
6. Total number of employees (State separately the number of men, women and / or young persons (if any).
7. Date on which the establishment commenced its work.
8. I hereby declare that the details given above are correct to the best of my knowledge.

Dated

Signature of the Employer.

Note:- This statement shall be sent to the Deputy Chief Inspector of the area concerned with such fees as are prescribed in section 24 (2) of the Azad Jammu & Kashmir shops and Establishment Ordinance, 1975.

SIGNATURE

Form 'B'
Register of Establishment:

Part I – Shops.
 Part II - Commercial Establishments.
 Part III- Residential Hotels.
 Part IV- Resturant and Eating Houses.
 Part V- Theatres and other places of public amusement or entertainment.

S. No		Registration Certificate No.		Name of the Manager, if any		Name of employee		Postal address of the Establishment		Name and the nature of the Establishment		Nature of the Business	
1		2		3		4		5		6		7	
Number of members of employeeer family			No. of other person occupying managerial positions and employees engaged confidential capacity in			Total number of employees		Date of Inspection		Date Registration of		Date of renewal	
Male	Female	Young persons				Adult	Young persons						
8			9			10		11		12		13	

Form 'C'

Registration Certificate

Name of the Establishment, if any.

Name of the employee.

Postal addresses of the Establishment.

Registration No.

It is hereby certified that the Establishment as mentioned herein has been registered as a _____ under the Azad Jammu and Kashmir Shops and Establishment Act, 1975, this _____ day of _____.

**Chief Inspector of Shops
Azad Kashmir**

RENEWALS

Date of renewal.	Form.	To	Signature of the Chief Inspector of Shops with seatl
1.			
2.			
3.			
4.			
HERE INSERT CATEGORY OF THE ESTABLISHMENT			

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Date: 12th April, 1975.

No. 1021/SL/75 The following Ordinance made by the President on the 10th of April, 1975, is hereby published for general information:-

(ORDINANCE VIII OF 1975)

AN ORDINANCE to facilitate the collection of statistics of certain kinds relating to industries;

WHEREAS it is expedient to facilitate the collection of statistics of certain kinds relating to industries;

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 Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the president of Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Industrial Statistics Ordinance, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once and shall be deemed to have taken effect fix on and from the 30th day of March, 1975.
2. **Definitions:-** In this Ordinance "prescribed" means prescribed in rules made under this Ordinance or in any form prescribed by those rules.
3. **Collection of statistics:-** (1) The Government may, by notification in the official Gazette, direct that statistics shall be collected relating to any of the following matters, namely:-
 - (a) any matter relating to factories,
 - (b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely:-

- i) prices of commodities,
- ii) attendance,
- iii) living conditions, including housing, water supply and sanitation,
- iv) indebtedness,
- v) rents of dwelling houses,
- vi) wages and other earnings,
- vii) provident and other funds provided for labour,
- viii) benefits and amenities provided for labour,
- ix) hours of work,
- x) employment and unemployment,
- xi) industrial and labour disputes,

and thereupon the provisions of this ordinance shall apply to the collection of those statistics.

(2) in clause (a) of subsection (1) Factory means a factory as defined in clause (b) of section 2 of the factories Act, 1934 (XXV of 1934) or any premises deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of that Act;

4. **Appointment of statistical Authority:-** The Government may appoint an officer to be the satiation authority for the purposes of the collection of any statistics under this ordinance.
5. **Delegation of powers and functions:-** The statistics authority may with the previous approval of the Government, direct that all or any of the powers and functions to be exercised and performed by the statistics authority under this Ordinance shall be exercised and performed by any other officer or authority subordinate to the Government subject to such conditions if any as may be specified in the direction
6. **Power of statistics authority to call for returns and information:-** (1) The statistics authority may serve or cause to be section any person a notice requiring him to furnish at such intervals and in such forms and with such as may be prescribed, which information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

(2) The notice referred to in sub- section (1) may be served by post.
7. **Right of access to record or documents:-** The statistics

authority or any person authorised by him in writing in this behalf shall for the purpose of the collection of any statistics under this Ordinance, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Ordinance and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information to be furnished under this Ordinance.

8. **Restriction of the Publication of returns and information:-**

(1) No individual return; and no part of an individual return, made and no information with respect to any particulars undertaking given, for the purpose of this ordinance shall without the previous consent in writing of the owner for the time being of the undertaking in which the return of undertaking in which information was made or given, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

(2) Except for the purposes of a prosecution under this ordinance or under the penal code (XIV of 1860) no person not engaged in connection with the collection of statistics under this ordinance shall be permitted to see any individual return or information referred to in sub-section (1).

9. **Penalties:-** if any person required to furnish any information or any return:-

- (a) wilfully refuses or with lawful excuse neglect to furnish such information or return as required under this ordinance, or
- (b) wilfully furnishes or causes to be furnished any information or return which he knows to be false, or
- (c) refuses to answer or wilfully given a false answer to any question necessary for obtaining any information required to be furnished under this ordinance.

Or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 7, he shall for each offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for each day after the first during which the offence continues; and in respect of false information, returns or answer the offence shall be deemed to continue until true information or

true return or answer has been given or made,

10. **Penalty for improper disclosure of information or returns:-** if any person engaged in connection with collection of statistics under this ordinance wilfully discloses any information or the contents of any return given or made under this ordinance other wise than in the execution of his duties under this ordinance or under the penal code (XIV or 1860) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.
11. **Cognizance of offences:-** No prosecution under section a shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 10 shall be instituted except by or with the sanction of the Government.
12. **Power of the government the make rules:-** the Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this ordinance.
(2) without prejudice to the generality of the foregoing powers, rules may be made under the section regulating the exercise of the right of access to documents and the right of entry conferred by section 7.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President
Azad Government of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Dated the April 12 1975

No.1021/SL/75. The following Ordinance made by the President on April 10, 1975, is hereby published for general information:-

(ORDINANCE IX OF 1975)

AN ORDINANCE to fix the minimum a rates of wages for unskilled workers employed in certain commercial and industrial establishments in Azad Jammu and Kashmir

Preamble.

WHEREAS it is expedient to fix the minimum rates of wages for unskilled workers employed in certain commercial and industrial establishments 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 Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 by the president Azad Government of the state of Jammu and Kashmir is pleased to make and promulgate the following ordinance:-

1. **Short title, extent, commencement and application:-** (1) This Ordinance may be called the Azad Jammu and Kashmir minimum wages for unskilled workers Ordinance, 1975.
 - (2) It extends to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall come into force at once.
 - (4) It shall apply to every commercial and industrial establishment where in fifty or more persons are employed or were employed on any day during the proceeding twelve months, but shall not apply to:-
 - (a) Any establishment, undertaking or installation relating to the Defense service, Civil Armed Forces, Postal, telegraph and telephone services, ports, fire-fighting services, electricity, gas, water-supply, public

conservancy and hospitals, and

- (b) Any establishment or undertaking, which Government; by notification in the official Gazette, declares to be engaged in a public utility service for the purposes of this Ordinance.

2. **Definition:** In this Ordinance, unless the context otherwise requires-

- (a) ‘Apprentice’ means a learner who is paid an allowance during the period of training;
- (b) ‘Commercial establishment’ means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employer workmen, a unit of a Joint-stock company, an insurance company, a banking company or a bank a broker’s office or stock exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Ordinance;
- (c) ‘Employer’ means a person owing or having charge of the business of commercial or industrial establishment and includes an agent or manager or any other person acting on behalf of such person in the general management or control of such establishment.
- (d) “Government” means the Azad Government of the State of Jammu and Kashmir.
- (e) “Industrial area” means the districts of Muzaffarabad, Mirpur Poonch, and Kotli;
- (f) “Industrial establishment” means:-
 - (i) A mine or quarry;
 - (ii) A workshop or other establishment in which the

work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view of its use, as sale, transport, delivery or disposal is carried on, or where any such service is rendered to a customer; and

(iii) Any other establishment which Government may, by notification in the official Gazette, declare to be an industrial establishment.

(g) “Wages” means all cash remuneration payable to a workman, and includes dearness allowance, house rent, conveyance allowance, any other fixed allowance but does not includes traveling allowance, gratuity or bonus;

(h) “Unskilled worker” means a worker employed to be unskilled, Labour; and

(i) “Worker” means any person employed in a commercial or industrial establishment.

3. Minimum wages in commercial and industrial establishment:- Every unskilled worker, other than an apprentice, employee in commercial or industrial establishment situated in an area specified in column 1 of the schedule, shall be paid wages at a rate not lower than the minimum wages per months specified against such area in column 2 of the schedule;

Provided that where an employer provides housing accommodation to a worker, he may deduct from the wages of such worker, an amount not exceeding that specified in column 3 of the Schedule, and where the employer provides a worker with transport to and from the place of work, he may deduct form the wages of such a worker an amount not exceeding that specified in column 4 of the Schedule.

Explanation: In this section, months means a normal working period of twenty six days, calculated at the rate of forty-eight hours of work per week.

4. Responsibility for payment of Minimum wages: Every employer shall be responsible for the payment of minimum wages required to be paid under this Ordinance to all unskilled workers, employed, either directly or through a contractor, in his commercial or industrial establishment.

5. **Agreements under Duress to be void:** All agreement arrived at between the employers and the workers under duress shall, from the date of coming into force of this Ordinance, be void.

Explanation: In this Section the word “Under duress” includes circumstances in which due to fear either party is in state of mental incompetence to resist pressure improperly brought to bear due to violence or threat of violence.

6. **Effect of Laws, Orders, agreements, etc, inconsistent with this Ordinance:** The provision of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any order or notification made or issued under any such law or in any award, agreement or contract of service;

Provided that where under any such law, order, notification, award, agreement or contract of service, other than an agreement declared to be void under section 5, and unskilled worker is entitled to wages which are higher than the minimum wages required to be under this Ordinance, he shall continue to be paid such higher wages.

7. **Penalty:** Any employer who contravenes any provisions of this Ordinance shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both.
8. **Cognizance of offences:** No Court shall take cognizance of any offence under this Ordinance save on complaint made by an aggrieved worker or by an officer of a registered trade union of which such worker is a member, or any person authorized in this behalf by Government.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

Dated the-April 10, 1975.

No. 1021/SL/75. The following Ordinance the President on, April 10, 1975, is hereby published for general information:-

(ORDINANCE X OF 1975)

President is satisfied that circumstances exist necessary to take immediate action;

NOW THEREFORE, in exercise of the power conferred by section the Azad Jammu and Kashmir 'Interim Constitution, Act, 1974 the President of Azad Government of the state of Jammu and Kashmir pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Road Transport workers Ordinance, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) it shall come into force at once and shall be deemed to have taken effect on and from the 30th day of March, 1975.

2. **Definitions:** In this ordinance, unless there in any thing repugnant in the subject or context,-

(1) "Day" means a period of 24 hours beginning at midnight;

(2) "Employer" means the owner of any road transport service where in which workers are employed, and where the business of such service is not directly managed by the owner, means, the Manager, Agent or Representative of such owner in the said service and where the owner is a minor, the guardian of such minor, and in relation to any vehicle which is the subject of hire purchase agreement, the person in possession of the vehicle under that agreement;

(3) "Government" means the Azad Government of the State of Jammu and Kashmir;

(4) "Hours of work" means the time during which the workers employed are at the disposal of the employer excluding

any interval allowed for rest and meals;

(5) “Prescribed” means prescribed by Rules made under this Ordinance;

(6) “Public Place” means a road, street, way or other place, whether a thorough fare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a vehicle;

(7) “Road transport service” means a service carrying passengers or goods or both by road in vehicle for hire or reward;

(8) “vehicle” means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport and includes a tram, a trolley vehicle and a trailer;

(9) “Week” means a period of seven days;

(10) “Workers” means a person engaged on mobile duty, and includes drivers, cleaners, conductors and checkers employed by or in road transport service;

(11) “Year” means a period of twelve months starting from the date a worker is employed in a road transport service and ending on the date immediately preceding in the following calendar year.

3. **Age Limit:-** (1) No person, other than a driver, shall be employed in any road transport service unless he has attained the age of eighteen years.

(2) No person shall be employed in any road transport service for the purpose of driving a vehicle unless he has attained the age of twenty one years.

4. **Hours of work and rest:** (1) No workers shall be employed on a vehicle.-

(a) For more than five hours at a time before he has had an interval for rest of at least half an hour not more than eight hours before he has had at least two such intervals;

(b) For more than nine hours in a day; and

(c) For more than fifty-hours in a week.

(2) Every worker shall be entitled to have at least twenty-four hours of consecutive rest in a week.

(3) The Government may, by rules made under section 10, grant such exemptions from the provisions of sub-section (1) and sub-section (2) as it thinks fit, to meet cases of emergency or of delay by reason of circumstances which could not be foreseen:

Provided that--

(a) No worker shall be employed over time in any year in excess of one hundred and fifty working hours; and

(b) The worker employed overtime shall be paid remuneration at the rate of his normal wages calculated by the hours.

(4) Whereas a result of the making of a rule exempting any worker from the provision of sub-section (2), a worker is deprived of any of the weekly hours of rest for which provision is made in the sub-section he shall be allowed, as soon as circumstances permit, compensating hours of rest of equal number so lost:

Provided that no worker shall be caused or allowed to work for more than ten consecutive days without a compensating rest for at least twenty-four hours at one time.

(5) The Government or, if authorize in this behalf by the Government by rules made under section 10 the competent authority, may require an employer to fix before hand the hours of work of the workers so as to conform with the provisions of sub-section (1) and may provide for the recording of the hours so fixed.

(6) No worker shall work or cause or allow any other worker to work outside the hours or fixed recorded for the work of the said worker in compliance with any rules made under sub-section (5)

5. **Restriction on cumulative hours of work:** No worker shall work or be allowed to work on a vehicle or two or more vehicle in excess of the period during which he may be law-fully employed under this Ordinance.

6. **Leave:** (1) In addition to the period of daily and weekly rest, every worker, who has been in continuous employment for a

period of one year, shall be entitled to not less than 14 days leave with full pay or, if he has been continuously employed for a period of six months, he shall be entitled to not less than seven day's leave with full pay.

(2) For the purpose of computing the period during which a worker has been in continue employment with in the meaning of sub-section (1), the period during which he was on leave under this section shall be included.

7. **Restriction on termination of service etc:** (1) The service of a worker shall not be terminated without sufficient cause nor unless and until one month's previous notice or one month's pay in lieu thereof has been given to him and he has been paid his pay for any period of leave admissible to him of which he did not avail himself while in service.

(2) Nothing in sub-section (1) shall apply to the case of a worker whose service are terminated on account of his having been found guilty of miss-conduct.

Explanation: For the purpose of this subsection the following acts and omissions shall be treated as misconduct, namely:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) Willful damage to or loss of employer's goods or property;
- (d) Taking or giving bribes or any illegal gratification;
- (e) Habitual absence without leave or absence without leave for more than 10 days;
- (f) Habitual late attendance;
- (g) Habitual breach of any law applicable to the establishment;
- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline;
- (i) Habitual negligence or neglect of work;

(j) Striking work or inciting others to strike work in contravention of the provisions of any law or rules having the force of law;

(3) If in any case instituted for the contravention of the provision of sub-section (1) the services of a worker are found to have been terminated without sufficient cause the amount payable as compensation under this section shall be in addition to any fine as payable under section 11.

(4) No person who has been awarded compensation under this Section shall bring a civil suit in respect of the same claim.

8. **Maintenance of Registers, etc:** (1) Every employer shall, in the prescribed form and in the prescribed manner, keep in the office of the road transport service a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to, every worker in accordance with the provision of this Ordinance and particulars of all employment overtime shall be separately entered in the record.

(2) Every employer shall for the purposes of this Ordinance maintain such other records and registers and display such notice or other documents as may be prescribed.

9. **Inspection of registers and calling for information:** It shall be the duty of every employer to produce for inspection of such inspectors as may be appointed by the Government all account or other records required to be kept of the purposes of this Ordinance and to give such officer any other information in connection therewith as may be required.

10. **Powers to make rules:** The Government may make rules for the purpose of carrying into effect the provisions of this Ordinance.

11. **Penalties:** Whoever contravenes any of the provision of this Ordinance, or any of the rules made there under, shall be liable on first conviction to fine not exceeding fifty rupees for the first offence and two hundred rupees for every subsequent offence: provided that-

(a) In the case of any contravention of the provisions of section 8, the employer shall be liable, on conviction, to a fine not exceeding ten rupees for every day on which the contravention occurs or continues, and

- (b) If any employer, with intent to deceive, makes or causes or allows to be made in any record, registry, notice or other document as provided under section 8 an entry which is to his knowledge false in any material particular, or willfully omit or cause or allow to be omitted from any such record, register, notice or document an entry required to be made therein, shall be liable on conviction to simple imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees or both.

12. **Protection of action taken under the Ordinance:** No suit, prosecution or other proceeding shall lie against any person for any thing which is in good faith done or intended to be done in pursuance of this Ordinance or rules made there under.

(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KAHMIR
LAW & PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 12, 1975.

No. 1021/SL/75. The following Ordinance made by the president on April 10, 1975, is hereby published for general information.

(Ordinance XI of 1975)

An Ordinance to provide for the law relating to industrial employment in Azad Jammu and Kashmir

Preamble:- WHEREAS it is expedient to provide for the law relating to industrial employed 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 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 Jammu and Kashmir Industrial and Commercial Employment (Standing Orders) Ordinance, 1975.
- (2) It shall extent to the whole of Azad Jammu and Kashmir.
- (3) It shall come into force at once and shall be deemed to have taken effect on and from 30th day of March, 1975.
- (4) It applies to-
 - (a) Every industrial establishment or commercial establishment where in twenty or more workmen are employed, directly or through any other person whether on behalf of himself or any other person, or where so employed on any day during the preceding twelve months; and
 - (b) Such classes of other industrial and commercial establishment as Government may, from time to time, by notification in the official Gazette, specify in this

behalf;

Provided that nothing in this Ordinance shall apply to industrial and commercial establishment carried on by or under the authority of the Government where statutory rules of service conduct of discipline are applicable to the workman employed therein:

Provided further that the provisions of standing orders 11 and 13 clauses (6) and (8) of standing order 15 and standing order, 19 shall not apply, in the first instance, to any industrial establishment where in not more than forty nine persons were employed on any day during the preceding twenty months but Government may, by notification in the official Gazette, extend all or any of the said provisions to any such industrial establishment or any class of such establishment.

2. **Definitions:** In this Ordinance, unless there is anything repugnant in the subject or context-
- (a) “Collective agreement” means agreement in writing intended to specify the conditions of employment, and entered into between one or more employers on the one hand and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other;
 - (b) “Commercial establishment” means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial undertaking employs workman, a unit of a joint stock company, an insurance company a banking company or a bank, a broker’s office of stock exchange, club a hotel a restaurant or an eating house, a cinema or theater, and such other establishment or class thereof, as government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act;
 - (c) “Construction industry” means an industry engaged in the constructing, reconstruction, maintenance, repair, alteration, or demolition of any building pier, canal, inland waterway, road, tunnel, bridge, dam viaduct, sewer, drain, water work, well, telegraphic installation,

electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the foundations of, any such work of structure;

- (d) “Employer” means the owner of an industrial or commercial establishment to which this Act, for the time being applies, and includes.
 - (i) In a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934) as manager of the factory;
 - (ii) In any industrial establishment under the control of any department of the Government, the authority appointed by such Government, in this behalf, or where no such authority is so appointed, the head of the department;
 - (iii) In any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such establishment;
- (e) “Go-slow” means an organized, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner and which is not due to any mechanical defect, break-down of machinery failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;
- (f) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (g) “Industrial establishment” means:-
 - (i) An industrial establishment as defined in clause (ii) of section 2 of the payment of wages Act 1936 (IV of 1936), or
 - (ii) A factory as defined in clause (1) of section 2 of the factories Act, 1934 (XXV of 1934); or
 - (iii) The establishment of a contractor who, directly or indirectly, employs workmen in connection with the execution of a contract to which he is a party, and includes the premises in which, or the site at which any process connected with such

execution is carried on; or

- (iv) The establishment of a person who, directly or indirectly employs workman in connection with any construction industry;
 - (h) “Standing Orders” means the order contained in the schedule, read with such modifications, if any, as may be made in pursuance of the provisions of section 4;
 - (i) “Trade union” means a trade union for the time being registered under the Azad Jammu and Kashmir Industrial Relations Ordinance 1974;
 - (j) “Workman” means any person employed in any industrial or commercial establishment to do any skilled or unskilled or unskilled manual or clerical work for hire or reward.
3. **Enforcement of Standing Orders:** In every industrial or commercial establishment, conditions of the employment of workman and other incidental matters shall, subject to the other provisions of this Ordinance, be regulated in accordance with the Standing Orders.
4. **Modification of Standing Orders:** The standing order may be modified by means of a collective agreement and not otherwise;
- Provided that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workman under the provisions of the schedule.
5. **Posting of Standing Orders:** The text of the Standing orders shall be prominently posted and kept in a legible condition by the employer in Urdu, on special boards to be maintained for the purposes at or near the entrance through which the majority of the Workman Enter the industrial or commercial establishment and in all department thereof where the work-men are employed.
6. **Inspectors:** (1) The Inspectors appointed under section 10 of the factories Act, 1934 (XXV of 1934), and such other persons, not being conciliators appointed under the Azad Jammu and Kashmir industrial relation Ordinance 1974 as Government may, by notification in the official Gazette, appoint shall be the inspectors for the purposes for the purposes of this Ordinance within the local limits signed to each.
- (2) An Inspector may at all reasonable hours enter on any

premises and makes such examination of any register or document relating to the maintenance or enforcement of the standing orders and takes on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance.

(3) Every Inspector shall be deemed to be public servant within the meaning of the penal Code (XLV of 1680)

7. **Penalties and procedure:** (1) An employer who modifies the Standing orders as applicable to his industrial or commercial establishment, otherwise than in accordance with section 4, shall be punishable with fine which may extend to five thousand, rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.

(3) Whoever contravenes of the provisions of this Ordinance, shall if no other penalty is elsewhere provided by or under this Act for such contravention be punishable with fine which may extend to one hundred rupees.

(4) Whoever, having been convicted of any offence punishable under sub-section (1) (2) or (3) again commits such offence shall, on conviction, be liable to double the punishment prescribed for such offence under the aforesaid sub-section.

(5) No prosecution for an offence punishable under this Ordinance shall be instituted except by, or with the previous permission in writing of, the Inspector.

(6) No Court inferior to that of a Magistrate of the first class shall try offence under this Ordinance.

8. **Power to Exempt:** Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any industrial or commercial establishment or class of such establishment from all or any of the provisions of this Ordinance.

9. **Protection of Existing Conditions of Employment:** Nothing in this Act shall affect any law, custom, usage, award or agreement in force immediately before the enforcement of this Ordinance in so far as such law, custom, usage, award or agreement ensures conditions of employment more favorable to workman than those provided in the Standing Orders.

**SCHEDULE
STANDING ORDERS**

Section 2 (h)

1. **Classification of workman:**
 - (a) Workman shall be classified as:-
 - (1) Permanent,
 - (2) Probationers,
 - (3) Badlis,
 - (4) Temporary,
 - (5) Apprentices.
 - (b) “A permanent workman” is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, including breaks due to sickness, accident, leave lockout (not being ill legal lock out or strike) or involuntary closure of the establishment and includes a “badli” who has been employed for a continuous period of three months or for one hundred and eighty-three days, during any period of twelve consecutive months.
 - (c) A “Probationer” is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period of three months, be reverted to his old permanent post.
 - (d) A “Badli” is a workman who is appointed in the post of permanent workman or probationer who is temporarily absent.
 - (e) A “temporary workman” is a workman who has been engaged for work, which is of a essentially temporary nature likely to be finished within a period not exceeding nine months.
 - (f) An “apprentice” is a learner who is paid an allowance

during the period of his training.

2. **Tickets:** (1) Every workman employed in an industrial establishment shall be given a Permanent ticket unless he is a probationer, a badli a temporary workman or an apprentice.

(2) Every permanent workman shall be provided with a departmental ticket, showing his number, and shall on being required to do so, show it to any person authorized by the employer to inspect it.

(3) Every "Badli" shall be provided with a "badli" card on which shall be entered the days on which he has worked in the establishment, and which he shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a temporary ticket, which he shall surrender on his discharge.

(5) Every apprentice shall be provided with an apprentice card, which shall be surrendered if he obtains permanent employment.

(6) Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing showing the terms and conditions of his service.
3. **Publication of working time:** The periods and hours of work for all classes of workman each shift shall be exhibited in Urdu for the workman employed in the industrial or commercial establishment on notice boards maintained at or near the main entrance of the establishment and at the time keeper's office if any.
4. **Publication of holidays and pay days:** Notice specifying (a) the days observed by the industrial or commercial establishment as holidays and (b) pay days shall be posted on the said notice boards.
5. **Publication of Wages Rates:** Notices specifying the rates of wages payable to all classes of workman and for all classes of work shall be displayed on the said notice boards.
6. **Shift Working:** More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of the employer. If more than one shifts is worked, the workman shall be liable to be transferred from one shift to another. No shift working shall be

discontinued without one months, notice being given prior to such discontinuance, provided that no such notice shall be necessary, if as a result of the discontinuance of the shift, no permanent employee will be discharged. If as result of discontinuance of shift working, any permanent workman are to be discharged they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is resulted a week's notice thereof be given by posting a notice at the entrance of the establishment and the time keeper's office if any, and the workman discharged as a result of the discountenance of the shift, shall, if they present themselves at the time of the restarting of the shift, have preconceive in being re-employed having regarded to the length of their previous service under the establishment those with the longest rest term of service being re-employed first.

7. **Attendance and late coming:** All workman shall be work at the establishment at the time fixed and notified under standing orders workman attending late shall be liable to the deductions provided for in the payment of wages Act, 1936 (IV of 1936)
8. **Leave:** (1) Holiday and leave with pay shall be allowed as hereinafter specified:-
 - (a) Annual holiday and festival holidays, casual leave and sick leave as provided for in Chapter IV-A of the factories Act, 1934 (XXV of 1934) and;
 - (b) Other holidays in accordance with the law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day, if the leave asked for is granted, a leave pass shall be issued to the workman, If the leave is refused or postponed, the last of such postponement, leave is refused or posted, the fact of such postponement or refusal and the reasons there for shall be recorded in writing in a register to be maintained for the purpose, and if the workman so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desire as extension thereof

he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the likely to reach him before the expiry of the leave originally granted to him.

9. **Payment of Wages:** (1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workman shall be paid wages on a working day before the expiry of the 7th or 10th day after the last day of the wages period, in respect of which the wages are payable if the total number of workman employed in the establishment is 1.000 or less exceeds 1.000 respectively.

10. **Group Incentive Scheme:-** (1) In every industrial establishment which is a factory and in which fifty or more workman are employed there shall be introduced from such date as may be specified by the Government by notification in the official Gazette, a group incentive schema to provide incentive for greater production to groups of workman employed in the factory. The Scheme shall provide the manner in which the performance of different groups of workman, whether in the same section, Shop department or shift or in different sections, shops department or shift shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the groups of workman whose production exceeds that of the other groups of workman on to be average of all the groups, the incentive shall be according to such scales as may be prescribed and shall be related to the extent of the excess production achieved by the groups with the best performance.

11. **Compulsory Groups Insurance:** (1) The employer shall have all the permanent workmen employed by him insured against death and injury arising out of contingencies not covered by the workman's compensating Act, 1923 (VIII of 1923).

(2) The employer shall in all cases be responsible for the payment of the amount of premia and for all administrative arrangements whether carried out by himself or through an insurance company.

(3) The amount for which cash workman shall be insured

shall not be less than the amount of compensation specified in schedule IV to the workman's compensation Act, 1923 (VIII of 1923).

12. **Payment of Bonus:** (1) Every employer making profit in any year shall pay in for that year with in with in three months of the closing of that year to the Workman who have been in his employment in that year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such workman.

(2) The amount of the bonus payable shall

- (a) If the amount of the profit is not less than the aggregated of one Months wages of the workman employed, be not less than the amount of such aggregate, subject to the maximum of thirty percent of such profit;

Illustration:

- (1) If the profit is Rs, 1,20,000 and the aggregate of one month's wages of the workman is Rs, 30,000/- the amount of bonus payable shall be not less than aggregate of one month's wages that is to day Rs, 30,000/-.
- (2) If the profit is Rs, 30,000/ and the aggregate of one months wages of the workman is also Rs, 30,000/- the amount of bonus payable be not less than thirty percent of the profit, that is to say Rs, 9,000/-.
- (b) If the amount of the profit is less than the aggregate referred to in paragraph (a), be not less than fifteen percent of such profit.
- (3) The bonus payable to workman entitled thereto under clause (1) shall bear to his monthly wages the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to in paragraph (a) of clause (2) and shall be paid in cash:
- (4) Nothing in this section shall be deemed to affect the right of any workman receive any bonus other than that payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court establishment under that Azad Jammu and Kashmir Industrial Relations Ordinance 1974.

Explanation:

For the Purposes of this Section: “Profit” means the “net profit” as defined inspection 87C of the Companies Act, 1913 (VII of 1913) and “Wages” does not for the purposes of calculating the bonus payable to a person under clause (1) include the bonus referred to in clause (vi) of section 2 of the payment of the payment of wages Act, 1936 (IV of 1936).

13. **Stoppage of work:** (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of Power supply, epidemics, civil commotion of other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workman affected shall be notified by noticed put up the notice board in the departments concerned or of the office of the employers, as son as practicable when work will presume and whether they are to remain leave their place of work. The workman shall not ordinarily be required to remain or for more than two hours after the commencement of the stoppage, if the period of detention does not exceeds one hours, the workman so detained shall not be paid for he period of dentition, if the period of detention exceeds one hour, the workman as detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage, In the case of piece rate workers, the average daily caring for the previous months shall be taken to be the daily wages. Wherever practicable reasonable notice shall be given of resumption of normal work.

(3) In cases where workman are laid off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1) they shall be paid by the employer an amount equal to one half of their daily wages during the first fourteen days of lay off as compensation when, however, the workman have to be laid off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them, due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department or the establishment close down, either wholly or partially, such section or department and any other section or department affected by

such closing down. The fact of such closure shall be notified by notice put on the notice board in the section or department concerned and in the time Keepers office, if any, as soon as practicable, The workman concerned shall also be notified by a general notice prior to resumption of work, as to when work will be resumed.

14. **Closure of Establishment:** Notwithstanding anything contained in Standing Order 13, no employer shall close down the whole of the establishment without prior permission of the Labour Court in this behalf, except in the event of fire, catastrophe, Stoppage, of powers supply, epidemics or civil commotion.

Explanation: “Close down” in this Standing Orders includes lay-off of workman beyond fourteen days where such lay-off results in closure of an establishment but does not include lock-out declared commenced, or contained in accordance with the provisions of the Azad Jammu and Kashmir Industrial Relation Ordinance, 1974.

15. **Termination of Employment:** (1) For terminating employment of a permanent workman, for any reason other than misconduct, one month’s notice shall be given either by the employer or the workman, one month’s wages calculated on the basis or average wages earned by the workman during the last three months shall be paid in lieu of notice.

(2) No temporarily workman, whether monthly rated, weekly rated daily rated or piece rated and no probationer or badli, shall be entitled to any notice if his service are terminated by the employer, nor shall any such workman be required to give any notice or pay any wages in lieu thereof to the employer if he leaves employment of his own accord.

(3) The service of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed form service, except by an order in writing which shall explicitly state the reason for the action taken, in case a workman is aggrieved by the termination of his service or removal, retrenchment, discharge or dismissal, he may take action in accordance with the provisions of section 30 of the Azad Kashmir Industrial Relations Ordinance, 1974, and there upon the provision of the said section shall apply as they apply to the redress of an individual grievance.

(4) Where the services of any workman are terminated, the wages earned by him and other dues, including payment of run

availed leaver as defined in clause (1) of Standing Orders 8, shall be paid before the expiry of the second working day from the day on which this service are terminated;

(5) The service of a permanent or temporary workman shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in standing order 19.

(6) Where a workman resign form service or his services are terminated by the employer, for any reason other than misconduct, he shall, in addition to any other benefit to which he may be entitled under this Ordinance or in accordance with the terms of his employment or any custom, usage or any settlement or an award of a Labour Court under the Azad Jammu and Kashmir Industrial Relations Ordinance, 1974, be paid gratuity equivalent to twenty days wages, calculated on the basis of the wages admissible to him in the last months of service if he is fixed rated workman or the highest pay drawn by him during the last twelve months if he is a piece rated workman, for every completed year of service or any part thereof in excess of six months:

Provided that, where the employeeer has established a Provident Fund to which the workman is a contributor the contribution of the employer to which is not less than the contribution made by the workman no such graduity shall be payable for the period during which such Provident Fund has been in existence.

(7) A workman shall be entitled to receive the amount standing to his credit in the provident Fund, including the contributions of the employer to such fund, even if he resigned or is dismissed form service.

(8) Where a workman dies while in service of the employer, his dependents shall be paid gratuity in accordance with the provisions of clause (6):

Provided that no payment of gratuity in such cases shall be made otherwise than by a deposit with the commissioner, who shall proceed with the allocation of the deposit to the dependent of the deceased in accordance with the provisions of section 8 of the workman's compensation Act, 1923 (VIII of 1923).

(9) If the employer fails to deposit to amount of the gratuity under clause (8) the dependent of the deceased may make an application to the Commissioner for the recovery of the amount

thereof.

Explanation: “Commissioner and dependent” in this standing Order shall have the same meanings as are respectively assigning to them in the workman’s Compensation Act, 1923 (VIII of 1923)

16. **Procedure for Retrenchment:** Where any workman is to be retrenched and he belongs to a particular category of workman, the employer shall retrench the workman who is the last person employed in that category.
17. **Re-Employment of Retrenched Workman:** Where any number of workman are retrenched and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrenched workmen belonging to the category concerned, by sending a notice by registered post to their last known addresses to offer themselves for reemployment and they shall have preference over other persons, each having priority according to the length of his service under the employer’s:

Provided that, in the case of seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season shall be given preference for employment by the employer.

18. **Special Provision for Construction Workers:** Where any workman is retrenched or discharge by a contractor or any employer engaged in the construction industrial due to completion, Cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge:

Provided that where a workman is re-employed within one months of his retrenchment or discharge, he shall be deemed to have been in continuance service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharge but no wages shall be paid to him for the period of interruption.

19. **Punishment:** (1) A workman may be reprimanded or fined up to pays in the rupee of the wages payable to him in a months, for any of the following acts or omissions, namely;

(2) In case where the payment of wages Act, (IV of 1936) is applicable, the list of acts and omissions for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned;

(ii) In other cases, the following shall be the list of acts and omissions;

- (a) Disregard disobedience of rules or orders;
- (b) Improper behavior, such as drunkenness;
- (c) Making false or misleading statements;
- (d) in efficient, dilatory, careless or wasteful working;
- (d) Malingering.

(2) A workman found guilty of misconduct shall be liable to any of the following punishments:-

- (i) With-holding of increment or promotion for a specified period not exceeding one year;
- (ii) Dismissal without payment of any compensation in lieu of notice;
- (iii) Reduction to a lower post; or

(3) The following acts and omissions shall be treated as misconduct:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) Willful damage to or loss of Employers goods or property;
- (d) Taking or giving bribes or any illegal gratification;
- (e) Habitual absence without leave or absence without leave for more than ten days;
- (f) Habitual late attendance;

- (g) Habitual breach of any law applicable to the establishment;
- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline;
- (i) Habitual negligence or neglect of work;
- (j) Frequent repetition of any act or omission referred to in clause (1);
- (k) Striking work or insisting others to strike in contravention of the provision of any law, or rules having the force of law;
- (l) Go-slow.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal, and, the employer shall institute independent inquiries before dealing with charge against a workman:

Provided that the workman proceeded against may, if he so desires for this assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.

(5) Where, for the purposes of conducting an inquiry in to the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time. The orders of suspension shall be in writing may take effect immediately on delivery to the workman. During the period of suspension, the workman concerned shall be paid by the employer subsistence allowance of not less than fifty percent of the wages, If the workman is found not guilty, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he has not been suspended.

20. **Certificate of Termination of Service:** Every permanent workman shall be entitled to a Service certificate at the time of his dismissal, discharge, retirement or retrenchment from service.

21. **Liability of Employer:** The employer of the industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the standing order, whether or not the workman or such Establishment are employed through contractors.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K

(Muhammad Akram Shah)
Secretary Law & Parliamentary Affairs
Azad Govt. of the State of J & K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

'Muzaffarabad' 22nd February, 1975

The following Ordinance made and promulgated by the President Azad Government of the State of Jammu and Kashmir on the 22nd February, 1975, is hereby published for general information :-

(ORDINANCE XII OF 1975)

AN ORDINANCE to provide for the registration of citizen of Azad Jammu and Kashmir state and issue of Identity Cards to them

WHEREAS it is the expedient to provide for the registration of citizen and issue of identity cards to them and for matters ancillary there to;

It is hereby enacted as follows:-

1. **Short title, extent, commencement and application:** (1) This Ordinance may be called the National Registration Ordinance, 1975.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
 - (4) It shall apply to all citizens wherever they may be.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context:-
 - (a) 'Citizen' means a person who is or is deemed to be, a 'State Subject' as defined in the Azad Jammu and Kashmir Interim Constitution Act 1974;
 - (b) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (c) 'Prescribed' means prescribed by rules;
 - (d) 'Registration Officer' means the Registrar General or Deputy Registrar General or a District Register or Registrar appointed under section 3, and includes any officer to whom the powers of any officer have been delegated under this Ordinance, and
 - (e) 'Rules' means rules made under this Ordinance.
3. **Registration Officer:** (1) For the purposes of this Ordinance, Government may appoint;

- (a) A Registrar General for the whole of Azad Kashmir.
- (b) A District Registrar for each revenue district; and
- (c) As many Registrars for the local areas as it may consider necessary.

(2) Every District Registrar and Registrar shall exercise his powers and perform his functions under this Ordinance and rules under the general supervision and control of, and in accordance, with such instructions as may be given in this behalf by, the Registrar General.

4. Registration of citizen: (1) Within such time as the Government may, by notification in the official Gazette specify in this behalf;

- (a) every citizen in or out of Azad Kashmir who has attained the age of eighteen years shall get himself; and
 - (b) a parent or guardian of every citizen who has not attained that age shall get such citizen registered in accordance with the provisions of this Ordinance.
- (2) an application for registrar;
- (a) under clause (a) of sub-section (1) shall be in Form A of Schedule to this Ordinance; and
 - (b) under clause (b) of sub-section (1) shall be in Form of that Schedule.

And shall be made to such authority as may be prescribed.

IDENTITY CARDS

5. (1) The Registrar General shall cause to be issued to every citizen who has attained the age eighteen years and got himself registered under section 4, a card containing the particulars set out in Schedule II to this Ordinance hereinafter referred to as the Identity Cards.

(2) Every person to whom an identity card is issued shall be responsible for its safe custody and for maintaining it in proper shape.

6. Inspection of Identity Card: A Registration Officer or any Gazetted Officer under the control of, and authorized by, the Registrar General in this behalf may require a person to whom an identity card has been issued to produce the card for inspection before him or, if it is not in his possession when so required, to produce it within such time, before such officer and

at such place as the Registration officer or the officer so authorized may direct.

7. **Surrender of identity card:** (1) In case of the death of any holder of an identity card, his identity card shall be surrendered or given up to the District Registrar by the spouse, heir or next of Kin, as the case may be, of such holder within sixty days of such death.

(2) The holder of an identity card who ceases to be a citizen shall surrender or give up his identity shall surrender or give up his identity card to the District Registrar within sixty days of his ceasing to be a citizen.

8. **Identify cards necessary for certain purposes.-** (1) No citizen who has attained the age of eighteen years but does not pass or produce an identity card shall be granted a passport, permit or other travel documents for going out of Pakistan.

(2) Any officer charged with the duty of conducting the poll at an election to the Azad Kashmir Assembly or to a Municipal Committee, or other local authority may, for the purpose of satisfying himself as to the identity of any person, require such person to produce his identity card.

(3) The Government may, by notification in the official gazette specify any other purposes for which the production of an identity card shall be necessary.

- (4) The identity card issued to any person shall be proof of his identity for any purposes of which his identity is required by establishment.

9. **Power to call for proof of information:** The Registrar General or any person authorized by him in this behalf may require a person who has given any information in pursuance of this Ordinance, to furnish such documentary or other evidence of the truth of that information as it is within the power of that person to furnish.

10. **Information not be divulged.-** Any person who:-

(a) Being a person employed for the purposes of this Ordinance, publishes or communicates to any person, otherwise than in the ordinary course of such employment, any information acquired by him in the course of the employment or;

(b) Having possession of any information which to his

knowledge has been disclosed in contravention of this Ordinance, published or communicates that information to any other person, shall be punishable with imprisonment for an term which may extend to six months, or with fine which may extend to one thousand or with both;

Provided that nothing in this section shall apply to any publication; or communicating or information made-

- (i) For the purpose of an judicial proceedings; or
- (ii) To any Gazette Officer authorized by the Government or the Register General.

11. Penalties.- Any person who-

- (a) does not, without reasonable cause, apply for Registrant as required by section 4;
- (b) for any of the purposes of this Ordinance makes any statement or furnishes any information which he knows or has reason to believe to be false in any material particular or which he does not believe to be true'
- (c) conceals, or refuses to furnish, any information which he ought to disclose or furnish;
- (d) obliterates or changes any particulars written in the identity card;
- (e) forges any identity card or makes or has in his possession any document so closely resembling an identity card as to be a calculated to deceive;
- (f) fails, without reasonable cause, to report to any registration officer any loss of the identity card within thirty days of such loss;
- (g) allows any other person to have possession of an identity card of the custody of which he is responsible;
- (h) refuses or fails to produce or surrender an identity card as required under Section 6 of this Ordinance.
- (i) does not, without reasonable cause, apply for a identity card within ninety days of his attaining the age of eighteen years; or
- (j) knowledge contravenes any other provision of this Ordinance or the rules, shall in addition to any other

penalty to which he may be liable under any other law, be punishable with fine not exceeding fifty rupees or, in default of payment of fine, with simple imprisonment for a period not exceeding fifteen days.

12. **Cognizance of offence.-** No court shall take cognizance of any offence under this Ordinance except upon complaint in writing made by the Registrar General or any Gazetted officer authorized by him in this behalf.
13. **Offence triable summarily:** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) an offence under this Ordinance shall be triable summarily by any Magistrate, exercising the powers of a Magistrate of the first class.
14. **Officers, etc. deemed to be public service:** Every Registration Officer and every other person employed in connection with Registration and issue of identity cards shall be deemed to be a Public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860)
15. **Power to make rules:** The Government may, by notification in the official Gazette make rules for carrying out the purposes of this Ordinance.
16. **Delegation of powers:** The Government may, by notification in the official Gazette, direct that all or any of the powers conferred on it by this Ordinance or the rules shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by any officer of the Government.
17. **Identity:** No suit, prosecution or other legal proceeding shall lie against the Government, any Registration Officer or any other person exercising any powers or performing any function under this Ordinance, for any thing which is in good faith done or purporting or intended to be done under this Ordinance or any rules.
18. **Removal of difficulties:** If any difficulty arises in giving effect to any provision of this Ordinance, the Government may make such order, not inconsistent with the provision of this Ordinance, as may appear to it to be necessary for the purposes of removing the difficulty.
19. **Repeal:** National Registration Ordinance 1975 (Ordinance No, XII of 1975) is hereby repealed.

SCHEDULE I
AZAD JAMMU AND KASHMIR GOVERNMENT
REGISTRATION ORGANIZATION
(HOME DEPARTMENT)
APPLICATION FOR REGISTRATION FOR AZAD KASHMIR
CITIZEN FORM A
(See Section 4 (I) (a))

Post Office _____

No _____

Date _____

Code No, (To be written in Registration Officer)

(1) Full Name (With alias) _____

(2) Sex (male or female) _____

(3) Religion _____

(4) Father Name _____

(5) Husband's Name in case of married woman _____

(6) Present Address _____ Street No _____

Mohallah _____ Tehsil _____

City/Village _____ Post Office _____

(7) Permanent Address House No _____ Street No _____

Mohallah _____ City/Village _____ Post Office _____

Tehsil _____ District _____

(8) Date of birth or age _____

(9) District of Birth _____

(10) Identification Marks _____

(11) Education (General/ Technical) _____

(12) Occupation _____

(13) If employed, write here address of office/ firm _____

I solemnly declare that the information given by me to the best of my knowledge and belief is correct and that I have not concealed any information. Further I have not provisory applied for registration any where else in Azad Kashmir or Pakistan.

Date _____
Impression.

Signature/Thumb

Photo	for
ladies	is
optional	

Signature/Thumb impression
of the applicant

ATTESTATION:

I certify that I personally known _____ and
that the particulates given by him/her true to the best of my knowledge.



Seal of attesting
Person.

Signature of attesting _____
Full Name and designation _____
Date _____

FORM B
(See Section 4 (1) (b))

TO BE FILLED BY HEAD OF THE HOUSE-HOLD IN RESPECT OF
HIS DEPENDENTS/ BELOW THE AGE OF 18 YEAR

I have the following dependents in my house, who are naturally
living with me:-

S. No	Name	Date of Birth or age	Sex	Relationship
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Signature/Thumb Impression of the

head of the household

Attestation Date _____

I certify that I personally know _____ and
the particulars given by him/her are true to the best of my knowledge.

Signature of attesting person _____

Full Name with designation _____

Date _____

Seal of attesting person.

SCHEDULE II

(See Section 5 (1))

Front

Government of Azad Kashmir
Identity Card
Photo Monogram
Signature or thumb impression
Post Office No, Date of issue

Back

Identification No _____
Name _____
Name of Father/
Husband _____
Address _____
Previous Address _____
Date of Birth _____
Identification _____
Marks _____
1. In case of loss, report to any
registration officer,
2. If lost card is found, drop in
the post office letter box.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 15, 1975.

No.1060/SL/75. This Ordinance made by the President on April 10, 1975, is hereby published for general information:-

(ORDINANCE XIII OF 1975)

AN ORDINANCE to provide for the establishment of a university in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for the establishment of a university in Azad Jammu and Kashmir and for matters ancillary thereto, in the manner hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and the president is satisfied that circumstances exist which render immediate legislation necessary;

NEW THEREFORE, in exercise of the powers conferred by section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974 and all powers enabling him in that behalf the president is pleased to make and promulgate the following Ordinance:-

**CHAPTER I
PARLIAMENTARY**

1. **Short title and commencement:-** (1) This Ordinance may be called the Azad Jammu and Kashmir University Ordinance 1975.
(2) It shall come into force at once.
2. **Definition:-** In this Ordinance, unless there is anything repugnant in the subject or context:-
 - (a) 'Academic Council' means the Academic Council of the University;
 - (b) 'Authority' means an Authority of the University mentioned in section 10;
 - (c) 'Dean' means the head of the faculty;
 - (d) 'Institute' means an institute maintained by the university;
 - (e) 'prescribed' means prescribed by statutes or Regulation

- (f) 'Regulation' means a Regulation made under this ordinance;
- (g) 'Statute' means a statute made under this University;
- (h) 'Syndicate' means the syndicate of the university
- (i) 'teacher' means a Professor, Reader, Lecturer or any other person imparting instruction in the university or conducting research in any institute; and
- (j) 'University' means the Azad Jammu and Kashmir university established under section 3.

CHAPTER II THE UNIVERSITY

- 3. **Establishment and incorporation of the University:-** (1) there shall be established a University to be called the Azad Jammu and Kashmir university which shall consist of the chancellor, Vice Chancellor and the members of the syndicate and the Academic Council all of whom shall be the Fellows of the university.

(2) The university shall be a body corporate by the name of the Azad Jammu and Kashmir University, having perpetual succession and common seal with power, among other, to acquire hold and dispose of any property and shall, by the said name sue and be sued.
- 4. **Power and functions of the University:-** The University shall, subject to the provisions of this ordinance, have the following powers and functions, namely:-
 - (a) to provide for instruction in any branch of learning, research and advancement and dissemination of knowledge;
 - (b) to hold examination and confer degrees, titles and marks of honours on persons who have, under prescribed conditions, pursued a course of study in, and passed the examination of the university;
 - (c) to confer degrees and other academic destinations on persons who have, under prescribed conditions, carried on independent research;
 - (d) to confer in the prescribed manner on any person honorary degree or other academic distinction;

- (e) to co-operate with other Universities and authorities in such manner and for such purposes as it may determine;
- (f) to institute and create professorships, readerships, Lectureships and other teaching, research or administrative posts required by it and to appoint persons thereto;
- (g) to institute and award fellowships, scholarships, exhibitions, bursaries, modals and other awards in accordance with the prescribed conditions;
- (h) to establish institutes and to make arrangements for their maintenance, management and administration;
- (i) to provide residential accommodation for student and teachers;
- (j) to demand and to receive such fees and other changes as may be prescribed;
- (k) to supervise and control the residence, extra-curricular activities and discipline and to make arrangement for promoting health and general welfare, of its student;
- (l) to receive grants, bequests, trusts, gifts, donations, endowment and other contributions made to it; and
- (m) to do such other acts and thing as may necessary or conducive to the performance of its functions or otherwise to carry out the purpose of this ordinance.

CHAPTER III – OFFICERS OF THE UNIVERSITY

5. **Officers of the University:-** The following shall be the officers of the university, namely
- (a) the chancellor;
 - (b) the vice chancellor;
 - (c) the deans of the Faculties;
 - (d) the Registrar
 - (e) the Treasurer; and
 - (f) such other officer as may be prescribed

6. **The Chancellor:-** the President of Azad Jammu and Kashmir shall be the chancellor of the university.
7. **Power and function of the Chancellor:-** (1) The Chancellor shall, when present, preside at the convocation of the University.

(2) The Chancellor, if he is satisfied that the proceedings of any Authority are not in accordance with the provisions of this Ordinance, the statutes or the Regulations, may after calling upon such Authority to show cause why such proceedings should not be annuatted, by order in writing, annual the proceedings.

(3) the chancellor may, at any time, cause an inspection of, or an enquiry in respect of any matter connected with, the University or its institutions to be made by such person or persons as he may appoint for the purpose, and may, after such inspection or enquiry, make such order as he may consider necessary; and any such order shall be carried out by the Authorities and officers concerned.
8. **The Vice-Chancellor:-** (1) The Vice-Chancellor shall be appointed by the chancellor.

(2) The appointment of the Vice-Chancellor shall be for a period of four years terminable by not less than three months notice on either side and on such other terms and conditions as may be determined by to chancellor.

(3) At any time when the office of the Vice-Chancellor is vacant, or the Vice Chancellor is absent or is unable to perform the functions of his office due to illness or some other cause, the chancellor shall make such arrangements for the performance of the functions of the Vice Chancellor as he may deem fit.
9. **Powers and functions of the Vice Chancellor:-** (1) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall ensure that the provision of this Ordinance, the statutes and the regulations are faithfully observed and, for that purpose, exercise such powers as may be necessary.

(2) The Vice Chancellor shall, in the absence or the chancellor preside at the convocation of the university and shall, if present, preside at the meetings of the Authorities of which he is the chairman and be entitled to attend and preside at any meeting of any other Authority or body of the University.

(3) The Vice Chancellor may, in any emergency which in

his opinion requires immediate action, take such action as he may consider necessary and shall, as soon thereafter as possible, report his action to the officer, Authority or other body concerned.

- (4) The Vice-Chancellor may,-
 - (a) appoint, punish or dismiss and employee of the University in accordance with the provisions of the statutes and Regulations,
 - (b) Create and fill temporary posts for a period not exceeding six months, and
 - (c) exercise and perform such other powers and functions as may be prescribed.
- (5) the Vice-Chancellor may, subject to such conditions, if any as may be prescribed, delegate any of his powers under this ordinance to such officers or employees of the University as he may deem fit.

CHAPTER IV – AUTHORITIES OF THE UNIVERSITY

- 10. **Authorities:-** The following shall be the Authorities of the University, namely:-
 - (a) the Syndicate
 - (b) the Academic Council,
 - (c) the Faculties,
 - (d) The Selection Board,
 - (e) the Financial Committee, and
 - (f) such other Authorities as may be prescribed by the statutes.
- 11. **Syndicate:-** The Syndicate shall consist of the following members, namely:-
 - (a) the Vice Chancellor who shall be its charming
 - (b) the Treasury
 - (c) the Secretary to the Government of Azad Jammu and Kashmir Education Department

- (d) two Deans to be so appointed by the Chancellor in such order as he may deem fit that each Dean become a member by rotation;
 - (e) two University Professors to be nominated by the Chancellor;
 - (f) the Chairman of the public service commission;
 - (g) two members of Legislative Assembly elected by the members of that Assembly;
 - (h) five members to be nominated by the Chancellor of whom one shall be a woman.
- (2) The Term of office of a member of the syndicate, other than an ex-officio member, shall be two years.
- (3) The quorum for the meetings of the syndicate shall be seven.

12. **Power and function of the Syndicate:-** (1) subject to the provisions of this ordinance, statutes and Regulations, the power of general management of and superintendence over, the affairs, concerns and property of the university shall vest in the syndicate.

- (2) Without prejudice to the generality of the foregoing provisions the syndicate shall, in particulars, have power to,
- (a) make the statutes;
 - (b) approve the regulations passed by the Academic Council;
 - (c) make regulations after referring the proposal to the academic Council for expression of opinion;
 - (d) determine the form of the common seal of the University the authority in whose custody it shall be kept, and the manner in which it shall be used;
 - (e) hold, control and administer the property, and funds of the University including the funds for specific purposes;
 - (f) transfer and accept transfer, Subject to the Statutes, of any movable or immovable property on behalf of the University;

- (g) make contracts on behalf of the University;
 - (h) manage and regulate the finance, accounts and investments of the University;
 - (i) consider and pass, the Budget of the University;
 - (j) Institute such teaching, research or administrative post as it pay consider necessary;
 - (k) abolish or suspend such teaching, research or administrative post in the University as it may deem fit;
 - (l) subject to the provisions of this Ordinance Statutes and Regulation, appoint on the recommendation of the Selection Board teacher of the University;
 - (m) determine duties and conditions of appointment of officers and teachers; -
 - (n) confer and grant decrees including honorary degrees; and
 - (o) subject to the provision of this Ordinance, regulate, determine and administer all matter concerning the University, and do all such acts and things as are necessary for the purpose,
- (3) The Syndicate may delegate each of its powers except those under clauses (a) (g) and (i) of sub-section (2) to any officer or Authority or other body of the University as may be prescribed.

13. **Academic Council:-** (1) The Academic council shall consist of the following members, namely:-

- (a) the Vice-Chancellor who shall be its chairman;
- (b) one senior office of the department of Education not below the rank of deputy secretary nominated by the chancellor;
- (c) the deans of faculties;
- (d) the directors of the institutes;
- (e) the university professors and readers;
- (f) ten teachers ,other than professors and readers, co-opted by the academic council;

- (g) two members of the legislative assembly elected by the members of that assembly ; and
- (h) five members to be nominated by the chancellor from amongst the learned bodies, and scientific organizations.

Explanation:- in this clause, “learned bodies” means such bodies as are engaged in research and publication programme and are recognised as such by the Government.

(2) The term of office of a member of the academic council, other than an ex-officio members shall be two years.

(3) The quorum for the meetings of the academic council shall be one-third of the total number of its members, fraction being ignored.

14. Powers and functions of the academic council: (1) subject to the provisions of this ordinance, statutes and regulations, the academic Council shall lay down the courses of study, curricula and standards of instructions, research and examinations and advise the syndicate on all academic matters.

(2) without prejudice to the generality of the foregoing provision the academic council shall in particular, have power to;-

- (a) make regulations;
- (b) recommend the framing of statutes;
- (c) lay down conditions under which students may be admitted to university course and examinations;
- (d) propose schemes for the constitution of university institutes;
- (e) propose the planning and development of teaching and research in university;
- (f) recognize the examination of other universities as equivalent to the corresponding examinations of the university;
- (g) propose the award of research fellowships, scholarships medals and prize; and
- (h) do such other acts and things as are or may be required

to be done by it by or under the provisions of this ordinance.

**CHAPTER V.
STATUTES AND REGULATIONS:**

15. **Statutes:-** subject to the provision of this ordinance, the statutes may provide for all or any of the following matter, namely,
- (a) constitution, power and functions of the authorities;
 - (b) appointment, powers and duties of the officers and teachers of the university;
 - (c) conditions of service and scales of pay of, and pension and provident fund for, the officers and employees of the university;
 - (d) establishment of institutes;
 - (e) maintenance and audit of the accounts of the university and
 - (f) such other matters as are required to be prescribed.
16. **Procedure for making statutes:-** (1) The syndicate may, on the recommendation of this academic council or on its own initiative frame or cause to be framed statutes.
- (2) a statute framed under sub-section (1), after it has been passed by the syndicate with or without modification, shall be submitted to the chancellor for assent.
- (3) when a statute is submitted to the chancellor for assent, he may either assent to it or withhold assent or refer it back to the syndicate for reconsideration.
- (4) No statute shall be valid unless it has received the assent of the chancellor.
17. **Regulations:-** Subject to the provisions of this ordinance and the statutes, the regulations may provide for all or any of the following matters, namely:-
- (a) courses of study, curricula, Standards of instruction, research and examination;
 - (b) conduct of teaching , research and examinations;
 - (c) institution and award of research fellowships,

scholarships, medals and prizes;

- (d) registration and admission of students in the university having regard to equitable distribution of seats for student found different areas or Azad Jammu and Kashmir;
- (e) fees to be charged by the university;
- (f) equivalence of examinations conducted by other university;
- (g) the detailed syllabus for the examinations held by the university;
- (h) conditions of admissions to the examinations held, and degrees conferred, by the universities, and
- (i) such other matters which under this statutes may be required to be provide for by the regulations.

18. **Procedure of making regulations by the academic council.-**

(1) the academic council may on the recommendation of a faculty or on its own initiative, frame or cause to be framed regulations.

(2) a regulation framed under sub-section (1) after it has been passed by the academic council, shall be submitted to the syndicate for approval.

(3) when a regulation is submitted to the syndicate for approval it may either approve it or withhold approval or refer it back to the academic council for reconsideration.

(4) no regulation other than a regulation made bay the syndicate, shall be valid unless it has received the approval of the syndicate.

19. **Making of regulations by the syndicate.-** (1) where the syndicate intends to make any regulations it shall refer the proposed regulation to the academic council for expression of opinion thereon.

(2) the syndicate any, after considering the opinion, if any expressed by the academic council, pass the regulation with or without any modification.

**CHAPTER VI-
UNIVERSITY FUND:**

20. **University fund.**- the University shall have a fund to which shall be credited.
- (a) grants from the Government; and
 - (b) income from fees, donations, trusts, gifts, bequests, endowments, grants and other sources.
21. **Accounts and Audit:**- (1) The Accounts of the university shall be maintained and audited in such manner as may be prescribed.
- (2) The statement of, accounts of the university of every year shall, at the close of such year, be submitted to the Government.

**CHAPTER VII –
GENERAL PROVISION**

22. **Filling of casual vacancy:**- A casual vacancy in the office of a member an authority, other than an ex-officio member, shall be filled for the remainder of the term of such members by appointing nominating, electing or co-opting a person in his place in the same manner in which such member was appointed, nominated elected or co-opted.
23. **Preceding not invalidated by vacancy, etc:**- No act or proceeding of any Authority shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of, or in the appointment, election, nomination or co-option of any member of such Authority.
24. **Pension and provident funds:**- (1) The University shall constitute, for the benefit of its offices, teachers, and other employees, pension or provident fund or both, subject to such conditions as may be prescribed.
- (2) Upon the constitution of a provident fund under subsection (1) the Government may declare that the provisions of the Provident Funds Act, 1925, (XIX of 1925), shall apply to such fund; and on such declaration the said Act shall apply accordingly as if the University were the Government and the said fund were a Government provident fund.
25. **Prohibitions against seeking certain elections, etc:**- (1) No employee of the university shall seek or contest any election to

any legislature or local body.

(2) Notwithstanding any thing contained in any other law for the time being in force, the service of an employee of the University who contravenes the provisions of subsection (1) shall be liable to be terminated without any notice.

Explanation:- in the section “employee of the University” includes all person drawing salary from the funds of the University.

26. **Idemnity:-** No, suit, persecution or other legal proceeding shall lie against any person or authority or authority for anything which is in good faith done of is intended to be, or purposed to have been done under this Ordinance, the statutes or Regulations.
27. **Members of Authority and employers to be public servant.-** A member of an Authority, an employ University or any other person appointed for carrying out the purposes of this Ordinance shall be deemed to be a public servant with in the meaning of Section 21 of the Pakistan Penal Code (Act XLV 1860) as enforce in the Azad Jammu and Kashmir.
28. **Interpretation in case of doubt.-** if any question arisen as to the interpretation of any provision of this ordinance or of any statute or regulation or as the whether any person has been dul elected, nominated or appointed as, or is entitled to be, a member of any Authority, it shall be referred to the chancellor whose decision thereon shall be final.
29. **Removal of difficulties:-** if any difficulty arises as to the first constitution of any Authority or otherwise in first giving effect to the provisions of this ordinance, the Chancellor may, by order, do or cause to be done such thing as may appear to him to be necessary for removing the difficulty.

Sd/- (Sardar Mohammad Abdul Qayyum Khan)
President
Azad Government of the state of J&K

(Mohammad Akram Shah),
Deputy Secretary Law & Parliamentary Affairs,
Azad Government of the State of J & K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

'Muzaffarabad' the 19th April, 1975.

No. SL/1181/75. The following Ordinance made by the president on 18th April 1975, is here by published for general information.

(ORDINANCE XIV of 1975)

AN ORDINANCE to provide for the establishment of Administrative Tribunals to exercise jurisdiction regarding matters relating to the terms and conditions of service in respect of services of the State of Azad Jammu and Kashmir

WHEREAS it is expedient to provide for the establishment of Administrative Tribunals to exercise exclusive jurisdiction regarding the matters relating to the terms and conditions of service *in* respect of the services of the Azad Jammu and Kashmir and for matters connected therewith or ancillary thereto; 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 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, commencement and application:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Administrative Tribunals Ordinance, 1975.
 - (2) It shall come into force at once.
 - (3) It applies to all civil servants wherever they may be.
2. **Definition:-** In this Ordinance, unless there is anything repugnant in the subject or context,
 - (a) "Chairman" means the Chairman of the Tribunal;
 - (b) "Civil servant" means & person who is or who has been a member of a civil service of the Azad Jammu and Kashmir or who holds or has held a civil post in connection with the affairs of the Azad Jammu and Kashmir but does not include

- (i) a person who is or who has been on deputation to the Azad Jammu and Kashmir from the Federation or any other province of Pakistan or authority
- (ii) a person who is or has been employed on contract or on work charged basis or who is or has been paid from contingencies; or
- (iii) a person who is or has been a worker or workman as defined in the Factories Act, 1934 (XXV of 1934 of the Workmen's compensation Act, 1923 (VIII of 1923) as in force in Azad Jammu and Kashmir;
- (c) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (d) "President" means the President of Azad Jammu and Kashmir;
- (e) "Member" means the Member of the Tribunal;
- (f) "Registrar" means the Registrar of Tribunal and includes any other person authorized by a Tribunal to perform the functions and duties of the Registrar; and
- (g) "Tribunal" means an Administrative Tribunal established by this Ordinance or a Bench therefore

3. **Tribunals:-** (1) There shall be one or more Tribunals, each consisting of a Chairman and one or two Members possessing the qualification hereinafter provided to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants including disciplinary matters.

- (2) (a) Member of a Tribunal shall be a person who is or has been or is qualified to be a Judge of the High Court; and
- (b) Member of a Tribunal shall be a person who has, for a period of not less than fifteen years served under the Azad Jammu and Kashmir Government and is not below the status of Deputy Secretary to the Azad Jammu and Kashmir Government.
- (3) The Chairman and Members of a Tribunal shall be appointed by Government on such terms and conditions as are

provided in the First Schedule:

Provided that if a person, who is a Judge of the High Court is appointed Chairman of a Tribunal, he shall continue to be governed by the same terms and conditions as are applicable to him as Judge of the High Court.

(4) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the president.

(5) The Chairman or a member of a Tribunal shall not hold any other office of profit in the Service of Azad Jammu and Kashmir:

Provided that where a person who is a Judge of the High Court is appointed Chairman, he may, if the President in consultation with the Chief Justice of the High Court so decides, hold the office of the Chairman in addition to the performance of his functions as Judge of the High Court.

(6) (a) The term of office of Chairman who is a Judge of the High Court may be determined by the President in consultation with the Chief Justice of the High Court.

(b) The term of office of the Chairman, other than a person who is a Judge of the High Court, and a Member of a Tribunal, unless he resigns earlier, shall be four years:

Provided that in the case of a person who before his appointment as Chairman or Member was in the Service of Azad Jammu and Kashmir, the term of office shall not extend beyond his date of superannuation and in any other case beyond the age of sixty-two years:

Provided further that the Chairman, other than a person who is a Judge of the High Court, or a Member of a Tribunal may be removed from office earlier than the expiry of the term of his office by an order of the President if on a reference by the President a Committee consisting of three persons who may be appointed by the President reports that,-

(i) the Chairman, or as the case may be, the Member is incapable of performing the duties of office by reason of physical or mental incapacity; or

(ii) has been guilty of misconduct.

Explanation One of the persons appointed to the Committee

shall be a person who has been a Judge of the High Court and the other two persons shall not be lower in status than a Deputy Secretary to the Azad Jammu and Kashmir Government

(7) Where there are established more than one Tribunal, the President shall specify by notification in the official Gazette the class or classes of civil servants in respect of whom, or the territorial limits within which, each Tribunal shall exercise jurisdiction under this Ordinance

4. **Appeal to Tribunals:** Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service including disciplinary matter may, within thirty days of the communication of such order to him or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal to the Tribunal:

Provided that--

- (a) where an appeal review or representation to departmental authority is provided under the Kashmir Service Regulation or any rules made there under no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and period of ninety days has elapsed from the date on which such appeal application or representation was to preferred;
- (b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining
 - (i) the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade; or
 - (ii) the quantum of departmental punishment or penalty imposed on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal, removal reduction in rank or compulsory retirement from service; and
- (c) no appeal shall lie to a Tribunal against an Order or decision of a departmental authority made at any time before the first July 1969.

Explanation In this section, departmental authority means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of civil servants.

5. **Powers of Tribunals** (1) A Tribunal may, on appeal, confirm set aside vary or modify the order appealed against
- (2) A Tribunal shall, for the purpose of deciding any appeal be deemed to be a civil Court and shall have the same powers as are vested in such Court under Code of Civil procedure 1908 (Act V of 1908) including the powers of
- (a) enforcing the attendance of any person and examining him on oath
- (b) compelling the production of documents; and
- (c) issuing commission for the examination of witness and documents.
- (3) No Court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document in, or obtaining any document from a Tribunal
6. **Benches and procedure:-** (1) The Chairman of a Tribunal may constitute a Single or a Division Bench of the Tribunal for hearing appeals under this Ordinance
- (2) The conclusions arrived at after hearing an appeal under sub-section (1) by a Single Bench, or as the case may be, by a Division Bench, along with the records of the appeal and written arguments if any, shall be considered by the Tribunal as a whole and the decision shall be expressed in the terms of the views of the majority.
- (3) The Chairman may at any stage transfer cases from one Bench to another Bench or to the whole Tribunal.
- (4) The Tribunal and its benches shall conduct business in accordance with the provisions contained in the Second schedule
7. **Casual vacancy:-** If the Chairman or one of the Members of a Tribunal has not been appointed or has not assumed the charge of his duties or is, for any reason, absent or unable to take part in the proceedings of the Tribunal, the other two members, or the Chairman and the other members, as the case may be, may hear or continue to hear and finally dispose of the appeal, application

other matt requiring decision of the Tribunal.

8. **Abetment of Quits and other proceedings:-** All suits, appeals and applications regarding any matter within the jurisdiction of a Tribunal pending in any Court immediately before the establishment of the appropriate Tribunal shall abate on the establishment of such Tribunal:

Provided that any party to such a suit, appeal or application may, within ninety days of establishment of the appropriate Tribunal, prefer an appeal to it in respect of any such matter which is in issue in such suit, appeal or application

9. **Applicability of the provisions of the Limitation Act, 1908:-** The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908) shall apply to appeals under this Ordinance.
10. **Rules:-** Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Ordinance.
11. **Repeal:** The Azad Jammu and Kashmir Administrative Tribunals Ordinance 1975 (Ordinance XIV of 1975) and the Azad Jammu and Kashmir Administrative Tribunal (Amendment) Ordinance, 1975 (Ordinance XX of 1975) are hereby repealed.

FIRST SCHEDULE SEE SECTION 3(3)
PART I-TERMS OF OFFICE

1. **Maximum age for appointment as Member:-** No person who is more than 58 years of age, shall be appointed as a member
2. **Oath of Office** Before entering upon his office, a Chairman other than a person who is Judge of the High Court and a Member shall before the Chief Justice of the Azad Kashmir High Court or a Judge nominated by the Chief Justice for the purpose, make an oath in the form appended to this Schedule.
3. **Seniority** The seniority interest of the Members shall be determined in accordance with the respective dates of their entering upon their office as Member provided that when a Member is appointed for a second or subsequent term, his seniority shall be reckoned from the date when he enters upon the second or subsequent term of office, as the case may be.
4. **Pay** (1) A Chairman shall--
 - (a) if before his appointment as Chairman, he had retired

from the service of Azad Kashmir, draw the pay last drawn before retirement, and the amount of his full pension, including special additional pension (if it has not been held in abeyance), will be deducted from his pay thus fixed; and

(b) in any other case, draw pay as is admissible to a Government servant in the National Pay Scale No.20 or if he was, before his appointment as Chairman in the service of Azad Kashmir, the pay which he would have received but for such appointment, whichever is higher

(2) A Member shall

(a) if on the date of his appointment as Member of a Tribunal he was in the service of Azad Kashmir, receive the grade of pay that he was drawing immediately before his appointment as Member provided that a Member in addition to the grade of pay, should get a special pay of Rs 440.00 per month subject to a maximum of Rs 2,300.00 per month if his pay is in National Pay Scale below grade 20.

(b) if before his appointment as Member, he had retired from the service of Azad Kashmir, draw pay last drawn before retirement and the amount of his full pension including special additional pension (if it has not been held in abeyance) will be deducted from his pay thus fixed

Explanation: For the purpose of this paragraph pay includes special pay which a Chairman or a Member was drawing before his appointment as such Chairman or Member.

5 **Pension:-** (1) No pension shall attach to the office of a Chairman or a Member as such, but if a Chairman or a Member was on the date of his appointment in the service of Azad Kashmir service as Chairman or Member shall count for pension under the rules applicable to the service or grade to which such Chairman or Member belonged; and unless a Member be a Member of an All-Pakistan Service or a Member be entitled to pension under Army Regulations service of Member shall also count as service in the higher grade or upper grade for the special additional pension under the rules applicable to him on the date of his appointment to the Tribunal.

(2) In the case of a retired Government servant, service as a member shall not count as qualifying service for the purpose of recalculating his pension as the expiry of his term of office as a Chairman or a Member

- 6 **Provident Fund:** (1) It shall be permissible for a Chairman or a Member, if he so elects, to subscribe to the General Provident Fund in accordance with the rules relating to that Fund

(2) A Chairman or a Member who, on the date of his appointment was in the service of Azad Kashmir and had been admitted to the benefits of any Provident Fund maintained by Government shall be eligible, after appointment to the Tribunal to Continue to subscribe to the said Fund upon the same times and conditions and subject to the rules of that Fund:

Provided that he shall cease to subscribe to the Fund on attaining the age of superannuation in his previous service and the amount standing to his credit in the said Fund after such deductions as are authorized under the rules applicable to him shall become payable to him

PART II-LEAVE

- 7 **Leave:-** A Chairman or a Member who on the date of his appointment was in the service of Azad Kashmir may be granted leave by the President under the rules applicable to him immediately before his appointment, and his service as a Chairman or a Member shall count for such leave.

- 8 A Chairman or a Member who on the date of his appointment was not in the service of Azad Kashmir may be granted leave by the President as follows:-

- (i) (a) leave on leave salary equivalent to full pay up to one-eleventh of the period spent on duty as a Chairman or a Member, subject to a maximum of four months at any one time; or
- (b) if a Chairman or a Member so elects leave on leave salary equivalent to full pay (to, taken not more than once during his term of office) for a period not exceeding four months;
- (ii) leave on medical certificate on leave salary equivalent to half pay up to two-elevenths of the period spent on duty as a Chairman or a Member, subject to a maximum of three months at any one time; and

- (iii) extraordinary leave without salary.

Explanation. A person who retires from the service of Azad Kashmir and is re-employed as Chairman or member shall be governed by the provisions of this paragraph.

PART III-
TRAVELLING ALLOWANCE & MEDICAL ATTENDANCE

9 **Traveling Allowance For the purpose of Traveling Allowance:-**

- (a) a Chairman shall be entitled to the allowance admissible to judge of a High Court; and
- (b) a Member shall be entitled to allowance admissible to a Secretary to Government:

10 **Medical Allowance.** A Chairman and a Member shall be entitled to the medical facilities admissible in terms of the Governorate Servants (Medical Attendance) Rules:

Provided that Chairman or a Member who, on the date of his appointment to the Tribunal was in the service of Azad Kashmir may elect to be governed by the rules applicable to be governed by the rules applicable to him immediately before the said date

11 Where a person appointed as a Chairman or a Member was, immediately before his appointment as such in the service of Azad Kashmir, his rights as a person in the service of Azad Kashmir shall not be effected by his appointment as Chairman or Member

FORM OF OATH (Vide Paragraph 2)

I do solemnly swear that as Chairman/Member of the Administrative Tribunal established under the Azad Kashmir Administrative Tribunals Ordinance 1975 I will discharge my duties and perform my functions honestly to the best of my ability, faithfully in accordance with the Constitution of the Azad Kashmir and the law, and without fear of favor, affection or ill-will, and that I will not allow my personal interest to influence my official conduct or my official decisions.

SECOND SCHEDULE
(See Section 6(4))

- 1 Every memorandum of appeal shall -
 - (a) be legibly, correctly and concisely hand-written, type-written or printed;
 - (b) be divided into paragraphs numbered consecutively each paragraph containing as nearly as may be, a separate allegation;
 - (c) contain full name, official designation and place of posting of each party;
 - (d) clearly set out the relief claimed;
 - (e) be accompanied by-
 - (i) a copy of the order of the competent authority against which the appeal is preferred; and
 - (ii) copies of rules, orders and other documents on which the appellant proposed to rely in support of his claim;
 - (f) be signed by the appellant; and
 - (g) be accompanied by three spare copies of the memorandum of appeal and as many other copies, thereof duly initialed by the appellant and accompanied by the documents referred to in sub-paragraph (e), as there are respondents.
- 2 An appeal may be sent to the Registrar by a registered post acknowledgement due or it may be presented to the Registrar during the working hours either by the appellant personally or through his Advocate
- 3 In every memorandum of appeal the competent authority shall be shown as the first respondent and thereafter all other parties to the dispute shall be shown as respondent
- 4
 - (1) The registration shall scrutinize every Memorandum of appeal received by post or presented to him and shall
 - (i) if it be in order and drawn up in accordance with the provisions of paragraph 1, cause it to be registered in the register of appeals to be maintained in Form appended to

this Schedule, and, with the approval of the Chairman, shall fix a date for its preliminary hearing before a Bench or the Tribunal, as the case may be; or ,

(ii) if it is not drawn in accordance with the provision of paragraph 1, return it to the appellant for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal pointing out the deficiency.

(2) If the memorandum of appeal is not re-submitted within the period specified under clause (ii) of sub-paragraph (1) of paragraph 4 of the appeal shall stand dismissed.

5. (1) The Bench or the Tribunal, as the case may be, after hearing the appellant or his Advocate on the date fixed for preliminary hearing or on such subsequent dates to which such hearing may be adjourned, may dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal and of the day fixed for its regular hearing shall be served on the appellant, the respondents and such other persons as the Tribunal may deem proper

6. (1) A notice under sub-paragraph (2) of paragraph 5, shall be in such form as may be approved by the Tribunal and may be served by registered post or in any other manner, including publication in one or more daily newspapers as the Bench admitting the appeal or the Tribunal may direct; provided that where the notice is directed to be served by publication in the newspapers, it shall not be issued until the costs of its publication are deposited by the appellant.

(2) The notice to the respondent shall be accompanied by a copy of memorandum of appeal and copiers of other documents referred to in sub-paragraph (e) of paragraph 1.

(3) Service of notice in accordance with the provisions of this paragraph shall be deemed to be due notice, and it shall not be necessary to prove that a party has actually received the notice.

7 (1) In response to the notice served under paragraph 6, the respondent may send his objection to the appeal by registered post acknowledgement due to the register or deliver the same to him either personally or through his advocate on or before the date fixed for hearing of the appeal.

(2) The objections shall be legibly and concisely handwritten, typewritten or printed, shall be signed by the respondent and shall be accompanied by a copy of the order or other document on which the respondent wishes to rely in support of his objection

(3) The written objections shall be accompanied by four spare copies thereof, complete in all respects, and containing copies of the order and documents referred to in sub-paragraph (2) three of those copies shall be supplied for the use of the Tribunal and the fourth copy for the appellant or his Advocate

(4) In case objections are not received or delivered within the time allowed under sub-paragraph (1), the respondent may be proceeded against ex-parte

8. (1) Questions arising for determination by a Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits but the Tribunal may direct that such questions, as it may consider necessary, be decided on such other evidence and in such manner as it may deem fit

(2) The party affected by an affidavit may be permitted by the Tribunal to cross-examine the deponent with reference to the statements in the affidavit.

9. (1) An application for summoning witnesses before the Tribunal shall be made, as soon as possible, after the issue of notice of appeal under paragraph 5 It shall state -

(a) the name, designation and address of the witnesses to be summoned;

(b) a brief resume of the evidence which each witness is expected to give; and

(c) a brief description of the document to be summoned and name and location of the office in which such document is expected to be.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-paragraph (1) may be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal and direct that the daily allowance and traveling charges of such witness at the rate which would have been allowed by the High Court if it had summoned him should be deposited by the person calling him within, seven days of the

date of the order.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness with the period specified in sub paragraph (2) or within any extension thereof that may be granted by the Tribunal, the application for summoning of witnesses, so far as it relates to such witness, shall be deemed, to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of party witness is necessary for the disposal of an appeal before it, it may direct him to be summoned.

(5) Where a Tribunal summons a witness under provisions of sub-paragraph (4)

(a) if such witness is a Government servant, his traveling and daily allowance (if any) shall be borne by Government; and

(b) if the witness is a private person, his traveling allowance and daily allowance shall be borne by such parties and to such extent as may be determined by the Tribunal.

10. (1) Process for service on witnesses of high rank shall be sent in the form of a letter and acknowledgement received.

(2) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the head of his office.

11. (1) A daily cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the court-room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases will be set down in the cause list in the order of the date of admission.

12. (1) Evidence of a witness examined by the Tribunal shall be taken down under the superintendence of the Tribunal ordinarily in the form of a narrative and shall be signed by the members of the Tribunal and shall form part of the records.

(2) The parties or their advocates may suggest any question to the Tribunal and the Tribunal may put such, besides any other question to the witness.

(3) The Tribunal may record such remarks as it thinks material respecting the demeanors of any witness while under examination.

(4) The Tribunal may close the evidence of any party if there is inordinate delay or expense involved in its production; provided that the interest of justice so permits.

13. (1) If on the date fixed for hearing or appeal or on any subsequent date to which the hearing may be adjourned, the appellant or this advocate is not present before the Tribunal, the Tribunal may dismiss the appeal or, if it thinks fit, may proceed to hear the other party and decide the same.

(2) If on the date fixed for hearing of appeal subsequent date to which hearing may be adjourned the respondent or any one or more of the respondents in case there are more than one respondents, or his or their Advocates, are not present before the Tribunal, the Tribunals: may hear the appeal ex-parte against all or any of the respondents.

(3) Where an appeal has been dismissed under subparagraph (1) or the exparte proceedings have been taken under subparagraph (2), the Tribunal may on such order as to costs as it may deem fit restore the appeal or set aside the ex parte order as the case may be, or allow the defaulting party to rejoin the proceedings.

14. A copy of every order of final adjudication on an appeal shall be furnished by the Tribunal, free of cost, to the competent authority concerned.

15. Clerical or arithmetical mistakes in an order of final adjudication arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties:

Provided that where an application is made by a party it shall be duly supported by an affidavit.

16. The provisions contained in the High Court Rules and orders in regard to copies and inspection of record shall mutatis mutandis and to the extent practicable apply to the proceedings before a Tribunal.

17. If a civil servant is unrepresented before a Tribunal and cannot afford to engage a council, the Tribunal may make arrangements to employ a counsel at Government expense.

FORM 'A'
REGISTER OF APPEALS
(SEE PARAGRAPH 5(1)(i))

Serial No.	Date of presen tation of appeal	Nam e and addre ss of the appel lant	Nam e and addre ss of the respo ndent	Date of regist ratio n of appe al	Whether admitted or dismissed in liming with date of order	Amount of security and costs deposited by the appellant	Date of substances of the final order	Brief substance of the final order	Date of which copy of the final order sent to the couptent authority

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW PARLIAMENTARY AFFAIRS SECRETARIATE
MUZAFFARABAD.**

Dated the 5.5.1975.

No. 1676/SL/75 The following Ordinance made by the President on 3.5.75 is hereby published for general information :-

(ORDINANCE NO XV 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1975.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 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 immediate Legislation necessary;

NOW THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act 1975 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, 1975.

(2) It shall come into force at once.

2. **Insertion of Section 15-A Ordinance X of 1973:-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance 1970 hereinafter referred to as the said Ordinance, after Section 15 the following new Section 15-A, shall be inserted, namely:

“15-A Retirement from election etc.:- (1) A contesting Candidate may retire from the contest by notice in writing signed by him and delivered to the Returning Officer any day not later than seven days before the polling day either by such candidate in person or by his propose or secondary authorised in this behalf in writing by such candidate

(2) A notice of retirement under sub-section (1) shall in no case be open to recall or cancellation.

(3) On receiving a notice of retirement under sub-section (1), the Returning Officer shall if he is satisfied that the signature on the notice is that of the candidate cause a copy of the notice to be affixed at a conspicuous place in his office. He shall publicize this retirement in such other manner as deemed fit.

3. **Amendment of Section 18, Ordinance X of 1970:-** In the said Ordinance, in section 18, in sub-section (1) of between the words and figure in "Section 15" and "only one" the words and figures "or where after retirement under section 15-A It shall be inserted

4. **Amendment of Section 40, Ordinance X of 1970:-** In the said Ordinance, in section 35, (1) in sub-section (4), Clause (C), in sub-clause (iv)

(a) the full-stop at the end shall be substituted by semicolon and thereafter the word "or" shall be added, and

(b) after sub-clause (iv), the following new sub-clause (i) shall be added, namely:-

"(v) mark in favour of a retired candidate".

(2) In sub-section 12, after clause (i), the following new clause (J) shall be added, namely:-

"(J) The ballot papers marked in favour of a retired candidate".

5. **Amendment of Section 40, Ordinance X of 1970:-** In the said Ordinance in Section 40 in sub-section (1) at the end the full-stop shall be omitted and thereafter the words "nor who has retired from the contest under section 15-A" shall be added.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECTRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the May 10, 1975.

No. 1769/SL/75. The following Ordinance made by the President on 10-5-1975, is hereby published for general information

(ORDINANCE NO. XVI OF 1975)

WHEREAS due to unjustified confusion still persisting as to whether the President, the Speaker and the Ministers could without vacating their offices file their nomination papers or being in office could content the elections has been necessary to remove all such doubts;

AND WHEREAS the Legislative Assembly power has been expressly reserved In the Second Schedule of the Azad Jammu and Kashmir Interim Constitution Act, 1975, that by mans of an Act of the Assembly persons can be rendered immune from disqualification to offer themselves for election a member of the Assembly;

AND WHEREAS the President at is empowered under Section 41 of the Azad Jammu and Kashmir Interim Constitution Act 1974 to make and promulgate Ordinance, if satisfied that circumstances exist which render it necessary to take immediate action and such as Ordinance when promulgated shall have the same force and effect as an Act of the Assembly;

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 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 Removal of Doubts (Disqualification of certain specified office holders from being elected in the forthcoming election) Ordinance, 1975.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 16th day of April, 1973.
2. **Definition:-** (1) In this Ordinance, unless there is anything repugnant in the subject or context:-

- (a) 'Minister' means Minister appointed under the provision 1974 and Act, 1970;
- (b) 'President' means the President of Azad Government of the State of Jammu and Kashmir.

(2) All words and expressions used in this Ordinance but not defined have the same meaning as in the Interim Constitution Act, 1975.

3. Notwithstanding anything contained in any other law for the time being in force, a person shall not be disqualified to be elected as and to be a member of the Assembly if he holds any of the following offices :-

- (i) the office of President;
- (ii) the office of Prime Minister;
- (iii) the office of Speaker;
- (iv) the office of Minister;
- (v) any office the holder whereof, by virtue of holding such office is liable to be called up for military training or military service under any law providing for the constitution or raising of a force.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW SECRETARIAT, MUZAFFARABAD.**

Dated the 20th day of May, 1975

No. 1833/SL/75. The following Ordinance made by the President on 10 May 1975 is hereby published for general, information:-

(ORDINANCE XVII OF 1975)

AN ORDINANCE to amend the Azad Jammu and Kashmir Courts and Laws Code, 1949

WHEREAS it is expedient to amend the Azad Jammu Kashmir Courts and Laws Code, 1949 for the purposes appearing;

AND WHEREAS the Legislative Assembly is not in 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 the Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1975 the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate, following Ordinance:-

1. **Short title and commencement:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Courts and Laws Code (Amendment) Ordinance, 1975.

(2) It shall come into force at once
2. **Amendment of Section 13 of the Azad Jammu & Kashmir Courts & Laws Code 1949.-** In the Azad Jammu Kashmir Courts and Laws Code, 1949, hereinafter called the said Code in Section 13,-

(a) sub-section (2) shall be deleted; and

(b) the existing sub-sections (3) and (4) shall be numbered as (2) and (3)
3. **Amendment of Section 24 of the Azad Jammu & Kashmir Court & Laws Code 1949.-** In the said Code, in subsection (1) of Section 24 for the words the opinion of the senior Judge shall prevail the words the case shall be referred to a Third Judge and his opinion shall prevail shall be substituted

4. **Amendment Of Section 31 of the Azad Jammu & Kashmir Court and Laws Court 1949.-** In the said Code, in Section 31.-
- (a) in the sub-section (1) between the word 'have' and the word jurisdiction the word unlimited shall be in sorted and the words and figures upto the value of Rs. 10,000/- shall be deleted
 - (b) in sub-section (2) for the words and figures Rs. 5,000/- the words and figures Rs. 25,000/- shall be substituted
5. **Amendment of Section 35 Of the Azad Jammu & Kashmir Courts and Laws Code 1949:-** in the said Code in sub-section (2) (a) of section 36 for the word and figures Rs. 2,500/- the word and figures Rs. 5,000/- shall be substituted

Sd/- (Sheikh Manzer Masood)
President
Azad Govt. of the state of J&K

Sd/- (Mohammad Akram Shah)
Deputy Secretary Law
Azad Govt. of the State of J&K

**AZAD GOVT. OF THIS STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARIAT AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 31day of May 1975

No. 2005/SL/75. The following Ordinance made by the President on 21 5 1975 is hereby published for general information:-

(Ordinance XVIII of 1975)

An Ordinance

to amend the Pakistan (Administration of Evacuee Property) Act, 1957.

Whereas it is expedient to amend the Pakistan (Administration of Evacuee Property) Act of 1957, 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 section 41 of the Azad Jammu and Kashmir Interim Constitution of Act, 1974, the President is pleased to make and promulgate the following Ordinance

1. **Short title and commencement** This Ordinance may be called the Azad Jammu and Kashmir Administration of Evacuee Property (Amendment) Ordinance 1975.

(2) It shall come into force at once.

2. **Amendment of Section 25, Act XII of 1957.-** In the Pakistan (Administration of Evacuee Property) Act, 1957, as in force in Azad Jammu and Kashmir in Section 25 after sub- clause (z) of sub-section (2) the following sub-clause (aa) shall be added namely:-

“(aa) make payment out of moneys held by him, for Rehabilitation of the displaced person from the occupied part of Jammu and Kashmir State.”

Sd/-(Sheikh Manzar Masood)
President
Azad Govt. of the State of J&K

SD/-(Raja Mohammad Khurshid Khan)
Secretary Law and Parliamentary Affairs
Azad Govt. of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the June 1, 1975.

No. 7011/SL/75. The following Ordinance made by the President on 1-5-1975 is hereby published for general information:-

(ORDINANCE XIX OF 1975)

AN ORDINANCE to provide for the oath of Member of the Assembly.

WHEREAS it is expedient to provide for the oath of Members of the Assembly, in the manner hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 the President Azad Government of the State of Jammu and Kashmir 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 Oath of Members of the Assembly Ordinance, 1975.

(2) It shall come into force at once
- 2. Oath of Members of the Assembly** A person elected as a member of the Assembly shall not take his seat in the Assembly until he makes before the Assembly an oath in the form set out in the First Schedule of the Azad Jammu and Kashmir Interim Constitution Act, 1974.

Sd/-(Sheikh Manzar Masood)
President
Azad Govt. of the State of J&K

SD/-(Raja Mohammad Khurshid Khan)
Secretary Law and Parliamentary Affairs
Azad Govt. of the State of J&K

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

Muzaffarabad the June 1, 1975.

No. 7010/SL/75 The following Ordinance made by the President on 1 6 1975 is hereby published for general information

(Ordinance XX of 1975)

An Ordinance to amend the Azad Jammu & Kashmir Administrative Tribunals Ordinance of 1975

Whereas it is expedient to amend the Azad Jammu and Kashmir Administrative Tribunals Ordinance 1975 t 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 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 Administrative Tribunals (Amendment) Ordinance, 1975
(2) It shall come into force at once
- 2 **Amendment of paragraph II of the First Schedule, Ordinance XIV Of 1975.**In the Azad Jammu and Kashmir Administrative Tribunals Ordinance, 1975 (Ordinance XIV of 1975) in the First Schedule in Part III in paragraph II after the words and comma 'Azad Kashmir' the words 'his rights as a person in the service of Azad Kashmir shall not be affected by' shall be inserted.

Sd/- (Sardar Manzur Masood)
President
Azad Govt. of the state of J&K

Sd/- (Mohammad Akram Shah)
Deputy Secretary Law
Azad Govt. of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIMANTARY AFFAIRS SECRETARIATE,
MUZAFFARABAD.**

Dated the 12 April 1975

No. 1021/SL/75. The following Ordinance made by the President on 10th April 1975, is hereby published for general information:

(ORDINANCE XXI 1975)

1. **Short Title, Extent And Commencement.**- (1). This Ordinance may be called the Azad Jammu and Kashmir Shops and Establishments Ordinance, 1975.
 - (2) It shall come into force at once and shall be deemed to have taken effect on from the 30th day of March 1975.
 - (3) It extends to the whole of Azad Jammu and Kashmir territory.
 - (4) Government may, by notification in the official Gazette extend the operation of this Ordinance or any provision thereof to any area of establishment or exclude any area or establishment to which it extends, from its operation.
2. **Definitions:-** In this ordinance, unless the context otherwise requires,-
 - (a) "adult" means a person who has completed seventeenth year of age;
 - (b) "apprentice" means a person who is employed his payment of wages or not, for the purposes of being trained in any trade, craft or employment in any establishment;
 - (c) "child" means a person who has not completed his twelfth year of age;
 - (d) "close" means not open for the service of any customer or to any business connected with the establishment;
 - (e) "commercial establishment" means an establishment which carries on any business, trade or profession or any work In connection with, or incidental or ancillary to, any business, trade or profession, and includes:-

- (i) a society registered under the Societies Registration Act, 1860 (XXI of 1860) , and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession, or any work in connection with or incidental or ancillary thereto;
 - (ii) an establishment wherein there is conducted the business of advertising, commission, forwarding or a commercial agency;
 - (iii) a clerical department of a factory or of any industrial or commercial undertaking;
 - (iv) an insurance company, joint stock company bank, brokers, offices or exchange and office of lawyers, income-tax practitioners, registered accountants, contractors and engineers;
 - (v) such other professional establishments or class thereof as Government may, by notification in the official Gazette, declare to be commercial establishments for the purposes of this Ordinance; but does not include a factory, shop, residential, hotel, restaurant, eating houses, theatre or other place of public amusement or entertainment;
- (f) "day" means the period of twenty-four hours beginning at midnight, provided that in the case of an employee, whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences, irrespective of mid-night;
- (g) "employee" means any person employed whether directly or otherwise, about the business of an establishment for the owner or occupier thereof, even though he receives no reward or remuneration for his labour, but does not include a member of the employers family;
- (h) "employer" means a person owning or having charge of the business or an establishment, and includes an agent; or the manager or manager or any other person acting on behalf of such person in the general management or control of such establishment;

- (i) "employer's family" means the employer's husband or wife as the case may be, sons, daughters, father, mother, and brothers and sisters living with and dependent on the employer;
- (j) "establishment" means a shop, commercial establishment industrial establishment, private dispensary, maternity home, residential restaurant, eating house, cafe, cinema, theatre, circus, or other place of public amusement, or entertainment, and such other establishments, or class thereof as Government may, by notification in the official Gazette, declare to be establishments for the purposes of this Ordinance;
- (k) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934);
- (l) "Form" means a form specified in the schedule
- (m) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (n) "hours of work" or "working hours" with reference to an establishment means the time during which the employees in the establishment at the disposal of the employer, exclusive of any interval allowed for rest and meals;
- (o) "industrial establishment" means a workshop or other establishment in which the Work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery, or disposal is carried on, or where any such service is rendered to a customer, and includes such other class or classes of establishments as Government may, by notification in the official Gazette, declare to be industrial establishments for the purposes of this Ordinance, but does not include a factory;
- (p) "Permanent employee" means an employee who has been engaged on a permanent basis, and includes an employee who has completed nine month continuous service in one or different occupations in the same establishment, including breaks due to sickness, accident, leave, illegal lock-outs, legal strikes involuntary closure of the establishment, and has satisfaction completed a probationary period of three months;

- (q) "Prescribed" means prescribed by rules made under this Ordinance;
 - (r) "Residential hotel" means any premises in which a bonafide business is carried on for the supply of dwelling; accommodation and meals on payment of a sum of money by a traveler or any other member or the public or class of the public and includes a club;
 - (s) "restaurant" and "eating house" means any premises in which is carries on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;
 - (t) "retail trade" includes the business of a barber or hairdresser, the sale of refreshments and sales by auctions;
 - (u) "shop" means any premises used wholly or in part for the whole-sale or retail sale of commodities or articles, either for cash or on credit, or where services are rendered to customers, 'and includes an office, a store room, godowns / warehouse or place of Work, whether in the same premises or otherwise, mainly used in connection with such trade or business;
 - (v) "temporary employee" means an employee who has been engaged for work which is of an essentially temporary nature likely to be finished within a period not exceeding nine months;
 - (w) "wages" means wages as defined in the payment of wages Act, 1936(IV of 1936);
 - (x) "week" means a period of seven days beginning at mid-night on Thursday night;
 - (y) "Young person" means a person who is not a child and has not completed his seventeenth; year of age.
3. **Reference to time of day:-** Reference to time of day in this Ordinance are references to Pakistan standard time.
4. **Power to grant exemption:-** Government may, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Ordinance any establishment or any class thereof or any employer or employee or class of employers or employees on such conditions as it may think fit.

5. **Ordinance not applicable to certain establishments and person:-**

- (1) Nothing in this Ordinance shall apply to-
 - (i) Offices of or under the Azad Government of the State of Jammu and Kashmir;
 - (ii) Offices of or under any local authority, a trust, a corporation or any other public statutory body, which is not run for profit or gain or in the course of its "business does not make any profit or gain;
 - (iii) shops or stalls in any public exhibition or show, in so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purpose of such exhibition of show;
 - (iv) shops or stalls in any public fair or bazaar held for religious or charitable purposes;
 - (v) clubs, hostels, and messes not maintained for profit or gain;
 - (vi) establishments for the treatment or care of the sick, infirm, destitute or mentally unfit persons;
 - (vii) any person employed as manager, traveling agent, canvasser, messenger, watchman care taker or conservancy staff or any person employed exclusively in connection with the collection dispatch, delivery, and conveyance of, or custom formalities on goods;
 - (viii) any person "employed for the business of any shop or commercial establishment mentioned in clauses (i) to (vii).
- (2) Nothing in clause (a) of sub-section(1) of section ,6 and in section 7 shall apply to:-
 - (i) clubs, hostels and messes maintained for profit or gain, so far as service and attendance upon customers is concerned;
 - (ii) shops dealing solely in any vegetables, meat, fish, dairy products, bread, pastries, sweet-meats, and flowers, so far as the sale of these articles is concerned;

- (iii) shops dealing' mainly in medicines, surgical appliances, bandages or other medical requisites so far as the sale of these articles is concerned;
 - (iv) shops dealing in articles required for funerals, burials or cremations, so far as the sale of these article is concerned;
 - (v) shops dealing mainly in tobacco, Cigar Cigarettes buries, pan, liquid refreshments sold retail for consumption on the premises, ice, newspapers or periodicals, so for as the sale of these articles is concerned;
 - (vi) automobile service stations (not being repair shops) and petrol pumps for the retail sale of petrol.
 - (vii) barbers and hair-dressers shops, so far as service to customers is concerned;
 - (viii) cinemas, theaters and other places of public entertainment.
- (3) Notwithstanding anything contained in sub-section (1) and (2) Government may, by general or special order, fix the opening and closing hours for all or any of the classes of establishments specified therein.
- (4) Notwithstanding anything contained in sub-sections (1) and (2), Government may, by notification in the official Gazette, direct that any of the establishments or persons specified therein shall not be exempted from the operation of such provisions of this Ordinance as specified in such notification, and thereupon the provisions of this Ordinance specified in such notification shall simply to such establishments or persons.

6. Weekly holiday in establishments.-

- (1) (a) Except as otherwise provided in this Ordinance every establishment shall remain entirely closed for at least one, day in each week.
- (b) Every person employed in any establishment shall, in addition to the leave and holidays as may be admissible to him under sections 14, 15 and 16, be allowed as holiday, one day in each week, and such holiday may be on the day on which the establishment is closed under clause (a).

(2) No deduction on account of any holiday allowed under sub-section (1) shall be made from the wages of any employee of any establishment.

(3) If an employee is employed on daily wages, he shall none-the-less be paid his daily wages for the holiday, and where an employee is paid on piece-rate, he shall receive for the holiday the average of the wages received during the week,

(4) The day on which an establishment shall be entirely closed shall be either Friday or Sunday.

(5) The choice of a closed day shall rest with the employer, who shall intimate such choice to the prescribed authority:-

(a) in the case of an establishment existing at the time this Ordinance comes into force, within two months thereof; and

(b) in the case of an establishment set up after coming into force of this Ordinance or to which the provisions of this Ordinance are subsequently applied, within two months of the setting up of the establishment or the application of the provisions of this section thereto, as the case may be.

(6) An employer who has intimated his choice of a closed day under the provisions of sub-section (5), shall not change the closed day for the establishment without the prior approval in writing of the prescribed authority,

7. **Opening and closing hours of establishments:-** (1) No establishment shall on any day remain open after 8 p.m.

Provided that any customer who was being or was waiting in the establishment to be served at such hours, may be served during the period of thirty minutes immediately following such hour:

Provided further that Government may, by notification in the official Gazette, fix any other hour after which establishments generally or any class of establishment shall not remain open.

(2) Every employer shall display, at a prominent place in the establishment, a board specifying the hours during which the establishment will remain open.

(3) No employee shall be required or permitted to work continuously in any establishment for more than six hours in the case of an adult and for more than three and half hours in the case of a young person, unless he has been allow interval for rest or meals of not less than one hour.

(4) Except with the permission of Government, no women young person shall be employed in any establishment otherwise than 'between the hours of 9.00 a.m. and 7-00 p.m.

8. **Daily, weekly hours and overtime.-** Save as otherwise expressly provided in this Ordinance, no adult employee shall be required or permitted to work in any establishment excess of 9 hours in a day and forty-eight hours a week, and no young person in excess of seven hours a day and forty-two hours a, week:

Provided that in any day or in any week, in which there stock taking, making up of accounts, settlement or such other business operation, and during such other periods as may be prescribed, an adult employee or an establishment may be required or permitted to work over-time in such establishment for more than nine hours in such day and for more than forty-eight -hours in such week, and a young person for more than seven hours in such day and for more than forty-two hours in such week, but so that the total number of hours so worked by an adult does not exceed one hundred and fifty hours and by a young person one hundred hours in any one year.

9. **Over-Time Wages:-** When any employee is required to work overtime in any establishment, as provided in the proviso to section 8, the wages payable to such employee in respect of such over-work shall be calculated at double the ordinary rate of wages time payable to him.
10. **Spread-over:-** The period of work of an adult and a young person shall be so arranged that inclusive of the interval for the rest or meals, under section 7 it shall not spread-over more than hours in winter and eleven hours in summer in the case adult, and nine hours in winter and eight hours in case of a young person.
11. **Time and conditions of payment of wages.-** (1) Every employer or his agent or the manager of an establishment shall fix the period in respect of which wages to employees shall be payable and shall be responsible for the payment to persons

employed by him of all wages required to be paid under this Ordinance.

(2) No wage period, so fixed, shall exceed one month.

(3) The wages of every employee in any establishment shall be paid on, a working day before the expiry of the Seventh day of the last day of the wages period in respect of which the wages are payable

(4) All wages shall be paid in legal tender.

(5) Where the employment of any person is terminated by or on behalf of the employer, the wages and other dues earned person shall be paid before the expiry of the second working day after the day on which his employed is terminated.

12. **Claims arising out of delay in payment of wages and penalty for malicious or vexatious claims:** (1) Government may, by notification in the official gazette appoint any person to be the Authority to hear and decide for any specified area all claims arising out of delay in the payment or non-payment of the wages of employees in that area.

(2) When contrary to the provisions of this Ordinance, wages of any employee have been delayed or with held, such employee himself or through any other person when he way authorise in this behalf, may within four months from the day on which such payment was to be made, apply to the Authority appointed under sub-section (1):

Provided that an application may be admitted after the said period of four months but not later than six months, If the applicant satisfies the authority that he had sufficient cause for not making the application within such period,

(3) when any application under sub-section (2) is entertained the Authority shall hear the applicant and the employer or other person responsible for the payment of wages or give them an opportunity of being heard and, after such further inquiry, if any, as may be necessary, may without prejudice, to any other penalty to which such employer or other person is liable under this Ordinance, direct that payment be made to the applicant of delayed wages together with the payment of such penalty exceeding fifty rupees, as the authority may fix:

Provided that no direction for the payment shall be made in the case of delayed wages if the authority is satisfied that the delay was due to:-

- (a) A bona-fide error or bona fide dispute as to amount payable to the employed; or
- (b) the occurrence of an emergency, or the existence exceptional circumstances that the person responsible payment of the wages was unable to make prompt payment; or
- (c) the fault of the employee.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexations, the Authority may direct that a penalty not exceeding fifty rupees be paid or wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered-

- (a) If the Authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and
- (b) If the Authority is not a Magistrate by any magistrate to whom the Authority makes application in this behalf as if it were a fine imposed by such Magistrate.

(6) An Appeal against a direction made by the Authority under subsection (3) or sub-section (4) may be preferred to the District Court within thirty days of the date on which the direction was made:-

- (a) by the employer or other person responsible for the payment of wages under section 11 of the total sum directed to be paid by way of wages and penalty exceeds on hundred rupees; or
- (b) by an employee, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees; or
- (c) by any person directed to pay a penalty under sub-section (4)

(7) If there is no appeal, the direction of the authority made under sub-section (3) or sub-section (4) shall be final, and where there is an appeal as provided in sub-section (6) the decision is Appeal shall be final.

(8) An authority appointed under sub-section (1) shall for the purposes of determining any matter referred to in sub-section (3) of sub-section (4)--

- (a) have all the powers as are vested in a civil court under the code of civil procedure 1908 (V of 1908), for enforcing the attendance of witnesses, compelling the production of documents, and the taking of evidence; and
- (b) be deemed to be a civil court for all the purposes of section 195 and chapter XXXV of the code of criminal procedure 1898 (V of 1898)

13. **Bar of Suits:-** No court shall entertain any suit for the recovery of wages in so far as the sum so claimed:-

- (a) forms the subject of an application made under sub-section (2) of section 12, which is pending before the Authority appointed under sub-section (1) of that section; or of an appeal under sub-section (6) of the said section;
- (b) has formed the subject of a direction made under sub-section (3) of section 12;
- (c) has been adjudged in any processing under section under section 12 not to be owed to an employee; or
- (d) could have been recovered by an application under section 12.

14. **Annual Leave:-** (1) Every employee shall be allowed leave with full wages for a period of fourteen days after continuous employment in a establishment, whether in the same or different capacities, for a period of twelve months.

(2) If an employee does not in any period of twelve months avail of the whole or any part of the leave allowed to him under sub section (1).

- (a) any leave not availed of by him shall be added to the

leave to be allowed to him under that sub-section in the succeeding period of twelve months; provided' that when the total leave due to an employee under this section amounts to thirty days, no further accumulation of or addition to such leave will be permissible;

(b) he, may, at his request, in lieu of the leave not availed of by him, be paid by the employer full wages for such leave.

(3) for the purposes of computing the period during which an employee has been, in continuous employment within the meaning of sub-section (1), the period during which he was on leave under this section or sections 15 and 16, shall be included.

15. **Casual and Sick Leave:-** (1) Every employee shall be entitled to casual leave with full wages for ten days in a calendar year. Such leave shall not ordinarily be granted for more than three days at a time and shall not be accumulated.

(2) Every employee shall be entitled to sick leave with full wages for a total period of eight days in every Such leave, if not availed of by any employee during calendar year, may be carried forward, but the total accumulation of such leave shall not exceed sixteen day at any one time

16. **Festival holidays:-** Every employee shall be allowed ten days festival holidays with full wages in a year. The day and dated for such festival holidays shall be notified to employees by the employer in the employers in the beginning of the calendar year.

17. **Wages during leave or holiday period.-** (1) For each day of the leave or holidays allowed to an employee under sections 14, 15 and 16 he shall be paid at the rate equivalent the daily wage amount which, during the three months the leave or holidays, was being earned by the employee.

(2) An employee, who has been allowed leave under section 14 for any period not less than four days in the case of an adult and five days in the case of a young person, shall before 'the leave begins, be paid his wages for the period of the leave allowed.

18. **Section 14, 15, 16, and 17 not to apply to certain ESTABLISHMENTS.-** The provisions of sections, 14, 15, 16 and 17 shall not apply in relation to employees employed in commercial establishment as defined in clause (b) of section 2

of the Azad Jammu and Kashmir Industrial and Commercial employment (standing Orders) Ordinance, 1975.

19. **Termination of employment:-** (1) for terminations employment of a permanent employee, one month's notice in writing shall be given either by the employer or by the employee and in lieu of the notice, one month's wages calculated on the basis of average of wages earned during the proceeding three months shall be paid.
- (2) No temporary employee, whether monthly rated, weekly rated or daily rated, and no apprentice shall be entitled to any notice or pay in lieu thereof if his services are terminal, but the services of temporary employee shall not be terminated as a punishment; unless he has been given an Opportunity explaining the charge, leveled against him.
20. **Prohibition of employment of children.-** No child shall be required or allowed to work in any establishment.
21. **Contracting out.-** Any contract or agreement, whether made employee relinquishes any right conferred by this ordinance shall be null and void in so far as it purports to deprive him of such right.
22. **Guarding of machinery.-** In every industrial establishment mechanically or electrically propelled machinery shall be guarded in the prescribed manner.
23. **Maintenance of records and registers.-** Every employer shall for, the purpose of this Ordinance, maintain such records and registers and furnish such information as may be prescribed.
24. **Registration establishment and fee for Registration:-** (1) Every establishment, other than one man shop, as hereinafter defined, and factories employing clerical staff within the factory premises, shall be registered with the Deputy Chief Inspector for the area within which such establishment is situated.
- (2) An application for registration of an establishment shall be made by the employer in form 'A' and shall be accompanied by a Treasury Challan under Head "XXXII INDUSTRIES", sub head Registration fee of shops "for an amount of:-
- Rs. 2.00 in the case of an establishment employing 1 to 5 workers.

Rs. 3.00 in the case of an establishment employing 6 to 10 workers.

Rs. 5.00 in the case of an establishment employing 11 to 20 workers.

Rs. 10.00 in the case of an establishment employing more than 20 workers.

EXPLANATION:- For the purposed of this section, "one man shop" means a shop run by an employer or by any member of his family without engaging an employee.

(3) An application for registration on an establishment shall be made.-

(a) In the case of an establishment existing at the time this Ordinance, comes into force, within three months thereof; and

(b) In the case of an establishment set up after the coming into force of this Ordinance or to which the provision of this Ordinance are subsequently applied, within two months of the setting up of the establishment or the application of this Ordinance there to as the case may be.

(4) On receipt of the application and the fees specified in sub-section (2), the Deputy Chief Inspector shall, on being satisfied about the correctness of the application, register the establishment in the Register of establishment to be maintained in form 'B' and shall issue a registration certificate to the employer in form 'C'.

(5) The registration certificate shall be prominently displayed by the employer at the establishment and shall be renewed after every two years on depositing fee as prescribed in sub-section (2).

25. **Appointment of chief inspector, deputy chief inspectors and inspectors:-** (1) Government may, by notification in the official Gazette, appoints

(a) a Chief Inspector of shops for the whole of Azad Jammu and Kashmir territory;

(b) Deputy Chief Inspectors of shops for such areas as may be notified; and

(c) such persons or class or persons as it thinks fit be Inspectors for the purposes of this Ordinance within such local limits as may be specified by the Chief Inspector of shops.

(2) The Chief Inspector of shops and the Deputy Chief Inspectors of shops:-

(a) shall supervise the work of the Inspectors appointed under clause (c) of sub-section (1) in such manner as may be prescribed; and

(b) may, or any of the powers of an inspector.

(3) The Chief Inspector of shops, Deputy Chief inspectors of shops and Inspectors appointed under sub-section (1) shall be deemed to be public servants within the meaning of Section 21 of the Azad Penal Code.

26. **Powers of inspectors.**- An Inspector appointed under" section 25 may, for the purposes of this Ordinance and within the local limits for which he is [appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, an establishment, with 'Such assistants, if any, being persons in the service of Government, and make such examination of that place or of any prescribed record, register, or other documents maintained therein, and may required such explanation of any prescribed record, register or other documents and do all such things as, he considers necessary for the purpose of this Ordinance.

27. **Penalties.**- (1) If any employer with intent to deceive, makes or causes or allows to be made, in any register, record or notice required to be maintained under the provisions of this Ordinance or the rules made thereunder, any entry, or wilfully Omits or causes or allows to be omitted from any such Register record or notice, any entry which is required to be made thereunder, or maintains or causes or allows to be maintained more than one set of any such register, record or notice except the office copy of such notice, or sends or causes or allows to be sent to an Inspector any statement, information or notice required to be sent under the provision of this Ordinance or the rules made thereunder, which to his knowledge is false in any material particulars, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees

(2) Whoever contravenes any of the provisions of sections

6, 7, 19 or 20 shall, on conviction, be punishable with fine which for the first offence may extend to rupees two hundred and fifty and for a second or subsequent offence with a fine which may extend to rupees five hundred or with simple imprisonment which may extend to three months, or with both,

(3) whoever contravenes any other provisions of this Ordinance shall, on conviction, be punishable with fine which for the first offence may extend to rupees one hundred and fifty, and for second or any subsequent offence, to rupees two hundred and fifty or with simple imprisonment which may extend to three months, or with both.

28. **Procedure-** (1) No prosecution under this Ordinance or any rules made thereunder shall be instituted except by or with the previous sanction of an inspector, or other officer or authority specially empowered by Government in this behalf.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance or any rule made thereunder.

29. **Limitation of prosecutions.-** No Court shall take cognizance of any offence punishable under this Ordinance or any rule made thereunder unless Complaint there of is made within three months from the date on which the alleged commission of the offence come to the knowledge of an Inspector. .

30. **Indemnity.-** No suit, prosecution or legal proceedings shall lie against any person in respect of any thing done in good faith under this Ordinance or the rules thereunder

31. **Delegation of powers -** Government may, by notification in the official Gazette, delegate all or any of its powers under this Ordinance or the rules thereunder to any subordinate authority or agency as may be considered expedient by it,

32. **Power to make rules.-** (1) Government may, by notification in, the official Gazette, make, rules for carrying out the purpose of this Ordinance.

(2) In Making rules under this Section, Government may direct that any person committing breach thereof shall, on conviction, be punishable with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees for every day, after the first, during which the -breach continues.

33. **Saving of certain rights and privileges.-** Nothing in this Ordinance shall affect any right or privilege to which an employee is entitled on the date of the commencement of this Ordinance under any law for the time being in force or under any award, agreement, settlement, contract, custom or usage which is in force on that date, if such right or privilege is more favorable to him than any right or privilege conferred upon him by this ordinance.

SCHEDULE
See Section (2) (1) and Section 24
FORM 'A'
APPLICATION FORM

1. Name of the establishment, if any.
2. Postal address of the establishment.
3. Full name of the employer (including his father's name).
4. Full name of the Manager, if any (including his father's name)
5. Category of the establishment, i.e. whether a shop industrial establishment, commercial residential hotel, restaurant eating house, theatre or other place of public amusement or entertainment.
6. Total number of employees (State separately the number of men, women and / or young persons (if any).
7. Date on which the establishment commenced its work.
8. I hereby declare that the details given above are correct to the best of my knowledge.

Dated

Signature of the Employer.

Note:- This statement shall be sent to the Deputy Chief Inspector of the area concerned with such fees as are prescribed in section 24 (2) of the Azad Jammu & Kashmir shops and Establishment Ordinance, 1975.

SIGNATURE

FORM 'B'

REGISTER OF ESTABLISHMENT:

Part I- Shops
 Part II- Commercial Establishments
 Part III- Residential Hotels
 Part IV- Restaurants and Eating Houses
 Part V- Theaters and other places of public amusement or entertainment.

S. No.	Registration Certification No.	Name of the Manager in any	Name of employer	Postal address of the establishment	Name of the establishment
1	2	3	4	5	6

Number of members of employer's family Male Female Young person			No. of the other persons occupying Managerial positions & employees engaged in confidential	Total number of Employees Adult Young persons	Date of Inspection	re
8			9	10	11	

FORM ‘C’
REGISTRATION CERTIFICATE

Name of the establishment, in any
Name of the Employer.
Postal address of the establishment

It is hereby certified that the establishment as mentioned herein has been registered as a
..... under the Azad Jammu and Kashmir shops and Establishments Ordinance,
1975, this day of

Date of renewal	From	To	Signature of the Chief Inspector

- 1.
- 2.
- 3.

Here insert category of the establishment

(Sardar Moh
Azad Govern

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRATARIAT,
MUZAFFARABAD.**

Dated the August 11, 1975.

No.250/SL/75. The following ordinance made by the President on 9-8-1975, is hereby published for general information.

(ORDINANCE XXII of 1975)

An Ordinance to facilitate the collection of statistics of certain kinds relating to industries

Whereas it is expedient to facilitate the collection of statistic of certain kinds relating to industries;

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 power conferred by 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 Jammu and Kashmir Industrial Statistics Ordinance, 1975.
 - (2) It extents to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Ordinance 'Prescribed' means prescribed in rules the made under this Ordinance or in any form prescribed by the rules.
3. **Collection of statistics:** (1) The Government may be notification in the official gazette; direct that statistic shall collected relating to any of the following matters namely.
 - (a) Any matter relating to factories,-
 - (b) Any of the following matters so far as they relate to welfare of Labour and conditions of Labour namely:-
 - (i) Prices of commodities.

- (ii) Attendance.
- (iii) Living conditions, including housing, water supply and sanitation.
- (iv) Indebtedness.
- (v) Rents of dwelling house.
- (vi) Wages and other earning.
- (vii) Provident and other funds provided for labours.
- (viii) Benefits and amenities provided for Labour.
- (ix) Hours of work.
- (x) Employment and unemployment.
- (xi) Industrial and Labour disputes, and thereupon the provisions of this Ordinance, shall apply to the collection of those statistics.

(2) In clause (a) of sub-section (1), 'Factory' means a factory as define in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), or any premises deemed to be a factory pursuant of declaration made under sub-section (i) of section 5 of that Act.

4. **Appointment of Statistics Authority:-** The Government may appoint and officer to be the statistics authority for the purposes of the collection of any statistics under this Ordinance.
5. **Delegation of Powers and Functions:-** The statistics authority may, with the previous approval of the Government, direct that all or any of the powers and functions to be exercised and performed by the statistics authority under this Ordinance shall be exercised and performed by any other officer or authority subordinate to the Government subject to such conditions, if any, as may be specified in the direction.
6. **Power of Statistics Authority to call for returns and information:-** (1) the statistics authority may serve or cause to be served on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed such information or returns relating to any matter in respect of which statistics or to be collected and to such authority or person and in such manner and at such times as may

be prescribed.

(2) The notice referred to in sub-section (1) may be served by post.

7. **Rights of Access to Record or document:-** The Statistics authority or any person authorized by him in writing in this behalf shall for the purposes of the collectedof any statistics under this Ordinance have access to any relevant record or document in the possession of any person required to furnish any information or return under this Ordinance and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Ordinance.

8. **Restriction on the Publication of Returns An information:-**
(1) No individual return, and no part of an individual return, made, and no information with respect to any particular under taking given, for the purposes of this Ordinance, shall without the previous consent in writing of the owner for the time being of the undertaking in which the return or information was made or given, or his authorized agent, be published in such manner as would enable any particulars to be identified as refereeing to particular undertaking.

(2) Except for the purposes of a prosecution under this Ordinance or under the penal Code (XLV of 1860) no person not engaged in connection with the collection of statistics under this Ordinance shall be permitted to see any individual return or information referred to in sub-section (1)

9. **Penalties:** If any person required to furnished any information or any return:-

- (a) Willfully refuses or without lawful excuse neglects to furnished such information or return as required under this Ordinance, or
- (b) Willfully furnished or causes to be furnished any information or return which he know to be false, or
- (c) Refuses to answer or willfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Ordinance,

Or if any person impedes the right of access to relevant

records and documents or the right of entry conferred by section 7, he shall for each offence be punished with fine which may extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for each day after the first during which the offence continues; and in respect of false information, return or answers the offence shall be deemed to continue until true information or true return or answer has been given or made.

10. **Penalty for improper disclosure of information or returns:** If any person engaged in connection with collection of statistics under this Ordinance willfully discloses any information or the contents of any return given or made under this Ordinance otherwise than in the execution of his duties under this Ordinance or for the purposes of the prosecution of an offence under this Ordinance or under the penal Code (XLV of 1860), he shall be punishable with imprisonment for term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.
11. **Cognizance of offence:** No prosecution under section 8, shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 10 shall be instituted except by or with the sanction of the Government.
12. **Power of the Government to make rules:** The Government may, subject to the condition of previous publication by notification in the official Gazette, make rules of carrying out the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section regulating the exercise of the rights of access to documents and the right of entry conferred by section 7.

Sd/-
Sardar Muhammad Ibrahim Khan
President
Azad Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 12, 1975

The following Ordinance made by the President on the April 11, 1975, is hereby published for general information:-

(ORDINANCE XXIII OF 1975)

AN ORDINANCE to fix the minimum rates of wages for unskilled workers employed in certain commercial and industrial establishments in Azad Jammu and Kashmir.

PREAMBLE

WHEREAS it is expedient to fix the minimum rates of wages for unskilled workers employed in certain commercial and industrial establishments 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 Section 41, of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President of Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

- 1. Short title, extent, commencement and application:-** (1) This Ordinance may be called the Azad Jammu and Kashmir minimum wages for unskilled workers Ordinance 1975.
 - (2) It extends to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall come into force at once.
 - (4) It shall apply to every commercial and industrial establishment where in fifty or more persons are employed or were employed on any day during the proceeding twelve months, but shall not apply to:-
 - (a) Any establishment, undertaking or installation relating to the Defense service, Civil Armed Forces, Postal, telegraph and telephone services, ports, fire-fighting services, electricity, gas, water-supply, public

conservancy and hospitals, and

- (b) Any establishment or undertaking, which Government; by notification in the official Gazette, declares to be engaged in a public utility service for the purposes of this Ordinance.

2. **Definition:** In this Ordinance, unless the context otherwise requires-

- (a) ‘Apprentice’ means a learner who is paid an allowance during the period of training;
- (b) ‘Commercial establishment’ means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employer workmen, a unit of a Joint-stock company, an insurance company, a banking company or a bank a broker’s office or stock exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Ordinance;
- (c) ‘Employer’ means a person owing or having charge of the business of commercial or industrial establishment and includes an agent or manager or any other person acting on behalf of such person in the general management or control of such establishment.
- (d) “Government” means the Azad Government of the State of Jammu and Kashmir.
- (e) “Industrial area” means the districts of Muzaffarabad, Mirpur Poonch, and Kotli;
- (f) “Industrial establishment” means:-
 - (i) A mine or quarry;
 - (ii) A workshop or other establishment in which the

work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance with a view of its use, as sale, transport, delivery or disposal is carried on, or where any such service is rendered to a customer; and

- (iii) Any other establishment which Government may, by notification in the official Gazette, declare to be an industrial establishment.
- (g) “Wages” means all cash remuneration payable to a workman, and includes dearness allowance, house rent, conveyance allowance, any other fixed allowance but does not includes traveling allowance, gratuity or bonus;
- (h) “Unskilled worker” means a worker employed to be unskilled, Labour; and
- (i) “Worker” means any person employed in a commercial or industrial establishment.

3. **Minimum wages in commercial and industrial establishment:-** Every unskilled worker, other than an apprentice, employee in commercial or industrial establishment situated in an area specified in column 1 of the schedule, shall be paid wages at a rate not lower than the minimum wages per months specified against such area in column 2 of the schedule;

Provided that where an employer provides housing accommodation to a worker, he may deduct from the wages of such worker, an amount not exceeding that specified in column 3 of the Schedule, and where the employer provides a worker with transport to and from the place of work, he may deduct form the wages of such a worker an amount not exceeding that specified in column 4 of the Schedule.

Explanation: In this section, months means a normal working period of twenty six days, calculated at the rate of forty-eight hours of work per week.

4. **Responsibility for payment of Minimum wages:** Every employer shall be responsible for the payment of minimum wages required to be paid under this Ordinance to all unskilled workers, employed, either directly or through a contractor, in his commercial or industrial establishment.

5. **Agreements under Duress to be void:** All agreement arrived at between the employers and the workers under duress shall, from the date of coming into force of this Ordinance, be void.

Explanation: In this Section the word “Under duress” includes circumstances in which due to fear either party is in state of mental incompetence to resist pressure improperly brought to bear due to violence or threat of violence.

6. **Effect of Laws, Orders, agreements, etc, inconsistent with this Ordinance:** The provision of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any order or notification made or issued under any such law or in any award, agreement or contract of service;

Provided that where under any such law, order, notification, award, agreement or contract of service, other than an agreement declared to be void under section 5, and unskilled worker is entitled to wages which are higher than the minimum wages required to be paid under this Ordinance, he shall continue to be paid such higher wages.

7. **Penalty:** Any employer who contravenes any provisions of this Ordinance shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both.
8. **Cognizance of offences:** No Court shall take cognizance of any offence under this Ordinance save on complaint made by an aggrieved worker or by an officer of a registered trade union of which such worker is a member, or any person authorized in this behalf by Government.

SCHEDULE
(SEE SECTION 3)

Area	Rate of minimum wages per month	Deduction for providing housing accommodation	Deduction for providing transport
1	2	3	4
Mirpur District	Rs 125.00 p.m.	Rs. 10.00 p.m.	Rs. 2.50 p.m
Muzaffarabad District	125.00 p.m.	10.00 p.m.	2.50 p.m
Poonch District	125.00 p.m.	10.00 p.m.	2.50 p.m
Kotli District	125.00 p.m.	10.00 p.m.	2.50 p.m

Sd/-
(Sardar Muhammad Abdul Qayum Khan)
President
Azad Government of the State of J&K

Sd/-
(Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRATARIAT,
MUZAFFARABAD.**

Dated the August 11, 1975.

The following ordinance made by the President on August 11, 1975 is hereby published for general information.

(ORDINANCE XXIV of 1975)

Whereas it is expedient to provide a law relating to the Azad Jammu and Kashmir Road Transport Workers Employed in Azad Kashmir

AND WHEREAS, the Legislative Assembly is not in Sesion and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW THEREFORE in exercise of the power conferred by section 41 the Azad Jammu and Kashmir Interim Constitution, Act, 1974 the President of Azad Government of the state of Jammu and Kashmir pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement:** (1) This Ordinance may be called the Azad Jammu and Kashmir Road Transport Workers Ordinance, 1975.
 - (2) It extends to the Whole of Azad Jammu and Kashmir.
 - (3) It shall come in to force at once.
2. **Definitions:** In this Ordinance, unless there is any thing repugnant in the subject or context-
 - (1) 'Day' means a period of 24 hours beginning at midnight;
 - (2) 'Employer' means the owner of any road transport service where in which workers are employed, and where the business of such service is not directly managed by the owner, means the Manager, Agent or Representative of such owner in the said service and where the owner is a minor, the guardian of such minor, and in relation to any vehicle which is the subject of hire purchase agreement, the person in possession of the vehicle under that agreement;
 - (3) 'Government' means the Azad Government of the State of Jammu and Kashmir;

- (4) 'Hours of work' means the time during which the workers employed are at the disposal of the employer excluding any interval allowed for rest and meals;
- (5) 'Prescribed' means prescribed by Rules made under this Ordinance;
- (6) 'Public Place' means a road, street, way or other place, whether a thorough fare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a vehicle;
- (7) 'Road transport service' means a service carrying passengers or goods or both by road in vehicle for hire or reward;
- (8) 'vehicle' means any mechanically propelled vehicle, used or capable of being used for the purposes of road transport and includes a tram, a trolley vehicle and trailer;
- (9) 'Week' means a period of seven days;
- (10) 'Workers' means a person engaged on mobile duty, and includes drivers, cleaners, conductors and checkers employed by or in road transport service;
- (11) 'Year' means a period of twelve months starting from the date a worker is employed in a road transport service and ending on the date immediately preceding in the following calendar year.

3. **Age Limit:** (1) No person, other than a driver, shall be employed in any road transport service unless he has attained the age of fifteen years.

(2) No person shall be employed in any road transport service for the purposes of driving a vehicle unless he has attained the age of twenty one years.

4. **Hours of work and rest:** (1) No workers shall be employed on a vehicle.-

- (a) For more than five hours at a time before he has had an interval for rest of at least half an hour nor more than eight hours before he has had at least two such intervals;
- (b) For more than nine hours in a day; and
- (c) For more than fifty-four hours in a week.

(2) Every worker shall be entitled to have at least twenty-four hours of consecutive rest in week.

(3) The Government may, by rules made under section 10, grant such exemptions from the provisions of sub-section (1) and sub-section (2) as it thinks fit, to meet cases of emergency or of delay by reason of circumstances which could not be foreseen;

Provided that:

- (a) No worker shall be employed over time in any year in excess of one hundred and fifty working hours; and
- (b) The worker employed overtime shall be paid remuneration at the rate of his normal wages calculated by the hours.

(4) Whereas a result of the making of a rule exempting any worker from the provision of sub-section (2) a worker is deprived of any of the weekly hours of rest for which provision is made in the sub-section he shall be allowed, as soon as circumstances permit, compensating hours of rest of equal number so lost:

Provided that no worker shall be caused or allowed to work for more than consecutive days without a compensating rest for at least twenty four at one time.

(5) The Government, or if, authorized in this behalf by the Government by rules made under section 10, the competent authority, may require an employer to fix before hand the hours of work of the workers so as to conform with the provisions of sub-section (1) and may provide for the recording of the hours so fixed.

(6) No worker shall work or cause or allow any other worker to work outside the hours fixed recorded for the work of the said worker in compliance with any rule made under sub-section (2)

5. **Restriction on cumulative hours of work:** No worker shall work or be allowed to work on a vehicle or two or more vehicle in excess of the period during which he may be law-fully employed under this Ordinance.

6. **Leave:** (1) In addition to the period of daily and weekly rest,

every worker, who has been in continuous employment for a period of one year, shall be entitled to not less than 14 days leave with full pay or, if he has been continuously employed for a period of six months, he shall be entitled to not less than seven day's leave with full pay.

(2) For the purposes of computing the period during which a worker has been in continuous employment with in the meaning of sub-section (1), the period during which he was on leave under this section shall be included.

7. **Restriction on termination of service etc:** (1) The service of a worker shall not be terminated without sufficient cause not unless and until one months previous notice or one months pay in lieu thereof has been given to him and he has been paid his pay for any period of leave admissible to him of which he did not avail himself while in service.

(2) Nothing in sub-section (1) shall apply to the case of a worker whose service are terminated on account of his having been found guilty of miss-conduct.

Explanation.- For the purpose of this-subsection the following acts, and omissions shall be treated as misconduct, namely:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) Willful damage to or loss of employer's goods or property;
- (d) Taking or giving bribes or any illegal gratification.
- (e) Habitual absence without leave or absence without leave for more than 10 days;
- (f) Habitual late attendance;
- (g) Habitual breach of any law applicable to the establishment.
- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline.

- (i) Habitual negligence or neglect of work.
- (j) Sticking work or inciting others to strike work in contravention of the provisions of any law or rules having the force of law.

(3) If in any case instituted for the contravention of the provision of sub-section (1) the services of a worker are found to have been terminated without sufficient cause the amount payable as compensation under this section shall be in addition to any fine as payable under section 11.

(4) No person who has been awarded compensation under this Section shall bring a civil suit in respect of the same claim.

8. Maintenance of Register etc: (1) Every employer shall, in the prescribed form and in the prescribed manner, keep in the office of the road transport service a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to, every worker in accordance with the provision of this Ordinance and particulars of all employment overtime shall be separately entered in the record.

(2) Every employer shall for the purposes of this Ordinance maintain such other records and registers and display such notice or other documents as may be prescribed.

9. Inspection of registers and calling for information: It shall be the duty of every employer to produce for inspection of such inspectors as may be appointed by the Government all account or other records required to be kept of the purposes of this Ordinance and to give such officer any other information in connection therewith as may be required.

10. Powers to make rules: The Government may make rules for the purposes of carrying into effect the provisions of this Ordinance.

11. Penalties: Whoever contravenes any of the provision of this Ordinance, or any of the rules made there under shall be liable on first conviction to fine not exceeding fifty rupees for the first offence and two hundred rupees for every subsequent offence provided that-

- (a) In the case of any contravention of the provisions of section 8, the employer shall be liable, on conviction to a fine not exceeding ten rupees for every day on which

the contravention occurs or continues; and

- (b) If any employer, with intent to deceive makes, or causes or allows to be made in any record, registry, notice or other document as provided under section 8 an entry which is to his knowledge false in any material particular, or willfully omit or causes or allows to be omitted from any such record, register, notice or document an entry required to be made therein, shall be liable on conviction to simple imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees or both.

12. **Protection of action taken under the Ordinance:** No suit, prosecution or other proceeding shall lie against any person for any thing which is in good faith done or intended to be done in pursuance of this Ordinance or rules made there under.

Sd/-
(Sardar Muhammad Abdul Qayum Khan)
President
Azad Government of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KAHMIR
LAW & PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 12, 1975.

The following Ordinance made by the president on April 10, 1975, is hereby published for general information.

(Ordinance XXV of 1975)

Preamble:- THEREAS it is expedient to provide a law relating to industrial employed 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 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 Jammu and Kashmir Industrial and commercial employment (Standing Orders) Ordinance, 1975.
 - (2) It shall extent to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
 - (4) It applies to-
 - (a) Every industrial establishment or commercial establishment where in twenty or more workman are employed, directly or through any other person whether on behalf of himself or any other person, or where so employed on any day during the preceding twelve months; and
 - (b) Such classes of other industrial and commercial establishments as Government may, from time to time, by notification in the official Gazette, specify in this behalf;

Provided that noting in this Ordinance shall apply to industrial and commercial establishment carried on by or under the authority of the Government where

statutory rules of service conduct or discipline are applicable to the workman employed therein;

Provided further that the provisions of standing orders 1911 and 13 clauses (6) and (8) of standing order 15 and standing orders, 19 shall not apply, in the first instance, to any industrial establishment where in not more than forty nine persons were employed on any day during the preceding twelve months but Government may, by notification in the official Gazette extend all or any of the said provisions to any such industrial establishment or any class of such establishment.

2. **Definitions:** In this Ordinance, unless there is anything repugnant in the subject of context-

- (a) “Collective agreement” means an agreement in writing, intended to specify the conditions of employment, and entered into between one or more employers on the one hand and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other;
- (b) “Commercial establishment” means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment employs workman, a unit of a joint stock company, an insurance company a banking company or a bank, a broker’s office of stock exchange, club a hotel a restaurant or an eating house, a cinema or theater, and such other establishment or class thereof, as government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Ordinance;
- (c) “Construction industry” means an industry engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any building pier, canal, inland waterway, road, tunnel, bridge, dame viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or

laying the functions of, any such work or structure;

- (d) “Employer” means the owner of an industrial or commercial establishment to which this Ordinance, for the time being applies, and includes.
 - (i) In a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934) as manager of the factory;
 - (ii) In any industrial establishment under the control of any department of the Government, the authority appointed by such Government, in this behalf, or where no such authority is so appointed, the head of the department;
 - (iii) In any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such establishment;
- (e) “Go-slow” means an organized, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner and which is not due to any mechanical defect, break-down of machinery failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;
- (f) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (g) “Industrial establishment” means:-
 - (i) An industrial establishment as defined in clause (ii) of Section 2 of the payment of wages Act 1936 (iv of 1936), or
 - (ii) A factory as defined in clause (1) of section 2 of the factories Act, 1934 (XXV of 1934); or
 - (iii) The establishment of a person who, for the purposes of fulfilling a contract with the owner of any industrial or commercial establishment, employs workmen; or
 - (iv) The establishment of a person who, directly or

indirectly employs workman in connection with any construction industry;

- (h) “Standing Orders” means the order contained in the schedule, read with such modifications, if any, as may be made in pursuance of the provisions of section 4;
- (i) “Trade union” means a trade union for the time being registered under the Azad Jammu and Kashmir Industrial Relations Ordinance, 1974;
- (j) “Workman” means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical work for hire or reward.

3. **Enforcement of Standing Orders:** In every industrial or commercial establishment, conditions of the employment of workman and other incidental matters shall, subject to the other provisions of this Ordinance, be regulated in accordance with the Standing Orders.

4. **Modification of Standing Orders:** The standing order may be modified by means of a collective agreement and not otherwise;

Provided that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workman under the provisions of the schedule.

5. **Posting of Standing Orders:** The text of the Standing orders shall be prominently posted and kept in a legible condition by the employer in Urdu, on special boards to be maintained for the purpose at or near the entrance through which the majority of the Workman Enter the industrial or commercial establishment and in all department thereof where the work-men are employed.

6. **Inspector:** (1) The Inspector appointed under section 10 of the factories Act, 1934 (XXV of 1934), and such other persons, not being conciliators appointed under the Azad Jammu and Kashmir industrial relation Ordinance, 1974, as Government may, by notification in the official Gazette, appoint, shall be the inspectors for the purposes of this Ordinance within the local limits signed to each.

(2) An Inspector may at all reasonable hours enter on any premises and makes such examination of any register or document relating to the maintenance or enforcement of the standing orders and take on the spot or otherwise such evidence

of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the penal Code (XLV of 1860)

7. **Penalties and procedure:** (1) An employer who modifies the Standing orders as applicable to his industrial or commercial establishment, otherwise than in accordance with section 4, shall be punishable with fine which may extend to five thousand, rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.

(3) Whoever contravenes any of the provisions of this Ordinance, shall if no other penalty is elsewhere provided by or under this Ordinance for such contravention, be punishable with fine which may extend to one hundred rupees.

(4) Whoever, having been convicted of any offence punishable under sub-section (1),(2) or (3) again commits such offence shall, on conviction, be liable to double the punishment prescribed for such offence under the aforesaid sub-section.

(5) No prosecution for an offence punishable under this Ordinance shall be instituted except by, or with the previous permission in writing of, the Inspector.

(6) No Court inferior to that of a Magisterial of the first class shall try offence under this Ordinance.

8. **Power to Exempt:** Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any industrial or commercial establishment or class of such establishment from all or any of the provisions of this Ordinance.

9. **Protection of Existing Conditions of Employment:-** Nothing in this Ordinance shall affect any law, custom, usage, award or

agreement in force immediately before the enforcement of this Ordinance in so far as such law, custom, usage, award or agreement ensures conditions of employment more favourable to workman than those provided in the Standing Orders.

**SCHEDULE
STANDING ORDERS**

Section 2 (h)

1. Classification of workman:

- (a) Workman shall be classified as:-
 - (1) Permanent,
 - (2) Probationers,
 - (3) Badlis,
 - (4) Temporary,
 - (5) Apprentices,
- (b) A permanent workman is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment including breaks due to sickness, accident, leave lockout, (not being ill legal lock out or strike) or involuntary closure of the establishment and includes a “badli” who has been employed for a continuous period of three months who has been employed and eighty-three days during any period of twelve consecutive months.
- (c) A Probationer’ is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period of three months, be reverted to his old permanent post.
- (d) “Badli” is a workman who is appointed in the post of permanent workman or probationer who is temporarily absent.

- (e) A temporary workman is a workman who has been engaged for work, which is of an essentially temporary nature likely to be finished within a period not exceeding nine months.
- (f) An “apprentice” is a learner who is paid an allowance during the period of his training.

2. **Tickets:-** (1) Every workman employed in an industrial establishment shall be given a Permanent ticket unless he is a probationer, a ‘badli’ a temporary workman or an apprentice.

(2) Every permanent workman shall be provided with a departmental ticket, showing his number, and shall on being required to do so, show it to any person authorized by the employer to inspect it.

(3) Every “Badli” shall be provided with a “badli” card on which shall be entered the days on which he has worked in the establishment, and which he shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a temporary ticket, which he shall surrender on his discharge.

(5) Every apprentice shall be provided with an apprentice card, which shall be surrendered if he obtains permanent employment.

(6) Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing showing the terms and conditions of his service.

3. **Publication of working time:-** For period and hours of work for all classes of workman in each shift shall be exhibited in Urdu for the workman employed in the industrial or commercial boards establishment on notice maintained at or near the main entrance of the establishment and at the time keepers office if any.

4. **Publication of holidays and pay days:** Notice specifying (a) the days observed by the industrial or commercial establishment as holidays and (b) pay days shall be posted on the said notice boards.

5. **Publication of Wages Rates:-** Notices specifying the rates of wages payable to all classes of workman and for all classes of

work shall be displayed on the said notice boards.

6. **Shift Working:-** More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of the employer.

If more than one shifts is worked, the workman shall be liable to be transferred from one shift to another, no shift working shall be discontinued without one months, notice being given prior to such discontinuance, provided that no such notice shall be necessary, if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workman are to be discharged they shall be discharged having regard to length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is restarted a week's notice thereof shall be given by posting a notice at the main entrance of the establishment and the time keepers office, if any, and the workman discharged as a result of the discountenance of the shift, shall, if they present themselves at the time of the restarting of the shift, have preconceive in being re-employed having regarded to the length of their previous service under the establishment those with the longest rest term of service being re-employed first.

7. **Attendance and late coming:-** All workman shall be at work at the establishment at the time fixed and notified under standing orders. Workman attending late shall be liable to the deductions provided for in the payment of wages Act 1936 (IV of 1936)

8. **Leave:** (1) Holiday and leave with pay shall be allowed as hereinafter specified;

(a) Annual holiday and festival holidays, casual leave and sick leave as provided for in Chapter IV A of the factories Act, 1934 (XXV of 1934) and;

(b) Other holidays in accordance with the law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave

pass shall be issued to the workman. If the leave is refused or postponed, the last of such postponement, leave is refused and the reasons there for shall be recorded in writing in a register to be maintained for the purpose, and if the workman so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desire an extension thereof he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the workman if his address is available, and if such reply is likely to reach him before the expiry of the leave originally granted to him.

9. **Payment of Wages:-** (1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workman shall be paid wages on a working day before the expiry of the 7th to 10th day after the last day of the wages period, in respect of which the wages are payable if the total number of workman employed in the establishment is 1.000 or less exceeds 1.000 respectively.

10. **Group Incentive Scheme:-** (1) In every industrial establishment which is a factory and in which fifty or more workman are employed there shall be introduced from such date as may be specified by the Government by notification in the official Gazette, a group incentive scheme to provide incentive for greater production to groups of workman employed in the factory. The Scheme shall provide the manner in which the performance of different groups of workman, whether in the same section, Shop, department or shift or in different sections, shops, department or shift, shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the groups of workman whose production exceeds that of the other groups to be average of all the groups, the incentive shall be according to such scales as may be prescribed and shall be related to the extent of the excess production achieved by the group with the best performance.

11. **Compulsory Groups Insurance:-** (1) The employer shall have all the permanent workmen employed by him insured against death and injury arising out of contingencies not covered by the workman's compensation Act, 1923 (VIII of 1923).

(2) The employer shall in all cases be responsible for the payment of the amount of premium and for all administrative arrangements whether carried out by himself or through an insurance company.

(3) The amount for which cash workman shall be insured shall not be less than the amount of compensation specified in schedule IV of the workman's compensation Act, 1923 (VIII of 1923)

12. Payment of Bonus: (1) Every employer making profit in any year shall pay in for that year with in three months of the closing of that year to the Workman who have been in his employment in the year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such workman.

(2) The amount of the bonus payable shall--

(a) If the amount of the profit is not less than the aggregated of one months' wages of the workman employed, be not less than the amount of such aggregate, subject to the maximum of thirty percent of such profit;

Illustration:

(1) If the profit is Rs. 1,20,000/- and the aggregate of one month's wages of the workman is Rs, 30,000/- the amount of bonus payable shall be not less than aggregate of one month's wages, that is to say Rs, 30,000/-

(2) If the profit is Rs. 30,000/- and the aggregate of one months wages of the workman is also Rs, 30,000/- the amount of bonus payable shall be not less than thirty percent of the profit, that is to say Rs, 9,000/-

(b) If the amount of the profit is less than the aggregate referred to in paragraph (a), be not less than fifteen percent of such profit.

(3) The bonus payable to workman entitled thereto under clause (1) shall bear to his monthly wages the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to in paragraph (a) of clause (2) and shall be paid in cash;

(4) Nothing in this section shall be deemed to affect the right of any workman to receive any bonus other than that

payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court established under that Azad Jammu and Kashmir Industrial Relations Ordinance, 1974.

Explanation:-

For the Purposes of this Section:

Profit means the net profit as defined in section 87C of the Companies Act, 1913 (VII of 1913), and “Wages” does not for the purposes of calculating the bonus payable to a person under clause (1) include the bonus referred to in clause (iv) of section 2 of the Payment of Wages Act, 1936 (IV of 1936).

13. **Stoppage of work:** (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of Power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workman affected shall be notified by notice put up in the departments concerned or of the office of the employers, as soon as practicable when work will be resumed and whether they are to remain leave their place of work. The workman shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour, the workman so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workman so detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage. In the case of piece rate workers, the average daily earnings for the previous months shall be taken to be the daily wages. Wherever practicable reasonable notice shall be given of resumption of normal work.

(3) In cases where workman are laid off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1), they shall be paid by the employer an amount equal to one half of their daily wages during the first fourteen days of lay off as compensation when, however, the workman has to be laid off

for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them, due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department to the establishment close down, either wholly or partially, such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notice put on the notice board in the section or department concerned and in the time Keepers office, if any, as soon as practicable. The workman concerned shall also be notified by a general notice prior to resumption of work, as to when work will be resumed.

- 14. Closure of Establishment:** Notwithstanding anything contained in Standing Order 13 no employer shall close down the whole of the establishment prior permission of the Labour Court in this behalf, except in the event of fire, catastrophe, Stoppage, of powers supply, epidemics or civil commotion.

Explanation: “Close down” in this Standing Orders includes lay-off of workman beyond fourteen days where such lay-off results in closure of an establishment but does not includes lock-out declared commenced or contained in accordance with the provisions of the Azad Jammu and Kashmir Industrial Relation Ordinance, 1974.

- 15. Termination of Employment:** (1) For terminating employment of a permanent workman, for any reason other than misconduct, one month’s notice shall be given either by the employer or the workman, one month’s wages calculated on the basis of average wages earned by the workman during the last three months shall be paid in lieu of notice.

(2) No temporarily workman, whether monthly rated, weekly rated daily rated or piece rated and no probationer or badli, shall be entitled to any notice if his service are terminated by the employer, nor shall any such workman be required to give any notice or pay any wages in lieu thereof to the employer if he leaves employment of his own accord.

(3) The service of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed from service, except by an order in writing which shall explicitly state the reason for the action taken, in case a workman is

aggrieved by the termination of his service or removal, retrenchment, discharge or dismissal he may take action in accordance with the provisions of section 30 of the Azad Kashmir Industrial Relations Ordinance 1974 and there upon the provision of the said section shall apply as they apply to the redress of an individual grievance.

(4) Where the services of any workman are terminated, the wages earned by him and other dues, including payment of unavailed leave as defined in clause (1) of Standing Orders shall be paid. Before the expiry of the second working day from the day on which this service are terminated;

(5) The service of a permanent or temporary workman shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in standing order 19.

(6) Where a workman resigns from service or his services are terminated by the employer, for any reason other than misconduct he shall in addition to any other benefit to which he may be entitled under this Act or in accordance with the terms of his employment or any custom, usage any settlement or an award of a Labour Court under the Azad Jammu and Kashmir Industrial Relations Ordinance 1947, be paid gratuity equivalent to twenty days wages calculated on the basis of the wages admissible to him in the last months of service if he is a fixed rate workman or the highest pay drawn by him during the last twelve months if he is a piece rate workman, for every completed year of service or any part thereof in excess of six months.

Provided that, where the employer has established a provident fund to which the workman is a contributor and the contribution of the employer which is not less than the contribution made by the workman, no such gratuity shall be payable for the period during which such provident fund has been in existence

(7) A workman shall be entitled to receive the amount standing to his credit in the provident Fund, including the contributions of the employer to such fund, even if he resigned or is dismissed from service.

(8) Where a workman dies while in service of the employer, his dependents shall be paid gratuity in accordance with the provisions of clause (6);

Provided that no payment of gratuity in such cases shall

be made otherwise than by a deposit with the commissioner, who shall proceed with the allocation of the deposit to the dependent of the deceased in accordance with the provisions of section 8 of the workman's compensation Act, 1923 (VIII of 1923).

(9) If the employer fails to deposit to amount of the gratuity under clause (8) the dependent of the deceased may make an application to the Commissioner for the recovery of the amount thereof.

Explanation: "Commissioner and "dependent" in this standing Order shall have the same meanings as are respectively assigning to them in the workman's Compensation Act, 1923 (VIII of 1923).

16. **Procedure for Retrenchment:** Where as workman is to be retrenched and he belongs to a particular category of workman, the employer shall retrench the workman who is the last person employed in that category.
17. **Re-Employment of Retrenched Workman:** Where any number of workman are retrenched and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrench workmen belonging to the category concerned, by sending a notice by registered post to their last known address to offer themselves for reemployment and they shall have preference over other persons, each having priority according to the length of his service under the employer's

Provided that in the case of seasonal factory within the meaning of section 4 of the Factories Act 1934 (XXV of 1934) a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season shall be given preference for employment by the employer.

18. **Special Provision for Construction Workers:** Where any workman is retrenched or discharge by a contractor or any employer engaged in the construction industrial due to completion, Cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge;

Provided that where a workman is re-employed within one month of his retrenchment or discharge, he shall be deemed

to have been in continuance service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharge but no wages shall be paid to him for the period of interruption.

- 19. Punishment:** (1) A workman may be reprimanded or fined up to three paise in the rupee of the wages payable to him in a month, for any of the following acts or omissions, namely;

(2) In case where the payment of wages Act, 1936 (IV of 1936) is applicable, the list of acts and omissions for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned;

(ii) In other case, the following shall be the list of acts and omissions;

- (a) Disregard or disobedience of rules or orders;
- (b) Improper behavior, such as drunkenness;
- (c) Making false or mislead statements, in efficient, dilatory, careless or wasteful working;
- (d) Inefficient, dilatory, careless or wasteful working;
- (e) Malingering.

(2) A workman found guilty of misconduct shall be liable to any of the following punishments:-

- (i) With-holding of increment or promotion for a specified period not exceeding one year;
- (ii) Dismissal without payment of any compensation in lieu of notice.
- (iii) Reduction to a lower post, or

(3) The following acts and omissions shall be treated as misconduct:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the

employer's business or property;

- (c) Willful damage to or loss of Employers goods or property;
- (d) Taking or giving bribes or any illegal gratification.
- (e) Habitual absence without leave or absence without leave for more than ten days.
- (f) Habitual late attendance;
- (g) Habitual breach of any law applicable to the establishment.
- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline;
- (i) Habitual negligence or neglect of work;
- (j) Frequent repetition of any act or omission referred to in clause (1);
- (k) Striking work or inciting others to strike in contravention of the provision of any law, or rules having the force of law;
- (l) Go-slow.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal and, (the employer shall) institute independent inquiries before dealing with charge against a workman;

Provided that the workman proceeded against may, if he so desires for this assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.

(5) Where, for the purposes of conducting an inquiry in to the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time. The orders of suspension shall be in writing may take effect immediately on delivery to the

workman concerned shall be paid by the employer subsistence allowance of not less than fifty percent of the wages, If the workman is found not guilty, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he has not been suspended.

20. **Certificate of Termination of Service:** Every permanent workman shall be entitled to a Service certificate at the time of his dismissal, discharge, retirement or retrenchment from service.
21. **Liability of Employer:** The employer of the industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the standing order, whether or not the workman or such Establishment are employed through contractors.

Sd/-
(Sardar Muhammad Abdul Qayum Khan)
President
Azad Government of the State of J&K

(Muhmmad Akran Shah)
Secretary Law & Parliamentary Affairs
Azad Govt. of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

'Muzaffarabad the August 16th, 1975..

No. SL/2608/SL/75. The following Ordinance made by the president on August 18th 1975, is hereby published for general information.

(ORDINANCE XXVI of 1975)

AN ORDINANCE to provide for the establishment of Administrative Tribunals to exercise jurisdiction regarding matters relating to the terms and conditions of service in respect of services of the State of Azad Jammu and Kashmir

WHEREAS it is expedient to provide for the establishment of Administrative Tribunals to exercise exclusive jurisdiction regarding the matters relating to the terms and conditions of service in respect of the services of the Azad Jammu and Kashmir and for matters connected therewith or ancillary thereto; 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 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, commencement and application:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Administrative Tribunals Ordinance, 1975.
 - (2) It shall come into force at once.
 - (3) It applies to all civil servants wherever they may be.
2. **Definition:-** In this Ordinance, unless there is anything repugnant in the subject or context,
 - (a) "Chairman" means the Chairman of the Tribunal;
 - (b) "Civil servant" means & person who is or who has been a member of a civil service of the Azad Jammu and Kashmir or who holds or has held a civil post in connection with the affairs of the Azad Jammu and

Kashmir but does not include

- (i) a person who is or who has been on deputation to the Azad Jammu and Kashmir from the Federation or any other province of Pakistan or authority
- (ii) a person who is or has been employed on contract or on work charged basis or who is or has been paid from contingencies; or
- (iii) a person who is or has been a worker or workman as defined in the Factories Act, 1934 (XXV of 1934 of the Workmen's compensation Act, 1923 (VIII of 1923) as in force in Azad Jammu and Kashmir;
- (c) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (d) "President" means the President of Azad Jammu and Kashmir;
- (e) "Member" means the Member of the Tribunal;
- (f) "Registrar" means the Registrar of Tribunal and includes any other person authorized by a Tribunal to perform the functions and duties of the Registrar; and
- (g) "Tribunal" means an Administrative Tribunal established by this Ordinance or a Bench therefore

3. **Tribunals:-** (1) There shall be one or more Tribunals, each consisting of a Chairman and one or two Members possessing the qualification hereinafter provided to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants including disciplinary matters.

- (2) (a) Member of a Tribunal shall be a person who is or has been or is qualified to be a Judge of the High Court; and
- (b) Member of a Tribunal shall be a person who has, for a period of not less than fifteen years served under the Azad Jammu and Kashmir Government and is not below the status of Deputy Secretary to the Azad Jammu and Kashmir Government.

(3) The Chairman and Members of a Tribunal shall be appointed by Government on such terms and conditions as are provided in the First Schedule:

Provided that if a person, who is a Judge of the High Court is appointed Chairman of a Tribunal, he shall continue to be governed by the same terms and conditions as are applicable to him as Judge of the High Court.

(4) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the president.

(5) The Chairman or a member of a Tribunal shall not hold any other office of profit in the Service of Azad Jammu and Kashmir:

Provided that where a person who is a Judge of the High Court is appointed Chairman, he may, if the President in consultation with the Chief Justice of the High Court so decides, hold the office of the Chairman in addition to the performance of his functions as Judge of the High Court.

(6) (a) The term of office of Chairman who is a Judge of the High Court may be determined by the President in consultation with the Chief Justice of the High Court.

(b) The term of office of the Chairman, other than a person who is a Judge of the High Court, and a Member of a Tribunal, unless he resigns earlier, shall be four years:

Provided that in the case of a person who before his appointment as Chairman or Member was in the Service of Azad Jammu and Kashmir, the term of office shall not extend beyond his date of superannuation and in any other case beyond the age of sixty-two years:

Provided further that the Chairman, other than a person who is a Judge of the High Court, or a Member of a Tribunal may be removed from office earlier than the expiry of the term of his office by an order of the President if on a reference by the President a Committee consisting of three persons who may be appointed by the President reports that,-

- (i) the Chairman, or as the case may be, the Member is incapable of performing the duties of office by reason of physical or mental incapacity; or
- (ii) has been guilty of misconduct.

Explanation One of the persons appointed to the Committee shall be a person who has been a Judge of the High Court and the other two persons shall not be lower in status than a Deputy Secretary to the Azad Jammu and Kashmir Government

(7) Where there are established more than one Tribunal, the President shall specify by notification in the official Gazette the class or classes of civil servants in respect of whom, or the territorial limits within which, each Tribunal shall exercise jurisdiction under this Ordinance

4. **Appeal to Tribunals:** Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service including disciplinary matter may, within thirty days of the communication of such order to him or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal to the Tribunal:

Provided that--

- (a) where an appeal review or representation to departmental authority is provided under the Kashmir Service Regulation or any rules made there under no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and period of ninety days has elapsed from the date on which such appeal application or representation was to preferred;
- (b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining
 - (i) the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade; or
 - (ii) the quantum of departmental punishment or penalty imposed on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal, removal reduction in rank or compulsory retirement from service; and
- (c) no appeal shall lie to a Tribunal against an Order or decision of a departmental authority made at any time

before the first July 1969.

Explanation In this section, departmental authority means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of civil servants.

5. **Powers of Tribunals** (1) A Tribunal may, on appeal, confirm set aside vary or modify the order appealed against
- (2) A Tribunal shall, for the purpose of deciding any appeal be deemed to be a civil Court and shall have the same powers as are vested in such Court under Code of Civil procedure 1908 (Act V of 1908) including the powers of
- (a) enforcing the attendance of any person and examining him on oath
- (b) compelling the production of documents; and
- (c) issuing commission for the examination of witness and documents.
- (3) No Court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document in, or obtaining any document from a Tribunal
6. **Benches and procedure:-** (1) The Chairman of a Tribunal may constitute a Single or a Division Bench of the Tribunal for hearing appeals under this Ordinance
- (2) The conclusions arrived at after hearing an appeal under sub-section (1) by a Single Bench, or as the case may be, by a Division Bench, along with the records of the appeal and written arguments if any, shall be considered by the Tribunal as a whole and the decision shall be expressed in the terms of the views of the majority.
- (3) The Chairman may at any stage transfer cases from one Bench to another Bench or to the whole Tribunal.
- (4) The Tribunal and its benches shall conduct business in accordance with the provisions contained in the Second schedule
7. **Casual vacancy:-** If the Chairman or one of the Members of a Tribunal has not been appointed or has not assumed the charge of his duties or is, for any reason, absent or unable to take part in the proceedings of the Tribunal, the other two members, or the

Chairman and the other members, as the case may be, may hear or continue to hear and finally dispose of the appeal, application or other matter requiring decision of the Tribunal.

8. **Abatement of Quits and other proceedings:-** All suits, appeals and applications regarding any matter within the jurisdiction of a Tribunal pending in any Court immediately before the establishment of the appropriate Tribunal shall abate on the establishment of such Tribunal:

Provided that any party to such a suit, appeal or application may, within ninety days of establishment of the appropriate Tribunal, prefer an appeal to it in respect of any such matter which is in issue in such suit, appeal or application

9. **Applicability of the provisions of the Limitation Act, 1908:-** The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908) shall apply to appeals under this Ordinance.
10. **Rules:-** Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Ordinance.
11. **Repeal:** The Azad Jammu and Kashmir Administrative Tribunals Ordinance 1975 (Ordinance XIV of 1975) and the Azad Jammu and Kashmir Administrative Tribunal (Amendment) Ordinance, 1975 (Ordinance XX of 1975) are hereby repealed.

FIRST SCHEDULE SEE SECTION 3(3)
PART I-TERMS OF OFFICE

1. **Maximum age for appointment as Member:-** No person who is more than 58 years of age, shall be appointed as a member
2. **Oath of Office** Before entering upon his office, a Chairman other than a person who is Judge of the High Court and a Member shall before the Chief Justice of the Azad Kashmir High Court or a Judge nominated by the Chief Justice for the purpose, make an oath in the form appended to this Schedule.
3. **Seniority** The seniority interest of the Members shall be determined in accordance with the respective dates of their entering upon their office as Member provided that when a Member is appointed for a second or subsequent term, his seniority shall be reckoned from the date when he enters upon the second or subsequent term of office, as the case may be.
4. **Pay** (1) A Chairman shall--

- (a) if before his appointment as Chairman, he had retired from the service of Azad Kashmir, draw the pay last drawn before retirement, and the amount of his full pension, including special additional pension (if it has not been held in abeyance), will be deducted from his pay thus fixed; and
 - (b) in any other case, draw pay as is admissible to a Government servant in the National Pay Scale No.20 or if he was, before his appointment as Chairman in the service of Azad Kashmir, the pay which he would have received but for such appointment, whichever is higher
- (2) A Member shall
- (a) if on the date of his appointment as Member of a Tribunal he was in the service of Azad Kashmir, receive the grade of pay that he was drawing immediately before his appointment as Member provided that a Member in addition to the grade of pay, should get a special pay of Rs 440.00 per month subject to a maximum of Rs 2,300.00 per month if his pay is in National Pay Scale below grade 20.
 - (b) if before his appointment as Member, he had retired from the service of Azad Kashmir, draw pay last drawn before retirement and the amount of his full pension including special additional pension (if it has not been held in abeyance) will be deducted from his pay thus fixed

Explanation: For the purpose of this paragraph pay includes special pay which a Chairman or a Member was drawing before his appointment as such Chairman or Member.

- 5 **Pension:-** (1) No pension shall attach to the office of a Chairman or a Member as such, but if a Chairman or a Member was on the date of his appointment in the service of Azad Kashmir service as Chairman or Member shall count for pension under the rules applicable to the service or grade to which such Chairman or Member belonged; and unless a Member be a Member of an All-Pakistan Service or a Member be entitled to pension under Army Regulations service of Member shall also count as service in the higher grade or upper grade for the special additional pension under the rules applicable to him on the date of his appointment to the Tribunal.

(2) In the case of a retired Government servant, service as a member shall not count as qualifying service for the purpose of recalculating his pension as the expiry of his term of office as a Chairman or a Member

- 6 **Provident Fund:** (1) It shall be permissible for a Chairman or a Member, if he so elects, to subscribe to the General Provident Fund in accordance with the rules relating to that Fund

(2) A Chairman or a Member who, on the date of his appointment was in the service of Azad Kashmir and had been admitted to the benefits of any Provident Fund maintained by Government shall be eligible, after appointment to the Tribunal to Continue to subscribe to the said Fund upon the same times and conditions and subject to the rules of that Fund:

Provided that he shall cease to subscribe to the Fund on attaining the age of superannuation in his previous service and the amount standing to his credit in the said Fund after such deductions as are authorized under the rules applicable to him shall become payable to him

PART II-LEAVE

- 7 **Leave:-** A Chairman or a Member who on the date of his appointment was in the service of Azad Kashmir may be granted leave by the President under the rules applicable to him immediately before his appointment, and his service as a Chairman or a Member shall count for such leave.

- 8 A Chairman or a Member who on the date of his appointment was not in the service of Azad Kashmir may be granted leave by the President as follows:-

- (i) (a) leave on leave salary equivalent to full pay up to one-eleventh of the period spent on duty as a Chairman or a Member, subject to a maximum of four months at any one time; or
- (b) if a Chairman or a Member so elects leave on leave salary equivalent to full pay (to, taken not more than once during his term of office) for a period not exceeding four months;
- (ii) leave on medical certificate on leave salary equivalent to half pay up to two-elevenths of the period spent on duty as a Chairman or a Member, subject to a maximum of three months at any one time; and

- (iii) extraordinary leave without salary.

Explanation. A person who retires from the service of Azad Kashmir and is re-employed as Chairman or member shall be governed by the provisions of this paragraph.

PART III-
TRAVELLING ALLOWANCE & MEDICAL ATTENDANCE

9 **Traveling Allowance For the purpose of Traveling Allowance:-**

- (a) a Chairman shall be entitled to the allowance admissible to judge of a High Court; and
- (b) a Member shall be entitled to allowance admissible to a Secretary to Government:

10 **Medical Allowance.** A Chairman and a Member shall be entitled to the medical facilities admissible in terms of the Governorate Servants (Medical Attendance) Rules:

Provided that Chairman or a Member who, on the date of his appointment to the Tribunal was in the service of Azad Kashmir may elect to be governed by the rules applicable to be governed by the rules applicable to him immediately before the said date

11 Where a person appointed as a Chairman or a Member was, immediately before his appointment as such in the service of Azad Kashmir, his rights as a person in the service of Azad Kashmir shall not be effected by his appointment as Chairman or Member

FORM OF OATH (Vide Paragraph 2)

I do solemnly swear that as Chairman/Member of the Administrative Tribunal established under the Azad Kashmir Administrative Tribunals Ordinance 1975 I will discharge my duties and perform my functions honestly to the best of my ability, faithfully in accordance with the Constitution of the Azad Kashmir and the law, and without fear of favor, affection or ill-will, and that I will not allow my personal interest to influence my official conduct or my official decisions.

SECOND SCHEDULE
(See Section 6(4))

- 1 Every memorandum of appeal shall -
 - (a) be legibly, correctly and concisely hand-written, type-written or printed;
 - (b) be divided into paragraphs numbered consecutively each paragraph containing as nearly as may be, a separate allegation;
 - (c) contain full name, official designation and place of posting of each party;
 - (d) clearly set out the relief claimed;
 - (e) be accompanied by-
 - (i) a copy of the order of the competent authority against which the appeal is preferred; and
 - (ii) copies of rules, orders and other documents on which the appellant proposed to rely in support of his claim;
 - (f) be signed by the appellant; and
 - (g) be accompanied by three spare copies of the memorandum of appeal and as many other copies, thereof duly initialed by the appellant and accompanied by the documents referred to in sub-paragraph (e), as there are respondents.
- 2 An appeal may be sent to the Registrar by a registered post acknowledgement due or it may be presented to the Registrar during the working hours either by the appellant personally or through his Advocate
- 3 In every memorandum of appeal the competent authority shall be shown as the first respondent and thereafter all other parties to the dispute shall be shown as respondent
- 4
 - (1) The registration shall scrutinize every Memorandum of appeal received by post or presented to him and shall
 - (i) if it be in order and drawn up in accordance with the provisions of paragraph 1, cause it to be registered in the register of appeals to be maintained in Form appended to

this Schedule, and, with the approval of the Chairman, shall fix a date for its preliminary hearing before a Bench or the Tribunal, as the case may be; or ,

- (ii) if it is not drawn in accordance with the provision of paragraph 1, return it to the appellant for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal pointing out the deficiency.

(2) If the memorandum of appeal is not re-submitted within the period specified under clause (ii) of sub-paragraph (1) of paragraph 4 of the appeal shall stand dismissed.

- 5. (1) The Bench or the Tribunal, as the case may be, after hearing the appellant or his Advocate on the date fixed for preliminary hearing or on such subsequent dates to which such hearing may be adjourned, may dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal and of the day fixed for its regular hearing shall be served on the appellant, the respondents and such other persons as the Tribunal may deem proper

- 6. (1) A notice under sub-paragraph (2) of paragraph 5, shall be in such form as may be approved by the Tribunal and may be served by registered post or in any other manner, including publication in one or more daily newspapers as the Bench admitting the appeal or the Tribunal may direct; provided that where the notice is directed to be served by publication in the newspapers, it shall not be issued until the costs of its publication are deposited by the appellant.

(2) The notice to the respondent shall be accompanied by a copy of memorandum of appeal and copiers of other documents referred to in sub-paragraph (e) of paragraph 1.

(3) Service of notice in accordance with the provisions of this paragraph shall be deemed to be due notice, and it shall not be necessary to prove that a party has actually received the notice.

- 7 (1) In response to the notice served under paragraph 6, the respondent may send his objection to the appeal by registered post acknowledgement due to the register or deliver the same to him either personally or through his advocate on or before the date fixed for hearing of the appeal.

(2) The objections shall be legibly and concisely handwritten, typewritten or printed, shall be signed by the respondent and shall be accompanied by a copy of the order or other document on which the respondent wishes to rely in support of his objection

(3) The written objections shall be accompanied by four spare copies thereof, complete in all respects, and containing copies of the order and documents referred to in sub-paragraph (2) three of those copies shall be supplied for the use of the Tribunal and the fourth copy for the appellant or his Advocate

(4) In case objections are not received or delivered within the time allowed under sub-paragraph (1), the respondent may be proceeded against ex-party

8. (1) Questions arising for determination by a Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits but the Tribunal may direct that such questions, as it may consider necessary, be decided on such other evidence and in such manner as it may deem fit

(2) The party affected by an affidavit may be permitted by the Tribunal to cross-examine the deponent with reference to the statements in the affidavit.

9. (1) An application for summoning witnesses before the Tribunal shall be made, as soon as possible, after the issue of notice of appeal under paragraph 5 It shall state -

(a) the name, designation and address of the witnesses to be summoned;

(b) a brief resume of the evidence which each witness is expected to give; and

(c) a brief description of the document to be summoned and name and location of the office in which such document is expected to be.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-paragraph (1) may be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal and direct that the daily allowance and traveling charges of such witness at the rate which would have been allowed by the High Court if it had summoned him should be deposited by the person calling him within, seven days of the

date of the order.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness with the period specified in sub paragraph (2) or within any extension thereof that may be granted by the Tribunal, the application for summoning of witnesses, so far as it relates to such witness, shall be deemed, to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of party witness is necessary for the disposal of an appeal before it, it may direct him to be summoned.

(5) Where a Tribunal summons a witness under provisions of sub-paragraph (4)

(a) if such witness is a Government servant, his traveling and daily allowance (if any) shall be borne by Government; and

(b) if the witness is a private person, his traveling allowance and daily allowance shall be borne by such parties and to such extent as may be determined by the Tribunal.

10. (1) Process for service on witnesses of high rank shall be sent in the form of a letter and acknowledgement received.

(2) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the head of his office.

11. (1) A daily cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the court-room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases will be set down in the cause list in the order of the date of admission.

12. (1) Evidence of a witness examined by the Tribunal shall be taken down under the superintendence of the Tribunal ordinarily in the form of a narrative and shall be signed by the members of the Tribunal and shall form part of the records.

(2) The parties or their advocates may suggest any question to the Tribunal and the Tribunal may put such, besides any other question to the witness.

(3) The Tribunal may record such remarks as it thinks material respecting the demeanors of any witness while under examination.

(4) The Tribunal may close the evidence of any party if there is inordinate delay or expense involved in its production; provided that the interest of justice so permits.

13. (1) If on the date fixed for hearing or appeal or on any subsequent date to which the hearing may be adjourned, the appellant or this advocate is not present before the Tribunal, the Tribunal may dismiss the appeal or, if it thinks fit, may proceed to hear the other party and decide the same.

(2) If on the date fixed for hearing of appeal subsequent date to which hearing may be adjourned the respondent or any one or more of the respondents in case there are more than one respondents, or his or their Advocates, are not present before the Tribunal, the Tribunals: may hear the appeal ex-parte against all or any of the respondents.

(3) Where an appeal has been dismissed under subparagraph (1) or the exparte proceedings have been taken under subparagraph (2), the Tribunal may on such order as to costs as it may deem fit restore the appeal or set aside the ex parte order as the case may be, or allow the defaulting party to rejoin the proceedings.

14. A copy of every order of final adjudication on an appeal shall be furnished by the Tribunal, free of cost, to the competent authority concerned.

15. Clerical or arithmetical mistakes in an order of final adjudication arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties:

Provided that where an application is made by a party it shall be duly supported by an affidavit.

16. The provisions contained in the High Court Rules and orders in regard to copies and inspection of record shall mutatis mutandis and to the extent practicable apply to the proceedings before a Tribunal.

17. If a civil servant is unrepresented before a Tribunal and cannot afford to engage a council, the Tribunal may make arrangements to employ a counsel at Government expense.

FORM 'A'
REGISTER OF APPEALS
(SEE PARAGRAPH 5(1)(i))

Serial No.	Date of presentation of appeal	Name and address of the appellant	Name and address of the respondent	Date of registrati on of appeal	Whether admitted or dismissed in limine with date of order	Amount of security and costs deposited by the appellant	Date of substance s of the final order	Brief substan ce of the final order	Date of which copy of the final order sent to the couptent authority

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

Muzaffarabad, the 18th September, 1975.

No. 2833/SL/75. The following Ordinance made by the President on the 17th of September, 1975, is hereby published for general information:-

(Ordinance XXVII of 1975)

AN ORDINANCE to determine the salary allowances and privileges of the President.

WHEREAS it is expedient to determine the salary, allowances and privileges of the President and to make provision for enabling him to discharge conveniently and with dignity the duties of his office;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by 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 President's Salary, Allowances and Privileges Ordinance, 1975.

(2) It shall Come into force at once shall be deemed to have taken effect from 5th of June, 1975.
2. **Definitions:-** In Ordinance, unless there is anything repugnant in the subject or context:-
 - (a) 'Acting President' means a person appointed as President to act as President when President is absent from Azad Kashmir/ Pakistan or is unable to perform the functions of his office due to any cause;
 - (b) 'family' means the President's wife and such of his children, step-children parents brothers and sisters as ordinarily reside with and are wholly dependent upon him;

- (c) 'furnishing' means pictures, paintings, curios, linen, glassware, brass-ware, cutlery, crockery, kitchen equipment, radios, radiograms, lamps, public address systems, projectors, television sets of all kinds, acoustical equipment and similar other articles;
 - (d) 'furniture' includes carpets, sofa nets, curtains, refrigerators, air-conditioners, washing machines and similar articles;
 - (e) 'maintenance';-
 - (i) In relation to official residence, includes the maintenance and replenishing of furniture and furnishings payment of local rates, and taxes, maintenance of roads and electric, water, as, and sanitary fixtures, and installations, and the provision of electricity gas and water; and
 - (ii) inrelation to official cars and aircrafts, includes the pay and allowances of chauffeurs, pilots and other establishment and the provision of oil and petrol;
 - (f) 'Official cars' 'railway saloons' and 'aircrafts' means such cars, railway saloons and aircraft, if any, as are from time to time provided for use by the President;
 - (g) 'Official residence' means the house reserved from time to time for residence by the President includes out-houses gardens appurtenant thereto;
 - (h) 'Year' means a year commencing on the first day of July and ending on the thirtieth day of June next following; and
 - (i) 'Other words and expressions used in this Ordinance and not defined shall have the meanings assigned to them in the Jammu and Kashmir Interim Constitution Act,1974.
3. **Annual salary.-** The annual salary to be the paid to the President shall be seventy-two thousand rupees.
 4. **Equipment allowance.-** (1) The President may on his assumption of office as such, draw two thousand and five hundred rupees as an allowance for equipping himself;

Provided that, during the ten years immediately preceding the assumption of that office, he had not drawn an allowance for the same purpose upon election or appointment to the office of President, Prime Minister, Speaker, Minister, or a diplomatic office.

(2) The provisions of sub-section (1) shall not apply to an Acting President.

5. **Allowances on taking up and laying down the office.-** The President shall be entitled to traveling allowances to the extent mentioned below for the journey from his ordinary place of residence to the official residence on taking up office and from the official residence to this ordinary place of residence on laying down office-

- (a) The actual traveling expenses for himself and his family;
- (b) the cost of transporting personal servants, not exceeding three, by the lowest class of accommodation; and
- (c) the cost of transporting house-hold effects, not exceeding one hundred and twenty mounds, by goods train or steamer excluding aircraft, and his personal car, if any.

(2) No claim shall lie for any travel or transportation not performed within six months of the date of assuming or laying down office, as the case may be.

(3) The provisions of sub-section (1) shall not apply to an Acting President, but there shall be paid to an Acting President an allowance equal to his actual expenses on journeys undertaken within Azad Kashmir or Pakistan with his family, if any, and his family's effects, in connection with the taking up and relinquishment of his duties as Acting President.

6. **Privilege in case of journeys from Azad Kashmir to Pakistan;** The President shall, when traveling on official duty from Azad Kashmir to Pakistan, be entitled to take with him his wife, or one other member of his family, at Government expenses.

7. **Official residence, railway saloons, aircraft and official cars.-**
(1) Throughout his term of office, the President shall be entitled without payment of rent or hire, the use of his official residence, and of the railway saloons, aircraft and official cars and no

charge shall fall on him personally in respect of the maintenance thereof:

Provided that the President shall not except when proceeding on or return in form leave, be entitled to the use of the railway saloons aircraft or official cars during any period for which he is on leave.

(2) The provisions of sub-section (1) shall also apply to the family of the President.

8. **Sumptuary allowance.-** The President shall be entitled to receive sumptuary allowance of thirty thousand rupees per annum.
9. **Discretionary grant:-** A sum of Rs. 40,000/- per annum shall be placed at the disposal of the President for making discretionary grants in such manner as may be prescribed.
10. **Payment of further amounts.-** There shall, from time to time, be paid to the President, for the replacement of official cars, and for any other purposes considered necessary to enable him to discharge conveniently and with dignity the duties of his office, such further amounts as the President may, by general or special order, authorise and any such order may be given retrospective effect whenever necessary.
11. **Amounts to be Included In estimates of expenditure.-** The President shall determine, the amounts to be included in any year in the estimates of expenditure for the purpose of giving effect to the provisions of this Ordinance, and such amounts shall be charged upon and paid out of the Azad Kashmir Budget Receipts.
12. **Compensation in case of accident.-** (1) If the President, during his tenure of office dies or receives an injury as a result of an accident or by violence the Government shall pay to the person or persons referred to In sub-section (2), a sum of one lac and fifty thousand rupees, in the case of death, and an amount to be determined by the Government having regard to scales of compensation applied by insurance companies in like cases, in the case of injury.

(2) The compensation shall be payable in the case of injury to the President, and, in the case of death, to such member or members of his family or, if there be no such member such other

person or persons as may be nominated by him, and in the absence of such nomination to his heirs.

(3) A nomination under sub-section (2) may be made, and may also be revoked or altered, by a notice in writing sign by the President and addressed to the Accounts officer concerned.

13. **Daily allowance during halt.**- The President, while on tour shall be entitled to draw an allowance of seventy-five rupees per day for the duration of his halts on tour:

Provided that in case of halt for less than eight hours one half daily allowance shall be admissible;

Provided further that for such continuous halt on tour exceeding ten days, daily allowance admissible for-

- (i) the first ten days shall be at the full rate;
- (ii) the next twenty days or part thereof at three-fourth of full rate; and
- (iii) the remaining period, at one half of the full rate.

Explanation.- For the purpose of this section:-

- (a) Time spent on journey shall be included in the half; and
- (b) A halt on tour shall be treated as continuous unless terminated by an absence at a distance from the halting place exceeding five miles, for a period not less than seven nights.

14. **Leave of absence.**- (1) The President may at any one time or from time to time grant to himself-

- (a) during his term of office, at any one time or from time to time, leave of absence for urgent reasons of health or private affairs, for a period not exceeding four months in the aggregate:

Provided that the President may extend this period of four months in which case the reasons for the extension shall be recorded in a minute;

- (b) upon the conclusion of his term of office leave (to which the provisions of the next succeeding sub-section apply) for a single period not exceeding four months, or if any

leave has been availed of during the term of office, the difference between four months and the period of leave availed of.

- (2) The leave allowance of the President shall be at the rate of three thousand rupees per mensem:

Provided that, in the case of the President appointed from Government service, the rate of leave allowance shall, if the rate admissible to him immediately before his appointment is higher than the rate admissible to him under this Ordinance as a President, be that former rate.

- (3) Where payment is made in dollars, the rate of exchange taken shall be that ruling on that day of payment or on the last day of the month in respect of which the payment is made, whichever day first occurs.

- (4) An Acting President shall not be entitled to any leave allowance.

15. **Medical facilities.-** The President and the family of the President shall be entitled to medical facilities in accordance with the Medical Attendance Rules;

Provided that he and his family shall ordinarily be entitled to receive medical treatment at his residence.

16. **Personal staff.-** The President, except while on leave, shall be entitled to have such personal staff as may be sanctioned from time to time by the Government.

17. **Custom duties or sales tax not leviable on certain articles, (1)** No Custom duties or sales tax shall be levied on the following articles if imported or purchased out of bond by the President on appointment or during his tenure of office namely:-

- (a) articles for the personal use, wear or consumption of the President or any member of the family of the President provided that the cost thereof shall not exceed fifteen thousand rupees per annum;
- (b) one car the cost of which shall not exceed fifty thousand rupees, for his personal use during the tenure of his office;

- (c) foodstuffs and tobacco for consumption by the President, members of his family and his guests, whether official or not;
- (d) articles for furnishing of the President's official residence; and
- (e) official cars or aircraft.

(2) No custom duties or sales tax shall be levied on tobacco imported by manufactures in Azad Kashmir or Pakistan for the manufacture of cigarettes, and no excise duty shall be levied on indigenous tobacco used in Azad Kashmir or Pakistan in the manufacture of cigarettes and on cigarettes manufactured in Azad Kashmir or Pakistan when such cigarettes are for consumption by the President members of his family or the guests referred to in clause (c) of sub-section (1)

(3) No excise duty shall be levied on indigenous petrol and petroleum products when such petrol or petroleum products are for use in the official cars and aircrafts.

- 18. **Provident Fund-** The President may, at his option, become a subscriber to the General Provident Fund; and if he so opts, he shall subscribe to the fund as a compulsory subscriber in accordance with the General Provident Fund/ Rules.
- 19. **Ordinance to have effect subject to instructions, etc.-** This Ordinance shall have effect subject to such instructions, rules, exceptions, further concessions or easements, as the President may from time to time, prescribe or grant.

Sd/-
(Sardar Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir,
Muzaffarabad.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs Secretariat,
Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT
MUZAFFARABAD**

Dated the 18th September, 1975.

No. 2833/SL/75. The following Ordinance made by the President on the 17th of September, 1975, is hereby published for general information:-

(ORDINANCE XXVIII OF 1975)

AN ORDINANCE to provide for the salaries, allowances and privileges of the Ministers of the Azad Jammu and Kashmir

WHEREAS it is expedient to provide for the salaries, allowances and privileges of the Minister of the Azad Jammu and Kashmir in the manner hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that Circumstances exists which render immediate legislative necessary

NOW, THEREFORE, in exercise of the powers conferred by 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 Ministers (Salaries, Allowance and Privileges) Ordinance, 1975.

(2) It shall come in to force at once.
2. **Definitions:** (1) In this Ordinance, unless the context otherwise requires:-
 - (a) "Constitution" means the Azad Jammu and Kashmir Interim Constitution Act, 1974;
 - (b) "Family" means the wife and children residing with and wholly depended upon a Minister;
 - (c) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (d) "Maintenance" in relation to a residence includes the payment of local rates, taxes, the provision of electricity, water and gas;

- (e) “Minister” means a Minister appointed under the constitution and includes the Prime Minister;
- (f) “Official residence” means the house reserved from time to time for residence by a Minister and includes out-houses and garden appurtenant thereto; and
- (g) “Prescribed” means prescribed by rules framed under this Ordinance;

(2) Words and expression used but not defined in this Ordinance shall have the same meanings as are assigned to them in the Constitution.

- 3. **Salary:** The salary of a Minister shall be two thousand and five hundred Rupees per mensem.
- 4. **Equipment allowance:** The Prime Minister and a Minister may draw a sum of three thousand and five hundred rupees and three thousand rupees respectively as equipment allowance on their appointment as such:

Provided that no such allowance was received by him during the life time of the Assembly on appointment as a President, Speaker, Prime Minister or a Minister.

- 5. **Allowance on taking up and laying down the office:** (1) A Minister shall be entitled to claim actual expenses to the extent mentioned below from his ordinary place of residence to the seat of Government and from the seat of Government to his ordinary place of residence on taking up or laying down office, as the case may be;-

- (a) Actual traveling expenses for himself and his family;
- (b) Cost of transporting personal servants not exceeding two, by the lowest class of accommodation, and
- (c) Cost of transporting house-hold effects, not exceeding one hundred and twenty pounds, by goods train, steamer or other craft, excluding aircraft, and his personal car, if any.

(2) No claim shall lie for any travel or transportation not performed within six months of the date of taking up or laying down office, as the case may be.

- 6. **Sumptuary Allowance:-** (1) The Prime Minister shall be

entitled to receive sumptuary allowance at the rate of four thousand rupees per mensem.

(2) A Minister shall be entitled to receive sumptuary allowance at the rate of three thousand rupees per mensem.

7. **Transport:** A Minister shall be entitled to the use of official cars maintained at Government expenses throughout his term of office and for a period of 15 days immediately thereafter,

Provided that the Prime Minister may withhold this facility to a Minister who is removed from his office on the ground of misconduct or misbehavior.

8. **Official Residence:** (1) A Minister shall be entitled without payment of rent, to the use of an official residence including accommodation on tour throughout his term of office, and for a period of fifteen days immediately thereafter and the charges for its maintenance including the electricity and gas charges shall be borne by the Government. The residence shall be furnished by Government at a cost not exceeding one lac rupees in case of a building reserve for this purpose at the first term and rupees sixty thousand for any subsequent term.

(2) If at the time of entering upon office, an official residence is not available, a Minister shall, until such residence is provided by Government be paid the actual expenditure incurred by him on furnished accommodation for himself and his family, subject to a maximum of one thousand and five hundred rupees per mensem.

(3) Where a Minister chooses to reside,

(i) In his own house; or

(ii) In a rented house occupied by him before his appointment as a Minister; He may be paid a monthly sum of (eight thousand rupees) in lieu of official furnished accommodation and to cover all expenses on its maintenance. The charges for consumption of electricity and gas in respect of the said house shall be borne by Government.

9. **Traveling allowance for touring in Azad Kashmir or Pakistan:** (1) Subject to the provision made hereafter, a Minister traveling on official duty shall be treated as a first Grade Officer.

(2) A Minister may, if the public interest so demands travel by air, in which case he shall be entitled.

- (a) Actual air fare paid for himself;
- (b) Cost of transporting personal luggage up to on hundred pounds, inclusive of the free allowance given by the air company;
- (c) Requisition, at the cost of Government, if he considers in necessary in the public interest, a Pakistan Air Force aero plane or an airplane belonging to Government subject to availability; and in accordance with the rules made by the Federal Government or the provincial Government, as the case may be;
- (d) Take with himself his wife whether traveling by a commercial airplane or by a requisitioned without the authority of the Ministry of Defense;
- (e) Cost of transporting up to two personal servants by the lowest class of accommodation by rail or steamer;
- (f) Carriage of personal luggage by rail steamer, subject to a maximum of three mounds; and
- (g) Claim the actual premium paid for insuring himself for the air journey for an amount not.

Exceeding one Lac rupees;

(2) Wherever possible a minister shall purchase return air ticket.

(2) A Minister, when traveling on duty by rail in Azad Kashmir or Pakistan shall be entitled to

- (a) Requisition at the cost of Government-
 - (i) And ordinary first-second class carriage or a “B” class tourist car, or an “A” class tourist, if a “B” class tourist car is not available; or
 - (ii) If the vehicles specified at (I) above are not available or are not desired, and ordinary four berthed first class compartment or a two berthed air conditioned (coups) compartment.

- (b) Take with himself in the reserved accommodation, without payment of any fare, his family members not exceeding four when traveling in a requisitioned railway compartment or saloon;
- (c) Taken with himself up to two personal servants by the lowest class of accommodation available; and
- (d) The Carriage of personal luggage up to three mounds when traveling by a railway saloon.

(5) A Minister reserving accommodation in the Railway shall be required, before beginning the Journey, to have the number and other details of the tickets purchased for the persons traveling with him in the reserved accommodation entered on the requisition form by the Station Master of the Station from which the journey is to commence.

(6) A Minister, when traveling on duty in Azad Kashmir or Pakistan by steamer or launch shall be entitled to

- (a) Draw the actual fare paid for himself;
- (b) Take with him up to two personal servants by the lowest class of accommodation available; and
- (c) The carriage of personal luggage upto three mounds.

(7) When a Minister travels on duty, in the public interest by road between places connected by railway and chooses to forego the privileges granted under sub-section (4) and (6) he may where the journey is performed in a vehicle not owned or maintained by Government draw-

- (a) Traveling allowance at the rate of seventy-five Paise per mile for his own journey by road, and
- (b) Actual expenses of transport of-
 - (i) Two private servants; and
 - (ii) All his personal luggage including stores carried for consumption on tour.

10. Compensation in case of accident: (1) If a Minister, during his tenures of office, dies or receive an injury as a result of an accident or by violence the Government shall pay to the person referred to in sub-section (2), a sum of one Lac and twenty five

thousand rupees, in case of death, and an amount to be determinate by Government having regard to scales of compensation applied by insurance companies in like cases, in case of injury.

(2) The compensation shall be payable in case of injury to the Minister and in case of death, to such member or member of his family, or if there be no such member, any other person or persons as may be nominated by him in this behalf, or, in the absence of such nomination, to his heirs.

(3) A nomination under sub-section (2) may be made, revoked or altered by a notice in writing signed by the Minister and addressed to the Accountant General of Azad Jammu and Kashmir.

11. **Daily Allowance during halt:** A Minister, while on tour shall be entitled to draw an allowance of one hundred and twenty five rupees per day for the duration of his halts on tour;

Provided that in case of halt for less than eight hours one half daily allowance shall be admissible;

Provided further that for such continuous halt on tours exceeding ten days, daily allowance admissible for-

- (i) The first ten days shall be at the rate;
- (ii) The next twenty days or part thereof at three-fourth of the full rate; and
- (iii) The remaining period, at one half of the full rate.

Explanation: For the purpose of this section-

- (c) Time spent on journey shall be included in the halt; and
- (d) A halt on tour shall be treated as continuous unless terminated by an absence at a distance from the halting place exceeding five miles, for a period not less than seven nights.

12. **Controlling Office:** A Minister shall be his own controlling office for purposes of traveling allowance, including the journey under-take outside his jurisdiction in the discharge of official business.

13. **Traveling Allowance for tour abroad:** A Minister traveling on

official business outside Pakistan shall be entitled to such allowance as May Specified by Government.

14. **Medical Facilities:** A Minister shall be entitled to Medical facilities admissible in terms of the Medical Attendance Rules, except that he and his family shall be entitled to Medical attendance at his residence.
15. **Leave:** (1) The Prime Minister may grant to a Minister, during his term of office, at any one time or from time to time leave of absence of urgent reasons of health or private affairs, a period not exceeding three months in the aggregate.

(2) The leave allowance of the Prime Minister and a Minister shall respectively be two thousand rupees and five thousand rupees per mensem.]
16. **Personal Staff:** A Minister, except while on leave shall be entitled to have such personal staff as may be sanctioned from time to time by Government.
17. **Provided Fund:** (1) A Minister may, at his option, become subscriber to the General Provident Fund, and if he so opts, he shall be subscribed to the Fund as a compulsory subscriber in accordance with the General Provident Fund Rules.

(2) A temporary advance may be granted to a Minister from the amount standing to his credit in the General Provident Fund at the discretion of Government for the purposes for which such advance may be granted to a subscriber under the said rules.

(3) The grant of a temporary advance under sub-section (2) shall unless the Government otherwise directs, be subject to the conditions to which an advance granted to a subscriber under the said rules is subject.
18. **General:** (1) Reasonable precautions shall be taken to see that official residence, transport and furniture provided to a Minister by Government are used with the same care with which a person's own property is taken care of.

(2) The Building Department, Azad Jammu and Kashmir shall mark all furniture and furnishings provided in an official residence, for the purposes of identification.

(3) When a Minister occupies an official residence, it shall be the duty of the official concerned of the said department to

hand over charge of the furnishing and furnishings in that residence to the Minister or to a person authorized by him in writing according to an inventory to be drawn up and signed by such officer.

(4) When a Minister is about to vacate the official residence, he shall inform the officer concerned of the said department and shall arrange that the furniture and furnishings of the official residence are handed over to that officer according to inventory to be drawn up and

(5) The Officer concerned of the said department and furnishings with the prior approval of the Minister.

- 19. Holidaying abroad:** (1) Minister may, while holidaying abroad, draw his full pay in foreign currency or the period of holiday spent abroad.

(2) A Minister who draws pay in foreign currency while holiday abroad shall not be liable to pay income-tax, provident fund subscription, etc, in foreign currency if he makes arrangement to pay amount in rupees in Azad Kashmir.

(3) The expenditure in foreign involved under this Ordinance shall be adjusted against the foreign exchange allocation placed at the disposal of the Government for each relevant shipping period.

(4) Where a Minister draws the pay in foreign currency he shall not be eligible to receive foreign exchange allocation from the State Bank of Pakistan in any other capacity.

- 20. Telephone:** A Minister shall be entitled at Government expenses to the use of two telephones at his office and two telephones at his residence both for official or private purposes throughout the term of his office and for a period of fifteen days immediately thereafter he will also be entitled to free telephone facilities on official tour where such facility is available.

- 21. Discretionary Grant:** A sum of rupees (one) and an amount of rupees (seventy five thousand per annum) shall be placed at the disposal of the Prime Minister and a Minister respectively for making discretionary grants in such manner as may be prescribed.

22. **Power to make Rules** – The Government may make rules to carry out the purposes of this Ordinance.

Sd/- (Sardar Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir, Muzaffarabad.

Sd/- (Mohammad Akram Shah)
Deputy Secretary,
Law and Parliamentary Affairs Secretariat
Azad Govt. of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIATE,
MUZAFFARABAD.**

Dated: the 18th of September, 1975.

No. 2833/SL/75. The following ordinance made by the President on the 17th of September, 1975, is hereby published for general information:-

(ORDINANCE XXIX OF 1975)

AN ORDINANCE to provide for the salary, allowances and privileges of the speaker of the Legislative Assembly of Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for the salary, allowances and privileges of the Speaker of the Legislative Assembly of 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 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 Speaker (Salary, Allowances, and Privileges) Ordinance, 1975.
(2) It shall come in to force at once.
2. **Definitions:** (1) In this Ordinance unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-
 - (a) "Constitution" means the Azad Jammu and Kashmir Interim Constitution Act, 1974.
 - (b) "Family" means the wife, children residing with and wholly dependent upon the Speaker.
 - (c) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (d) "Maintenance" in relation to a residence includes the payment of local rates, taxes and the provision of

electricity, water and gas;

- (e) “Official residence” means the house reserved from time to time for residence by Speaker and includes out-houses and gardens appurtenants thereto;
- (f) “Prescribed” means prescribed by rules framed under this Act, and
- (g) “Speaker” means the Speaker of the Legislative Assembly of Azad Jammu and Kashmir.

(2) Words and expressions used but not defined in this Ordinance shall have the same meanings as are assigned to them in the constitution.

3. **Salary:** The salary of the Speaker shall be two thousand and five hundred rupees per mensem.
4. **Equipment Allowance:** The Speaker may draw a sum of one thousand and five hundred rupees as equipment allowance on his appointment as such; provided that no such allowance was received by him during the preceding ten years on appointment to a diplomatic post, or as a president, Speaker or Minister.
5. **Allowance on taking up and laying down the office:** (1) The Speaker shall be entitled to claim actual expenses to the extent, mentioned mentioned below from his ordinary place of residence to the seat of Government and from the seat of Government to his ordinary place of residence on taking up or laying down office, as the case may be:-
 - (a) Actual Traveling expenses for himself and his family;
 - (b) Cost of transporting personal servants not exceeding two by the lowest class of accommodation; and
 - (c) Cost of transporting house hold effects, not exceeding one hundred and twenty mounds, by goods train, steamer, or other craft, excluding aircraft, and of his personal car, if any,

(2) No claim shall lie for any travel or transportation not performed within six months of the date of taking up or laying down office, as the case may be.
6. **Sumptuary Allowance:** The Speaker shall be entitled to receive sumptuary allowance at the rate of seven hundred and fifty rupees per mensem.

7. **Transport:** The Speaker shall be entitled to the use of official cars maintained at Government expense throughout his term of office.
8. **Official Residence:** (1) The Speaker shall be entitled, without payment of rent, to the use of an of official residence including accommodation on tour throughout his term of office, and for a period of fifteen days immediately thereafter, and the charge for its maintenance including electricity and gas charge shall be borne by Government, The residence shall be furnished by Government at a cost not exceeding twenty thousand rupees.

(2) If, at the time of entering upon office, an official residence is not available, the Speaker shall, until such residence is provided by Government, be paid the actual expenditure incurred by him or furnished accommodation for himself and his family, subject to a maximum of one thousand and five hundred rupees per mensem.

(3) Where a Speaker choose to reside-
 - (i) In his own house; or
 - (ii) In a rented house occupied by him before his appointment as Speaker;

He may be paid a monthly sum of Rs, 1,500/- in lieu of the official furnished accommodation and to cover all expenses on its maintenance. The charges for consumption of electricity and gas in respect of the said house shall be borne by Government.
9. **Traveling Allowance for touring in Azad Kashmir of Pakistan:** (1) Subject to the provisions made hereafter, the Speaker traveling on official duty shall be Treated as a First Grade officer.

(2) The Speaker may, of the public interest so demands, travel by air, in which case he shall be entitled to-
 - (a) Actual air fare paid for himself;
 - (b) Cost of transporting personal luggage up to one hundred pound, inclusive of the free allowance given by the air Company;
 - (c) Requisition, at the cost of Government, if he considers it necessary in the public interest, a Pakistan Air Force airplane or an aeroplane belonging to the government

subject to availability and in accordance with the rules made by the Federal Government or the provincial Government of Pakistan.

- (d) Take with himself his wife whether traveling by a commercial aero plan or by a requisitioned aero plan;

Provided that no non-official shall be allowed to travel in Pakistan Air Force aero plan without the authority of the Ministry of Defense;

- (e) Cost of transporting up to two personal servants by the lowest class of accommodation by rail or steamer;
- (f) Carriage of personal luggage by rail or steamer, subject to a maximum of three mounds; and
- (g) Claim the actual premium paid for insuring himself for the air journey for an amount not exceeding one LAC rupees.

- (3) Wherever possible, the Speaker shall purchase return air ticket.

- (4) The Speaker, when traveling on duty by rail in Pakistan shall be entitled to--

- (a) Requisition at the cost of Government--
 - (i) An ordinary first-cum-second class carriage or a "B" class tourist car, or an "A" class tourist car; if a "B" class tourist car is not available; or
 - (ii) if the vehicles specified at (i) above are not available, or are not desired, and ordinary four berthed first class compartment or a two berthed air conditioned (coups) compartment;
- (b) Take with himself in the reserved accommodation without payment of any fare, his family members not exceeding four when traveling in a requisitioned railway compartment or saloon;
- (c) Take with himself up to two personal servants, by the lowest class of accommodation available; and
- (d) The carriage of personal luggage up to three mounds when traveling by a railway compartment or up to six mounds when traveling by a requisitioned railway saloon.

(5) The Speaker reserving accommodation in the Railway shall be required before beginning the journey, to have the number and other details of the tickets purchased for the persons traveling with him in the reserved accommodation entered on the requisition form by the Station Master of the Station from which the journey is to commence.

(6) The Speaker, when traveling on duty is Pakistan by steamer or a launch, shall be entitled, to-

- (a) Draw the actual fare paid for himself;
- (b) Take with him up to two personal servants by the lowest class of accommodation available; and
- (c) The carriage of personal luggage up to three mounds.

(7) When the Speaker travels on duty, in the public interest, by road between place connected by railway and chooses to forego the privileges granted under sub-section (4) and (6) he may, where the journey is performed in a vehicle not owned or maintained by Government, draw-

- (a) Traveling allowance at the rate of seventy-five paisa per mile for his own journey by road, and
- (b) Actual expenses of the transport of-
 - (i) Two private servants; and
 - (ii) All his personal luggage, including stores carried for consumption on tour.

10. Compensation in case of accident: (1) If the Speaker, during his tenure of office, dies or received an injury as a result of an accident or by violence the government shall pay to person or persons referred to in sub-section (2), a sum of one Lac and twenty five thousand rupees, in case of death, and an amount to be determined by Government having regard to scales of compensation applied by insurance companies in like cases, in case of injury.

(2) The compensation shall be payable in case of injury, to the Speaker, and in case of death to such member or members of his family, or, if there be no such member, any other persons as may be nominated by him in this behalf, or, in the absence of such nomination, to his heirs.

(3) A nomination under sub-section (2) may be made,

revoked or altered by a notice in writing signed by the Speaker and addressed to the Account-General Azad Jammu and Kashmir.

- 11. Daily Allowance during Halt:-** The Speaker, while on tour shall be entitled to draw an allowance of seventy-five rupees per day for the duration of his halts on tours;

Provided that in case of halt for less than eight hours one-half daily allowance shall be admissible:

Provided further that for such continuous halt on tour exceeding ten days daily allowance admissible for-

- (i) The first ten days shall be at the full rate;
- (ii) The next twenty days or part, thereof at three-fourth of the full rate; and
- (iii) The remaining period, at one-half of the full rate;

Explanation:

- (i) Time spent on journey shall be included in the included in the halt; and
- (ii) A halt or tour shall be treated as continuous unless terminated by an absence at a distance from the halting place exceeding five miles, for a period not less than seven nights.

- 12. Controlling officer:** The Speaker shall be his own controlling officer for purposes of traveling allowance including the journey undertaken outside his jurisdiction in the discharge of his official duties.
- 13. Traveling allowance for tour abroad:** Speaker traveling on official business outside Pakistan shall be entitled to such allowance as may be specified by Government.
- 14. Medical Facilities:** The Speaker shall be entitled to medical facilities admissible in terms of Medical Attendance rules except that he and his family shall be entitled to Medical attendance at his residence.
- 15. Leave** (1) The Prime Minister may, grant to the Speaker during his term of office, at any one time or from time to time leave of absence for urgent reasons of health or private affairs, for a period not exceeding three months in the aggregate.

(2) The leave allowance of the Speaker shall be two thousand and five hundred rupees per mansion.

- 16. Provident fund:** (1) The Speaker may, at his option, become a subscriber to the General Provident Fund, and if he so opts he shall subscribe to the fund as a compulsory subscriber in accordance with the General Provident Fund Rules applicable to Azad Kashmir Government Servants.

(2) A temporary advance may be granted to the Speaker from the amount standing to his credit in the General Provident Fund at the discretion of Government for the purposes of which such advance may be granted to a subscriber under the said rules.

(3) The grant of temporary advance under sub-section (2) shall unless the Government otherwise direct be subject to the condition to which an advance granted to a subscriber under the said rules is subject.

- 17. Charge:-** The Speaker shall not be required to sign a charge report on taking up office as Speaker or laying down that office.

- 18. General report:**(1) All reasonable precautions shall be taken to see that the official residence transport and furniture provided to the Speaker by Government are used with the same care with which a person's own property is taken care of.

(2) All furniture and furnishings provided in the official residence shall be marked by the Building Department, Azad Kashmir, for the purposes of identification.

(3) When the Speaker occupies an official residence, it shall be the duty of the officer concerned of said Department to hand over charge of the furniture and furnishings in that residence to the Speaker or to a person authorized by him in writing according to an inventory to be drawn up and signed by such officer.

(4) When the Speaker is about to vacate the official residence, he shall inform the office concerned of the said Department and shall arrange that the furniture and furnishings of the official residence are handed over to that officer according to an inventory to be drawn up and signed.

(5) The officer concerned of the said Department may from time to time, inspect an official residence, its, furniture and furnishings with the prior approval of the Speaker.

- 19. Holidaying Abroad:** (1) The Speaker may, while holidaying

abroad, draw his full pay in foreign currency for the period of holiday of holidays spent abroad,

(2) When the speaker is holidaying abroad and draws his pay in the currency, he shall not be liable to pay income tax provident fund subscription etc. in foreign currency, if he makes arrangements to pay such amount in rupees in Azad Kashmir.

(3) The expenditure in foreign exchange involved under this Ordinance shall be adjusted against the foreign exchange allocation placed at the disposal of the Government for each relevant shipping period.

(4) Where the pay is drawn in foreign currency by the Speaker he shall not be eligible to receive foreign exchange allocation from the State Bank of Pakistan in any other capacity;

20. **Telephone:-** The Speaker shall be entitled at Government expense, to the use of two telephones at his office and two telephones at his residence both for official or private use throughout the term of his and for a period of fifteen days immediately thereafter, he will also be entitled to free telephone facility while on tour where such facility is available.
21. **Discretionary Grant:** A sum of Rs, 7,500/- per annum shall be placed at the disposal of the Speaker of making discretionary grants in such manner as may be prescribed.
22. **Power to make rules:** The Government may make rules to carry out the purposes of this Ordinance.

Sd/-
(Sardar Muhammad Ibrahim Khan)
President
Azad Jammu and Kashmir

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs
Azad Government of the State of
Jammu and Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 18th September, 1975.

No. 2833/SL/75. The following Ordinance made by the President on the 17th of September, 1975, is hereby published for general information:-

(ORDINANCE XXX OF 1975)

AN ORDINANCE to provide for salaries, allowances privileges of the Members of (Legislative Assembly of the Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for salaries, allowances and privileges of the Members of the Legislative Assembly of the Azad Jammu and Kashmir for the purpose s hereinafter appealing;

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 Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President of Azad Kashmir 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 (Salaries, Allowance and Privileges of Members) Ordinance, 1975.

(2) It shall come into force at once.
2. **Definitions:** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) "Assembly" means the Legislative Assembly of Azad Jammu and Kashmir;
 - (b) "Committee" means a Select committee or other committees of the Assembly and includes any committees appointed by the Government of the purpose connected with the Assembly and declared by the Government to be a committee of the Assembly;

- (c) “Family” means wife/ husband and such of his children, step-children parents, brother and sister as ordinarily reside with and are wholly dependant;
- (d) Form the commencement of its business to the termination of the business of a day;
- (e) “Member” means a Members of the Assembly other than minister, Parliamentary, secretary, Speaker or Deputy Speaker.
- (f) “Period” of residence on duty means the period during which a member resides at a place where a session of the Assembly or of a committee is half or where any other business connected with his duties as such member is transacted, for the purposes of attending to such other business and includes-
 - (i) In the case of a session of the Assembly, a period of such residence, not exceeding three days, immediately preceding the commencement of the session and a period of such residence not exceeding three days, immediately following the end of the session; and
 - (ii) In the case of a sitting of a committee or any other business a period of such residence not exceeding two days, immediately preceding the commencement of the business and a period of such residence, not exceeding two days immediately following the conclusion of the business of the committee or any other business; and
- (h) “Session” means the period commencing on the day of the first meeting of the Assembly after having been summoned and ending on the day the Assembly is prorogued or dissolved.

3. Salary:- (1) Subject to the provisions of sub-section (2) and sub-section (3) a member may draw salary at the rate of one thousand rupees per menses.

Provided that a member who, without permission of the Assembly,-

- (a) Fails to attend at least three-fourth of the total number of

settings hold in a months; or

- (b) If elected during the course of month, fails to attend at least three-fourth of total number of meetings held in that month subsequent to the date on which he takes his oath shall be ineligible to draw salary for that month.

(2) In the case of a Member who, by virtue of his holding an office of profit in the service of Azad Kashmir or Pakistan declared by law not to disqualify its holder from being a Member, is entitled to receive a salary, the amount of salary to which he is entitled under this Ordinance, shall be only such amount as would not, together with the amount of the salary, calculated on a monthly basis to which he is entitled by virtue of his holding such an office, exceed one thousand rupees per mensem.

(3) No salary shall be paid to any Member in respect of any period during which he was under detention on conviction for an offence involving moral turpitude under any law for the time being in force.

4. **Daily allowance:** A Member shall be entitled to receive a daily allowance at the rate of seventy-five rupees per diem for the period of residence on duty.

5. **Traveling Allowance:** (1) For every journey performed for the purposes of attending a session or a meeting of a committee or for attending to any other business connected with his duties as Member from his usual of residence to the place where the session or meeting is held or other business is transacted and for return journey form such place to his usual place of residence, a Member shall be entitled to receive traveling allowance at the following rats:-

- (a) Where the journey is performed by rail, an amount equal to the fare of the class traveled, plus half fare of the Air conditioned class;
- (b) Where the journey is performed by air, the fare of the economy class; and
- (c) Where the journey or any part hereof is performed by road-
 - (i) If the journey is performed by personal car or by engaging a full taxi, rupee one per mile;

- (ii) If the journey is performed by a borrowed car, at the rate of rupee one per mile; and
- (iii) If the journey is performed by any public transport playing for hire, at the rate of twenty-Paisa per mile;

Provided that-

- (i) No traveling allowance shall be admissible for journeys made during a session between the place where the session is held and any other place; and
- (ii) A Member who ordinary resides or carries on business at any place within five miles of the place at which his attendance is required in connection with his duties as a member, shall not be entitled to traveling allowance.

(2) Traveling allowance at the rates mentioned in subsection (1) shall be admissible to a Member for journey performed during the period of adjournment of a session, if the session is adjourned for a period of more than ten days.

6. **Form of certificate:-** Every claim by a Member for Traveling allowance or daily allowance shall be supported by a written certificate in the following form signed by the Member:-

“Certified that the amount has not been claimed by me in any other bill or drawn by me from any other source”

7. **Accommodation:** (1) Subject to availability and on payment of such charges as Government may determine, a Member may be provided with Government accommodation during the period of residence on duty.

(2) Where a Member is not provided with accommodation by Government or where he does not avail of the facilities of such and accommodation he shall be paid a subsidy at the rate of twenty-five rupees per diem for the period of residence on duty.

8. **Medial Facilities:** A Member shall be entitled for himself and his family to free indoor as well as outdoor medical facilities of the standard admissible to class I officer of the Government.

9. **Traveling allowance and daily allowance for business other**

than assembly business:- Where a member is called by a Government Department in connection with any official business in his capacity as a member, he shall be paid by the Department traveling allowance and daily allowance for the days of journey from and to his ordinary place of residence and for the day or days he is required to attend any such official business, at the rates admissible to him under this Ordinance.

- 10. Telephone:-** (1) A Member shall be entitled to, at Government expense the facility of a telephone at the place where he ordinarily resides, if the installation facility is available at such place:

Provided that Government shall pay only rupees one hundred and fifty per months as charges of rent of the telephone and the calls made there from irrespective of whether the telephone is a private connection or installed at Government expense:

Provided further that the Government shall not pay expenses of reinstallation in case the place of residence is changed.

(2) A Member who has not been provided with a telephone or who has no telephone connection in his own name shall be entitled to get rupees one hundred and fifty per month in lieu of the telephone charges mentioned in sub-section (1).

- 11. Leader of opposition:-** Leader of the Opposition shall, in addition to the salary, allowance and facilities admissible to him as a member, be entitled to-

- (a) An honorarium of rupees one thousand per mensem;
- (b) Office accommodation within the precincts of the Assembly Building;
- (c) The services of a whole time stenographer and two peons;
- (d) the installation of telephone at Government expenses at his office and at his residence at the place where the session is held, without payment of rent and charges for calls made; and
- (e) Accommodation at Muzaffarabad, free of rent.

12. **Exemption from payment of toll tax:-** A member shall be exempted from the payment of toll tax levied by Government or any local authority in the Azad Jammu and Kashmir.
13. **Power to make rules:-** After consultation with the Speaker of the Assembly, the Government may, by notification in the official Gazette make rules for carrying out the purposes of this Ordinance.
14. **Repeal.-** The Azad Jammu and Kashmir Members of the Legislative Assembly (Salaries and Allowances) Act, 1971 (Act: XV of 1971) is hereby repealed.

Sd/-

(Sardar Muhammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/- (Muhammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs Secretariat,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT
MUZAFFARABAD.**

Dated the September 22, 1975

No. 2874/SL/75. The following Ordinance made by the President on the 22nd of September, 1975, is hereby published for general information :-

(ORDINANCE XXXI OF 1975)

AN ORDINANCE to provide for re-adopting and regulating the use of State flag.

WHEREAS it is expedient to provide for re-adopting and regulating the use of the State flag, in the manner hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE in exercise of the powers conferred by Section 41 of the Azad Jammu and Kashmir Interim constitution Act, 1974, the President Azad Jammu and Kashmir 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 State Flag Ordinance, 1975.

(2) It extends to the whole of Azad Jammu and Kashmir territory and shall apply to all the State Subjects of Jammu and Kashmir wherever they may be.

(3) It shall come into force with effect from the commencing day.
2. **Definitions:-** In this Ordinance, unless there is anything repugnant in the subject or context:-
 - (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (b) 'State Flag' means the flag which was in use as the flag of Azad Jammu and Kashmir in the period commencing immediately after the setting up of the Azad Government of the state of Jammu and Kashmir in the year 1947 and ending with the twenty third day of August, 1971, as specified in the schedule of this Ordinance;

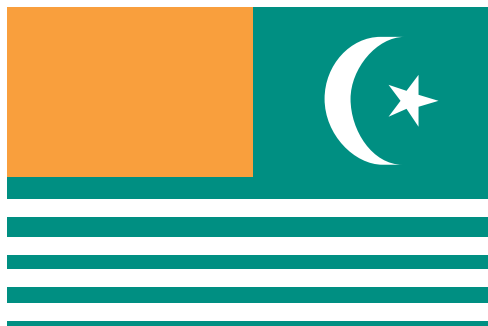
- (c) 'Commencing day' means the day fixed by the Government by notification in the Government Gazette for coming into force of this Ordinance.
 - (d) 'person' includes any body politic or corporate;
 - (e) 'prescribed' means as prescribed by rules made under Section 7 of this Ordinance.
3. **Re-adoption of State flag:-** (1) The State flag shall be readopted as the flag of Azad Jammu and Kashmir with effect from the commencing day and shall continue to be used as such till the accession of the State of Jammu and Kashmir to Pakistan.
- (2) The State flag shall be given due respect by the Government and the state subjects wherever they may be as the symbol of freedom movement of the people of Jammu and Kashmir.
4. **Use of State flag:-** (1) The manner in which the State flag will be used and the Persons entitled to the use of the State flag shall be such as may be prescribed.
- (2) The State flag shall not be hoisted or used except as provided in sub-section (1) of this section.
5. **Bar on use of the discarded flag:-** (1) The flag being used as the flag of Azad Jammu and Kashmir immediately before the commencing day shall stand discarded from the commencing day and all such flags shall be deposited with the Government which will arrange for their preservation.
- (2) No person shall use the flag so discarded or any flag of that design for any purpose whatsoever.
6. **Forfeiture and punishment:-** (1) Any person who contravenes the provisions of this ordinance or abets such contravention shall be punished with simple imprisonment which may extend to three months or with fine contravention of these provisions may be seized by the police officer not below the rank of sub-inspector and shall be forfeited to the state.
- (2) The offences under this Ordinance shall be cognizable and non bailable and shall be triable by a Magistrate of the First Class.
7. **Rules:-** The Government may make rules for carrying out the purposes of this Ordinance.

SCHEDULE

- (a) Three fourth green background representing the seventy five percent Muslim population of the State of Jammu and Kashmir.
- (b) One fourth Orange (Gold) color represents the twenty-five percent minorities of the State of Jammu and Kashmir.
- (c) The green stripes represent the valley of the State.
- (d) the white stripes respect the snow cover mountains of the state.
- (e) The crescent is the usual semblance of Jammu and Kashmir State.

Sd/-
(Sardar Mohammad Ibrahim Khan)
President
Azad Jammu and Kashmir

Sd/-
(Mohammad Akram Shah)
Deputy Secretary Law
Law & Parliamentary Affairs Sectt.
Azad Government of the State of J&K



**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT
MUZAFFARABAD.**

Dated the September 30, 1975.

No. 3018/SL/75. The following Ordinance made by the President on the 30th Sept, 1975 is hereby published general information:-

(ORDINANCE XXXII OF 1975)

AN ORDINANCE to amend the Pakistan (Administration of Evacuee Prosperity) Act, 1957.

WHEREAS it is expedient to amend the Pakistan (Administration Evacuee Property) Act, 1957, in this manner hereinafter;

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, THEREAFTER in exercise of the powers conferred by 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 and title and commencement.**— (1) This Ordinance may be called the Azad Jammu and Kashmir Administration of Evacuee Property (Amendment) Ordinance, 1975.

(2) It shall come into force at once and shall be deemed to have taken effect from the 22nd day of September, 1975.
2. **Amendment of Section 25, Act XXX of 1957.**— In the Pakistan (Administration of Evacuee property) Act, 1957 (as in force in Azad Jammu and Kashmir) in Section 25, after sub-section (z) of sub-section (2) the following sub-clause (aa) shall be added, namely:-

“(aa) make payments, out of money held by him, for rehabilitation of the displaced persons from the occupied part of Jammu and Kashmir State.”

Sd/-
(Sardar Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir, Muzaffarabad,

Sd/-
(Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs
Azad Government of the State of J&K

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April, 1976.

No. 1454/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 8th of April, 1976, and is hereby published for general information:-

(ACT I OF 1976)

An Act to provide for the regulation of minimum rates of Wages for workers employed in certain Industrial undertakings.

Whereas it is expedient to provide for the relation of Minimum rates of wages for workers employed in certain Industrial undertaking and for matters ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, Extent and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Minimum Wages Act, 1976.

(2) It extends to the whole of Azad Jammu and Kashmir territory.

(3) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-
 - (1) "adult" has the same meaning as in clause (b) of section 2 of the factories Act, 1934 (XXV of 1934), and adapted in Azad Jammu and Kashmir;
 - (2) "Board" means a minimum Wages Board established under section 3;
 - (3) "Employer" means any person who employs either directly or through an other person, whether on behalf of himself or any other person, any person for whom a minimum rate of wages may be declared under this Act, and includes.-
 - (a) in relation to a factory, a managing agent or other person who has ultimate Control over the

affairs of the factory; and

- (b) in other cases, any person responsible to the owner for supervision and control of such worker or for payment of his wages;

(4) "Factory" means a factory as defined in clause (j) of section 2 of the factory Act, 1934 (XXV of 1934), as adapted in Azad Jammu and Kashmir, and includes any place deemed to be a factory under sub-section (3), of section 5 thereof ;

(5) "Industry" with its grammatical variations and cognate expressions, means and industry as defined in clause 14 of section 2 of the Azad Jammu and Kashmir Industrial Relations ordinance, 1974 (III of 1974), and includes a plantation as defined in clause (III) of section 2 of the payment of Wages Act, 1936 (IV of 1936), as adapted in Azad Jammu and Kashmir;

(6) "juvenile worker" means a worker who is not adult;

(7) "Wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

- (a) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund;
- (b) any traveling allowance or the value of any traveling concession;
- (c) any sum paid to such person to defray special expenses incurred by him in respect of his employment;
- (d) any sum paid as annual bonus; or
- (e) any gratuity payable on discharge; and

(8) "Worker" means any person including an apprentice employed in any industry to do any skilled or unskilled, intellectual, technical, clerical, manual or other work, including domestic work, for hire or reward but does not includes-

- (i) persons employed by the Azad Government of the State of Jammu and Kashmir;

(ii) persons employed in agriculture.

(9) "Government" means the Azad Government of the State of Jammu and Kashmir.

3. **Establishment of Minimum Wages Boards-** (1) As soon as may be after the commencement of this Act, the Government shall establish a Minimum Wages Board consisting of the following four members to be appointed by it, namely:-

- (a) the Chairman of the Board;
- (b) One independent member;
- (c) One member to represent the employers of Azad Kashmir; and
- (d) One member to represent the workers of Azad Kashmir:

Provided that for the purpose of discharging the function of a Board specified in section 5 the following two more members appointed by the Government shall be added, namely:-

- (i) One member to represent the employers connected with the industry concerned; and
- (ii) One member to represent the workers engaged in such industry.

(2) The Chairman of the Board and the independent member shall be appointed from persons with adequate knowledge of industrial labor and economic conditions of Azad Kashmir who are not connected with any industry or associated with any employers 'or workers' Organization.

(3) The member to represent the employers of Azad Kashmir and the member to represent the workers of Azad Kashmir under sub-section (i) shall be appointed after considering nominations, if any of such organizations, as the Government considers to be representative organizations of such employers and workers respectively.

(4) The member referred to in the proviso to sub-section (1) to represent the employers connected with and the workers engaged in the industry concerned shall be appointed after considering nominations, if any, of such organizations as the Government considers to be representative organization of such employers and workers respectively.

(5) The terms of office of the members of the Board, the manner of filling casual vacancies therein, the appointment of its committees, if any, the procedure and conduct of the meetings of the Board and its committees and all matters connected therewith, including the fees and allowances to be paid for attending such meetings, and other expenses including expenses for the services of experts and advisers obtained by the Board, shall be such as may be prescribed by rules made under section 15.

4. **Recommendation of Minimum rates of wages for unskilled and Juvenile workers. –**

(1) A Board shall, upon a reference made to it by the Government, recommend to the Government, after such enquiry as the Board thinks fit, the minimum rates of wages for adult unskilled workers and juvenile workers employed in industrial undertakings in Azad Kashmir.

(2) In its recommendations under sub section (i), the Board shall indicate, whether the minimum rates of wages should be adopted uniformly throughout Azad Kashmir or with such local variations for such localities as are specified therein.

5. **Recommendation of Minimum rates of wages for workers with respect to Particular Industries.-**

(1) Wherein respect of any particular industry in Azad Kashmir for which no adequate machinery exists for effective regulation of wages, the Government is of the opinion that, having regard to the wages of the workers employed in the undertakings engaged in such industry it is expedient to fix the minimum rates of wages of such workers, it may direct the Board to recommend, after such enquiry as the Board thinks fit, the minimum rates of wages either for all such workers or for such of them as are specified in direction.

(2) In pursuance of a direction under sub-section (i), the Board may recommend minimum rates of wages for all classes of workers in any grade and, in such recommendation , may specify-

(a) the minimum rates of wages for—

(i) time work;

(ii) piece work;

- (iii) overtime work; and
 - (iv) work on the weekly day of rest and for paid holidays; and
 - (b) the minimum time rates for workers employed on piece work so as to guarantee minimum wages on a time basis for such workers.
 - (3) The time rates recommended by the Board may be on hourly, daily, weekly or monthly basis.
 - (4) The rates recommended under this section for overtime work and work on paid holidays shall not be less than the minimum rates fixed for such work under any other law for the time being in force.
6. **Power to Declare Minimum rates of wages** - (1) Upon receipt of a recommendation of the Board under section 4 or section 5, the Government may,
- (a) by notification in the official Gazette, declare that the minimum rates of wages recommended by the Board for the various workers shall, subject to such exceptions as may be specified in the notification, be the minimum rates of wages for such workers; or
 - (b) if it considers that the recommendation is not, in any respect equitable to the employers or the workers, within thirty days of such receipt, refer it back to the Board for reconsideration with such comments there on and giving such information relating thereto as the Government may think fit to make or give.
- (2) Where a recommendation is referred back to the Board under clause (b) of sub-section (1), the Board shall reconsider it after taking into account the comments made and information given by the Government and, if necessary, shall hold further enquiry and submit to the Government—
- (a) a revised recommendation, or
 - (b) if it considers that no revision or change in the recommendation is called for, make report to that effect stating reasons therefore.
 - (3) Upon receipt of the recommendation of the Board under

sub-section (2), the Government may, by notification in the official Gazette, declare that the minimum rates of wages recommended under that sub-section by the Board for various workers shall, subject to such modifications and exceptions as may be specified in the notification, be the minimum rates of wages for such workers.

(4) Unless any date is specified for the purpose in the notification and under sub-section (1) or subsection (3), the declaration thereunder shall take effect, on the date of publication of such notification.

(5) Where after the publication of a notification under subsection (i) or sub-section (3) or after the minimum rates of wages declared thereunder have taken effect, it comes to the notice of the Government that there is a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the worker-, it may refer the matter to the Board and any such reference shall be deemed to be a reference under subsection (2).

(6) The minimum rates of wages declared under this section shall be final and shall not in any manner be questioned by the person in any court or before any authority.

7. **Periodical Review of Minimum Rates of wages.-** (1) The Board shall review its recommendations if any change in the economic conditions and cost of living and other relevant factors so demand, and recommend to the Govt. any amendment, modification or revision of the minimum rates of wages declared under section 6 :

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances of a case so require, and later than three years from such date.

(2) Review and recommendation under this section shall be deemed to be an enquiry and recommendation under section 4 or, as the case may be, under section 5, and, so far as may be, the provisions of this Act shall, to such review and recommendation, apply accordingly.

8. **Prohibition to pay wages at a Rate below the Minimum Rate of Wages.-** (1) Subject only to such deductions as may be authorized under this Act, or under any other law for the time being in force, no employer shall pay any worker wages, at a rate

lower than the rate declared under this Act to be the Minimum rate of wages for such worker.

- (2) Nothing in sub-section (1) shall be deemed—
 - (a) to require or authorize an employer to reduce the rate of wages of any worker ; or
 - (b) to affect, in any way, the right of a worker to continue to receive wages at a rate higher than the maximum rate declared under this Act if, under any agreement, contract or award, or as a customary differential, or otherwise, he is entitled to receive wages at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such worker to enjoy; or
 - (c) to affect the provisions of the payment of Wages Act, 1936 (iv of 1936), as adapted in Azad Jammu and Kashmir.

(3) Any employer who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, and if the court trying such contravention by order so directs, shall also pay to the worker concerned such sum as may be specified in the order to represent the difference between the amount actually paid to such worker and the amount which would have been paid to him had there been no such contravention.

- 9. **Cognizance of Offences.-** No court inferior to that of a Magistrate of the first class shall take cognizance of an offence punishable under this Act or the rules made thereunder, and cognizance shall not be so taken except upon a complaint in-writing made by the Government or by any person authorised in this behalf by the Government.
- 10. **Protection of the Proceedings of a Board.-** No act or proceeding of a Board shall be invalid or questioned merely on the ground of existence of any vacancy therein or of any defect in the constitution or in the appointment or qualification of any member thereof.
- 11. **Power of Boards, etc., to collect Information.-** (1) Any member or the Chairman of a Board may, for the purpose of an enquiry under this Act or the rules made thereunder, direct any employer to furnish such records, documents or information and

do such other acts as the Board or the Chairman, as the case may be, may require, and every such employer shall comply with such direction.

(2) The Chairman of the Boards and such members, officers and servants thereof as are authorized in this behalf by the rules made may, for the discharge of any functions under this Act or the rules made thereunder,-

- (a) enter, at all reasonable times, any factory ;
- (b) inspect any books, registers and other documents relating to such factory ; and
- (c) record statement of persons connected with the working of such factory :

Provided that no one shall be required under this clause to answer any question tending to criminate himself.

(3) Any employer who contravenes the provisions of sub-section (i), and any person who willfully obstructs anyone in the exercise of any power under sub-section (2), or fails to produce on demand thereunder any books, registers or other documents, shall be punishable with fine which may extend to five hundred rupees.

12. **Certain Powers of Court to Boards etc.-** (1) The Boards shall while holding an enquiry under this Act or the rules made thereunder be deemed to be Civil Courts and shall have the same powers as are vested in such Courts under the Code of Civil Procedure, 1908 (Act V of 1908), as adapted in Azad Jammu and Kashmir in respect of the following matter namely :-

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) compelling the production of documents and material objects ; and ,
- (c) issuing commissions for the examination of witnesses.

13. **Chairmen, etc., deemed to be public servants.-** The Chairmen of the Boards and the members, officers and servants thereof, shall all be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860).

14. **Bar to legal proceedings.-** No suit, prosecution or other legal

proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

15. **Rules relating to Boards.-** (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the matters specified in sub-section (5) of section 3 ;
- (b) the giving of opportunities to persons likely to be effected by the minimum rates of wages to offer comments and make suggestions ;
- (c) fixing normal hours of work for the purpose of determining time work ;
- (d) giving adequate publicity to the minimum rates of wages declared under this Act ;
- (e) the maintenance of wage books, wage slips, registers and other records and prescribe their forms and particulars to be entered therein and the manner of authenticating such entries ;
- (f) the preparation and submission of reports and returns ;
- (g) the appointment of inspections or other officers and prescribe their powers and functions ; and
- (h) such other matters for which rules are considered necessary for effectively carrying out the provisions of this Act.

(3) Rules made under this section may provide that any contravention thereof shall be punishable with fine not exceeding five hundred rupees.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J&K,

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 15, 1976.

No. 1455/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 8th of April, 1976, and is hereby published for general information :-

(ACT II OF 1976)

An Act to make provisions for the Administration and development of Chhamb Area

Whereas it is expedient to develop the agriculture and other land resources of the Chhamb Area for the betterment of the community at large and to provide for its administration;

It is hereby enacted as follows:-

1. **Short title and commencement,-** (1) This Act may be called the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1976.
(2) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is something repugnant: in the subject or context :-
 - (1) 'Chhamb Area' means the entire area of Tehsil Bhimber of Mirpur District liberated during the war of 1971;
 - (2) 'Commissioner' means the Commissioner appointed under this Act;
 - (3) 'Deputy Commissioner' means the Deputy Commissioner appointed under this Act;
 - (4) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (5) 'Land' means Land as defined in the Land Revenue Act, as in force in Azad Jammu and Kashmir ;
 - (6) 'Land owner' means a person who owned land or had any right or title as such in an estate or part thereof on 24th October, 1947 and includes his successors in interest ;
 - (7) 'Prescribed' means prescribed by rules made by the Government under this Act ;
 - (8) 'Revenue Officer' has the same meaning as assigned to it under section 3 (12) of the Punjab Land Revenue Act of 1887, as adapted in Azad Jammu and Kashmir.

3. **Vesting of Land in the Government.-** (1) All lands in Chhamb Area shall vest and shall be deemed to have always vested in the Government free from all encumbrances with effect from 17th day of December, 1971.
(2) The possession of the area already taken over shall be deemed to have been taken over on behalf of the Government.
4. **Allotment of land.-** (1) The Government may allot the agriculture lands in the area to the following :-
 - (i) Land owners of the Chhamb Area who have not been allotted any agriculture land either in Pakistan or in Azad Jammu and Kashmir in lieu of land held by them in Chhamb Area or whose allotment of land is less then the land they owned in Chhamb Area prior to October, 1947 ;
 - (ii) 1965 War refugees from Indian held part of the State of Jammu and Kashmir duly registered with the Deputy Commissioner of the respective districts in Azad Jammu and Kashmir;
 - (iii) 1971 War displaced persons;
 - (iv) Ex-servicemen.(2) Allotment to these categories of persons shall be made in the prescribed manner.
5. **Bar on right or title to any particular land.-** Not withstanding anything contained in any other law for the time being inforce in Azad Jammu and Kashmir or any entry in the record of rights, no person shall be entitled to the allotment or shall be deemed to have any right or title to have any particular lend or lands in Chhamb Area.
6. **Power to enter upon and take possession.-** When the Deputy Commissioner is satisfied that any person has taken or is in possession of land in the Area to which he has no right or title under this Act, the Deputy Commissioner shall, forth with enter upon the land with the use of such force as may be necessary and resume possession of it and taken possession or of all crops, trees and buildings thereon on behalf of the Government without payment of any compensation whatsoever.
7. **Condition for allotment.-** No person shall be deemed to and allottee or to have any right or title of land allotted to him until such a written order has been passed and he has been put in possession of the land by a Revenue Officer.
8. **Cancellation of allotment.-** If any person proved to have

obtained allotment on the basis of false information his allotment shall be cancelled.

9. When the Deputy Commissioner is satisfied that an allottee in possession of land has committed a breach of the conditions of his allotment, he may, after giving the allottee opportunity to appear and state his objection, order the ejectment from the land and resume its possession for allotment to any other deserving person.
10. **Power to frame schemes.-** The Government may frame a scheme or schemes for the development of Chhamb Area or a part thereof, providing for all or any of the following matters :-
 - (1) Lay-out and construction of townships, market places, village and settlements.
 - (2) Provision of facilities for communications, including Lay-out and alteration of roads, streets, foot-paths and bridle paths.
 - (3) Provision of open spaces, playing fields, National Parks, Nature reserves, forests and forests parks, camping grounds, camping sites, cemeteries and places of religious worship.
 - (4) Provision of water supply, electricity, Education, health, and agriculture facilities for the betterment of the community.
 - (5) A Scheme or Schemes shall be prepared by the departments concerned in consultation with the Commissioner and the execution of these schemes may be done under the supervision of the Commissioner.
11. **Appeal and review.-** (1) (a) Save as otherwise provided by this Act, an appeal shall be from an original order of a Deputy Commissioner to the Commissioner.
 - (b) Orders passed by the Commissioner on an appeal shall be final.
 - (2) The period of limitation for an appeal under sub-section (1) shall be thirty days from the date of the order appealed against.
 - (3) Sections 5 and 12 of the Limitation Act shall apply to the cases under this section.
12. (1) The Commissioner or the Deputy Commissioner, may, either of his own motion or on the application of any party interested, review and, on so reviewing, modify, reverse or

confirm, any order passed by himself or any of his predecessors in office.

(2) An order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard.

(3) An order against which an appeal has been preferred shall not be reviewed.

(4) An application for review of an order shall not be entertained unless it is made within 30 days from the passing of the order.

(5) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

13. **Bar on jurisdiction.-** (1) No Court shall have jurisdiction to entertain any suit or an application made to obtain decision or order in respect of any matter which the Azad Government or any officer is by this Act empowered to decide or dispose of.

(2) No decision made or order passed by any competent authority under this Act shall be questionable in any Court of law.

14. **Power to make rules.-** The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

15. **Delegation of power.-** The Government may, by general or special order notify in the official Gazette, direct that the powers exercisable by it under this Act shall be established by such officer and in such circumstances and under such conditions, if any as may be specified in the order.

16. **Penalty.-** Whoever contravenes any of the provisions of this Act or obtains allotment on the basis of false informations, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, which may extend to one thousand rupees, or with both.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR ,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 15, 1976.

No. 1456/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 8th of April, 1976, and is hereby published for general information:-

(ACT III OF 1976)

An Act to regulate the recruitment and conditions of service of persons appointed to the Secretarial Staff of the Azad Jammu and Kashmir Legislative Assembly.

Whereas it is expedient to regulate by laws, the appointment to, and terms and conditions of service of persons in the Secretariat of the Azad Jammu and Kashmir Legislative Assembly and to provide for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

PART I - PRELIMINARY.

1. **Short title and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly Secretariat (Recruitment, terms and conditions) Act, 1976.

(2) It shall come into force at once.
2. **Definitions.-** (1) In this Act, unless there is anything repugnant in the subject or context,-
 - (a) 'Adhoc appointment' means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;
 - (b) 'Appointing authority' means the authority competent to make an appointment under this Act;
 - (c) 'Assembly' means the Legislative Assembly of Azad Jammu and Kashmir;
 - (d) 'Constitution' means the Azad Jammu and Kashmir Interim Constitution Act, 1974;

- (e) 'Council' means the Azad Jammu and Kashmir Council constituted under Azad Jammu and Kashmir Interim Constitution Act, 1974;
 - (f) 'Deputation' means the temporary transfer or loan of the services of an officer from or to the Secretariat to or from any office outside the Secretariat;
 - (g) 'Employee' means a person appointed to a post;
 - (h) 'Finance Committee' means the Finance Committee of the Assembly constituted under section 30-B of the Constitution;
 - (i) 'Government' means Azad Government of the State of Jammu and Kashmir;
 - (j) 'Government Secretariat' mean the Departments of the Government when referred to collectively;
 - (k) 'Post' means a post in the Secretariat;
 - (1) 'Prescribed' means prescribed by rules made under this Act;
 - (m) 'Secretary' means the Secretary of the Assembly and includes any person for the time being performing the duties of the Secretary; and
 - (n) 'Secretariat' means the Secretariat of the Assembly.
- (2) All words and expressions used but not defined in this Act shall, unless the context otherwise, requires, have the meanings assigned to them in the Constitution.

PART II - SECRETARIAT

- 3. **Secretariat.** There shall be a Separate Secretariat of the Assembly headed by the Secretary.
- 4. **Strength and composition of the Secretariat.-** (1) The Secretariat shall have
 - (a) Such number of permanent post as may be prescribed; and
 - (b) Temporary posts as may be prescribed and such other

temporary posts as may from time to time, be sanctioned.

(2) The powers to create posts in all grades, temporarily or permanently, shall vest in the Speaker:

Provided that no post in grade 17 or above shall be created for a period exceeding six months, except after consultation with Finance Committee.

(3) The Speaker may prescribe that the power under subsection (2) may subject to such conditions, if any, as may be laid down, be exercised by the Secretary.

PART III - RECRUITMENT.

5. **Methods of Recruitment** - (1) Recruitment to a post or class of posts may be made by one or more of the following methods, namely:-

- (a) by promotion of a person employed in the Secretariat;
- (b) by transfer on deputation of a person serving outside the Secretariat in connection with the affairs of the Government or the Council; and
- (c) by direct recruitment.

(2) The Speaker may prescribe from time to time by general order,-

- (a) the method or methods by which recruitment to a post or class of posts shall be made; and
- (b) the percentage of vacancies to be filled by each method.

(3) Where a percentage has been specified under section (2) for departmental promotion and direct recruitment, promotion against the posts reserved for departmental promotion shall be made first and the posts reserved for direct recruitment shall be filled later.

(4) Notwithstanding any thing contained in this Act.-

- (a) short terms vacancies reserved for direct appointment may be filled by any other method of recruitment prescribed in accordance with this Act; and

- (b) if no suitable person is available for promotion or transfer, the vacancy may be filled by direct appointment.
- 6. **Recruitment by Promotion.-** (1) Promotion to a post may be made-
 - (a) In the case of a selection post, on the basis of selection on merit; and
 - (b) in the case of non-selection post, on the basis of seniority-cum-fitness.

(2) Appointment to posts from one grade to another and from one category to another within a grade shall be made on the recommendation of a Departmental Committee, consisting of not less than three member, to be constituted-

 - (a) in the case of posts in grade 17 and above by the Speaker; and
 - (b) in the case of all other posts by the Secretary.
- 7. **Recruitment by transfer.-** (1) Appointment of officers in grade 17 and above by transfer shall be made within the concurrence of the Government on a tenure basis for a maximum period of three years which may, from time to time, be extended by the appointing authority.

(2) Appointing authority may, after consultation with the Government, or as the case may, the Council revert an officer to his parent Department to which he belongs or his original post before the expiry of the period of his tenure.
- 8. **Appointment by direct recruitment.-** (1) Appointment by direct recruitment to the posts in grade 17 and above shall be made upon the recommendation of a Selection Committee, consisting of not less than three Members, to be constituted by the Speaker.

(2) Appointment by direct recruitment to posts other than those referred to in sub-section (1) shall be made upon the recommendation of a Recruitment Committee, consisting of not less than three member, to be constituted by the Secretary.
- 9. **Qualification etc. for appointment.-** The qualifications,

experience and age for appointment to the various categories of posts by Departmental promotion or otherwise shall be prescribed.

10. **Appointing authority.-** Appointment to all posts in grade 17 and above shall be made by the Speaker and appointment to all other posts shall be made by the Secretary or by any officer of the Secretariat authorised by the Secretary in this behalf.
11. **Probation.-** (1) An initial appointment to a post, not being an ad-hoc appointment, shall be on such probation and for such period of probation as may be prescribed.
 - (2) If, in the opinion of the appointing authority, the work or conduct of an employee on probation is unsatisfactory or shows that he is unlikely to become efficient, such authority may order that
 - (a) his probation be extended for such period not exceeding one year, as he may think fit; or
 - (b) if he was appointed to such post by direct recruitment be discharged; or
 - (c) if he was appointed to such post by promotion or transfer, be reverted to the post from which he was promoted or transferred and against which he holds a lien; or
 - (d) if there be no such post, be discharged-
 - (3) On the satisfactory conclusion of the period of probation the appointing authority may confirm a probationer in his appointment provided a clear vacancy exists.
 - (4) If no order extending the probation or otherwise is passed by appointing authority on or before the completion of the period of probation or extended probation, the probationer shall be deemed to have been confirmed in his appointment.
 - (5) Any person appointed to a post by promotion or transfer may also be placed on probation in accordance with the provisions of sub-section (1).
 - (6) Where, in respect of any post, the satisfactory completion of the period of probation includes the passing of an

examination, test or course, a person appointed on probation to such post who, before the expiry of the original or extended period of his probation, fails to pass such examination or test or to successfully complete the course, may

- (a) if he was appointed to such post by direct recruitment, be discharged ; or
- (b) if he was appointed to such post by promotion or transfer, be reverted to the post from which he was promote or transferred and against which he holds a lien; or
- (c) if there be no such post, be discharged.

12. **Conditions of service, etc.-** The terms and conditions of service not provided for by this Act, including recruitment policy, rank, status, seniority, promotion, termination of service, conduct, efficiency, discipline, pay, leave, pension, gratuity, provident fund, benevolent fund, group insurance, right of appeal or representation and privileges of an employee, shall be governed by the provisions for the time being in force or any provision made thereafter and applicable to the employee holding corresponding posts in the Government Secretariat, subject or such modifications, variations or exceptions, if any, as the Speaker may, from time to time, by order specify.

PART IV RE-EMPLOYMENT

13. **Re-employment.-** (1) A retired employee shall not ordinarily be re-employed in the Secretariat unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the Speaker, such retired employee or civil servant may be ordered with the approval of the Finance Committee:

Provided that, where employment is sought by an employee on leave preparatory to retirement, he shall obtain the prior approval of the appointing authority for the post from which he retired from service.

PART V ---RULES

14. **Powers to make rules.-** The Speaker may make rules for carrying in to effect the provisions of this Act.
15. **Relaxation of rules.-** Where the Speaker is satisfied that the operation of any provision of the rules framed under this Act causes undue hardship in any particular case, he may, with the approval of the Finance Committee by order dispense with, or relax the requirement of that provision to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

Sd/-
(Mohammed Akram Shah)
Deputy Secretary Law,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 20, 1976

No. 1502/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 18th April, 1976, and is hereby published for general information:-

(ACT IV OF 1976)

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

Whereas it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Act, 1976.

(2) It shall come into force at once.
2. **Amendment of section 53, Ordinance X of 1970.**- In Section 53, of Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for sub-section (2), the following shall be substituted, namely :-

“(2) A Tribunal shall consist of a person, who is a District and sessions Judge or is qualified to be appointed as Judge of the High Court.”

Sd/-
(Sardar Aftab Ahmad Khan)
Secretary Law & Parliamentary Affairs,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 20, 1976.

No. 1503/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 18th of April, 1976, and is hereby published for general information:-

(ACT V OF 1976)

AN ACT, to amend the Jammu and Kashmir Forest Regulation of 1930.

Whereas it is expedient to amend the Jammu and Kashmir Forest Regulation, 1930 (II of 1930) as inforce in Azad Jammu and Kashmir, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Forest Regulation (Amendment) Act, 1976.

(2) It shall come into force at once.
2. **Amendment of Section 6, Regulation II of 1930.-** In the Forest Regulation, 1930 (II of 1930) hereinafter referred to as the said Regulation, in section 6:-
 - (a) In the heading, between the figure and stop '6' and the word 'Any' the brackets and figure '(1)' shall be inserted;
 - (b) In clause (ii), for the word 'commercial' the word 'lease' shall be substituted ;
 - (c) for clause (iii), the following shall be substituted:-
 - '(iii) In case of illicit lopping and girdling of trees the price of the lopped or girdled tree at half Zamidari rates prevalent at the time of disposal of the case shall be assessed as compensation ;
 - (iv) In case of damage other than illicit cutting and lopping and girdling of tree in the forest closures, the compensation shall extend to

rupees five hundred but shall not be less than rupees three hundred.

- (v) Where tree is cut from revenue assessed or evacuee land, except where the competent authority grants permission for bonafide personal use or gifting the tree for use in the same village, the amount of compensation shall be assessed at the price of the tree at lease rates prevalent at the time of the disposal of the case.
- (vi) In other cases under the Forest Regulation or rules made thereunder the amount of compensation to be awarded in such case may extend to one thousand rupees, but shall not be less than three hundred rupees in addition to the price of the forest produce at prevalent market rate.

(2) In case of damage to the forest where a culprit cannot be specified, the Divisional Forest Officer may impose a collective compensation for the loss so caused and direct the same to be paid by the persons residing in the locality or estate. The compensation so recovered may be utilized for the development of the particular area in the locality or estate where such recovery is made.

(3) Where a person has been found to have encroached upon or in unlawful possession of forest land he shall be ejected by the Divisional Forest Officer, and every Officer of Police, on the requisition of such Officer, shall assist him. Appeal shall lie against the order issued by the Divisional Forest Officer to the Chief Conservator of Forests and final revision shall lie to the Government.

(4) The price and compensation awarded shall be recoverable as arrears of land revenue.

3. **Substitution of Section 28, Regulation II of 1930.** In the shall Regulation, for section 28, the following shall be substituted, namely:-

"28. (1) All timber or forest produce which is or is not the property of the Government and in respect of which a forest offence has been committed, and all tools, boats, carts, cattles and vehicles, used in committing any forest

offence shall be confiscated on the orders of the Forest Officer not below the rank of Divisional Forest Officer.

- (2) Such confiscation may be in addition to any other punishment prescribed for such offence.
- (3) When anything is confiscated under these Regulations, such thing shall thereupon vest in the Government.
- (4) The officer adjudging confiscation shall take and hold possession of the thing confiscated, and every officer of police, on the requisition of such officer, shall assist him in taking and holding such possession.
- (5) Property of which confiscation has been adjudged and in respect of which the option of paying a penalty in lieu of confiscation has not been exercised, shall be sold, destroyed or otherwise disposed of in such manner as the Government may direct.
- (6) A revision against the order passed by the Divisional Forest Officer shall be to the Government within sixty days from the date of such order, Every application for revision shall be accompanied by a copy of the order by which the applicant is aggrieved.
- (7) Notwithstanding anything contained in these Regulations or any other law for the time being in force, no order passed by the Divisional Forest Officer under these Regulations or no order passed by the Government in revision shall be called in question in any Court.
- (8) No suit, prosecution or other legal proceedings shall lie against any person for any thing in good faith done or intended to be done under these Regulations or any rule, direction or order made thereunder.
- (9) Notwithstanding anything contained in these Regulations or rules made thereunder, on conviction of an offender, or on directing the confiscation of property under these Regulations the Government is authorised to grant reward to any person or persons who have contributed to the seizure of the property confiscated, or the conviction of the offender out of sale proceeds of the confiscated forest produce. The amount of reward shall be 10% of the sale proceed upto the value of Rs.

50,000/- and 5% over the value of Rs. 50,000/-subject to a minimum of Rs. 5,000/-.

4. **Addition of section 55 and 56, Regulation II of 1930.-** In the said Regulation, after section 54, the following shall be added, namely:-
- "55. The Chief Conservator of Forests may from time to time, give directions, instructions and order for carrying out the purposes of these Regulations, contravention of these directions, instructions or orders given by the Chief Conservator of Forests shall be punishable with imprisonment of either description for a term which may extend to one month or with fine not exceeding rupees three hundred or with both.
56. Notwithstanding anything contained in these Regulations or any other law for the time being in force, every offence punishable under these Regulations, or any rule, direction or order made thereunder, shall be cognizable, compoundable and bailable. "
5. **Repeal.-** The Azad Jammu and Kashmir Forest Regulation (Amendment) Ordinance, 1976 (Ordinance I of 1976) is hereby repealed.

Sd/-
(Sardar Aftab Ahmad Khan)
Secretary Law & Parliamentary Affairs
Azad Govt. of the State of J & K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 20, 1976

No. 1504/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 18th of April, 1976, and is hereby published for general information:-

(ACT VI OF 1976)

AN ACT to regulate the appointment to, and the terms and conditions of service in respect of persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government.

Whereas it is expedient to regulate by law, the appointment to, and the terms and conditions of the persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, Application and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Civil Servant Act, 1976.
 - (2) It applies to all Civil servants wherever they may be.
 - (3) It shall come into force at once.

CHAPTER I - PRELIMINARY

2. **Definitions.-** (1) In this Act, unless there is any thing repugnant in the subject or context,-
 - (a) 'Adhoc Appointment' means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;
 - (b) 'Civil Servant' means a person who is member of a Civil Service, or holds a Civil post, in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Government, but does not includes--
 - (i) a person who is on deputation to the service of

Azad Jammu and Kashmir in connection with the affairs of the Government, from the Council or the Federation or any province of Pakistan or authority;

- (ii) a person who is employed on contract, or on work-charged basis, or who is paid from contingencies; or
- (iii) a person who is a 'worker' or 'workman' as defined in the Factories Act, 1934 (XXV of 1934) or the Workers' Compensation Act, 1923 (VIII of 1923);
- (c) 'Constitution' means the Azad Jammu and Kashmir Interim Constitution Act, 1974 ;
- (d) 'Council' means the Azad Jammu and Kashmir Council constituted under the Constitution ;
- (e) 'Government' means the Azad Government of the State of Jammu and Kashmir ;
- (f) 'initial recruitment' means appointment made otherwise than by promotion or transfer ;
- (g) 'pay' means the amount drawn monthly by a civil servant as pay, and includes technical pay, special pay, personal pay and any other emoluments declared as pay by the prescribed authority ;
- (h) 'permanent post' means a post sanctioned without limit of time ;
- (i) 'prescribed' means prescribed by rules ;
- (j) 'rules' means the rules made or deemed to have been made under this Act ;
- (k) 'selection authority' means the Azad Jammu and Kashmir public service commission, departmental selection board, departmental selection committee or other authority or body on the recommendation of, or consultation with which any appointment promotion, as may be prescribed, is made ; and
- (l) 'temporary post' means a post other than a permanent post.

(2) For the purpose of this Act, an appointment whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribe manner.

**CHAPTER II —
TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS**

3. **Terms and Conditions.-** The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.

4. **Appointments.-** Appointments to a civil service of Azad Jammu and Kashmir or a civil post in connection with the affairs of the Government, shall be made in the prescribe manner by the Government, or by a person authorised by it in that behalf.

5. **Probation.-** (1) An initial appointment to a service or post referred to in section 4, not being an ad hoc appointment, shall be on such probation and for such period of probation as may be prescribed.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on such probation and for such period of probation as may be prescribed.

(3) Where, in respect of any service or post, satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any .training, a person appointed on probation to such service or post who, before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete the course or the training shall, except as may be prescribed otherwise,-

(a) If he was appointed to such service or post by initial recruitment, be discharged; or

(b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged.

6. **Confirmation.-** (1) A person appointed on probation shall, on satisfactory completion to his probation, be eligible for confirmation in a service or a post as may be prescribed.

(2) A civil servant promoted to a post or grade on probation

shall on satisfactory completion of his probation, be confirmed in such post or grade, as may be prescribed.

(3) A civil servant promoted to a post or grade on regular basis shall be confirmed after rendering satisfactory service for such period as may be prescribed.

(4) There shall be no confirmation against any temporary post.

(5) A civil servant who, during the period of his service was eligible for confirmation in any service or against any post, retires from service before confirmation shall not, merely by reason of such retirement, be refused confirmation in such service or against such post or any benefits accruing there from.

(6) Confirmation of a civil servant in a service or against a post shall take effect from the date of the occurrence of a permanent vacancy in such service or against such post or from the date of continuous officiation, in such service or against such post, whichever is later.

7. **Seniority.-** (1) Seniority on initial appointment to a service, cadre, grade, or post shall be determined in the prescribed manner.

(2) Seniority in the grade to which a civil servant is promoted shall take effect from the date of regular appointment to a post in that grade:

Provided that Civil servants who are selected for promotion to a higher grade in one batch shall, on their promotion to the higher grade, retain their inter-se seniority in lower grade.

(3) For proper administration of a service, cadre or grade, the appointing authority shall from time to time cause a seniority list of the members of such service, cadre or grade to be prepared.

(4) Subject to the provisions of sub-section (3), the seniority of a civil servant in relation to other civil servants belonging to the same service, cadre or grade, whether serving in the same department or office or not, shall be determined in such manner as may be prescribed.

8. **Promotion.-** (1) A civil servant possessing such minimum

qualification as may be prescribed shall be eligible for promotion to a post for the time being reserved under the rules for departmental promotion in any higher grade of the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotion shall be made as may be prescribed,-

- (a) in the case of a selection post, on the basis of selection on merit ; and
- (b) in the case of a non-selection post, on the basis of seniority-cum-fitness.

9. **Posting and Transfers.-** Every civil servant shall be liable to serve anywhere within or outside Azad Jammu and Kashmir in any post under the Government or the Council or the Federal Government of Pakistan or any Provincial Government of Pakistan, or a local authority or a Corporation or a body set up or established by any such Government:

Provided that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favorable than those to which he would have been entitled if he has been so required to serve.

10. **Termination of Service.-** (1) The service of a civil servant may be terminated without notice-

- (i) during the initial or extended period of his probation ;

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred and promoted on probation from one grade, cadre or post, to another grade, cadre or post, his service shall not be terminated so long as he holds a lien against his former post, grade, or cadre, and he shall be reverted to his former grade, or as the case may be, cadre or post ;

- (ii) if the appointment is made on ad hoc basis liable to termination on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

(2) In the event of a post being abolished or number of posts in a cadre or grade being reduced the services of the most junior person in such cadre or grade shall be terminated.

(3) Notwithstanding the provisions of sub-section (1) but subject to the provisions of sub-section (2), the service of a civil servant in temporary employment or appointed on adhoc basis shall be liable to termination on thirty days notice or pay in lieu thereof,

11. **Reversion to a lower grade or service.-** A civil servant appointed to a higher post or grade on ad hoc or officiating basis, shall be liable to reversion to his lower post or grade without notice.

12. **Retirement from service.-** A civil servant shall retire from service.-

(i) in the case of a person holding the post of Secretary to Government or an equivalent or higher post on such date, as the competent authority may, in the public interest, direct;

(ii) in the case of a person holding a post lower than the post of Secretary to Government on such date, as the Government may, in the public interest, in consultation with an Advisory Committee as may be constituted the prescribed manner for the purpose, direct ;

(iii) in any other case, on such date, after he has completed twenty-five years of service qualifying for pension or other retirement benefits, as the competent authority may, in the public interest, direct ; and

(iv) where no direction is given under clause (i) or as the case may be, under clauses (ii) and (iii) on the completion of the fifty fifth year of his age.

Explanation.- In this section 'competent authority' means the appointing authority of a person duly authorised by the appointing authority in that behalf, not being a person lower in rank to the civil servant concerned.

13. **Employment after Retirement.-** (1) A retired civil servant shall not be re-employed under the Government unless such re-employment is necessary in the public interest and is made, except where the appointing authority is the Government, with

the prior approval of the Government :

Provided that no retired civil servant shall be re-employed or continue to be so employed after he has completed fifty eighth year of his age.

(2) A civil servant may, during leave preparatory to retirement or after retirement from Government service, seek any private employment :

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement, he shall obtain the prior approval of the prescribed authority.

14. **Conduct.-** The conduct of a civil servant shall be regulated by rule made by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.
15. **Efficiency and Discipline.-** A civil servant shall be liable to such disciplinary action and penalties and in accordance with such procedure as may be prescribed.
16. **Pay.-** A civil servant appointed to a post or grade shall be entitled, in accordance with the rules, to the pay sanctioned for such post or grade

Provided that, when the appointment is made on a current charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner :

Provided further that where a civil servant has been dismissed or removed from service or reduced in rank, he shall, in the event of the order of dismissal, removed from service or reduction in rank being set aside, be entitled to such arrears or pay as the authority setting aside the order may determine.

17. **Leave.-** A civil servant shall be allowed leave in accordance with the leave rules applicable to him:

Provided that the grant of leave shall depend on the exigencies of service and shall be at the discretion of the competent authority.

18. **Pension and Gratuity-** (1) On retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed.

(2) In the event of death of a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as may be prescribed.

(3) No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline but Government may sanction, compassionate allowance to " such a servant, not exceeding two-thirds of the pension or gratuity which would have been admissible to him if he had been by bodily or mental infirmity incapacitated for further service on the date of such dismissal or removal.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority according to the length of service of the civil servant which qualifies for pension or gratuity, and any overpayment consequent upon such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

19. **Provident Fund.-** (1) Before the expiry of the third month of every financial year, the accounts officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to maintain a statement under his hand showing the subscription to, including the interest accruing thereon, if any, and withdrawals or advances his provident fund during the preceding financial year.

(2) Where any subscription made by a civil servant to his provident fund has not been shown or credited in the account by the accounts officer or other officer required to maintain such account; such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

20. **Benevolent Fund and Group Insurance.-** All civil servants and their families shall be entitled to the benefits admissible under the Azad Jammu and Kashmir Employees Benevolent Fund and Group Insurance Act, 1971, and the rules made there under.

21. **Right of Appeal or Representation.-** (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is allowed to a civil

servant by any rules applicable to him, such appeal or application shall, except as may otherwise be prescribed, be made within sixty days of the communication to him of such order.

(2) Where no provision for appeal of review exists in the rules in respect of any order, a civil servant aggrieved by any such order may, except where such order is made by the Government, within sixty days, of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.;

CHAPTER III — MISCELLANEOUS.

22. **Saving.**- Nothing in this Act or in any rules shall be construed to limit or abridge the power of the Government to deal with the case of any civil servant in such manner as may appear to it to be just and equitable :

Provided that, where this Act or any rule is applicable to the case of a civil servant, the case shall not be dealt with in any manner less favorable to him than that provided by this Act or such rule.

CHAPTER IV — RULES.

23. (1) The Government, or any person authorised in this behalf may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.
- (2) Any rules, regulations, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, regulations, orders or instructions are not inconsistent with the provisions of this Act, and shall be deemed to be made under this Act.

Sd/-
(Sardar Aftab Ahmad Khan)
Secretary Law & Parliamentary Affairs,
Azad Government of the State of J & K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 6th July, 1976.

The following Act of Azad Jammu and Kashmir received the assent of the President on the 1st July, 1976, and is hereby published for general information:-

(ACT VII OF 1976)

An Act further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974.

Whereas it is expedient further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974. (Act VIII of 1974), for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and Commencement-** (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (Second Amendment) Act, 1976.

(2) It shall come into force at once.
2. **Amendment of Section 2, Act VIII of 1974.-** In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), in section 2, in the definition of 'joint sitting', after the words 'Assembly', comma and the Words, "the Federal Minister incharge of the council Secretariat" shall be inserted.
3. **Amendment of Section 21, Act VIII of 1974.-**In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), in Section 21-
 - (a) The following new sub-section (3-A) shall be added:-

"(3-A) the Federal Minister of State for Kashmir Affairs and Northern Affairs shall be an ex-officio member of the Council"; and
 - (b) In sub- section (10), after the word "Assembly" the words "and the Federal Minister of State for Kashmir Affairs and Northern Affairs" shall be inserted.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 6th July, 1976.

The following Act of Azad Jammu and Kashmir received the assent of the President on the 4th July, 1976, and is hereby published for general information:-

(Act No. VIII 1976)

AN ACT further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974.

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. **Short Title and Commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (Third Amendment) Act, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the seventh day of November, 1975
2. **Amendment of Section 2, Act VIII of 1974.-** In the Azad Jammu and Kashmir interim Constitution Act, 1974 (Act VIII of 1974), in Section 2, after sub-section (2), the following subsection shall be added, namely:-

"(3) A person who does not believe in the absolute and unqualified finality of the prophet hood of Muhammad (peace be upon him) the last of the prophets or claims to be a prophet, in any sense of the world or of any description whatsoever, after Muhammad (peace be upon him), or recognizes such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of this Act or law,"
3. **Amendment of Section 42, Act VIII of 1974.-** In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), in section 42:-

(a) for sub-section (3), the following shall be substituted, namely:-

"(3) The Supreme Court shall consist of a Chief Justice, to be known as Chief Justice of Azad

Jammu and Kashmir, and one other Judge," ;
and

(b) after sub-section (12) the following new sub-section shall be added, namely:-

(13) If there is a difference of opinion between the two Judges of the Supreme Court, the judgment, decree, order or sentence of the High Court appealed from shall be deemed to be the judgment decree, order or sentence, as the case may be, of the Supreme Court.

Provided that if such difference of opinion is only in respect of the nature, quantum or extent of the relief liability, penalty or punishment to be granted or imposed, the decision of the Supreme Court shall be expressed in terms of opinion of the senior of the two judges.

(14) The person holding office as Chief Justice of the State of Azad Jammu and Kashmir immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (First Amendment) Act, 1975, shall as from such commencement hold office as Chief Justice of Supreme Court under this Act on the same terms and conditions of service as were applicable to him immediately before such commencement.

(15) All Legal proceedings pending in the Judicial Board, immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (First Amendment) Act, 1975, shall, on such commencement, stand transferred to, and be deemed to be pending before the Supreme Court for determination and any judgment or order of the Judicial Board delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the Supreme Court.

4. **Insertion of New Sections 42-A and 42-B.-** In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), hereinafter referred to as the said Act, alter section 42, the following new sections shall be inserted, namely :-

"42-A. Issue and Execution of processes of Supreme Court.-

- (1) The Supreme Court shall have power to issue such directions, orders or decrees as may be necessary for doing complete justice in any case or matter pending before it including an order for the purpose of securing the attendance of any person or the discovery or production of any document.
- (2) Any such direction, order or decree shall be enforceable throughout Azad Jammu and Kashmir as if it has been issued by the High Court.
- (3) All executive and Judicial authorities throughout Azad Jammu and Kashmir shall act in aid of the Supreme Court.
- (4) Subject to this Act and law, the Supreme Court may, in consultation with the Council, make rules regulating the practice and procedure of the Court.

Provided that till the new rules are framed, the rules framed by the Judicial Board shall, so far as they are not inconsistent with this Act and any other law, be deemed to have been made by the Supreme Court until altered or amended and references to the Judicial Board in these rules shall be construed to be referred to the Supreme Court.

42 B. Decisions of Supreme Court Binding on other Courts.- Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other Courts in Azad Jammu and Kashmir."

5. **Insertion of new Sections 44-A and 44-B.-** In the said Act, after section 44, the following new sections shall be inserted, namely :-

"44-A. Rules of Procedure.- Subject to this Act and law, the High Court may, in consultation with the Government, make rules regulating the practice and procedure of the Court or of any Court subordinate to it."

"44-B. Decision of High Court binding on subordinate of Courts.- Subject to section 42 B, any decision of the High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it."

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad, the 31st December, 1976.

The following Act of Assembly received the assent of the President on 31st December, 1976, and is hereby published for general information :-

(ACT IX OF 1976)

An Act to provide for restrictions on dowry and bridal gifts.

Whereas it is expedient to provide for restrictions on dowry and bridal gifts and for matters connected therewith or ancillary thereto ;

It is hereby enacted as follows :-

1. **Short title, extent and Commencement.-** (1) This Act may be called the Dowry and Bridal Gifts (Restriction) Act, 1976.

(2) It extends to the whole of Azad Jammu and Kashmir and applies to all citizens of Azad Jammu and Kashmir.

(3) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-
 - a) 'bridal gift' means any property given as a gift before, at or after the marriage, either directly or indirectly by the bridegroom or his parents to the bride in connection with the marriage but does not include Mehr;
 - b) 'Dowry' means any property given before, at or after the marriage, either directly or indirectly, to the bride by her parents in connection with the marriage but it does not include property which the bride may inherit under the laws of inheritance and succession applicable to her;
 - c) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - d) 'Marriage' includes betrothal, Nikah and Rukhsati;
 - e) 'Nikah Khawan' means a person who solemnizes marriage between the parties;
 - f) 'Parents' includes the guardian of a party to a marriage

and any person who provides for dowry or bridal gifts and, in the case of a party to a marriage who has no parent, or whose marriage is solemnized in circumstances in which, or at a place at which, no parent is present, such party;

- g) 'Present' means a gift of any property not being a bridal gift or dowry, given before, at or after the marriage, either directly or indirectly, to either party to a marriage in connection with the marriage or to the relatives of the bride or bridegroom but does not include neundra and salami ;
- h) 'Property' means property, both movable and immovable and includes any valuable security as defined in the Azad Kashmir Penal Code (Act XLI of 1860).

3. **Restriction on dowry, presents and bridal Gifts.-** (1) Neither the aggregate value of the dowry and presents given to the bride by her parents nor the aggregate value of the bridal gifts or of the presents given to the bridegroom shall exceed two thousand and five hundred rupees:

Explanation. -

The ceiling of two thousand five hundred rupees specified in this sub-section does not in any way imply that the dowry, bridal gifts and presents of a lesser amount may not be given.

(2) No dowry, bridal gifts or presents may be given before or after six months of Nikah, and if Rukhsati takes place some time after Nikah, after six months of such Rukhsati.

4. **Restriction on presents.-** No person shall give to either party to the marriage any present the value of which exceeds one hundred rupees :

Provided that the limit of one hundred shall not apply to the presents given to the bridegroom by the parents of the bride under sub-section (1) of section 3:

Provided further that the President the Prime Minister, Minister, Adviser, Speaker, Deputy Speaker, Member of Legislative Assembly of Azad Jammu and Kashmir, Government servant or an official serving in any corporation, industry or establishment owned, controlled or managed by Government shall not receive any present in connection with his marriage or the marriage of his son or daughter except from his relations (Khandan).

5. **Vesting of Dowry Etc. In the Bride.-** All property given as dowry or bridal gifts and all property given to the bride as a present shall vest absolutely in the bride and her interest in property however derived shall hereafter not be restrictive, conditional or limited.
6. **Expenditure on Marriage.-**The total expenditure on a marriage, excluding the value of dowry, bridal gifts and present, but including the expenses on Mehndi, Barat and Valima incurred by or on behalf of either party to the marriage shall not exceed two thousand and five hundred rupees.
7. **Display of Dowry, etc.-** The parents of each party to a marriage shall, at the time of Rukhsati, display all items of dowry, bridal gifts and presents given or received in connection with the marriage so as to be visible to the person attending the Rukhsati.
8. **Lists of Dowry, Etc. to be Furnished to Nikah Khawan.-** (1) The parents of each party to a marriage shall furnish to the Nikah Khawan lists of dowry, bridal gifts and presents given or received in connection with the marriage.
 - (2) The lists referred to in sub-section (1) shall be furnished,-
 - a) In the case of property given or accepted before or at the time of the marriage, at the time of marriage; and
 - b) In the case of property given or accepted after the marriage, within fifteen days of its being given or accepted.
 - (3) The lists referred to in sub-section (1) shall—
 - a) Contain details of the property along with the value thereof; and
 - b) be signed or thumb-marked by the persons furnishing them to the Nikah Khawan and attested by at least two witnesses.
 - (4) The parents of each party to a marriage shall furnish to the Nikah Khawan the details of expenditure incurred on the marriage, duly signed or thumb-marked by them within one week.
 - (5) The Nikah Khawan shall forward the lists furnished under sub-section (1) and the details of expenditure submitted under sub-section (4) to the Tehsil Qazi within fifteen days of receipt

of such list or details of expenditure.

9. **Restriction on Dancing Etc.-** Dancing by females and playing of music or musical instruments by use of loudspeaker in marriage ceremonies shall be prohibited.
10. **Penalty and Procedure.-** (1) Whoever contravenes, or fails to comply with, any provision of this Act or the rules made thereunder shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both:

Provided that if both the parents of a party to the marriage contravene, or fail to comply with, any provision of this Act or the rules made thereunder, action under this section shall be taken against the father, guardian, proxy or agent.

Provided further that if the parent who contravenes, or fails to comply with, any provision of this Act or the rules made thereunder is a female, shall be punishable with fine only.

(2) Any offence punishable under this Act shall be triable only by a Magistrate 1st Class.

(3) No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by, or under the authority of, the Tehsil Qazi within nine months from the date of Nikah, and if rukhsati takes place some time after Nikah, from the date of such rukhsati.

(4) While trying an offence punishable under this Court shall follow the procedure prescribed by the Code of Criminal Procedure, 1898, (Act V of 1898) for the trial of offences by Magistrates.

11. **Power to make rules.-** The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Government of the State of J&K.
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 31st December, 1976.

The following Act of the Legislative Assembly received the assent of the President on 31st December, 1976, and is hereby published for general information:-

(ACT X OF 1976)

An Act to amend the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968.

Whereas it is expedient to amend the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968 (IV of 1968) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.-** (1) This Act may be called the Azad Kashmir Logging and Sawmill Corporation (Amendment) Act, 1976.
(2) It shall come into force at once.
2. **Amendment of Section 2, Ordinance IV of 1968.-** In the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968 (Ordinance IV of 1968), hereinafter referred to as the said Ordinance, in section 2, for clause (iii), the following shall be substituted:-
"(iii) 'Chief Secretary' means the Chief Secretary of Azad Government of the State of Jammu and Kashmir."
3. **Amendment of Section 5, Ordinance IV of 1968.-** In the said Ordinance, in Section 5, in sub-section (2), for the words 'Chief Advisor' the word 'Government' shall be substituted.
4. **Substitution of Section 6, Ordinance IV of 1968.-** In the said Ordinance, for section 6, the following shall be substituted, namely :-
"6. **Appointment of Chairman and Director.-** (1) The Board shall consist of the following Directors, namely :-
 - (a) The Chief Secretary;
 - (b) Chairman, Azad Kashmir Mineral and Industrial Development Corporation who shall be the Managing Director and shall be Chief Executive

of the Corporation ;

- (c) two persons nominated by the Government ;
- (d) Secretary to the Government in the Finance Department; and
- (e) Chief Conservator of Forests.

(2) The Chief Secretary shall be the Chairman of the Board.

(3) General Manager AKLASC shall act as Secretary to the Board.

(4) The Managing Director and each Director shall perform such duties as may be prescribed by regulations and until such regulations are framed, as may be assigned by the Chairman.

(5) One of the Directors shall be nominated by the Chairman to be Financial Director who shall exercise such powers and discharge such duties as may be prescribed.

5. **Amendment of Section 11, Ordinance IV 1968.-** In the said Ordinance, in Section 11, for the words 'Chief-Advisor' occurring twice, the word 'Government' shall be substituted.

6. **Amendment of Section 12, Ordinance IV of 1968.-** In the said 'Ordinance, in Section 12-

- (i) in sub-section (2), the words 'and one copy to the Chief Advisor' shall be deleted; and
- (ii) in sub-section (3), the words 'or the Chief Advisor' shall be deleted.

7. **Amendment of Section 17, Ordinance IV of 1968.-** In the said Ordinance, in Section 17, for the words 'Chief Advisor' the word 'Government' shall be substituted.

8. **Repeal.-** The Azad Jammu and Kashmir Lodging and Sawmill Corporation (Amendment) Ordinance, 1976 (Ordinance II of 1976) is hereby repealed.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law & Parliamentary
Affairs, Azad Government of the State
of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Muzaffarabad, the 31st December, 1976.

The following Act of Assembly received the assent of the President on the 31st December, 1976, and is hereby published for general information:-

(ACT XI OF 1976)

An Act to amend the Mirpur Development Authority Ordinance, 1974.

Whereas it is expedient to amend the Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974), in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.-** (1) This Act may be called the Mirpur Development Authority (Amendment) Act, 1976.
(2) it shall come into force at once.
2. **Amendment of the Schedule, Ordinance IV of 1974.-** In the Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974), in the Schedule, for the full-stop at the end a comma shall be substituted and thereafter the words 'but shall not include the area, at present reserved for the establishment of industrial estate and any other area or areas which may from time to time be reserved by the Government for the establishment of Industrial Estate or Estates or for the purposes of Industrial Development' shall be added.
3. All allotments made and actions taken by the permission Committee constituted vide Order No. 301-31/C&1/67 dated 7th February, 1967, and reconstituted Vide Order No. Industries 315/270/75/71 dated 27th January, 1971, in the Industrial Estate Area shall be deemed to have been made under this Act.
4. **Repeal-** The Mirpur Development Authority (Amendment) Ordinance, 1976 (Ordinance V of 1976) is hereby repealed.

Sd/-

(Syed Mohammad Akram Shah)

Deputy Secretary,

Law & Parliamentary Affairs,

Azad Government of the State of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad, the 31st December, 1976.

The following Act of Assembly received the assent of the President on 31st December, 1976, and is hereby published for general information:-

Act XII of 1976

An Act to provide for the maintenance and restoration of order in areas affected by certain calamities and for the prevention and control of and relief against such calamities.

Whereas it is expedient to provide for the maintenance and restoration of order in areas affected by certain calamities and for the prevention and control of and relief against such calamities, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Natural Calamities (Prevention and Relief) Act, 1976.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) 'Relief Commissioner' means the person appointed as such under sub-section (2) of section 3 of this Act;
 - (b) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (c) 'Prescribed' means prescribed by rules made under this Act.
3. **Declaration of Calamity affected area and appointment of Relief Commissioner.-** (1) Whenever the Azad Jammu and Kashmir or any part thereof is affected or threatened by flood, famine, locust or any other pest, hail-storm, fire, epidemic or any other calamity which, in the opinion of the Government, warrants action under this Act, the Government may, by Notification, declare the whole or any part of Azad Jammu and

Kashmir, as the case may be, as calamity affected area.

(2) While issuing a notification under sub-section (1) Government shall by notification, appoint a Relief Commissioner for the Calamity affected area.

(3) The Government may confer on the Relief Commissioner for the whole or any part of the calamity affected area,-

- (a) The powers of a Magistrate of the First Class under Section 144 of the Code of Criminal Procedure, 1898, (V of 1898) ; and
- (b) Powers under such other laws as the Government may consider necessary for carrying out the purpose of this Act.

4. **Prevention and Relief.-** (1) Subject to the other provisions of this Act and of the rules made thereunder, the Relief Commissioner shall, with respect to the calamity affected area, take such steps as he may deem necessary in order to maintain order, prevent, check or control the calamity or reduce the extent and severity thereof or to provide immediate relief to the victims of the calamity in the calamity affected area.

(2) In particular and without prejudice to the generality of the powers conferred by the preceding sub-section, the Relief Commissioner shall have power within the calamity affected area,-

- (a) To evacuate or segregate population;
- (b) To requisition bulldozers, tractors, motor-vehicles, carts, carriages, boats, and other means of transport by air, land or water, and beasts of burden;
- (c) To require the residents to declare surplus stocks of food, fodder, firewood, clothing and beddings and to requisition all or any of these articles;
- (d) To requisition building materials;
- (e) To requisition any building or land;
- (f) To demolish any building or other structure;
- (g) To conscript labour;
- (h) To direct any person to abstain from a certain act or to take certain order with regard to certain property in his

possession or under his management; and after approval of the Government-

- (i) To acquire any land; or
- (j) To remit in whole or part any Government dues payable by any person or in respect of any property affected by the calamity:

Provided that with respect to the powers conferred by-Clauses (b), (c), (d), (e), (f), (g), (h) and (i) of this sub-section, the person owning the article, beasts of burden, building or land which is requisitioned or acquired, or the building or other structure which is demolished, or the person directed to abstain from any act or to take any order with regard to any property, and the persons conscripted to work as Laborers shall be entitled to reasonable compensation as may be claimable under any law for the time being in force, or if no such law exists as is applicable to the case, then as prescribed by rules under this Act, and such compensation shall be paid within one year from the day it falls due.

(3) Subject to the right of the owner to claim compensation, the property with regard to which an order for requisition or acquisition has been passed by the Relief Commissioner shall forthwith vest in the Relief Commissioner, who may deal, with it in such manner as he deems proper in order to discharge his duties under this Act:

Provided that when the purpose for which the property was requisitioned has been served it may, at his request be returned to the owner after the compensation paid to him has been refunded by him less the depreciation charges.

(4) The Relief Commissions may, in addition to any action prescribed by or under this Act, use or cause to be used such force as may, in his opinion, be necessary for securing compliance with or given effect to or preventing any contravention of an order passed or for the effective exercise of a power exercisable under this Act.

5. **Requisition of services of Government officials.-** The Relief Commissioner may, for the purposes of this Act, directly requisition the services of any employee of the Government with in the casualty affected area, after consultation.

with the official superior of his department, as far as practicable, and the person to whom the requisition is addressed shall comply

with it as if it were an order passed by the Government or as the case may be, by his official superiors.

6. **Punishment and procedure.-** (I) Any person who fails to comply with an order passed by the Relief Commissioner or any other person authorised to pass an order under this Act or the rules thereunder shall be deemed to have disobeyed a direction so as to be liable for punishment under section 188 of the Azad Penal Code, 1860 (XLV of 1860).

(2) Nothing in sub-section (1) shall debar a competent authority from taking disciplinary action against an employee of the Government who has failed to obey a lawful order passed under this Act or the rules thereunder.

(3) Every offence punishable under this Act shall, within the meaning of Code of Criminal Procedure, 1898 (V of 1898), be cognizable and may be tried in accordance with the procedure prescribed by that code for summary trials.

7. **Delegation of powers.-** (1) The Relief Commissioner may delegate all or any of his powers to any officer, not below the rank of a Tehsildar, by name or by designation.

(2) The Relief Commissioner and the officers to whom all or any of his powers have been delegated under sub-section (1) shall be public servants within the meaning of section 21 of the Azad Penal Code, 1860 (XLV of 1860).

8. **Revision.-** (1) Any order passed under this Act by the Relief Commissioner, shall be subject to revision by the Government, and the Relief Commissioner, shall give effect to the orders of the Government made in revision.

(2) The Government shall by rules, prescribe the class of cases and the manner in which and the time within which orders made under this Act shall be liable to revision by Government.

9. **Power to give effect to order.-** If in any case it is not possible to serve an order under this Act on any person without defeating the object of the order or if the person to whom the order is addressed fails to comply with it, the Relief Commissioner may, after recording the reason for doing so, give effect to the order and for that purpose may take such steps or pass such order with regard to any property as he considers necessary.

10. **Bar to action.-** No order made under this Act shall be, called in question in any Court and no Civil or Criminal proceeding shall

be instituted against any person for anything done or purported to have been done or intended to be done in good faith under this Act or against any person for any loss or damage caused to, or respect of any property whereof possession has been taken or which has otherwise been dealt with under this Act.

11. **Rules.-** (1) The Government shall as soon as may be, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), the Government may, by rules, provide for all or any of the following matters, namely:-

- (a) The procedure to be adopted in giving alarm of an impending calamity;
- (b) The method of securing information with regard to flood or any other impending calamity;
- (c) The measures and precautions to be taken to avert any such calamity;
- (d) The procedure to be followed for survey of places of safety and the entry into any such place for the purpose of such survey after a proper notice ;
- (e) The method of assessment and payment of compensation on account of requisition and acquisition of property under this Act; and
- (f) The procedure with regard to revisions against an order passed under this Act and the period during which such revisions can be presented.

(3) The rules made under this Act shall be subject to the concurrence of the Assembly.

12. **Repeal.-** The Azad Jammu and Kashmir National Calamities (Prevention and Relief) Ordinance, 1976 (Ordinance VIII of 1976) is hereby repealed.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs Secretariat,
Azad Govt. of the State of J&K
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 31st December, 1976.

The following Act of the Assembly received the assent of the President on the 31st day of December, 1976, and is hereby published for general information:-

(ACT XIII OF 1976)

An Act to provide for credit facilities for persons engaged in agriculture.

WHEREAS it is expedient to provide for credit facilities for persons engaged in agriculture;

It is hereby enacted as follows:-

1. **Short Title, extent and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Loans for Agricultural Purposes Act, 1976.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.
2. **Act to override other laws.-** The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.
3. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context, —
 - (a) 'Bank' means a Scheduled Bank within the meaning of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), and includes the Agricultural Development Bank of Pakistan established under the Agricultural Development Ordinance 1961 (VI of 1961), as in force in Azad Jammu and Kashmir ;
 - (b) 'Economic holding' means an area of 50 Acres;
 - (c) 'Government' means the Azad Government of the State of Jammu and Kashmir;

- (d) 'Land' means land used for agricultural purposes or for purposes subservient to agriculture;
- (e) 'Land-owner' has the same meaning as in the Land Revenue Act, but does not include a lessee or a mortgagee;
- (f) 'Loans or Advances' means loans or advances for agricultural purposes;
- (g) 'Prescribed' means prescribed by rules made under this Act; and
- (h) 'Revenue Officer' has the same meaning as in the Land Revenue Act, as in force in Azad Jammu and Kashmir;
- (i) 'Subsistence holding' has the same meaning as in the Azad Jammu and Kashmir Land Reforms Act, 1960.

4. **Presentation of Pass Book.-** (1) A land owner applying to any bank for the grant of a loan or advance may, for the purpose of enabling the bank to take action in accordance with sub-section (4), produce before the bank a pass book prepared in the prescribed form and manner setting out particulars of the land owned by him.

(2) The entries in the pass book shall be authenticated by the Revenue Officer and shall be prima facie evidence of the title of the holder of the pass book to the parcels of land entered in the pass book, free of any prior encumbrance, unless otherwise specified therein.

(3) The pass book shall be deemed to be a title deed and accepted as such by the bank for granting a loan or advance to a land owner on the security of such land entered therein as he may indicate.

(4) If the bank grants a loan or advance to the land-owner on production of the pass book, the bank shall endorse the pass book against the entry relating to the land on the security of which the loan or advance is granted by it.

(5) The endorsement made in the pass book under sub-section (4) shall create a charge in favour of the bank on the land against the entry relating to which the endorsement has been made and the land-owner shall be debarred from alienating the land until the outstanding amount of the loan or advance granted by the

bank has been repaid.

(6) Any alienation of land in contravention of sub-section (5) shall be void.

(7) If the land-owner fails to repay the amount of the loan or advance in accordance with the terms of his agreement with the bank, without prejudice to any other legal remedy the amount shall be recoverable by the Collector as arrears of Land Revenue on the application by the Bank.

5. **Power to make rules.-** (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may specify the ratio to be maintained by the Scheduled banks between loans and advances granted to land-owner having land not exceeding a subsistence holding, those having land not exceeding such holding but not exceeding an economic holding and those having land exceeding an Economic holding.

(3) The ratio specified in the rules shall not be varied

(i) to the disadvantage of land-owners having Land not exceeding a subsistence holding and to the advantage of land-owners having land exceeding a subsistence holding ; or

(ii) to the disadvantage of land-owners having land less than an economic holding and to the advantage of land-owners having land exceeding an economic holding.

6. **Repeal.-** The Azad Jammu and Kashmir Loans for Agricultural purposes Ordinance, 1976 (Ordinance VII of 1976) is hereby repealed.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Government of the State of
Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 31st December, 1976

The following Act of the Legislative Assembly received the assent of the President on the 31st day of December, 1976, and is hereby published for general information:-

(ACT XIV OF 1976)

An Act to provide Law to empower the Government to exercise control over Industrial establishment in-public, semi-public or private sector in Azad Jammu and Kashmir and to safeguard interests of the Government in Industrial Estates and Artisan workshops set up by it, and to regulate their functioning;

Whereas it is expedient to provide law to empower the Government to exercise control over Industrial establishments in public, semi-public or private sector in Azad Jammu and Kashmir and to safeguard interests of the Government in Industrial Estates and Artisan Workshops set up by it, and to regulate their functioning;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Industries Control and Establishment of Industrial Estates and Artisan's Workshops Act, 1976.

(2) It extends to the whole of Azad Jammu and territory.

(3) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context, -
 - (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (b) 'Department' means the Department of Industries of Azad Government of the State of Jammu and Kashmir;
 - (c) 'Director' means the Director of Industries appointed by the Government ;

- (d) 'Officer' means an officer of the Industries Department of Azad Government of the State of Jammu and Kashmir;
- (e) 'Artisan Workshops' means buildings constructed by the Government at its own expense on the land owned by it, whether equipped with machinery or not for allotment on hire purchase basis, for setting up of an Industry ;
- (f) 'Industrial Estate' means an Estate established or managed by the Department of Industries to provide land and other facilities for the establishment and development of large, medium, small and cottage Industries;
- (g) 'Industry' means any business, trade, manufacture, Calling, service, employment or occupation, carried on by private parties or set up by the Government for private parties or set up by semi-Government Agency ;
- (h) 'Loan' means any amount granted to a borrower by the Government in cash or in coin or in the shape of buildings or land in the Industrial Estates or Artisan Workshops or machinery and equipment on lease or- on hire purchase or on outright sale basis;
- (i) 'Agreement' means a deed containing terms and conditions in respect of the loan executed by the borrower in favour of the Government;
- (j) 'Borrower' means any person or persons or body of persons whether incorporated or not, to whom loan is granted by the Government;
- (k) 'Rule and Bye-laws' means, Rules framed under this Act.

3. **Restrictions on establishment and enlargement of Industrial undertakings.-** No person or body of persons corporate or incorporated shall expand and modernise or cause to be expanded and modernized or establish or cause to be established any Industrial undertaking except with the prior permission in writing of the Government, provided that no permission will be necessary in cases where the total investment does not exceed Rs. 3,00,000/- and no foreign exchange is involved for raw material and equipment.

4. **Check on unauthorised establishment or enlargement of Industrial undertakings.-** Where the expansion and modernization or establishment of a new Industrial undertaking or enlargement of an existing industrial undertaking is likely to be commenced or has been commenced or has been completed in contravention of the provision of this Act, the Government after giving the person responsible therefore an opportunity of being heard, may by order require him,-
 - (i) to refrain from such establishment or enlargement or expansion and modernization ; or
 - (ii) to stop further construction and to remove the unauthorized undertaking or part thereof, and the person concerned shall comply with the order within such period as may be specified.
5. **Power of obtaining information and of entry.-** For the purpose of giving effect to the provision of this Act, the Government may,-
 - (i) By order in writing require any person to furnish such information or statistics relating to an industrial undertaking as may be specified in the order;
 - (ii) Call for inspection and check any record and register pertaining to the accounts and production relating to the Industrial Unit ;
 - (iii) Authorise any officer to enter an industrial undertaking for the purpose of inspection and issue any kind of instructions as may be deemed fit.
6. **Power to grant loans.-** (1) The Government may give loans to borrowers for the purpose of establishment or enlargement of large, small and cottage Industries and the same shall be repayable within such period and according to such terms and conditions as may be specified. The Government will not be held responsible or sued in case the loan does not yield any profit or gain to the borrower or the borrower fails to make any profit, out of the loan for any reason.

Explanation.- Loans made by the Government may be in coin or cash, or in the form of buildings, or land in the Industrial Estates or Artisan's Workshops, or machinery and equipment or lease on outright sale or on hire purchase basis.

(2) No loan shall be made by the Government 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 Government may deem fit; provided that in the cases where a loan has already been granted, the borrower shall after a notice is served in writing by the Department within a period of ninety days from the day this Act comes into force, enter with the Government in proper agreement and comply with the requirements of this clause. Failure to do so will render the allottee liable to be ejected from the premises of the land, building or Workshop as the case may be and payments made by him till then if any, be confiscated and Workshop allotted to some other desirous party

(3) At the time of entering into any transaction the Government may impose such conditions as it may think necessary or expedient for protecting its own interests and for securing, that the loan, under writing or other aid shall be put to the best use.

(4) Notwithstanding anything contained in any agreement or any law to the contrary; if

- (a) it is found that the loan was obtained by information supplied by the borrower which was false or misleading in any material particular; or
- (b) the borrower is found to have committed a breach of the terms and conditions of the agreement with the Government relating to the loan; or
- (c) loan or any part of it is found to have been utilized otherwise than for the purpose for which it was granted; or
- (d) There is a reasonable apprehension that the borrower will be unable to pay his debts or may go into liquidation; or
- (e) the property pledged, mortgaged, hypothecated as security for the loan is not kept in a proper condition by the borrower or the property has depreciated in value and the borrower is not in a position to give additional security to the satisfaction of the Government; or
- (f) without the permission of the Government machinery or

other equipment is removed from the premises of the borrower's industrial undertaking; or

- (g) without the permission of the Government the building, land or other property mortgaged as security for the loan is in any way disposed of; or
 - (h) if the allottee fails to pay five installments whether consecutively or otherwise during the period of hire as may be specified, the whole amount shall become recoverable in lump-sum on the expiry of the day on which the sixth installment becomes due;
 - (i) if it is found that the allottee has damaged the building or the machinery or any part thereof or the accessories etc. or the land granted to him in the shape of loan;
 - (j) for any other reason, it is necessary in the opinion of the Government to protect its interests, the Government may, in writing call upon the borrower to pay the entire sum then remaining unpaid by the borrower in respect of the loan and the interest payable thereon or require the borrower to surrender the land, building, machinery and equipment or other material given to him by way of loan with such demurrage as may be deemed fit, and take possession of the industrial undertaking in question and lock the same until the requirements are complied with by the borrower.
- (5) Such notice shall specify the time within which the borrower is required to make the payment or surrender the factory building machinery and equipment or materials or to carry out the directions given and shall also contain a warning that in case of failure to comply with the requirements of the notice, the borrower on expiry of the prescribed period shall become defaulter and the Government will be at liberty to take possession of the Artisan's Workshop or the factory as the case may be and the amount due from the borrower shall become recoverable from the borrower and his sureties jointly and severally their successors and assignees in case of death of the borrower and sureties or any one of them, as arrears of land revenue.

7. **Delegation of powers.-** Government may, by notification in the Government Gazette, delegate any of its powers under this Act,

to any officer or the officers of the Industries Department.

8. **Penalty for contravention.-** Whoever contravenes the provisions of section 3, 4 and 5 of this Act or the rules made thereunder or fails to comply with any order made thereunder or supplies in-correct information or obstruct any person in the discharge of his duties or functions under these provisions shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 1,000/-or with both.
9. **Cognizance of offence by Court.-** No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing made by the Director.
10. **Indemnity.-** No suit or other legal proceedings shall lie against the Government, the Director or any person in respect of any thing in good faith done or intended to be done under this Act.
11. **Power to make rules.-** Government may make rules, Regulations and Bye-Laws for carrying into effect the provisions of this Act.
12. **Act to override other law.-** The provisions of this Act and the rules and orders made thereunder shall have effect notwithstanding anything to the contrary contained in any other law, contract, instrument or document for the time being in force.
13. **Repeal.-** The Azad Jammu and Kashmir Industrial Control and Establishment of Industrial Estates and Artisan's Workshops Ordinance, 1976 (Ordinance IV of 1976) is hereby repealed.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT
MUZAFFARABAD.**

Muzaffarabad, the 31st December, 1976.

The following Act of the Assembly received the assent of the President on the 31st day of December, 1976, and is hereby published for general information:-

(ACT XV OF 1976)

An Act to amend the General Clauses Act.

Whereas it is expedient to amend the General Clauses Act (X of 1897) as in force in Azad Jammu and Kashmir;

It is hereby enacted as follows:-

1. **Short title and Commencement.-** (1) this Act may be called the Azad Jammu and Kashmir General Clauses (Amendment) Act, 1976.

(2) It shall come into force at once.
2. **Amendment of Section 3, Act X of 1897.-** In the General Clauses Act, 1897 (Act X of 1897) as in force in Azad Jammu and Kashmir, in section 3, alter Clause (39), the following new clause shall be inserted, namely:-

"(39-a) Pleader of High Court shall mean a Pleader who is on the rolls of a High Court."

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad the 31st December, 1976.

The following Act of the Assembly received the assent of the President on the 31st day of December, 1976, and is hereby published for general information :-

(ACT XVI OF 1976)

An Act to provide for the nationalisation of timber trade in Azad Jammu and Kashmir.

WHEREAS it is expedient in the public interest to provide for the nationalisation of timber trade in Azad Jammu and Kashmir ;

It is hereby enacted as follows :-

1. **Short title, extent and commencement.** (1) This Act may be called the Timber Trade (Nationalisation) Act, 1976.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or Context,-
 - (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (b) 'Lessee' means a person, firm or company who has entered into an agreement with the Government for purchase of trees or timber, or both, and includes an authorised agent, heir or assignee ; and
 - (c) 'specified date' means the 30th day of June, 1976.
3. **Nationalisation of timber trade.-** As from the specified date, the trade of felling, extraction and conversion of trees shall only be carried on by the Government or a Corporation wholly owned or controlled by the Government, to the total exclusion of other persons and the Government, or any person acting on behalf of the Government, shall not enter into any agreement with any other person for sale of trees, whether standing, felled or fallen.
4. **Termination of agreement.-** Notwithstanding anything

contained in any law or agreement, all agreements for purchase of standing felled or fallen trees or timber subsisting between the Government and the lessees shall stand terminated with effect from the specified date and, except as provided in this Act, all obligations or liabilities mutually incurred in respect of these leases shall simultaneously cease to exist.

5. **Vesting of timber in the Government.-** As from the specified date, all trees and timber, in whatever shape it may be, in respect of which any agreement as aforesaid subsisted immediately before that date shall vest in the Government.
6. **Duty to deliver possession of trees and timber-** Every person who, in pursuance of an agreement as aforesaid, has in his possession or custody or under his control any timber or tree shall forthwith deliver the same to the Forest Department of the Government.
7. **Compensation.-** Every lessee who is a party to an agreement terminated under section 4 shall be entitled to receive from the Government by way of compensation an amount determined in accordance with the provisions of section 8.
8. **Assessment of compensation.-** (1) The amount of compensation shall be the amount equal to the aggregate of the expenditure incurred by any lessee in the felling of marked trees, converting the same into logs and sleepers, extracting the timber from the forest and transporting to depot or other place of storage and the amount of royalty paid in respect thereof.

(2) The amount of compensation payable to any such lessee shall be determined by the Chief Conservator of Forests on the basis of rates approved by the Azad Kashmir Logging and Sawmills Corporation for the year 1975-76 for that purpose and shall be paid from out of the sale-proceeds of the trees or timber in respect of which it is payable.

(3) Any lessee aggrieved by a decision of the Chief Conservator of Forest under sub-section (2) may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to the Government which may, after affording to the lessee an opportunity of being heard, pass such order as it may deem fit.

(4) A decision of the Government under sub-section (3) shall be final.

9. **Indemnity and bar of jurisdiction.-** (1) No suit, prosecution or other legal proceeding shall lie against the Government or any other person for anything in good faith done or intended to be done under this Act.
- (2) No Court shall call in question, or permit to be called in question, anything done or any action taken under this Act.
10. **Saving.-** Nothing contained in this act shall affect any agreement entered into between the Government and the Azad Kashmir Logging and Saw Mills Corporation or apply to any Private forest.
11. **Power to make rules.-** The Government may make rules for carrying out the purposes of this Act.
12. **Penalty.-** Whoever contravenes the provisions of Section 6, shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to Rs. 25,000/- or with both.
13. **Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Act, the Government may make such order, not inconsistent with provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.
14. **Repeal.-** The Timber Trade (Nationalisation) Ordinance, 1976 (Ordinance IX of 1976) is hereby repealed.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Government of the State of
Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARY
MUZAFFARABAD.**

Muzaffarabad, the 31st December, 1976.

The following Act of the Legislative Assembly received the assent of the President on the 31st day of December, 1976, and hereby published for general information :-

(ACT XVII OF 1976)

An Act to amend the Limitation Act, 1908.

WHEREAS it is expedient to amend the Limitation Act 1908 (IX of 1908) as in force in Azad Jammu and Kashmir for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.-** (1) This Act may be the Limitation (Amendment) Act, 1976.

(2) It shall come into force at once, and shall be to have taken effect on and from first day of January 1976.
2. **Amendment of Article 151 Schedule 1, Act IX of 1908.-** In the Limitation Act, 1908 (IX of 1908) here in after referred to as the said Act, in Schedule I, in Article 151 in Column 2 for the words 'Twenty days' the words 'Thirty Days' shall be substituted and shall be deemed to have been so substituted on first day of January, 1976.
3. **Validation.-** All appeals from a decree or order of High Court in the exercise of its original jurisdiction instituted on or after the 1st January, 1976 shall be deemed to have been instituted under the said Act as amended by this Act and shall have effect accordingly.
4. **Repeal.-** The Limitation (Amendment) Ordinance, 1976 (Ordinance VI of 1976) is hereby repealed.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Date the 28th day of January, 1976.

No. 472/SL/76 The following Ordinance made by the President on the 28th day of January, 1976, is hereby published for general information :-

(ORDINANCE I OF 1976)

AN ORDINANCE to amend the Jammu and Kashmir Forest Regulation of 1930.

WHEREAS it is expedient to amend the Jammu and Kashmir Forest Regulation (II of 1930) as inforce in Azad Jammu and Kashmir, 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 Section 41 (1) 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 Forest Regulation (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Substitution of Section 6, Regulation II of 1930.-** In the Forest Regulation, 1930 (II of 1930) hereinafter referred to as the said Regulation, for section 6, the following shall be substituted namely:-

“6 (1) Acts prohibited in such forests:- Any person who -

- (a) sets fire to a demarcated forest, or kindles any fires, or leaves any fire burning in such manner as to endanger such a forest;

or who in a demarcated forest

- (b) kindles, keeps or carries any fire except at such seasons as the Conservator of the Circle may from time to time notify in this behalf;
- (c) causes any damage by negligence in felling any tree or cutting or dragging any timber;
- (d) fells, girdles, lops, or burns any trees, or strips off the bark or leaves from, or otherwise damages, the same;
- (e) quarries stone, burns lime or charcoal or collects, subjects to any manufacturing process, or removes any forest produce;
- (f) clears or breaks up any land for cultivation or any other purpose;
- (g) in contravention of any rules which the Government may from time to time in the Azad Jammu and Kashmir Government Gazette prescribe, hunts, shoots, poisons water, or sets traps or snares;
- (h) in such forest or part thereof duly declared to be closed by competent authority trespasses cattle, or permits cattle to trespass; or
- (i) removes or damages the utensils, lips, nails, or other articles fixed to trees for the collection of resin;

Shall be punished with imprisonment of either description for a term which may extend to 6 months or

(a) (i) In case of illicit cutting of trees by the non-concessionists, the price shall be charged at full Zamindari rates in addition to charging compensation equal to the price calculated at the Zamindari rates prevalent at the time of disposal of the case.

(ii) In case of non-concessionists, the price of illicit cutting of trees shall be charged at lease rates prevalent at the time of disposal of the case in addition to charging compensation equal to the price so calculated.

(iii) In case of illicit lopping and girdling of trees the price of the lopped tree or trees at full

Zamidari rates prevalent at the time of disposal of the case shall be assessed as compensation ;

(iv) In case of damage other than illicit cutting and lopping and girdling of trees in the forest closures, the compensation shall extend to rupees one thousand but shall not be less than rupees three hundred.

(v) Where trees are cut from revenue assessed or evacuee land by an owner/allottee without the permission of the the competent authority and where the trees are cutt for purposes of sale, gift or transfer and not for his bonafide personal use, the amount of compensation shall be assessed at the price of the trees at lease rates prevalent at the time of the disposal of the case.

(vi) In other cases under the Forest Regulation or rules made thereunder the amount of compensation to be awarded in such case which may extend to one thousand rupees, but shall not be less than three hundred rupees in addition to the price of the forest produce at prevalent market rate.

(b) The amount of price and compensation awarded shall be recoverable has arrears of land revenue.

(c) Where a persoan has been found to have incroached upon or in unlawful possession of Government or forest land he shall be ejected by the Divisional Forest Officer. The appeal shall lia against the orders past by the Divisioan Forest Officer to the Chief Conservator Forest and final Revision shall lia to the Governement.

(d) In case of damage to the forest where a culprits or culprips cannot be specified the Enquiry Officer/court may impose a collective compensation for the loss so caused and direct the same to be paid by the persons residing in the locality or estate. The compensation so recovered may be utilized for the development of the particular area in the locality or estate where such recovery is made.

3. **Substitution of Section 28, Regulation II of 1930:-** In the said Regulation, for Section 28, the following shall be substituted, namely:-

“28 (1) all timber or forest produce which is or is not the property of the Government and in respect of which a forest offence has been committed, and all tools, boats, carts, cattle and vehicles, used in committing any forest offence shall be confiscated on the orders of the Forest Officer not below the rank of Divisional Forest Officer.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

(3) When anything is confiscated under these Regulations, such thing shall thereupon vest in the Government.

(4) The officer adjudging confiscation shall take and hold possession of the thing confiscated, and every officer of police, on the requisition of such officer, shall assist him in taking and holding such possession.

(5) Property of which confiscation has been adjudged and in respect of which the option of paying a penalty in lieu of confiscation has not been exercised, shall be sold, destroyed or otherwise disposed of in such manner as the Government may direct.

(6) A revision against the order passed by the Divisional Forest Officer shall lie to the Government within thirty days from the date of such order. Every application for revision shall be complete by a copy of an order by which the applicant is aggrieved.

(7) Notwithstanding any thing contained in these Regulations or any other law for the time being in force, no order passed by the Divisional Forest Officer under these Regulations or no order passed by the Government in revision shall be called in question in any Court.

(8) No suit, prosecution or other legal proceedings shall lie against any person for any thing in good faith done or intended to be done under these Regulations or any rule, direction or order made thereunder.

(9) Notwithstanding anything contained in these

Regulations or rules made thereunder, on conviction of an offender, or on directing the confiscation of property under these Regulations the Government is authorised to grant reward to any person or persons who have contributed to the seizure of the property confiscated, or the conviction of the offender out of sale proceeds of the confiscated forest produce. The amount of reward shall be 10% of the sale proceed upto the value of Rs. 50,000/- and 5% over the value of Rs. 50,000/-

4. **Addition of sections 55 and 56, Regulation II of 1930.-** In the said Regulation, after section 54, the following shall be added, namely :-

- "55. The Chief Conservator of Forests may, from time to time, give directions, instructions and orders for carrying out the purposes of these Regulations, contravention of these directions, instructions or orders given by the Chief Conservator of Forests shall be deemed to be a forest offence.
56. Notwithstanding anything contained in these Regulations or any other law for the time being in force, every offence punishable under these Regulations, or any rule, direction or order made thereunder, shall be cognizable, compoundable and non-bailable. "

Sd/-
(Sardar Muhammad Ibrahim Khan)
President
Azad Jammu and Kashmir,
Muzaffarabad

Sd/-
(Muhammad Akaram Shah)
Deputy Secretary Law
Azad Govt. of the State of J&K
Muzaffarabad.

**AZAD GOVT OF THE STATE OF JAMMU AND KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 20, 1976.

No.152/SL/76. The following Ordinance made by the President, Azad Jammu and Kashmir, on the 17th of April, 1976, is hereby published for general information :-

(ORDINANCE II OF 1976)

An Ordinance to amend the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968.

Whereas it is expedient to amend the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968 (IV of 1968) for the purpose hereinafter appearing;

And whereas the Legislative Assembly is not in session and the President is satisfied that the circumstances exist which render immediate legislation necessary;

Now, therefore, in exercise of the powers conferred by Section 41 (1) 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 Kashmir Logging and Sawmill Corporation (Amendment) Ordinance, 1976.
(2) It shall come into force at once.
2. **Amendment of Section 2, Ordinance IV of 1968.-** In the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968 (Ordinance IV of 1968), hereinafter referred to as the said Ordinance, in section 2, for clause (III), the following shall be substituted :-
"(iii) 'Chief Secretary' means the Chief Secretary of Azad Government of the State of Jammu and Kashmir."
3. **Amendment of section 5, Ordinance IV of 1968.-** In the said Ordinance, in section 5, in sub-section (2), for the words 'Chief Adviser' the word 'Government' shall be substituted.
4. **Substitution of Section 6, Ordinance IV of 1968.-** In the said Ordinance, for section 6, the following shall be substituted, namely :-
"6. **Appointment of Chairman and Director.-** (1) The Board shall consist of the following Directors, namely :-
(a) the Chief Secretary;

- (b) Chairman, Azad Kashmir Mineral and Industrial Development Corporation who shall be the Managing Director and shall be Chief executive of the Corporation;
 - (c) two persons nominated by the Government;
 - (d) Secretary to the Government in the Finance Department; and
 - (e) Chief Conservator of Forests.
- (2) The Chief Secretary shall be the Chairman of the Board.
- (3) The Managing Director and each Director shall perform such duties as may be prescribed by regulations and until such regulations are framed, as may be assigned by the Chairman.
- (4) One of the Directors shall be nominated by the Chairman to be Financial Director who shall exercise such powers and discharge such duties as may be prescribed.
5. **Amendment of section 11, Ordinance IV of 1968.-** In the said Ordinance, in section 11, for the words 'Chief Adviser', occurring twice, the word 'Government' shall be substituted.
6. **Amendment of section 12, Ordinance IV of 1968.-** In the said Ordinance, in section 12—
- (i) in sub-section (2), the words 'and one copy to the Chief Adviser' shall be deleted; and
 - (ii) in sub-section (3), the words 'or the Chief Adviser' shall be deleted.
7. **Amendment of Section 17, Ordinance IV of 1968.-** In the said Ordinance, in section 17, for the words 'Chief Adviser' the words 'Government' shall be substituted.

Sd/-

(Sardar Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir,
Muzaffarabad.

Sd/- (Sardar Aftab Ahmed Khan)
Secretary Law & Parliamentary Affairs,
Azad Government of the State of
Jammu and Kashmir, Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMA & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD .**

CORRIGENDAM.

(To the Azad Kashmir Logging and Sawmill Corporation
(Amendment) Ordinance, 1976.)

In Section 4 of the Azad Kashmir Logging and Sawmill
Corporation (Amendment) Ordinance, 1976, after sub section (2) read
the following sub-section, namely :-

"(3) A person nominated by the Chairman shall be the
Secretary to the Board.", and read the existing
subsections "(3)" and "(4)" as "(4) and (5)".

Sd/-
(Mohammad Akram Bhalli)
Law Drafting Officer.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 14th July, 1976.

No. 3290/SL/76. The following Ordinance made by the President on the 14th of July, 1976, is hereby published for general information:-

(ORDINANCE III OF 1976)

AN ORDINANCE to provide for the nationalization of timber trade in Azad Jammu and Kashmir.

WHEREAS it is expedient in the public interest to provide for the nationalization of timber trade 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 section 41 (1) of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance :-

1. **Short title, Extant, and commencement.-** (1) This Ordinance may be called the Timber Trade (Nationalisation) Ordinance, 1976.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once and shall be deemed to have taken effect on the thirtieth day of June, 1976.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (b) 'lessee' means a person, firm or company who has entered into an agreement with the Government for purchase of trees or timber, or both, and includes an authorised agent, heir or assignee; and
 - (c) 'Specified date' means the 30th day of June 1976.
3. **Nationalisation of timber trade.-** As from the specified date,

the trade of felling, extraction and conversion of trees shall only be carried on by the Government or a Corporation wholly owned or controlled by the Government to the total exclusion of other persons and the Government, or any person acting on behalf of the Government, shall not enter into any agreement with any other person for sale of trees, whether standing, felled or fallen.

4. **Termination of agreement.-** Notwithstanding anything contained in any law or agreement, all agreements for purchase of standing, felled or fallen trees or timber subsisting between the Government and the lessees shall stand terminated with effect from the specified date and, except as provided in this Ordinance, all obligations or liabilities mutually incurred in respect of these leases shall simultaneously cease to exist.
5. **Vesting of timber in the Government.-** As from the specified date, all trees and timber, in whatever shape it may be, in respect of which any agreement as aforesaid subsisted immediately before that date shall vest in the Government.
6. **Duty to deliver possession of trees and timber.-** Every person who, in pursuance of an agreement as aforesaid, has in his possession or custody or under his control any timber or tree shall forthwith deliver the same to the Forest Department of the Government.
7. **Compensation.-** Every lessee who is a party to an agreement terminated under section 4 shall be entitled to receive from the Government by way of compensation an amount determined in accordance with the provisions of section 8.
8. **Assessment of Compensation.-** (1) The amount of compensation shall be the amount equal to the aggregate of the expenditure incurred by any lessee in the felling of marked trees, converting the same into logs and sleepers, extracting the timber from the forest and transporting to depot or other place of storage and the amount of royalty paid in respect thereof.

(2) The amount of compensation payable to any such lessee shall be determined by the Chief Conservator of Forests on the basis of rates approved by the Azad Kashmir Logging and Saw Mills Corporation for the year 1975-76 for that purpose and shall be paid from out of the sale-proceeds of the trees or timber in respect of which it is payable.

(3) Any lessee aggrieved by a decision of the Chief-Conservator of Forests under sub-section (2) may, within thirty

days from the date on which the decision is communicated to him, prefer an appeal to the Government which may, after affording to the lessee an opportunity of being heard, pass such order as it may deem fit.

(4) A decision of the Government under sub-section (3) shall be final.

9. **Indemnity and bar of jurisdiction.-** (1) No suit, prosecution or other legal proceeding shall lie against the Government or any other person for anything in good faith done or intended to be done under this Ordinance.

(2) No Court shall call in question, or permit to be called in question, anything done or any action taken under this Ordinance.

10. **Saving.-** Nothing contained in this Ordinance shall affect any agreement entered into between the Government and the Azad Kashmir Logging and Sawmills Corporation or apply to any private forest.

11. **Power to make rules.-** The Government may make rules for carrying out the purposes of this Ordinance.

12. **Penalty.-** Whoever contravenes the provision of section 6 shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both.

13. **Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Ordinance, the Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purposes of removing the difficulty.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 16, 1976.

No. 3656/SL/76. The following Ordinance made by the President on the 12th day of August, 1976, and is hereby published for general information .-

(ORDINANCE IV OF 1976)

AN ORDINANCE to provide law to empower the Government to exercise control over Industrial establishment in public, semi-public or private sector in Azad Jammu and Kashmir and to safeguard interests of the Government in Industrial Estates and Artisan Workshops set up by it, and to regulate their functioning.

WHEREAS it is expedient to provide law to empower the Government to exercise control over Industrial establishments in public, semi-public or private sector in Azad Jammu and Kashmir and to safeguard the interests of the Government in Industrial Estates of and Artisan Workshops set up by it, and to regulate their functioning 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 Section 41 (1) 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 Jammu and Kashmir Industries Control and Establishment of Industrial Estates and Artisan's Workshops Ordinance, 1976.

(2) It extends to the whole of Azad Jammu and Kashmir Territory.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 1st day of July, 1965.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,

- (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (b) 'Department' means the Department of Industries of Azad Government of the State of Jammu and Kashmir;
- (c) 'Director' means the Director of Industries appointed by the Government;
- (d) 'Officer' means an officer of the Industries Department of Azad Government of the State of Jammu and Kashmir;
- (e) 'Artisan Workshops' means buildings constructed by the Government at its own expense on the land owned by it, whether equipped with machinery or not for allotment on hire purchase basis, for setting up of an Industry ;
- (f) 'Industrial Estate' means an estate established or managed by the Department of Industries to provide land and other facilities for the establishment and development of large, medium, small and cottage Industries ;
- (g) 'Industry' means any business, trade, manufacture, calling, service, employment or occupation, carried on by private parties or set up by the Government for private parties or set up by Semi-Government Agency ;
- (h) 'Loan' means any amount granted to a borrower by the Government in cash or in kind or in the shape of buildings or land in the Industrial Estates or Artisan Workshops or machinery and equipment on ease or on hire purchase or on outright sale basis ;
- (i) 'Agreement' means a deed containing terms and conditions in respect of the loan executed by the borrower in favour of the Government;
- (j) 'Borrower' means any person or persons or body of persons whether incorporated or not, to whom loan is granted by the Government;
- (k) 'Rule and Bye-laws' means rules framed under this Ordinance.

3. **Restrictions on establishment and enlargement of Industrial under-takings.-** No person or body of persons corporated or

incorporated shall expand and modernise or cause to be expanded and modernised or establish or cause to be established any Industrial undertaking except with the prior permission in writing of the Government, provided that no permission will be necessary in cases where the total investment does not exceed Rs. 1,50,000/- and no foreign exchange is involved for raw material and equipment.

4. **Check on unauthorised establishment or enlargement of Industrial undertakings.-** Where the expansion and modernization or establishment of a new Industrial undertaking or enlargement of an existing industrial undertaking is likely to be commenced or has been commenced or has been completed in contravention of the provision of this Ordinance, the Government after giving the person responsible therefore an opportunity of being heard, may by order require him.-

- (i) to refrain from such establishment or enlargement or expansion and modernization; or
- (ii) to stop further construction and to remove the unauthorised undertaking or part thereof

and

the person concerned shall comply with the order within such period as may be specified.

5. **Power of obtaining information and of entry.-** For the purpose of giving effect to the provision of this Ordinance, the Government may ,-

- (i) by order in writing require any person to furnish such information or statistics relating to an industrial undertaking as may be specified in the order ;
- (ii) call for inspection and check any record and register pertaining to the accounts and production relating to the Industrial Unit;
- (iii) authorise any officer to enter an industrial undertaking for the purpose of inspection and issue any kind of instructions as may be deemed fit.

6. **Power to grant loans.-** (1) The Government may give loans to borrowers for the purpose of establishment or enlargement of large, small and cottage Industries and the same shall be repayable within such period and according to such terms and

conditions as may be specified. The Government will not be held responsible or sued in case the loan in does not yeild any profit or gain to the borrower or the borrower fails to make any profit, out of the loan for any reason.

Explanation.- Loans made by the Government may be in kind or cash, or in the form of buildings, or land in the Industrial Estates or Artisan's Workshops, or machinery and equipment or lease on outright sale or on hire purchase basis;

(2) No loan shall be made by the Government 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 Government may deem fit; provided that in the cases where a loan has already been granted, the borrower shall within a period of one month from the day this Ordinance comes into force, enter with the Government in proper agreement and comply with the requirements of this clause. Failure to do so will render the allottee liable to be ejected from the premises of the land, building or workshop as the case may be and payments made by him till then if any, be confiscated and workshop allotted to some other desirous party.

(3) At the time of entering into any transaction the Government may impose such conditions as it may think necessary or expedient for protecting its own interests and for securing, that the loan, under writing or other aid shall be put to the best use.

(4) Notwithstanding anything contained in any agreement or any law to the contrary; if

- (a) It is found that loan was contained by information supplied by the borrower which was false or misleading in any material particular; or
- (b) The borrower is found to have committed a breach of the terms and conditions of the agreement with the Government relating to the loan; or
- (c) Loan or any part of it is found to have been utilized otherwise than for the purpose for which it was granted; or
- (d) There is a reasonable apprehension that the borrower will be unable to pay his debts or may go into liquidation; or

- (e) The property pledged, mortgaged, hypothecated as security for the loan is not kept in a proper condition by the borrower or the property has depreciated in value and the borrower is not in a position to give additional security to the satisfaction of the Government; or
 - (f) Without the permission of the Government machinery or other equipment is removed from the premises of the borrower's industrial undertaking; or
 - (g) Without the permission of the Government the building, land or other property mortgaged as security for the loan is in any way disposed of; or
 - (h) If the allottee fails to pay five installments whether consecutively or otherwise during the period of hire as may be specified, the whole amount shall become recoverable in lump-sum on the expiry of the day on which the sixth installment becomes due;
 - (i) If it is found that the allottee has damaged the building for the machinery or any part thereof or the accessories etc, or the Land granted to him in the shape of loan;
 - (j) for any other reason, it is necessary in the opinion of the Government to protect its interests, the Government may, in writing call upon the borrower to pay the entire sum then remaining unpaid by the borrower in respect of the loan and the interest payable thereon or require the borrower to surrender the land, building, machinery and equipment or other material given to him by way of loan with such duration as may be deemed fit, and take possession of the industrial undertaking in question and lock the same until the requirements are complied with by the borrower.
- (5) Such notice shall specify the time within which the borrower is required to make the payment or surrender the factory building machinery and equipment or to carry out the directions given and shall also contain a warning that in case of failure to comply with the requirements or the notice, the borrower on expiry of the prescribed period shall become defaulter and the Government will be at liberty to take possession of the Artisan's Workshop or the factory as the case may be and the amount due from the borrower shall become recoverable from the borrower and his sureties jointly and severally their successors and assignees in case of death of the

borrower and sureties or any one of them, as arrears of land revenue.

(7) **Delegation of Powers.-** Government may, by notification in the Government Gazette, delegate its powers for the purpose of this Ordinance, to any officer or the officers of the Industries Department.

(8) **Penalty for contravention.-** Whoever contravenes the provisions of section 3, 4 and 5 of this Ordinance or the rules made thereunder or fails to comply with any order made thereunder or supplies incorrect information or obstruct any person in the discharge of his duties or functions under these provisions shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 1,000/- or with both.

(9) **Cognizance of offence by Court.-** No Court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Director.

(10) **Indemnity.-** No suit or other legal proceedings shall lie against the Government, the Director or any person in respect of any thing which in good faith done or intended to be done under this Ordinance.

(11) **Power to make rules.-** Government may make Regulations and Bye-laws for carrying into effect the provisions of this Ordinance.

(12) **Ordinance to override other law.-** The provisions of this Ordinance and the rules and orders made thereunder shall have effect notwithstanding anything to the contrary contained in any other law, contract, instrument or document for the time being in force.

Sd/-

(Mohammad Ibrahim Khan),
President,
Azad Jammu and Kashmir, Muzaffarabad.

Sd/-

(Sardar Aftab Ahmad Khan)
Secretary Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 16th August, 1976.

No. 3657/SL/76. The following Ordinance made by the President on the 12th day of August, 1976, and is hereby published for general information :-

(ORDINANCE V OF 1976)

AN ORDINANCE to amend the Mirpur Development Authority Ordinance, 1974.

WHEREAS it is expedient to amend the Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974), 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 Mirpur Development Authority (Amendment) Ordinance, 1976.

(2) It shall come into force at once and shall be deemed so have taken effect on and from the 4th day of September, 1974.
2. **Amendment of the Schedule, Ordinance IV of 1974.-** In the Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974) in the Schedule, for the full-stop at the end a comma shall be substituted and thereafter the words but shall not include the area, at present reserved for the establishment of industrial estate and any other area or areas which may from time to time be reserved by the Government for the establishment of Industrial Estate or Estates or for the purposes of Industrial Development' shall be added.
3. All allotments made and actions taken by the permission

Committee constituted vide Order No. 31-34/C&I/67 dated 7th February, 1967, and reconstituted vide Order No. Industries 315/270-75/71 dated 27th January, 1971, in the Industrial Estate Area shall be deemed to have been made under this Ordinance.

Sd/-

(Mohammad Ibrahim Khan)

President,.

Azad Jammu and Kashmir, Muzaffarabad.

Sd/- (Sardar Aftab Ahmed Khan)

Secretary Law & Parliamentary Affairs,
Azad Govt. of the State of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 2, 1976.

No. 3981/SL/76. The following Ordinance made by the President on the 1st day of October, 1976 is hereby published for general information :-

(ORDINANCE VI OF 1976)

AN ORDINANCE to amend the Limitation Act, 1908

WHEREAS it is expedient to amend the Limitation Act, 1908 (IX of 1908) as in force in Azad Jammu and Kashmir, for the purposes 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 Limitation, (Amendment) Ordinance, 1976.
(2) It shall come into force at once.
2. **Amendment of Article 151, Act IX of 1908.-** In the Limitation Act, 1908- (IX of 1908) hereinafter referred to as the said Act, in Article 151, in column 2, for the words "Twenty days" the words "Thirty days" shall be substituted and shall be deemed always to have been so substituted.
3. **Validation.-** All appeals from a decree or Order of High Court in the exercise of its original jurisdiction instituted before the promulgation of this Ordinance shall be deemed to have been instituted under the said Act as amended by this Ordinance and shall have and shall be deemed always to have effect accordingly.

Sd/-

(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-

(Sardar Aftab Ahmad Khan)
Secretary Law & Parliamentary Affairs,
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 3, 1976.

No.SL/76. The following Ordinance made by the President on the 1st day of October, 1976 is hereby published for general information;

(ORDINANCE VII OF 1976)

AN ORDINANCE to provide for credit facilities for persons engaged in agriculture,

WHEREAS it is expedient to provide for credit facilities for persons engaged in agriculture;

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 Jammu and Kashmir Loans for Agricultural purposes Ordinance, 1976.
 - (2) It extends to the whole of Azad Jammu and Kashmir,
 - (3) It shall come into force at once.
2. **Ordinance to override other laws.-** The provisions of the Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.
3. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) 'Bank' means a Schedule Bank within the meaning of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), and includes the Agricultural Development Bank of Pakistan established under the Agricultural Development Bank Ordinance, 1961 (VI of 1961), as in force in Azad Jammu and Kashmir;
 - (b) 'Government' means the Azad Government of the State

of Jammu & Kashmir;

- (c) 'Land' means land used for agricultural purposes or for purposes subservient to agriculture;
- (d) 'Land-Owner' has the same meaning as in the Land Revenue Act, but does not include a lessee or a mortgagee;
- (e) 'loans or advances' means loans or advances for agricultural purposes;
- (f) 'Prescribed' means prescribed by rules made under this Ordinance; and
- (g) 'Revenue Officer' has the same meaning as in the Land Revenue Act, and includes a Naib-Tehsildar and a Dafter-Qanoongo.

4. **Presentation of Pass book.-** (1) A land-owner applying to any bank for the grant of a loan or advance may, for the purpose of enabling the bank to take action in accordance with sub-section (4), produce before the bank a passbook prepared in the prescribed form and manner setting out particulars of the land owned by him.

(2) The entries in the pass book shall be authenticated by the Revenue Officer and shall be prima facie evidence of the title of the holder of the pass book to the parcels of land entered in the pass book, free of any prior encumbrance, unless otherwise specified therein.

(3) The pass book shall be deemed to be a title deed and accepted as such by bank for granting a loan or advance to a land-owner on the security of such land entered therein as he may indicate.

(4) If the bank grants a loan or advance to the land-owner on production of the pass book, the bank shall endorse the pass book against the entry relating to the land on the security of which the loan or advance is granted by it.

(5) The endorsement made in the pass book under sub-section (4) shall create a charge in favour of the bank on the land against the entry relating to which the endorsement has been made and the land-owner shall be debarred from alienating the land until the outstanding amount of the loan or advance granted by the bank has been repaid.

(6) Any alienation of land in contravention of sub-section (5) shall be void.

(7) If the land-owner fails to repay the amount of the loan or advance in accordance with the terms of his agreement with the bank, the bank may, without prejudice to any other legal remedy available to it, apply to the Collector for the recovery of the amount in default as an arrear of land revenue.

5. **Power to make rules.-** (1) The 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 power, such rules may specify the ratio to be maintained by the scheduled banks between loans and advances granted to land-owners having land not exceeding a subsistence holding, those having land exceeding such holding but not exceeding an economic holding.

(3) The ratio specified in the rules shall not be varied –

- (i) to the disadvantage of land-owners having land not - exceeding a subsistence holding and to the advantage of land-owners having land exceeding a subsistence holding; or
- (ii) to the disadvantage of land-owners having land less than an economic holding and to the advantage of land-owners having land exceeding an economic holding.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd-
(Syed Mohammad Akram Shah)
Deputy Secretary Law & Parliamentary
Affairs, Azad Government of the
State of Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Dated the 8th day of November, 1976.

No. 4326/SL/76. The following Ordinance made by the President on the 18th day of September 1976, is hereby published for general information :—

(ORDINANCE VIII OF 1976)

Preamble- An Ordinance to provide for the maintenance and restoration of order in areas affected by certain calamities and for the prevention and control of and relief against such calamities.

Whereas it is expedient to provide for the maintenance and restoration of order in areas affected by certain calamities and for the prevention and control of and relief against such calamities,

And whereas the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to make immediate action.

Now, therefore, in exercise of the powers conferred by Section 41 (1) 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 Jammu and Kashmir National Calamities (Prevention and Relief) Ordinance, 1976.
 - (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) 'Relief Commissioner' means the person appointed as such under sub-section (2) of Section 3 of this Ordinance;
 - (b) 'Government' means the Azad Government of the State of Jammu and Kashmir ;
 - (c) 'Prescribed' means prescribed by rules made under this Ordinance ;
3. **Declaration of Calamity affected area and appointment of Relief Commissioner.-** (1) Whenever the Azad Jammu and Kashmir or any part thereof is affected or threatened by flood,

famine, locust or any other pest, hail-storm, fire, epidemic or any other calamity which, in the opinion of the Government, warrants action under this Ordinance, the Government may, by Notification, declare the whole or any part of Azad Jammu and Kashmir, as the case may be as calamity affected area.

(2) While issuing a notification under sub-section (2), Government shall, by notification, appoint a Relief Commissioner for the calamity affected area.

(3) The Government may confer on the Relief Commissioner, for the whole or any part of the calamity affected area,---

- (a) The powers of a Magistrate of the First Class under Section 144 of the Code of Criminal Procedure, 1898, (V of 1898); and
- (b) powers under such other laws as the Government may consider necessary for carrying out the purpose of this Ordinance.

4. **Prevention and Relief.-** (1) Subject to the other provisions of this Ordinance and of the rules made thereunder the Relief Commissioner shall, with respect to the calamity affected area, take such steps as he may deem necessary in order to maintain order, prevent, check or control the calamity or reduce the extent and severity thereof or to provide immediate relief to the victims of the calamity in the calamity affected area;

(2) In particular and without the prejudice to the generality or the powers conferred by the preceding subsection, the Relief Commissioner shall have power within the calamity affected area;--

- (a) to evacuate or segregate population ;
- (b) to requisition bulldozer, tractors, motor-vehicles, carts, carriages, boats, and other means of transport' by air, land or water, and beasts of burden ;
- (c) to require the residents to declare surplus stocks of food, fodder, firewood, clothing and beddings and to requisition all or any of these articles ;
- (d) to requisition building materials;'
- (e) to requisition any building or land;
- (f) to demolish any building or other structure;
- (g) to conscript labor;
- (h) to direct any person to abstain from a certain act or to take certain order with regard to certain property in his

possession or under his management and after approval of the Government

- (i) to acquire any land; or
- (j) to remit in whole or part any Government dues payable by any person or in respect of any property affected by the calamity :

Provided that with respect to the powers conferred by Clauses (b), (c), (d), (e), (f), (g), (h) and (i) of this subsection, the person owning the article, beasts of burden, building or land which is requisitioned or acquired, or the building or other structure which is demolished, or the person directed to abstain from any act or to take any order with regard to any property, and the persons conscripted to work as Laborers shall, be entitled to reasonable compensation as may be claimable under any law for the time being in force, or if no such law exists as is applicable to the case, then as prescribed by rules under this Ordinance, and such compensation shall be paid within one year from the day it falls due.

(3) Subject to the right of the owner to claim compensation, the property with regard to which an order for requisition or acquisition has been passed by the Relief Commissioner shall forthwith vest in the Relief Commissioner, who may deal with it in such manner as he deems proper in order to discharge his duties under this Ordinance;

Provided that when the purpose for which the property was requisitioned has been served it may, at his request be returned to the owner after the compensation paid to him has been refunded by him less the depreciation charges,

(4) The Relief Commissioner may, in addition to any action prescribed by or under this Ordinance, use or cause to be used such force as may, in his opinion, be reasonably necessary for securing compliance with or giving effect to or preventing any contravention of an order passed or for the effective exercise of a power exercisable under this Ordinance.

5. **Requisition of services of Government officials.-** The Relief Commissioner may, for the purposes of this Ordinance, directly requisition the services of any employee of the Government within the calamity-effected area, after consultation with the official superior of his department, as far as practicable, and the person to whom the requisition is addressed shall comply with it as if it were an order passed by Government or as the case may

be, by his official superiors.

6. **Punishment and procedure.-** (1) Any Person who fails to comply with an order passed by the relief Commissioner or any other person authorised to pass an order under this Ordinance or the rules thereunder shall be deemed to have disobeyed a direction so as to be liable for punishment under Section 188 of the Azad Penal Code, 1860 (XLV of 1860).

(2) Nothing in subsection (1) shall debar a competent authority from taking disciplinary action against an employee of the Government who has failed to obey a lawful order passed under this Ordinance or the rules thereunder.

(3) Every offence punishable under this Ordinance shall, within the meaning of Code of Criminal Procedure, 1898 (V of 1898), be cognizable and may be tried in accordance with the procedure prescribed by that code for summary trials.
7. **Delegation of Powers.-** (1) The Relief Commissioner may delegate all or any of his power to any officer, not below the rank of a Tehsildar, by name or by designation.

(2) The Relief Commissioner and the officers to whom all or any of his powers have been delegated under sub-section (1) shall be public servants within the meaning of section 21 of the Azad Penal Code, 1860 (XLV of 1860);.
8. **Revision.-** (1) Any order passed under this Ordinance by the Relief-Commissioner, shall be subject to revision by the Government, and the Relief Commissioner shall give effect to the orders of the Government made in revision.

(2) The Government shall, by rules, prescribe the calls of the class of cases and the manner in, which and the time within which orders made under this Ordinance shall be liable to revision by the Government.
9. **Power to give effect to Order.-** If in any case it is not possible to serve an order under this Ordinance on any person without defeating the object of the order or if the person to whom the order is addressed fails to comply with it, the Relief Commissioner may, after recording the reason for doing so, give effect to the order and for that purpose may take such steps or pass such order with regard to any property as he considers necessary.
10. **Bar to action.-** No order made under this Ordinance shall be called in question in any Court and no Civil or Criminal Proceeding shall be instituted against any person for anything

done or purported to have been done or intended to be done in good faith under this Ordinance or against any person for any loss or damage caused to, or in respect of any property whereof possession has been taken or which has otherwise been dealt with under this Ordinance.

11. **Rules.-** (1) The Government shall as soon as may be, make rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), the Government may, by rules, provide for all or any of the following matters, namely:-

- (a) The procedure to be adopted in giving alarm of an impending calamity;
- (b) The method of securing information with regard to flood or any other impending calamity;
- (c) The measures and precautions to be taken to avert any such calamity;
- (d) The procedure to be followed for survey of places of safety and the entry into any such place for the purpose of such survey after a proper notice;
- (e) The method of assessment and payment of compensation on account of requisition and acquisition of property under this Ordinance; and
- (f) the procedure with regard to revisions against an order passed under this Ordinance and the period during which such revisions can be presented,

(3) The rules made under this Ordinance shall be subject to the concurrence of the Assembly.

Sd/-

(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-

(Syed Mohammad Akram Shah)
Deputy Secretary, Law & Parliamentary Affairs,
Azad Govt. of the State of J & K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 13th November, 1976

No. 4363/SL/76. The following Ordinance made by the President on the 9th November, 1976, is hereby published for general information:-

(ORDINANCE IX OF 1976)

AN ORDINANCE to provide for the nationalization of timber trade in Azad Jammu and Kashmir

WHEREAS it is expedient in the public interest to provide for the nationalization of timber trade 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 section 41 (1) 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 Timber Trade (Nationalization) Ordinance, 1976.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force on and from 15th day of November, 1976.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (b) 'Lessee' means a person, firm or company who has entered into an agreement with the Government for purchase of trees or timber, or both, and includes an authorised agent, heir or assignee ; and
 - (c) 'Specified date' means the 30th day of June, 1976.
3. **Nationalization of timber trade.-** As from the specified date, the trade of felling, extraction and conversion of trees shall only be carried on by the Government or a Corporation wholly owned

or controlled by the Government to the total exclusion of other persons and the Government, or any person acting on behalf of the Government, shall not enter into any agreement with any other person for sale of trees, whether standing, filled or fallen.

4. **Termination of agreement.-** Notwithstanding anything contained in any law or agreement, all agreements for purchase of standing, felled or fallen trees or timber subsisting between the Government and the lessees shall stand terminated with effect from the specified date and, except as provided in this Ordinance, all obligations or liabilities mutually incurred in respect of these leases shall simultaneously cease to exist.
5. **Vesting of timber in the Government.-** As from the specified date, all trees and timber, in whatever shape it may be, in respect of which any agreement as aforesaid subsisted immediately before that date shall vest in the Government.
6. **Duty to deliver possession of trees and timber.-** Every person who, in pursuance of an agreement, as aforesaid, has in his possession or custody or under his control any timber or tree shall forthwith deliver the same to the Forest Department of the Government.
7. **Compensation.-** Every lessee who is a party to an agreement terminated under section 4 shall be entitled to receive from the Government by way of compensation and amount determined in accordance With the provisions of section 8.
8. **Assessment of compensation.-** (1) The amount of compensation shall be the amount equal to the aggregate of the expenditure incurred by any lessee in the felling of marked trees, converting the same into logs and sleepers, extracting the timber from the forest and transporting to depot or other place of storage and the amount of royalty paid in respect thereof.

(2) The amount of compensation payable to any such lessee shall be determined by the Chief Conservator of Forests on the basis of rates approved by the Azad Kashmir Logging and Saw Mill Corporation for the year 1975-76 for that purpose and shall be paid from out of the sale-proceeds of the trees or timber in respect of which it is payable.

(3) Any lessee aggrieved by a decision of the Chief Conservator of Forests under sub-section (2) may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to the Government which may, after affording to the lessee an opportunity of being heard, pass such

order as it may deem fit.

(4) A decision of the Government under sub-section (3) shall be final.

9. **Indemnity and bar of jurisdiction.-** (1) No suit, prosecution or other legal proceeding shall lie against the Government or any other person for anything in good faith done or intended to be done under this Ordinance.

(2) No Court shall call in question, or permit to be called in question, anything done or any action taken under this Ordinance.

10. **Saving.-** Nothing contained in this Ordinance shall affect any agreement entered into between the Government and the Azad Kashmir Logging and Saw Mills Corporation or apply to any private forest.

11. **Power to make rules.-** The Government may make rules for carrying out the purposes of this Ordinance.

12. **Penalty -** Whoever contravenes the provision of section 6 shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both.

13. **Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Ordinance, the Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purposes of removing the difficulty.

Sd/-

(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-

(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Govt. of the State of J & K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the November 21, 1976.

No. 4443/SL/76. The following Ordinance made by the President on the 19th day of November, 1976, is hereby Published for general information:-;

(Ordinance X of 1976)

AN ORDINANCE to amend the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968

Whereas it is expedient to amend the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968 (IV of 1968) for the purpose hereinafter appearing;

And whereas the Legislative Assembly is not in session and the President is satisfied that the circumstances exist which render immediate legislation necessary;

Now, therefore, in exercise of the powers conferred by Section 41 (1) 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 Kashmir Logging and Sawmill Corporation (Amendment) Ordinance, 1976.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the 18th day of August, 1976.
2. **Amendment of Section 2, Ordinance IV of 1968.-** In the Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968, Ordinance IV of 1958), hereinafter referred to as the said Ordinance, in Section 2, for clause (iii), the following shall be substituted :-
"(iii) 'Chief Secretary' means the Chief Secretary of Azad Government of the State of Jammu and Kashmir."
3. **Amendment of Section 5, Ordinance IV of 1968.-** In the said Ordinance, in Section 5, in sub-section (2), for the words 'Chief Adviser' the word 'Government' shall be substituted.
4. **Substitution of Section 6, Ordinance IV 1968.-** In the said Ordinance, for section 6, the following shall be substituted, namely :-
' 6. **Appointment of Chairman and Director.-** (1) The Board shall consist of the following Directors, namely :-
(a) the Chief Secretary ;

- (b) Chairman, Azad Kashmir Mineral and Industrial Development Corporation who shall be the Managing Director and shall be chief executive of the Corporation;
- (c) Two persons nominated by the Government;
- (d) Secretary to the Government in the Finance Department; and
- (e) Chief Conservator of Forests
- (2) The Chief Secretary shall be the Chairman of the Board.
- (3) A person nominated by the Chairman shall be the Secretary to the Board.
- (4) The Managing Director and each Director shall perform such duties as may be prescribed by regulations and until such regulations are framed, as may be assigned by the Chairman.
- (5) One of the Directors shall be nominated by the Chairman to be Financial Director who shall exercise such powers-and discharge such duties as may be prescribed.
- 5. **Amendment of Section 11, Ordinance IV of 1968.-** In the said Ordinance, in Section 11, for the words 'Chief Adviser' occurring twice, the word "Government" shall be substituted.
- 6. **Amendment of Section 12, Ordinance If of 1968.-** In the said Ordinance, in Section 12-
 - (i) in sub-section (2), the words "and one copy to the Chief Adviser" shall be deleted; and
 - (ii) in sub-section (3) the words "or the Chief Adviser" shall be deleted.
- 7. **Amendment of Section 17, Ordinance IV of 1968.-** In the said Ordinance, in Section 17, for the word "Chief Adviser" the word "Government" shall be substituted.

Sd/-

(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-

(Syed Mohammad Akram Shah)
Deputy Secretary Law and
Parliamentary Affairs,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 27th July, 1977.

The following Act of the Azad Jammu and Kashmir passed by the Joint Sitting, received the assent of the President on 18th July, 1977, and is hereby published for general information :-

(ACT I OF 1977)

AN ACT further to amend the Azad Jammu & Kashmir Interim Constitution Act, 1974.

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (Fourth Amendment) Act, 1977.
2. **Amendment of Section 42, Act VIII of 1974** - In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), hereinafter referred to as to the said Act, in Section 42, in sub-section (8-A), Clauses (a) and (b) shall be substituted by the following, namely:-
 - "(a) with the approval of the President, request a person who has hold the office of a Judge of that Court, the Supreme Court of Pakistan or the Judicial Board or has held the office of Judge of the High Court for a minimum period of three years and since whose ceasing to hold that office three years have not elapsed ; or
 - (b) with the approval of the President and, except in the case of Chief Justice with the consent of the Chief Justice of High Court require a Judge of that Court who has held office as such Judge for a minimum period of three years; or
 - (c) with the approval of the President, request any person qualified for appointment as Judge of the Supreme

Court''.

3. **Amendment of the Third Schedule (Act VIII of 1974):-** In the said Act, in the Third Schedule, in entry I, for the word nationalization the word “naturalization” shall be substituted and shall be deemed always to have been so substituted.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J&K,
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 7, 1977.

No. 2319/SL/77. The following Act of the Assembly received the assent of the President on the 18th of July, 1977, and is hereby published for general information:-

(Act II of 1977)

An Act to provide for plantation and maintenance of trees in the Azad Jammu and Kashmir.

WHEREAS it is expedient in the public interest to provide for plantation of more trees and maintenance thereof in the Azad Jammu and Kashmir:

It is hereby enacted as follows:-

1. **Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Plantation and Maintenance of Trees Act, 1977.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions.-** In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-
 - (a) 'Department' means the Department of Forest and wildlife Department, Azad Government of the State of Jammu and Kashmir;
 - (b) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (c) 'Land' means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agricultural or for pasture, and include the site of buildings and other structures on such land;
 - (d) 'Occupier' means a person in actual physical possession of the land and shall also include an owner; and
 - (e) 'Prescribed' means prescribed by rules.
3. **Plantation of trees.-** (1) There shall be planted and maintained

three trees per acre by the occupier thereof in such manner as may be prescribed.

(2) in case the occupier fails to comply with the requirements of sub-section (1) the required number of trees shall be caused to be planted in his land by the Department without any let or hindrance by him. The occupier shall be responsible for the maintenance of the trees so planted.

Explanation.- For the purpose of this Section.-

- (i) trees already planted and maintained in orchards or otherwise or trees that may be planted and maintained in orchards shall be taken into account; and
- (ii) trees required to be planted and maintained may be planted and maintained in compact block or otherwise in his holding.

4. (1) any person who contravenes the provisions of Section 3 shall be liable to pay the penalty, not exceeding rupee one per tree, after giving an opportunity to the person concerned of being heard, by an office authorised in this behalf by the Government.

(2) the fine imposed under this Section shall be recoverable as arrears of land revenue.

5. **Rules.-** (1) Government may make rules to carry out purposes of this Act.

(2) without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-

- (a) the manner in which trees may be planted and maintained;
- (b) kind of trees to be planted in different areas and the period within which the trees are to be planted;
- (c) the procedure for maintaining the record of trees.

6. **Saving.-** Government may, by notification in the official Gazette, exempt any land or classes of land, occupier or class of occupiers from the operation of this Act.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J&K,
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 1977.

No____.SL/77. The following Act of the Assembly received the assent of the President on the 18th of July, 1977, and is hereby published for general information :-

(Act III of 1977)

AN Act to amend the Azad Jammu and Kashmir Minimum Wages Act, 1976.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Minimum Wages Act, 1976 (I of 1976) for the purposes hereinafter appearing ;

It is hereby enacted as follows:-

1. **Short title and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Minimum Wages (Amendment) Act, 1977.

(2) It shall come into force at once.
2. **Insertion of Section 8-A, Act (I) of 1976.-** In the Azad Jammu and Kashmir Minimum Wages Act, 1976 (Act I of 1976), after Section 8, the following new Section shall be added, namely :-

"8-A. Authority to decide claims.- (1) The Government may, by notification in the official Gazette, appoint any person to be Authority for any area specified in the notification, to hear and decide all claims arising out of non-payment, or delay in the payment of wages to workers in that area whose minimum rates of wages have been declared under the provisions of this Act.

(2) Where contrary to the provisions of this Act, wages of any worker have been withheld or delayed, such worker himself or through any person authorised by him in this behalf may within one year from the day on which such payment was to be made, apply to the authority appointed under sub-section (1) having jurisdiction, for an order directing the payment to him of such wages.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or other person responsible for the payment of wages alleged to have been withheld or delayed or give them an opportunity of being heard and after such further inquiry, if any, as may be necessary, without prejudice to any other penalty which such employer or other person may be liable under section 8 or any other law for the time being in force direct the employer or such other person to make payment to the applicant of the wages which have been withheld or delayed, together with such penalty not exceeding fifty rupees, as the Authority may fix :

Provided that no direction for the payment of a penalty shall be made in the case of delayed wages, if the Authority is satisfied that the delay was due to :-

- (a) A bonafide error or bonafide dispute as to the amount payable to the employee, or
- (b) The occurrence of any emergency or the existence of such exceptional circumstances that the person responsible for the payment of the wages was unable to make prompt payment, and
- (c) the fault of the worker. .

(4) If the Authority hearing any application under this Section is satisfied that no amount to be paid as wages is due from the employer or other person responsible for the payment of wages to the applicant, it shall reject the application, and if the application, in the opinion of the Authority, is malicious or vexatious, the Authority when rejecting it, may direct the applicant to pay a penalty not exceeding fifty rupees to the employer or other person responsible for the payment of wages.

(5) Any amount directed to be paid under this Section may be recovered;

- (a) If the Authority is a Ministrants, by the Authority as if it were fine imposed by him as a Magistrate; and
- (b) If that Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf as if it were a fine imposed by such Magistrate.

(6) An appeal against a direction or order passed under sub-section (3) or sub-section (4) may be preferred to the District Court within thirty days of the date on which the direction was made or order was passed:-

- (a) by the employer or other person responsible for the payment of wages, if the amount directed to be paid as wages or as wages and penalty exceed one hundred rupees;
- (b) by the worker, if the total amount of wages claimed to have been withheld from him exceed rupees fifty, or
- (c) by the person directed under sub-section (4) to penalty.

(7) If there is no appeal, the direction or order of the authority made under sub-section (3) or sub-section (4) and where there is an appeal as provided in sub-section (6) the decision in appeal shall be final and shall not in any manner be questioned by any person in any Court or before any Authority.

(8) An Authority appointed under Section 1 shall, for the purposes of determining any matter referred to in sub-section (3) or sub-section (4) :-

- (a) have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908) as adapted in Azad Jammu and Kashmir for the purposes of enforcing the attendance of witnesses, compelling the production of documents, and the taking of evidence; and
- (b) be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898) as adapted in Azad Jammu and Kashmir. "

Sd/-

(Syed Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J&K,
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 11, 1977.

No. 2331/SL/77. The following Act of the Assembly received the assent of the President on the 18th day of July, 1977, is hereby published for general information:-.

(Act IV of 1977)

An Act to provide for payment of a cost of living allowance to employees in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide of payment of a cost of living allowance to employees and for matters ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Employees Cost of Living (Relief) Act, 1977.

(2) It shall come into force at once.

(3) It extends to the whole of Azad Jammu and Kashmir.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) 'Cost of living allowance means an amount payable under the provisions of this Act;
 - (b) 'employee' means any person employed, whether directly or through any other person, for wages, to do any skilled or unskilled, intellectual, technical, clerical, manual or other work in or in connection with the affairs or, an undertaking, under any contract or service or apprenticeship, whether written or oral, express or implied, and includes such a person when laid off, but does not include a person for whom a provision has been, or may be made by the Government for grant of an allowance intended to provide relief due to a rise in the cost of living ;

- (c) 'Employer' in relation to an undertaking, means any person who employee, either directly or through any other person, whether on behalf of himself or any other person, any employee, and includes.-
 - (i) a body of person, whether incorporated or not;
 - (ii) a person who has ultimate control, over the affairs of an undertaking, including the owner or the undertaking, or where the affairs of an undertaking are entrusted to any other person (whether called a managing agent, director, manager, agent, superintendent, secretary, representative of the owner or by any other name), such other person or in any other case, any person responsible to the owner for supervision and control of an employee or for payment of his wages; and
 - (iii) an heir, successor, administrator or assign, as the case may be, of such person or association of persons ;
- (d) 'undertaking' means-
 - (i) an establishment to which the Azad Jammu and Kashmir Shops and Establishment Act, 1975 (Act XXIII of 1975) for the time being applies, and, notwithstanding anything contained in, section 5 thereof, includes clubs, hostels and messes not a maintained for profit or gain and establishment, for the treatment or care of the sick, infirm, and destitute or mentally unfit person;
 - (ii) a construction industry to which the Azad, Jammu and Kashmir industrial and Commercial Employment (Standing Orders) Act, 1975 (Act XV of 1975) for the time being applies;
 - (iii) a factory as defined in the Factories Act, 1934 (XXV of 1934).
 - (iv) a mine where any operation for the purposes of searching for or obtaining minerals has been or

is being carried on, and includes all works, machinery, tramways any sidings, whether above or below ground, in or adjacent to or belonging to a mine:

Provided that is shall not include any part of such premises on which a manufacturing process in being carried on unless such is a process or coke making or the dressing of minerals.

- (v) a road transport service as defined in the Azad Jammu and Kashmir, Road Transport Workers Act, 1975 (Act XI of 1975) and includes any class of establishment which the Government may, by notification in the official gazette, declare to be undertaking for the purposes of this Act;
- (e) 'wages' means remunerations for services, other than cost of living allowance, payable in cash to an employed without taking account, of deductions for any purpose, under a contract of service or apprenticeship written, oral, express or implied and includes any dearness allowance or other addition in respect of the cost of living payable or paid for the period preceding of commencement of this Act and any payment by the employer in respect of any priod of authorised leave, but does not include :-
 - (i) any payment for overtime; or
 - (ii) any sum paid to an employee to defray special expenses entailed by the nature of his employment ; or
 - (iii) any gratuity payable on discharge; or
 - (iv) any sum paid as bonus, house rent, conveyance allowance, traveling allowance or any other allowance.
- (f) 'Government' means the Azad Government of the Slate of Jammu and Kashmir.

3. **Cost of living allowance :-** (1) Every employee, (whose wages do not exceed seven hundred and thirty five rupees) shall, in respect of his employment whether on time-work or piece work basis, be paid by his employer a cost of living allowance :-

- (a) equal to thirty-five rupees per month, if his wages do not exceed seven hundred rupees; or
- (b) at such rate as together with his wages, makes a total of seven hundred and thirty-five rupees per month, if his wages or more than seven hundred rupees.

(2) In addition to the cost of living allowance admissible under sub-section (1), if any, every employee whose wages do not exceed one thousand and one hundred rupees shall, in respect of his employment, whether on time work or piece-work basis, be paid by his employer a cost of living allowance-

- (a) equal to fifty rupees per month or 10 per cent of his monthly wages, whichever is more, if his wages do not exceed one thousand rupees ; or
- (b) at such rate as, together with his wages, makes a total of one thousand and one hundred rupees per month, if his wages exceed one thousand rupees but are less than one thousand and one hundred rupees.

(3) In addition to the cost of living allowance admissible under sub-section (1) or, as the case may be, sub-section (2), any, every employee shall in respect of his employment whether on time-work or piece-work basis, be paid by his employer a cost of living allowance equal to twenty-five rupees per month.

Explanation.- In this section, 'Month' means a normal working period of twenty six days, calculated at the rate of forty-eight hours of work per week.

4. **Responsibility for payment of cost of living allowance.-** Every employer shall be responsible for the payment of the cost of living allowance required to be paid under this Act.
5. **Time for payment of cost of living allowance.-** The cost of living allowance shall be paid along with wages in accordance with any custom, usage, practice or law applicable to the

undertaking.

6. **Claims for recovery, or delay in payment, of cost of living allowance.-** Where contrary to the provisions of this Act, the cost of living allowance of any employee has been withheld or delayed such worker himself or through any other person authorised by him in this behalf may apply-

- (a) in the case of an establishment to which the Azad Jammu and Kashmir, Shops and Establishments Act, 1975 (Act XXIII of 1975) for the time being applies, to the authority appointed under; sub-section (1) of section 13 thereof. having jurisdiction and the provisions of the said section and sections 11, 13, 21, 23, 30 and 32 of that Act, shall so far as may be and with the necessary modifications, apply for the purposes of recovery of the cost of living allowance; and
- (b) in any other case to the authority appointed under Sub-section (1) of section 15 of the payment of wages Act, 1936 having jurisdiction and the provisions of the said section and sections 6, 16, 17, 18, 19, 22, 23 and 26 of the said Act, shall so far as may be and with the necessary modifications, apply for the purposes of recovery of the cost of living allowance.

7. **Cost of living allowance not to form part of wages.-** Notwithstanding any thing contained in this Act or any other law for the time, being in force, the cost of living allowance shall not form part of wages of a worker for the purposes of any other law, including the purposes of contribution to provident fund, gratuity, bonus social security scheme and calculating work for over-time work.

8. **Saving of Certain rights and privileges.-** Nothing in this Act shall affect any right or privilege to which an employee was entitled under any law for the time being in force or under any award, decision, agreement, settlement, contract, custom or usage in force immediately before the commencement of this Act:

Provided that, if, before the commencement of this Act, any employer has paid or agreed to pay, whether by way of settlement or otherwise to any employee, in respect of a any period any sum of money whether as an allowance not forming

part of his wages or as increase in wages or otherwise, which is intended to provide relief due to arise in the cost of living, such employer shall not be required to pay to such employee any amount in excess of the difference, if any, between the amount so paid by him and the cost of living allowance payable to such employee.

Explanation.- For the purposes of this proviso, any increase in wages accruing by virtue of the usual annual increment or promotion to a higher grade, or an allowance not specifically given to provide a relief due to a rise in the cost of living, shall not be deemed to be an increase intended to provide relief due to a rise in the cost of living.

9. **Payment.-** An employer who contravenes any provision of this Act shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.
10. **Cognizance of offences.-** No Court shall take cognizance of any offence under this Act save on a complaint made by an aggrieved employee or by an officer of a registered trade union of which such employee is a member, or any person authorised in this behalf by the Government.

Sd/-

(Syed Mohammad Akram Shah)
Deputy Secretary Law,
Azad Government of the State of J & K,
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT,
MUZAFFARABAD.**

Dated the 26 July, 1977.

No. 788-90/1977. The following Act of the Assembly received the assent of the President on the 25th July, 1977, is hereby published for general information.

(ACT V of 1977)

AN ACT to provide the law relating to the regulation and inspection of mines

WHEREAS it is expedient to provide law for the regulation and inspection of mines in Azad Jammu and Kashmir in the manner hereinafter appearing;

It is hereby enacted as follows:-

**CHAPTER-I
PRELIMINARY**

1. **Short Title, Extent and Commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Mines Act, 1977.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context:-
 - (a) "agent" when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a Manager under this Act;
 - (b) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;
 - (c) "Child" means a person who has not completed his fifteenth year;
 - (d) "day" means a period of twenty four hours beginning at

midnight;

- (e) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the Manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kinds of work whatsoever incidental to, or connected with mining operations;
- (f) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (g) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;
- (h) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mines:

Provided that it shall not include a mine of nuclear substances, an oil-field and a gas-field:

Provided further that it shall not include any part of such premises on which a manufacturing process is being carried on unless such, process is a process for coke making or the dressing of minerals;

- (i) "owner" when used in relation to a mine, means any person who is the immediate proprietor or lessee or co occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine or is merely the proprietor or the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

- (j) "prescribed" means prescribed by regulations, rules or bye-laws;
- (k) "qualified medical practitioner" means Deputy Director Health Services, District Health Officer, Civil Medical Officer or a person registered as practitioner with the Pakistan Medical Council;
- (1) "regulations", "Rules" and "bye-laws" means respectively regulations, rules and bye-laws made under this Act;
- (m) Where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay", and the period for which it works is called a "shift";
- (n) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to any part of the body or the permanent loss of, or injury to the sight or hearing or the fracture of any part of the body or the enforced absence of the injured person from work for a period exceeding twenty days; and
- (o) "week" means the period between midnight on Thursday night and midnight on the succeeding Thursday night.

CHAPTER - II INSPECTORS

3. **CHIEF INSPECTORS AND INSPECTORS.-** (1) The Government may, by Notification in the official Gazette, appoint a duly qualified person to be Chief Inspector of Mines for the whole of Azad Jammu and Kashmir, and duly qualified persons to be Inspectors of Mines subordinate to be Chief Inspector.
- (2) No person shall be appointed to be Chief Inspector or an Inspector or, having been appointed shall continue to hold such Office who is or becomes directly or indirectly interested in any mine or mining rights in Azad Jam am and Kashmir.
- (3) The District Magistrate may exercise the powers and perform he duties of an Inspector subject to the general or special orders of the Government:

Provided that nothing in this sub-section shall be deemed

to empower a District Magistrate to exercise any of the powers conferred by section 22 or section 54.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Azad Penal Code.

4. **Functions of Inspectors:-** (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act and shall, subject as aforesaid, declare the local area or areas within which or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situated within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules, which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

5. **POWERS OF INSPECTORS OF MINES:-** The Chief Inspector and any Inspector may:-

- (a) make such examination and enquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made there under are observed in the case of any mine;
- (b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof;
- (c) examine into, and make enquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety, health and welfare of the persons employed in the mine;
- (d) take, whether on the precincts of the mine or elsewhere, statement of any person which he may consider necessary for carrying out the purpose of this Act:

Provided that no person shall be required under this section to answer or give any evidence tending to criminate himself;

- (e) require the production of any books, registers or other documents, the keeping of which is prescribed, in order to see that they are in conformity with the provision of this Act and rules and regulations, framed there under and take into his custody, or make copies of, or extracts from, any such book, register or other document;
- (f) After informing the Manager of a mine or his representative, take or remove, for the purpose of analysis, samples of materials and substances used or handled in the mine;

6. **Powers of special officer to enter, measure, etc.-** Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night but not so as unreasonably to impede or obstruct the working of the mines:

Provided that no such notice need be given if, for reasons to be recorded, the Chief Inspector or Inspector is of opinion that there is an emergency.

7. **Facilities to be afforded to inspectors:-** Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 6 all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act.
8. **Secrecy of information obtained:-** (1) All copies of, and extracts from, registers or other records pertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties there under shall be regarded as confidential and shall not be disclosed to any person other than a Magistrate or a commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), or an official superior or the owner, agent or manager of the mine concerned, unless that Chief Inspector or the Inspector considers discloses necessary to ensure the safety of any person.

9. **Secrecy of source of complaint:-** The Chief Inspector or Inspector shall treat as absolutely confidential the source of any complaint bringing to his notice a defect or breach of any provision of this Act or any rules or regulations made there under and shall not give any intimation to the owner of the mine or his representative that a visit or inspection was made in consequence of the receipt of such a complaint.
- (2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses contrary to the provisions of sub-section (1) any such information as aforesaid without the consent of the Government, he shall be guilty of a breach of official trust, and shall be punished with imprisonment for a term which may extend to one year or with fine or with, both.
- (3) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Government.

CHAPTER - III

MINING BOARDS AND COMMITTEES

10. **MINING BOARDS AND COMMITTEES:-** (1) The Government may constitute for any part of Azad Jammu and Kashmir or for any group or class of mines, a Mining Board consisting of:-
- (a) a person in the service of the Government, not being Chief Inspector or an Inspector, nominated by the Government to act as Chairman;
 - (b) The Chief Inspector or an Inspector;
 - (c) a person, not being the Chief Inspector or an Inspector nominated by the Government;
 - (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;
 - (e) two persons to represent the interest of minerals who shall be nominated in accordance with the following provisions:-
 - (i) if there are one or more registered trade unions having in the aggregate as members not less than one quarter of the miners the said persons shall

be nominated by such trade union or trade unions in such manner as may be prescribed;

- (ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than 1000 miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Government;
- (iii) if neither sub-clause (i) nor sub-clause (ii) is applicable the said persons shall be nominated by the Government.

Explanation:- In this clause ‘miner’ means a person employed otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(2) The Chairman shall appoint a person to act as Secretary to the Board.

(3) The Government may give directions as to the payment of traveling expenses incurred by the Secretary or any member of any such mining Board in the performance of his duty as such Secretary or member.

11. **Committees:-** (1) Where under this Act any question relating to a mine is referred to a committee, the Committee shall consist of,-

- (a) a Chairman nominated by the Government or by such officer or authority as the Government may authorise in this behalf;
- (b) a person nominated by the Chairman and qualified by experience to dispose of the question referred to the committee; and
- (c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as Chairman or member of Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1) the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Government.

(5) On receiving such report the Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Government may proceed to review such decision and to pass such order in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(6) The Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and to the payment of expenses of the inquiry including such remuneration.

12. **Powers of Mining Boards:-** (1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board, constituted, under section 10 and every Committee appointed under section 11 shall have the powers of Civil Court under the Code of Civil Procedure 1908 (V of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Azad Penal Code.

13. **RECOVERY OF EXPENSES:-** The Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner

or agent of the mine concerned and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Magistrate's Jurisdiction belonging to such owner or agent.

CHAPTER –IV

MINING OPERATION AND MANAGEMENT OF MINES

14. **Notice Before commencement of mining operations:-** (1) The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of proposed mining operations, not less than fifteen days before the commencement of such operations, give to the Chief Inspector and the District Magistrate of the district in which the mine is situated or the operations will commence notice in writing in such form and containing such particulars as may be prescribed.
- (2) If the proposed operations in respect of which notice is given under sub-section (1) are not commenced within sixty days from the date on which the notice was given the said notice shall be deemed to have expired and no operations shall commence except after a notice has been given in accordance with that sub-section.
15. **Managers:-** (1) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.
- (2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.
16. **Duties and Responsibilities of Owners, Agents and Managers:-** (1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye laws and of any orders made there under.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves —

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER - V

PROVISIONS AS TO HEALTHY AND SAFETY

- 17. **CONSERVANCY:-** There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.
- 18. **CANTEENS:-** At every mine wherein more than one hundred persons are ordinarily employed, a canteen of such standard as may be prescribed shall be provided for the use of persons employed therein.
- 19. **SHELTERS:-** There shall be provided and maintained for use of persons working above ground, in a mine, during intervals for rest, shelters of such standard and on such scale as may be prescribed.
- 20. **MEDICAL APPLIANCES:-** At every mine such supply of ambulances or stretchers, and of splints, bandages and ether medical requirements, as may be prescribed, shall be kept ready

at hand in a convenient place and in good and serviceable order.

21. **First-aid rooms:-** It every mine in respect of which the Government may, by notification in the official Gazette, declare this section to apply there shall be provided first-aid rooms of such size with such equipment and in charge of such medical and nursing staff as may be prescribed.

22. **Powers of chief inspector and inspector.-** (1) If in any respect which is not provided against by any express provision of this Act or of the regulations rules or bye-laws or of any orders made there under, it appears to the Chief Inspector or the Inspector that any mine or any part thereof or any matter, thing or practice in or connected with the mine, or with the control management or direction thereof, is dangerous to human life, health or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, in any area to which the Government may by notification in the official Gazette declare that this sub-section applies, by order in writing addressed to the owner, agent or manager of a mines,-

Prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which, such operation is contemplated and for restricting the area that might be affected by a fire or flooding; and the provisions of subsections (4), (5), (6) and (7) shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(3) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life, health or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a

statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) When an order has been made under sub-section (2) by an Inspector, the owner agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm modify or cancel the orders.

(5) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(6) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under, sub-section. (2), or sub-section (3), he may, within thirty days after the receipt of the notice containing the requisition of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Government, which shall refer the same to a Committee.

(7) Every requisition made-under sub-section (1), or order (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the ime of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending it is decision on the objection.

(8) Nothing in this section shall effect the power of a Magistrate under section 144 of the Code of-Criminal Procedure, 1898.

23. **Notice to be given of accidents:-** (1) Whenever there occurs in or about a mine:-

(a) an accident causing loss of life or serious bodily injury,
or

- (b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or eruption or inrush of water or other liquid matter, or
- (c) an influx of inflammable or noxious gases, or
- (d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or
- (e) an over winding of cages or other means of conveyance in any shaft while persons or materials are being lowered, or raised, or
- (f) an electric shock or burn caused by contact with a conductor carrying more than 25 volts, or
- (g) any other accident that may be prescribed, the owner, agent or manager of the mine shall give notice of the occurrence to such authorities, in such form and within such time as may be prescribed.

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the Inspector shall, make, or, where the authority receiving the notice is one other than the Inspector, that authority shall cause the Inspector to make, an inquiry into the occurrence as early as possible on receipt of such notice or on information received otherwise.

(3) When an accident causing loss of life occurs, the place of the accident shall not be disturbed, or tampered with for three clear days from the date of such accident unless the Inspector has earlier inspected it or given intimation that it is not proposed to make an inquiry:

Provided that the place of accident may be disturbed if is necessary for securing the safety of the mine or the persons employed therein, subject to the following conditions:-

- (a) the decision that it is necessary to disturb the place must be taken by the manager;
- (b) the disturbance must not prejudice subsequent investigation;
- (c) the workers' representative must have reasonable opportunity to inspect the place if he wishes;

- (d) an accurate plan must be made and copies thereof made available to the Inspector and the worker's representative; and
- (e) every thing which is relevant to the accident must be preserved, as far as possible, in the condition in which it was at the time of the accident.

(4) The Government may, by notification in the official Gazette direct that accidents other than those specified in sub-section (1) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours, shall be entered in a register in the prescribed form or shall be subject to the provision of sub-section (1).

(5) A copy of the entries in the register referred to in sub-section (2) shall be sent by the owner, agent or manager of the mine, within fourteen days after the 30th day of June and the 30 day of December in each year, to the Chief Inspector.

24. **Notice of occupational diseases:-** (1) Where any person employed in a mine contracts or is believed to have contracted any disease notified by the Government in the official Gazette as the occupational disease peculiar to any mining operation, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(2) The Government may, by order, appoint such qualified medical practitioners on such terms and conditions as it thinks fit to be certifying doctors for the purpose of this section within such local limits as it may specify in the order.

(3) If the Chief Inspector or an Inspector has reason to believe that any person working in a mine has contracted a disease notified under sub-section (1), he may refer that person to the certifying doctor for his opinion.

(4) If any qualified medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating:-

- (a) the name and address of the patient;

- (b) the disease from which the patient is or is believed to be suffering; and
- (c) the name and address of the mine in which the patient is or was last employed.

(5) Where the report under sub-section (4) is confirmed, to the satisfaction of the Chief Inspector by the certificate of a certifying doctor that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(6) The Chief Inspector or an Inspector, if so advised by the certifying doctor, may direct the owner, agent or manager of the mine to shift for any specified period a person who has contracted an occupational disease to such working place where there is no or no danger of aggravation of the disease.

25. **Power of Government to appoint court of inquiry in cases of**

accidents:- (1) When any accidental explosion, ignition, outbreak or fire or irruption of water or other accident has occurred in or about any mine, the Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Azad Penal Code.

(3) Any person holding an inquiry under this Section may exercise such of the powers of an inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Government stating the causes of the

accident and its circumstances, and adding any observations which lie or any of the assessors may think fit to make.

26. **Publication of reports:-** The Government may cause any report submitted by a Committee under section 11 and shall cause every report submitted by a court of inquiry under section 25 to be published at such time and in such manner as it may think fit.

CHAPTER VI HOURS AND LIMITATION OF EMPLOYMENT

27. **Weekly day of rest:-** No person shall be allowed to work in a mine for more than six days in any one week.

28. **Hours of work above ground:-** (1) A person employed above ground in a mine shall not be allowed to work for more than forty-eight hours in any week or for more than eight hours in a day.

(2) The periods of work of any such person shall be so arranged that, along with his intervals for rest, they shall not in any day spread over more than ten and a half hours, and that he shall not work for more than five hours before he has had an interval for rest of at least half an hour.

(3) Persons belonging to the or more relays shall not be allowed to do work of the same kind above ground at the same moment:

Provided that for the purposes of this sub-section persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

29. **Hours of works below ground.-** (1) A person employed below ground in a mine shall not be allowed to work for more than eight hours in any day.

(2) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than eight hours in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than eight hours.

(3) No person employed in a mine shall be allowed to be in any part of the mine below ground except during the period of

work shown in respect of him in the register kept under sub-section (1) of section 41.

30. **Special provision for night relays:-** Where a worker works in a shift whose period of work extends over midnight of the ensuing day for him shall be deemed to be the period, of twenty four hours beginning at the end of the period of work fixed for the shift, and hours he has works after midnight shall be counted towards the previous day.
31. **Prohibition of employment of certain persons:-** No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.
32. **Notice regarding hours of works:-** (1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays the time of the commencement and of the proposed of work for each relay. The notice shall also state the time of the commencement and of the end of the intervals for the rest fixed for persons employed above ground. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.
- (2) In the case of a mine at which mining operations commence, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.
- (3) Where it is proposed to make any alternation in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.
- (4) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).
33. **Employment of women:-** (1) No woman shall be employed in part of a mine which is below ground,
- (2) No women shall be allowed to work in a mine above

ground between the hours of 7 p.m. and 6 p.m.

(3) The provisions of this section shall not apply to women who do not perform manual work and

- a) holding positions of managerial or technical character; or
- b) employed in health and welfare services.

34. **Supervising staff:-** Nothing in section 28, section 29, section 31, sub-section (4) of section 32 or in section 33 shall apply to persons who may by rules be defined to be persons holding responsible positions of a managerial or technical character or employed in health and welfare services or employed in any confidential capacity.

35. **Exemption from provisions regarding employment:-** (1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein the manager may, subject to the provisions of section 22 permit persons to be employed in contravention of section 27, section 28, section 29, section 31 or sub-section (4) of section 32 on such work as may be necessary to protect the safety of the mine or of the persons employed therein;

Provided that, where such occasion arises a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

(2) When as a result of grant of an exemption to any mine from the provisions of section 27, any person employed therein is deprived of any of the weekly days of rest, he shall be allowed within two months from the date on which the weekly day of rest was due, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(3) In case of prescribed proposes which are required by their nature to be carried on continuously by a succession of shifts, the limit of hours of work provided in section 28 or section 29 may, with the prior approval of the Chief Inspector, be raised to not more than fifty-six hours in any week or ten hours in any day.

(4) In exceptional, cases of pressure of work, the Chief Inspector may grant temporary exemption to a mine from the

provisions of section 27 section 28 or section 29 for a period not exceeding ninety days in any calendar year, within the maximum limits of -

- (a) ten hours of work in any day, and
- (b) twelve hours of spread over, inclusive of intervals for rest or meal, any one day.
- (5) subject to the maximum limits specified in sub-section (4), Government, may, by order, grant permanent exemption, to such extent and subject to such condition as may be specified in the order to a class of workers engaged either on preparatory or complementary work which must necessary be carried on outside the mines or on work which is essentially intermittent.

36. **Extra wages for overtime:-** (1) Where in a mine a person works for more then eight hours in any day or works for more than forty-eight hours in any week, whether above ground or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate or wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favorable to him.

Explanation:- In this sub-section, ordinary rate or wages means all remuneration capable of being expressed in terms of money which would if the terms of contract of employment, express or implied, were fulfilled, be payable to a worker in respect of his employment or of work done in such employment, but does not include –

- (i) the value of any house accommodation, supply of light, water medical attendance or other amenity.
- (ii) any contribution paid by the owner be any persons fund improvement fund;
- (iii) any traveling allowance or the value of traveling concession;
- (iv) any sum paid to the person employed to defray special expenses entitled on him by the nature of his employment; or
- (v) any gratuity, bonus, overtime allowance or share in profits of the mine.

(2) where any person employed in a mine is paid on a piece-rate basis, the Government, in consultation with the employer concerned and the representatives of the persons employed in the mine, may for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of the persons so employed, and the rates so fix shall be deemed to be the ordinary rate of wages of such persons.

(3) The Government may prescribe the registers that shall be maintained in a mine for the purpose of securing compliance with the provisions of this section.

37. **Children:-** No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

38. **Young persons not to be allowed underground without certificates of fitness:** No persons who has not completed his seventeenth years shall be allowed to be present in any part of a mine which is below ground, unless:-

- (a) a certificate of fitness in the prescribed form and granted to him by a qualified medical practitioner is in the custody of the manager of the mine, and
- (b) he carries while at work a token giving a reference to such certificate.

39. **Limitation of working hours for young persons:-** No person who has not completed his seventeenth year shall be permitted to work in any part of a mine, either below ground or above ground unless the hours of work of such person for any day are so fixed as to allow an interval of rest of at least twelve consecutive hours which shall include at least such seven consecutive hours between the hours of 7 p.m. and 7 a.m. as may prescribed;

Provided that nothing in this section shall apply to any such person while employed or permitted to work in any mine as an apprentice or for the purposes of receiving vocational training, in such circumstances and in accordance with such conditions as may be prescribed :

Provided further that such persons shall be granted a rest period of at least thirteen consecutive hours between two working periods.

40. **Disputes as to age:-** (1) If any question arises between the Chief

Inspector or the Inspector and the manager of any mine as to whether any person is a child or has not completed his seventeenth year, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner or and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

41. **Register of employers:-** (1) For every mine there shall be in the kept in the prescribed form and place a register of all persons employed, in the mine showing, in respect of each such person:-

- (a) Name, date of birth and the nature of his employment;
- (b) the periods of work fixed for him;
- (c) the intervals for rests if any, to which he is entitled;
- (d) the days of rest to which he is entitled; and
- (e) where work is carried on by a system of relays, the really to which he belongs.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work whom in respect of him in the register.

(4) For every mine to which the Government may, by general or special order, declare this sub-section to be applicable, there shall be kept in the prescribed form and place a register which shall show at any moment the name of every person then working below ground in the mine.

CHAPTER VII
LEAVE AND HOLIDAYS WITH WAGES

42. **Application of the Chapter:-** Nothing in this chapter shall effect any right or privilege to which a person employed in a mine has been entitled on the date of coming into force of this Act, under any existing law or under any award, agreement, settlement, contract, custom or usage if such right or privilege is more favorable to him, nor shall such right or privilege be combined with, or be in addition to, the benefits under the provisions of this chapter.
43. **Annual leave with wages:-** (1) Every person who has complete one year of continuous service in a mine shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of:-
- (a) One day for every seventeen days of work performed below ground during the previous period of twelve months;
 - (b) One day for every twenty days of work performed above ground during the previous period of twelve months;

Provided that a period of leave shall be inclusive of any holiday which may occur during such period.

- (2) If a person employed in a mine does not, in any such period of twelve months, take leave to which he is entitled under sub-section (1), either in whole or in part, such leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that such person shall cease to earn leave under this section when the leave due to him amounts to twenty days:

Provided further that any leave applied for by a person but refused by the owner, agent or manager of the mine for any reason shall be added to the credit of such person beyond the aforesaid limit.

- (3) If a person entitled to leave under sub-section (1) is discharged before he has been allowed the leave or, if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the owner, agent or manager shall pay him the amount payable under

section 46 in respect of the leave.

(4) For the purpose of this section, a person shall be deemed to have completed a period of continuous service in a mine notwithstanding any interruption in service during that period due to:-

- (a) any holiday;
- (b) any leave with wages;
- (c) any leave with or without due to sickness or accident
- (d) any maternity leave not exceeding twelve weeks;
- (e) any period of lay off arising, due to failure, refusal, inability of any owner on account of shortage of coal, power or raw material or the accumulation, of stock or the break-down of machinery or for any other reason, to give employment to a person whose name is borne in the muster rolls of his mine; or
- (f) a strike which is not illegal or a lookout which is not legal.

44. **Festival Holidays:-** Every person employed in a mine shall be allowed, with wages, such festival holiday as are declared by the Government to be public holidays.

45. **Casual leave and Sick Leave:-** Every person employed in a mine shall be entitled in a year to ten days casual leave on full wages and sixteen days sick leave or half average wages;

Provided that casual leave or sick leave admissible under this section shall not be accumulated and carried forward to the succeeding year.

46. **Wages during leave or holiday periods:-** For the leave or holidays allowed to a person under the provisions of this chapter, he shall be paid :-

- a) in case of leave with full wages, at the rate equal to the daily average of his wages for the days on which he actually worked during the preceding three months; and
- (b) In case of leave with half average wages, at the rate equal to half daily average of his wages as aforesaid.

47. **Payment in advance in certain cases:-** Any person who s has been allowed leave for not less than four days under section 43 shall, before his leave begins, be paid the wages due for the period of the leave allowed.
48. **Power of inspector to act for workers:-** Any Inspector may institute proceedings on behalf of any person who has been or is employed in a mine, to recover any sum required to be, not, paid by an owner, agent or manager in accordance with this chapter.

CHAPTER – VIII REGULATIONS, RULES AND BYE-LAWS

49. **Power of Government to make Regulations:-** The Government may, by notification in the official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:-
- (a) for prescribing the qualification to be required by a person to appointment as Chief Inspector or Inspector ;
 - (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;
 - (c) for prescribing the duties or owners, agents and Managers of mines and of personal acting under them;
 - (d) prescribing the qualifications of manager of mines of persons acting them;
 - (e) for regulating the manager of ascertaining by examination or otherwise, the qualifications of manager of mines and persons acting under them and the granting and renewal of certificates of competency ;
 - (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates ;
 - (g) for determining, the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;
 - (h) for providing for the making of inquiries into charges of

misconduct or incompetence on the part of managers or mines and persons acting under them and for the suspension and cancellation of certificates of competency ;

- (i) for providing for the appointment in mines two hundred and fifty or more persons are ordinarily employed or such number of welfare and safety officers as may be specified and for prescribing the qualifications and the duties to be performed by such officers ;
- (j) for regulation, subject to the provisions of the Explosives Act, 1884, and of any rules made there-under, the storage and use of explosives ;
- (k) for regulating, subject to the provisions of the Electricity Act, 1910 (IX of 1910), and the rules made there-under, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines ;
- (l) for prohibiting, restricting or regulation the training of employment in mines or in any class of mines, of women either below ground or on particular kind of labour which are attended by danger to the life, safety of health of such women;
- (m) for providing for and regulating the training of persons before they are employed in mines and also during the period of employment et such intervals as may be prescribed ;
- (n) for providing for and regulating the medical examination of the person before they are employee in mines and also during the period of employment at such intervals as may be prescribed;
- (o) for providing for the safety of the persons employed in a mine, their means of entrance there into and exit there-from; the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (p) for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine

and directly answerable to the owner or manager or the mine;

- (q) for providing for the safety of the reeds and working places in mines, including the sitting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (r) for prescribing the size of traveling roads in a mine, through which load is carried by human agency and limit or load and the distance to which it is carried;
- (s) for providing for and regulation the inspection of working in disused working and sealed off fire areas in mines and for the restriction of working in a mine under or in the vicinity of graves or the sea or any lake or river or any other body or surface water, whether natural or artificial or any public roads, or buildings;
- (t) for providing for and resulting the ventilation of mines and the action to be taken in respect of dust, incising radiations, radioactive gases and dust fire and in claimable and noxious gases;
- (u) for providing for the care and the regulation of the use, or all machinery, plant, equipment and material in mines;
- (v) for providing for the safety of persons present on haulage roads in mines and for prohibiting or restricting or regulating the use of certain classes of locomotives underground;
- (w) for providing for adequate and suitable, lighting mines and for requiring and regulating the use, of safety lamps and for the search of persons entering a mine for the prescribed prohibited articles ;
- (x) for prescribing protective equipments and clothing and breathing apparatus for all persons or classes of persons employed in mines or classes of mines and requiring and regulating the use of such protective equipments, clothing and apparatus;
- (y) for providing against explosions or ignitions or eruptions of or accumulations of water in mines and against danger arising there-from, and for prohibiting,

restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines;

- (z) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided or by regulations, to be furnished by owner, agents and managers of mines, and for prescribing the forms of such notices returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
- (aa) for prescribing the form of the authorities to whom, and the time within which, the notice required by sub-section (1) of section 23 shall be sent by owner, agent or manager of a mine, and the fee to be paid to the medical practitioners under sub-section (5) of that section;
- (bb) for prescribing the plans to be kept by owner, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;
- (cc) for regulating the procedure on the occurrence of accident or accidental explosions in or about mines;
- (dd) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14, and
- (ee) for prescribing the notice to be given, by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railways, subject to the provisions of the Railways Act, 1890 (IX of 1890), or of any public work of classes or public works which the government may, be general or special order, specify in this behalf.

50. **Power of government to make rules:-** The government may by notification in the official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:-

- (a) for providing for the appointment of chairman and members of Mining Boards, and for regulating the procedure of such Boards;

- (b) for prescribing the form of the register referred to in section 41 sub-section (4) or section 23;
- (c) for requiring facilities and security of service to be provided to managers of mines and other persons acting under them for enabling them to efficiently discharge their duties;
- (d) for providing for the appointment of courts of inquiry under section 25, for regulating the procedure and powers of such courts, for the payment of traveling allowance to the members and for the recovery of the expenses of such courts from the manager, owner or agent of the mine, concerned;
- (e) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particulars reference to the number of women ordinarily employed in the mine, the number and standards in such rooms, and- the nature and extent of the supervision to be provided therein;
- (f) for requiring the maintenance at or near pit heads of bathing places equipped with shower baths and of lockers rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mine where women are employed, and for prescribing either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the numbers of men and women ordinarily employed in a mine, the numbers and standards of such places and rooms;
- (g) for prescribing the standard in respect of construction accommodation, furniture and other equipment of the canteens, the food-stuff to be served there in and the charges which may be made therefore and the representation of the persons employed in the mines in the management of such canteens;
- (h) for prescribing the scale of latrine and urinal accommodation, to be provided at mines, the provision to be made for the supply of drinking water, the standards of first-aid rooms and shelters, the equipment

and furniture therein and the nature and extent of supervision to be provided therefore the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

- (i) for prescribing the forms of notices required under section 32, and for requiring such notices to be posted also in specified vernaculars ;
- (j) to fix seven consecutive hours between 7 p.m. and 7 a.m. for the purposes of section 39;
- (k) to specify the circumstances in which and conditions in accordance with which a young person may be employed or permitted to work as an apprentice or for the purpose of the receiving vocational training in a mine for the purposes of the provision to section 39 ;
- (l) for defining the persons who shall for the purposes of section 39, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;
- (m) for prohibiting the employment in mines of person any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked ;
- (n) for prescribing the form of the certificates, of fitness required by section 38 and the circumstances in which such certificates may be granted and revoked ;
- (o) for prescribing, the form of registered required by section 41 ;
- (p) to fix the time rates for the persons employed on piece rated basic and for requiring the maintenance of payment registers for overtime work and prescribing the form thereof;
- (q) for prescribing the forms in which record of applications for leave, the grant or refusal thereof and the payment of wages during Leave and holiday with wages is to be kept.

- (r) for prescribing abstracts of this Act and of the regulations and rules and the vernacular in which the tracts and bye-laws shall be posted as required by section 54, and 55;
- (s) for requiring the fencing of any mine or part of mine whether the same is being worked or not, where such fencing is necessary for the protection of the public;
- (t) for the protection from injury in respect of any mine when the workings are discontinued, of property vest in Government or any local authority or Railway company as defined in the Railway Act, 1890 (IX of 1890);
- (u) for requiring notices, returns and reports in connection with any matters dealt with the rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted;
- (v) generally to provide for any matter not provided for by this Act or the regulation, provisions for which is required in order to give effect to this Act.

51. **Power of government to require rescue stations to be establishment:-** The Government may, by notification in the official Gazette make rules under this section:-

- (a) requiring establishment of control rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;
- (b) providing for the management of central rescue stations and regulating the constitution, powers and functions of and the conduct of business by the authorities (which shall include representatives of the owners, and managers of, and of the miners employed in, the mines or group of mines concerned charged with such management;
- (c) prescribing the position, equipment, control, maintenance and function of central rescue stations;
- (d) providing for the levy and collection of a duty or excise

(at a rate not exceeding twenty five paise per ton) on coke and coal produced in and dispatched from mines. specified under clause (a) in any group or included under clause (a) in any specified area, the utilization of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds;

- (e) providing for the formation, training, composition and duties of rescue brigades and ;
- (f) providing generally for the conduct of rescue work in mines

52. **Prior publication of regulations and rules:-** (1) The power to make regulations and rules conferred by section 49, 50 and 51 is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation is published under this section it shall be referred to every Mining Board constituted in Azad Jammu and Kashmir, which is, in the opinion of the Government, concerned with the subject dealt with by the regulation and the regulation shall not be so published until such Board has had a reasonable opportunity of reporting as to the expediency or making the same and as to the suitability of its provisions.

(4) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the part of Azad Kashmir effected by the rule, and unless each Mining Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(5) Regulations and rules shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

(6) The provisions of subsection (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (e)

or clause (f) of section 50 are made.

53. **Power to make regulations without previous publication:-** Notwithstanding any thing contained in sub-sections (1) (2) and (3) of section 52, regulations under clause, (j) and clauses (o) to (cc) inclusive of section 49 may be made without previous publication and without previous reference to mining Board, If the Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from inch publication and reference:

Provided that any regulations so made shall not remain in force for more than, two years from the making thereof.

54. **Bye-laws:-** (1) The owner, agent or manager of a mine may and shall if called upon to do so by the Chief Inspector or Inspect or, frame and submit to the Chief inspector or inspector, a draft of such bye-laws, not being inconsistent with this Act or any regulations or rates for the time being in force, for the control and guidance of the persons acting in the management of or employed in, the mine prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) if any such owner, agent or manager -

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief inspector or Inspector, or

(b) Submits a draft of bye-laws which is not in the opinion of the Chief inspector or inspector sufficient, the Chief inspector or Inspector may

(i) propose a draft of such bye-laws as appear to his to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as well, in his opinion render it sufficient and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within, a period of two months from the date on which

draft bye-laws or draft amendments are sent by the Chief inspector or Inspector to the owner, agent or manager under the provisions of subsection (2) the Chief inspector or inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under subsection (1), the Chief - inspector or Inspector shall refer the draft bye-laws for settlement to the mining Board or, where there is no Mining Board, to such officer or authority as the Government may by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner agent or manager and the Chief inspector or inspector or, when they are unable to agree, have been settled by the mining Board or such officer or authority as aforesaid a copy of the draft bye-laws shall be sent by chief inspector or inspector to the Government for approval.

(b) The Government may make such modifications of the draft bye-laws as it thinks fit.

(c) Before the Government approves the draft bye-laws whether with or without modification they shall be published, in such manner as the Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws made by or on behalf of persons affected should be sent to the Government.

(d) Every objection shall be in writing and shall state –

(i) the specific grounds of objection, and

(ii) the commissions, additions or modifications asked for.

(e) The Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws in English

and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near mine, where the bye-laws may be conveniently read or seen by the persons employed and, as often as the same became defaced obliterated or; destroyed, shall cause them to be renewed with all reasonable dispatch.

(6) The Government may order in writing rescind, in whole or in part, any bye-laws so made and thereupon such shall cease to have effect accordingly.

55. **Posting up of extracts from act regulations, Etc.-** There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed the prescribed abstracts of the Act and of the regulations and of the regulations and rules.

CHAPTER – IX PENALTIES AND PROCEDURE

56. **Obstruction:-** (1) whoever obstructs the Chief Inspector or Inspector or any person authorised under section 6 in the discharge of his duties under this Act, or refuses or willfully neglects to afford the Chief inspector or Inspector or such person any reasonable facility for making any entry inspection, examination or inquiry authorised lay or under this Act in relation to any mine, shall be punishable with, imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief inspector or inspector any register or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act shall be punishable with fine which may extend to six hundred rupees.

57. **Falsification of records, etc.-** Whoever

- (a) Counterfeits, or knowingly makes a false statement in, any certificate or any official copy of a certificate, granted under this Act, or
- (b) knowingly uses as true any such counterfeit or false certificate, or

- (c) makes or produces or uses any false declaration statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate or the renewal of a certificate, under this Act, or any employment in a mine, or
 - (d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or
 - (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.
58. **Omission to furnish plans, etc.-** Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to four hundred rupees.
59. **Contravention of provisions regarding employment of labour:-** Whoever, save as permitted by section 35, contravenes any provision of this Act or of any regulation, rule or bye-laws or of any order made there under prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to one thousand rupees.
60. **Notice of accidents:-** (1) Whoever, in contravention of the provisions of sub-section (1) of section 23, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to one thousand rupees or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.
- (2) Whoever in contravention of a direction made by the Government under sub-section (2) of section 23 fails to record in the prescribed register or to be notice of any accidental occurrence shall be punishable with fine which may extend to one thousand rupees.

61. **Disobedience of orders:-** - Whoever contravenes any provisions of this Act or of any regulation, rule or bye-laws or of any order made there-under for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to two thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to two hundred rupees and in the case of a continuing contravention, with a further fine which may extend to two Hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

62. **Contravention of law with dangerous results:-** Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any order made there under, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to four thousand rupees or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both; or if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to one thousand rupees or with both.

(2) Where a person having been convicted under this section is again convicted there under, he shall be punishable with double the punishment provided by sub-section (1).

(3) Any Court imposing, or confirming in appeal, revision of otherwise, a sentence of fine passed under this section may when passing being judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or in the case of his death to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

63. **Special provision regarding fine:-** Notwithstanding anything contained is section 52 of Code of Criminal procedure 1898 (Act V of 1898) it shall be lawful for the Magistrate of the 1st class to pass a sentence of fine not exceeding one thousand rupees authorised by this Act, on any person convicted of an offence

there-under.

64. **Prosecution of owner or manager:-** No prosecution shall be instituted against any owner agent or manage for any offence under this Act except at the instance of the Chief inspector of the District Magistrate or of an inspector authorised in this behalf by general or special order in writing by the Chief inspector.
65. **Limitation of Prosecutions:-** No court shall take cognizance of any offence, under this Act unless complaint thereof has been made:-
- (i) within six months of the date on which the .offence is alleged to have "been committed; or
 - (ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the inspector; or
 - (iii) in any case where a person has been appointed by the Government under section 25 to hold an inquiry within six months of the date of the making of the report referred to in sub-section (4) of that section which ever is the later.
66. **Cognizance of offences:-** No Court inferior to that of a Magistrate of the first Class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.
67. **Reference to mining board or committee in lieu of prosecution in certain cases:-** (a) If the court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an inspector under this Act is of opinion that the case is one which should , in lieu of a prosecution, be referred to a Mining Board or Committee, it nay stay the criminal proceedings and report the matter to the Government with a view to such reference being made.
- (b) On receipt of a report under sub-section (1), the Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

**CHAPTER – X
MISCELLENOUS**

68. **Decision of question whether a mine is under this act:-** If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Government may decide the question, and a certificate signed by a secretary of the Government shall be conclusive on the point.
69. **Power to exempt from operation of act:-** (1) The Government may, by notification in the official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act:
- Provided that no local area or mine or group or class of mine shall be exempted from, the provisions of section 37 unless it is also exempted from the operation of all the other provisions of this Act:
- Provided further that no exemption from, the operation of the provisions of section 28 or section 29 or section 30 shall be granted except in the event of war or other emergency threatening the national safety.
70. **Power to after of rescind orders:-** The Government may reverse or modify any order passed under this Act.
71. **Application of act to government mines:-** This act shall also apply to mines belonging to the Government.
72. **Bar of jurisdiction:-** No suit, persecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

یہ مسودہ قانون، قانون ساز اسمبلی آزاد جموں و کشمیر نے مورخہ ۱۰ جولائی ۱۹۷۷ء کو منظور کیا۔

سپیکر

قانون ساز اسمبلی آزاد جموں و کشمیر

میں اس کی توثیق کرتا ہوں۔

صدر
آزاد جموں و کشمیر

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad dated July, 1977.

The following Act of the Assembly received the assent of the President on the 18th of July, 1977, and is hereby published for general information:-

(ACT VI of 1977)

AN ACT to regulate the manufacture, storage, distribution and sale of drugs.

WHEREAS it is expedient to regulate the manufacture, storage, distribution and sale of drugs, in the manner hereinafter appearing;

It is hereby enacted as follows:-

**CHAPTER-1
INTRODUCTORY**

1. **Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Drugs Act, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir Territory.

(3) It shall come into force at once.
2. **Application of other laws not barred:-** The provisions of this Act, shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 (II of 1930) and any other law for the time being in force.
3. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) “Adulterated drug” mean a drug-
 - (i) Which consists in whole or in part of any filthy, putrid, or decomposed substance or which contains any foreign matter, vermin, worm, rodent or insect; or
 - (ii) which has been manufactured, packed, or held under unsanitary conditions whereby it may

- have been contaminated with dirt, filth or any other foreign matter or where by it may have been rendered injurious to health; or
- (iii) the container of which releases any poisonous or deleterious substance which may render the contents injurious to health; or
 - (iv) which bears or contains as an ingredient a substance other than the prescribed substance; or
 - (v) with which any substance has been mixed or packed so as to reduce its quality or strength or for which any substance has been substituted wholly or in part;
- (b) “Appellate Board” means the Board constituted under Section 9;
 - (c) “batch” means a quantity of any drug produced during a given cycle of manufacture;
 - (d) “batch number” means a designation printed on the label of a drug that identifies the batch and permits the production history of the batch, including all stages of manufacture and control to be traced and reviewed;
 - (e) “Licensing Board” means a Board set up under section 4;
 - (f) “Counterfeit drug” means a drug the label or outer-packing of which is an imitation of or resembles or so nearly resembles as to be calculated to deceive, the label or outer-packing of a drug of another manufacture;
 - (g) “drug” includes;
 - (i) any substance or mixture of substance that it is manufactured, sold, stored, offered for sale or represented for internal or external use in the treatment, mitigation, prevention or diagnosis of disease, an abnormal physical state, or the symptoms thereof in human beings or animals or the restoration, correction, or modification of organic function in human beings or animals, not being a substance exclusively used or prepared for use in accordance with the

ayurvedic, unani, homoeopathic or biochemic system of treatment except those substances and in accordance with such conditions as may be prescribed;

- (ii) abortive and contraceptive substances, agents and devices, surgical ligatures, sutures, bandages, absorbent cotton, disinfectants bacteriophages, adhesive plasters, gelatins capsules and antiseptic solution;
 - (iii) such substance intended to be used for the destruction or repulsion of such vermin, insects, rodents and other organisms as cause, carry or transmit disease in human beings or animals or for disinfection in residential areas or in premises in which food is manufactured, prepared or kept or stored;
 - (iv) such pesticides as may cause health hazard to the public;
 - (v) any substance mentioned as monograph or as a preparation in Pakistan Pharmacopoeia or the Pakistan National Formulary or the international pharmacopoeia or the British pharmacopoeia or the British Pharmacopoeia codex or the United States Pharmacopoeia or the National Formulary of United States, whether alone or in combination with any substance exclusively used in the Unani, ayurvedic, homeopathic or bio-chemic system of treatment, and intended to be used for any of the purposes mentioned in sub-clauses (i), (ii) and (iii); and
 - (vi) any other substance which the Government may, by notification in the official gazette, declare to be 'drug' for the purposes of this Act;
- (h) 'expiry date' means the date stated on the label of a drug after which the drug is not expected to retain its claimed efficacy, safety, quality or potency or after which it is not permissible to sell the drug;
- (i) 'expert' means a specialist through University education experience in the relevant field;

- (j) 'generic name' means the non-proprietary, scientific or official name of a drug as approved by the Federal Government of Pakistan;
- (k) 'Government Analyst' means the Analyst appointed under section 15;
- (l) 'Inspector' means an inspector appointed under section 16;
- (m) 'Label' means a display of written, printed or graphic matter upon the immediate container, or the outside container or wrapper of a drug package;
- (n) 'Labeling' means all labels and other written, printed or graphic matter accompanying any drug;
- (o) 'Licensing authority' means any such authority as may be prescribed;
- (p) 'manufacture' in relation to a drug, means all operations involved in the production of the drug, including processing, compounding, formulating, filling, packing, repacking, or ornamenting, finishing and labeling with a view to its storage, sale and distribution, but does not include the compounding and dispensing on the package of any Drug in the ordinary course of retail business or on a prescription of registered medical practitioner or dentist or of a veterinarian and to 'manufacture' shall be construed accordingly;
- (q) 'misbranded drug' means a drug---
 - (i) which is not labeled in the prescribed manner; or
 - (ii) on the label or labelling of which any word, statement, or other matter or information required by the rules to appear on the label or labeling is not prominently placed with such conspicuousness (as compared with other words, statements, designs, or devices on the label or labeling and in such terms as may render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or
 - (iii) which is not labelled with such directions for use

and such warnings against use in indications where its use may be danger to health, or against unsafe dosage or duration of administration or application, in such manner and form as are necessary for the protection of users or as may be prescribed; or

- (iv) the label or, container of which, or any thing accompanying which, bears any statement design or device which makes any false claim for the drug or which is false or misleading in any particular; or
 - (v) which is so coloured, coated, powdered or polished that damage is concealed, or which is made to appear of better or greater therapeutic value than it really is; or
 - (vi) which is manufactured according to the specifications of a particular pharmacopoeia or any other document as may be prescribed and the label does not bear the name of that pharmacopoeia or document;
- (r) 'prescribed' means prescribed by rules;
 - (s) 'Quality Control Board' means a Board set up under section (10);
 - (t) 'Registration Board' means a Board set up under section (6);
 - (u) 'Registered drug' means any drug registered under section 6;
 - (v) 'rule' means rules made under this Act;
 - (w) 'Drug Court' means a Court established under Section 29;
 - (x) 'specifications' when applied to drug mean---
 - (i) such specification as may be prescribed; or
 - (ii) when the specifications are not prescribed, the specifications as contained in the most recent edition of any of the following publications namely:-

- (1) the Pakistan pharmacopoeia;
- (2) the international pharmacopoeia;
- (3) the European pharmacopoeia;
- (4) the United States pharmacopoeia;
- (5) the British pharmacopoeia;
- (6) the British pharmaceutical Codex;
- (7) the United States National Formulary;
and
- (8) such other publications as may be prescribed.

Provided that, if the specifications do not appear in the most recent edition of any such publication the specifications appearing in the next preceding edition of such publication in which the specifications appear shall apply; or

- (iii) if no specifications are either prescribed or contained in any of the publications referred to in sub-clause (ii), the specifications approved for the purpose of registration under this Act;
- (y) 'sell' means sell offer for sale, expose for sale, have the possession for sale and distribution and to 'sell' 'sold' or 'sale' shall be construed accordingly;
- (z) 'spurious drug' means a drug-
- (i) which purports to be a drug but does not contain the active ingredient of the drug; or
 - (ii) which purports to be the product of a manufacturer, place or country of whom or of which it is not truly a product; or
 - (iii) which is sold or offered or exposed for sale under a particular name while actually it is another drug; or
 - (iv) the label of which bears the name of an individual or company purporting to be

its manufacturer or producer which individual or company is fictitious or does not exist;

(aa) 'storage' means storage for sale and 'to store' or 'stored' shall be construed accordingly; and

(ab) 'substandard drug' means a drug which is not of specifications.

CHAPTER II ADMINISTRATION AND ENFORCEMENT

4. **Regulation of manufacture of drug:-** (1) The grant of licenses to manufacture drugs shall be regulated in accordance with such conditions and procedure as may be prescribed, by a licensing Board to be set up by the Government and consisting of such representatives of the Government as may be prescribed.

(2) The members of the Licensing Board shall exercise such powers including the powers of an Inspector, as may be prescribed.

(3) The Licensing Board shall make regulations to regulate the conduct of its business.

(4) Any member of the Licensing Board may, at any time by writing under his hand addressed to the Government, resign his office or shall vacate his office if the Government, being of the opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to sub-section (4), a member of the Licensing Board shall hold office for the prescribed period.

5. **Regulation of sale of drugs:-** The Government shall regulate the sale of drugs in the prescribed and may for that purpose make such orders, and issue such directions to the manufacturers, stockists, retailers or other dealers of drugs, as it may deem fit.

6. **Registration of drugs:-** (1) The Government shall cause all drugs to be registered in accordance with such conditions and procedure as be prescribed and for that purpose set up a Registration Board, consisting of such member of persons, possessing such qualifications, as may be prescribed.

Explanation:- In this section, 'drug' means drugs which are in the finished form ready for use.

(2) The members of the Registration Board shall exercise such powers, including the powers of an inspector as may be prescribed.

(3) The Registration Board shall make regulations to regulate the conduct of its business.

(4) Any member of the Registration Board may, at any time, by writing under his hand addressed to the Government, resign his office or shall vacate his office if the Government being of opinion that in the public interest it is necessary so to do, so directs.

(5) Subject to sub-section (4), the members of the Registration Board shall hold office for the prescribed period.

(6) The Government shall, by notification in the official Gazette, fix the date after which no drug which is not registered shall be allowed to be manufactured, stored, distributed or sold.

(7) A person applying for the registration of a drug shall furnish such information in respect of the drug as may be prescribed, including information relating to its efficacy, safety and quality, or as may be required by the Registration Board for the purpose of the evolution of the drug.

(8) Single ingredient drugs shall be registered generally by their generic names while compound drugs shall be registered by their proprietary names.

Explanation:- In this sub-section:-

(a) 'Single-ingredient drug' means drugs containing one active ingredient;

(b) 'compound drugs' means drugs containing more than ingredient.

(9) The registration of a drug shall be subject to such conditions if any, as the Registration Board may specify at the time of its registration.

(10) Where the Registration Board registers a drug, it shall inform the person applying for its registration, of its having done so and of the conditions subject to which it has been registered.

(11) If the Registration Board, on the basis of information received or an inquiry conducted by it is of opinion that:-

- (a) the registration of a drug was procured by fraud or misrepresentation; or
- (b) the circumstances in which a drug was registered no longer exists; or
- (c) there has been a volition of the conditions, subject to which a drug was registered; or
- (d) it is necessary in the public interest so to do, the registration Board may, after affording to the person on whose application the drug was registered an opportunity of showing cause against the action proposed to be taken, cancel or suspend the registration or specify, any further conditions to which the registration shall be subject and inform such person accordingly.

(12) The Government shall take all such steps as may be necessary to ensure compliance with the conditions subject to which a drug is registered ant to prevent the manufacture or sale of a drug –

- (a) which has not been registered; or
- (b) the registration of which has been cancelled or stands suspended.

7. **National formulary:-** National Formulary compiled, reviewed or modified from time to time by the Federal Government of Pakistan comprising all drugs allowed to be imported, manufactured or sold, shall be the National Formulary of Azad Jammu and Kashmir.

8. **Appellate board:-** (1) The Government shall in accordance with the rules constitute an Appellate Board for the disposal of appeals preferred by persons aggrieved by any decision of the Licensing Board or the Registration Board or the Licensing authority or a Board or Authority to which the powers of the Government under Section 11 have been delegated under sub-section (3) of that section and for revision of any such decision on its own motion.

(2) The Appellate Board shall consist of such

representatives of the Government, including a Chairman as the Government may from time to time, appoint.

(3) Subject to sub-section (4), the Chairman and other members of the Appellate Board shall held office for the prescribed period.

(4) The Chairman or any other member of the Appellate Board may, by writing under his hand addressed to the Government, resign his office or shall vacate his office if the Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) The members of the Appellate Board shall exercise such powers including the powers of an Inspector, as may be prescribed.

(6) The Appellate Board may appoint experts for the purpose of detailed study of any specific matter before it.

(7) The Appellate Board shall make regulations to regulate the conduct of its business.

9. Expert committees:- (1) The Government may constitute Committee of experts on Drugs Evaluation, on advertising and on such other matters as may be necessary for the purposes of this Act.

(2) Each Committee constituted under sub-section (1) shall consist of such member Government may from time to time such member shall hold office during the pleasure of the Government.

10. Quality control board:- (1) The Government shall set up a Quality Control Board consisting of such members including a Chairman, as the Government may appoint from time to time.

(2) The Chairman and other members of the Quality Control Board shall hold office during the pleasure of the Government, on such terms and conditions as the Government may determine.

(3) The Government shall appoint a person to be the Secretary of the Quality Control Board and provide the Board with such staff as the Government may consider necessary.

(4) The Quality Control Board shall make regulations to regulate the conduct of its business.

(5) The following shall be the powers and functions of the

Quality Control Board, namely:-

- (a) to inspect any premises where any drug is being, or is to be, manufactured or sold and to recommend the appropriate authority the cancellation or suspension of the license or to manufacture or sell drugs granted to any person who is found to be contravening, or to have contravened, any of the provisions of this Act, or the rules;
- (b) to scrutinize the reports of Inspectors in respect of contraventions of this Act and reports of the Government analysis in respect of drugs sent to them by Inspectors for test and analysis and issue instructions to the inspectors as to the action to be taken on such reports:

Provided that the Quality Control Board may specify the class of cases in which an inspector may make a complaint to the Drug Courts, or take any other action, without the specific instructions of the Board;

- (c) to exercise all the powers of an inspector under this Act and the rules, and
 - (d) to advise the Government on ways and means to ensure quality control of drugs manufactured in Azad Jammu and Kashmir.
- (6) The Quality Control Board may entrust any of its powers or functions under sub-section (5) to any one or more of its members.

11. Power to fix maximum prices of drugs:- (1) The Government may, by notification in the official Gazette,-

- (a) fix the maximum price at which any drug specified in the notification is to be sold; and
- (b) specify a certain percentage of the profits of manufactured drugs which shall be utilized in accordance with the rules for purposes of research in drugs.

(2) For the purpose of the exercise of its powers under sub-section (1), the Government may require a manufacturer, stockiest, retailer or other dealer in drugs to furnish such relevant information as may be necessary.

(3) The Government may by notification in the official Gazette delegate any of its powers under this section to any Board or other authority.

12. **Drugs testing laboratory:-** The Government shall, as soon as may be set up a Drug Testing Laboratory for such purposes as may be prescribed:

Provided that, till the said laboratory is set up any Drug Testing Laboratory Pakistan may be declared by notification in the official Gazette to be the Drug Testing laboratory for such purposes as may be prescribed.

13. **Government analysts:-** The Government may by notification in the official Gazette appoint such persons as it thinks fit, having the prescribed qualifications, to be the Government Analysts, for such areas and in respect of such drugs or classes of drugs as may be specified in the notifications:

Provided that no person who has any financial interest in the manufacture or sale of drugs shall be so appointed.

14. **Inspectors:-** Government may by notification in the official Gazette appoint such persons as it thinks fit, having the prescribed qualifications, to be the inspectors for the purposes of this Act within such local limits as it may assign to them:

Provided that no person who has any financial interest in the manufacture or sale of drug shall be so appointed.

15. **Power of inspectors:-** (1) Subject to the provisions of section 16 and of any rules made in this behalf, an Inspector may within the local limit for which he is appointed, and in any other area with the permission of the licensing authority,-

- (a) inspect premises wherein any drug is manufactured, the plant and process of manufacture, the means employed for standardizing and testing the drugs and all relevant records and registers;
- (b) inspect any premises wherein any drug is sold or is stocked or exhibited for sale or is distributed, the storage arrangements and all relevant records and registers;
- (c) take samples of any drug which is being manufactured, or being sold or is stocked or exhibited for sale or is being distributed;

- (d) enter and search, with such assistance, if any, as he considers necessary, any building vessel or place, in which he has reason to believe that an offence under this Act or rules has been or is being committed or continue to be committed;
- (e) call any person to be present as witness in the course of search or seizure or in connection with any other matter where the presence of witnesses is necessary;
- (f) seizure such drug and all materials used in the manufacture thereof and any other articles, including registers, cash-memo, invoices and bills, which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any rules;
- (g) require any person to appear before him at any reasonable time and place to give statement, assistance or information relating to or in connection with the of an offence under this Act or the rules:

Provided that the exemptions under section 132 and 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to requisitions for attendance under this clause.

- (h) look and seal any factory, laboratory, shop, building, store-house or godown, or a part thereof , where any drug is or is being manufactured, stored, sold or exhibited for sale in contravention of any of the provisions of this Act or the rules;
- (i) forbid for a reasonable period, not exceeding four weeks or such further period, which shall not be more than three months, as the Inspector may, with the approval of the Quality Control Board, the Licensing Board, the Registration Board or the Licensing Authority as the case may be specify any person in charge of any premises from removing or of any drug; article or other thing likely to be used in evidence of the commission of an offence under this Act or the rules; and
- (j) exercise such other powers as may be necessary for carrying out the purposes of this Act or rules:

Provided that the powers under clauses (f) to (j)

shall be exercisable only by an inspector specifically authorised in this behalf, by an order in writing, by the government, subject to such conditions as may be specified in such order:

Provided further that the powers under clause (h) may be exercised by an inspector not authorised as aforesaid where the contravention is of a provision which requires a license to be obtained for the manufacture, storage or sale of a drugs.

(2) The provisions of the Code of Criminal Procedure 1898 (Act V of 1898), in so far as they are not inconsistent with the provisions of this Act, shall apply to searches and seizures made under this Act.

16. **Procedure for inspectors:-** (1) Where an inspector seizes drug or any other article under section 15, he shall tender a receipt therefor in the prescribed form.

(2) where an inspector takes a sample of a drug for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in presence of such person unless he willfully absents him, shall divide the sample into four portions and effectively seal and suitably mark the same and permit such person to add his own seal, if any, and mark all or any of the portions so sealed and marked:

Provided that, where the sample is taken from premises whereon this drug is being manufactured, it shall be necessary to divide the sample into three portions only:

Provided further that, where the drug is made up in containers of small volume, instead of dividing a sample as aforesaid, the inspector may, and if the drug be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three or four, as the case may be, of the said containers after suitably marketing the same and, where necessary, sealing them:

Provided further that if the contents of one container are insufficient for the laboratory test and analysis the Inspector may increase the number of the containers in order to make the sample sufficient for this purpose.

(3) The inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person whom

he takes it and shall retain the reminder and dispose of the same within seven days as follows:-

- (i) one portion or sample he shall send to the Government Analyst concerned for test and analysis;
- (ii) the second he shall send to the Chairman Quality Control Board or the Licensing Board or the Registration Board, as the case may be; and
- (iii) the third, where taken, he shall send to the warrantor, if any, named under the proviso to sub-section (3) of section 29;

(4) Where an inspector seizes any drug containing any filthy or putrid substance, vermin, worm, rodent, insect or any foreign matter which is visible to the naked eye and the sample is such that it cannot or need not be divided, he shall effectively seal and suitably mark the same and permit the person from whom he seizes the drug to add his own seal if any, and mark to it and shall produce the same before the Drug Court of the Licensing Board or the Registration Board, as the case may be, before which proceedings are instituted or action is initiated in respect of the drug.

(5) Where an Inspector takes any action under Section 15,

- (a) he shall as soon as practicable ascertain whether or not the drug contravenes any of the provisions of this Act and, if it is ascertained that the drug does not so contravenes, he shall forthwith revoke the order passed under the said section or, as the case may be, take such action as may be necessary for the return of the stock seized and payment for the samples taken, under intimation to the Board concerned;
- (b) if he seizes the stock of the drug, he shall, as soon as may be, inform the Board concerned and take its order as to the custody thereof.

(6) The Inspector on finding any contravention of this Act for which he is authorised shall, unless otherwise, always refer the case to the Licensing Board or the Registration Board or any other authority as may be specified for the purpose and seek any further orders as to the action to be taken in respect of such contravention.

17. **Persons bound to disclose place where drugs are manufactured or kept:-** Every person for the time being in charge of any premises whereon any drug is being manufactured or is kept for sale or distribution shall, on being required by an Inspector so to do, disclose to the inspector the place where the drug is being manufactured or is kept, as the case may be.
18. **Disclosure of the name of the manufacture.-** Every person, not being the manufacturer of a drug or his agent for the distribution thereof, shall, if so required by an inspector, disclose to him the name, address and other particulars of the manufacturer or other person from whom he acquired the drug.
19. **Reports of government analysts:-**(1) The Government Analyst to whom a sample of any drug has been submitted for test and analysis under sub-section (3) of section 16 shall deliver to the Inspector submitting it a signed report in quadruplicate in the prescribed form and forward one copy thereof to the authority as may be prescribed.

(2) The government Analyst, as far as may be, shall submit the report referred to in sub-section (1) within sixty days of the receipt by him of the sample of the drug and, if he is not able to do so for reasons beyond his control, shall communicate the reasons to the Inspector in writing and shall endorse its copy to the Board concerned who shall have the sample tested from the same or any other Government Analyst or a Government Drug Testing Laboratory or any other laboratory and shall ensure the receipt of results of such test and analysis within a further period as may be prescribed and shall make the test report available to the inspector for further action.

(3) on receipt of the report, the Inspector shall—

 - (a) deliver one copy thereof to the person from whom the sample was taken;
 - (b) forward one copy to the warrantor, if any, named under the proviso to sub-section (3) of section 29;
 - (c) forward, one copy to the Board concerned for its directions as to the action to be taken on the reports; and
 - (d) retain the fourth copy for use in any prosecution or for any other purposes.

(4) Notwithstanding anything contained in any other law for

the time being in force, any document purporting to be a report signed by a government Analyst shall be admissible as evidence of the facts stated therein without formal proof such evidence shall be conclusive unless the person from whom the sample was taken or the said warrantor has, within thirty days of the receipt of a copy of the report notified in writing to the inspector or the Drug Court or, as the case may be, the Licensing Board or the Registration Board before which may proceedings in respect of the sample are pending that he intends to Adduce evidence in contravention, of the report.

(5) Where a person has, under subsection (4), notified his intention of adducing evidence in contravention of a Government Analyst report, the Drug Court or the Board concerned may, of its own motion or in its discretion at the request either of the complainant or the accused, cause the sample of the drug lying with the Board concerned under sub-section (3) of section 16 to be sent for test or analysis to the Drug Testing Laboratory or any other Laboratory specified for the purpose by the Government which shall make the test or analysis and report in writing signed, by, or under the authority of, the person for the time being incharge of the Drug Testing Laboratory, or, as the case may be, such other Laboratory, the result thereof and such report shall be, conclusive evidence of the facts stated therein.

(6) The cost of a test or analysis made by the Drug Testing Laboratory or other Laboratory under subsection (5) shall be paid by the complainant or accused as the Drug Court or the Board concerned shall direct.

CHAPTER III – PROHIBITIONS

20. **Manufacture and sale of drugs.-** (1) No person shall himself or by any other person on his behalf.

- (a) manufacture for sale or sell –
 - (i) any spurious drug;
 - (ii) any counterfeit drug;
 - (iii) any misbranded drug;
 - (iv) any adulterated drug;
 - (v) easy substandard drug;

- (vi) any drug after its expiry date;
 - (vii) any drug which is not registered or is not in accordance with the conditions of registration;
 - (viii) any drug which, by means of any statement, design or device accompanying it or by any other means, purports or claims to cure or mitigate any such disease or ailment, or to have any such other effect, as be prescribed;
 - (ix) any drug if it is dangerous to health when used in the dosage or with the frequency or for the duration specified recommended or suggested in the labeling thereof; or
 - (x) any drug in contravention of any of the provisions of this Act or any rule;
- (b) Manufacture for sale any drug except under, and in accordance with the conditions of, a license issued under this Act;
 - (c) sell any drug except under, and in accordance with the conditions of, a license issued under this Act;
 - (d) supply an incorrect, incomplete or misleading information when requires to furnish information under this Act or the rules;
 - (e) peddle hawk or offer for sale any drug in a park or public street or on a highway, footpath or public transport or conveyance;
 - (f) manufacture for sale, or sell any substance, or mixture of substances, which is not a drug but is presented in a form or manner which is intended or likely to cause the public to believe it to be a drug;
 - (g) sell drug without having a warranty in the prescribed form bearing the name and batch number of the drug, manufactured in Azad Jammu and Kashmir, by the manufacturer holding a valid license to manufacture drugs and permission to manufacture that drug or by his authorised agent;
 - (h) apply an incorrect batch number to a drug;

(2) nothing in subsection (1) shall apply to the manufacture or subject to prescribed conditions, of small quantities of any drug for the purpose of clinical trial, examination, test, analysis or personal use.

21. **Control of advertisement:-** No person shall himself or by any other person on his behalf advertise, except in accordance with such conditions as may be prescribed.

- (i) any drug;
- (ii) any substance used or prepared for use in accordance with ayurvedic, unani, homeopathic or biochemic system of treatment or any other substance or mixture of substances as may be prescribed;
- (iii) any remedy, treatment or offer of a treatment for any disease.

EXPLANATION:- In this section, 'advertise' means to make any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of a drug, a substances or a mixture of substances, a remedy or a treatment except the display of sign boards for a clinic, a dispensary or a hospital or such other institution offering treatment.

22. **Control of sampling:-** No person shall distribute or cause to be distributed any drug as a sample except in accordance with such conditions as may be prescribed.

23. **Control of printing of labelling:-** No person shall print any labeling in respect of any drug which is required to be registered under this Act, but is not so registered after the date fixed by the Government under sub-section(6) of section 6 or for a person who does not possess a license under this Act to manufacture that drug.

**CHAPTER IV-
OFFENCES, PENALTIES AND PROCEDURE**

24. **Penalties.-** Whoever himself or by any other person on his behalf .

- (a) manufactures for sale or sells any spurious drug or any drug which is not registered;
- (b) manufactures for sale any drug without a license; shall be punishable with imprisonment for a term which shall not be less than three years of more than ten years and with fine which may extend to one lakh rupees:

Provided that the Drug Court may, for air special reasons to be recorded award a sentence of imprisonment for a term of less than three years,

(2) Whoever himself or by any other person on his behalf.-

- (a) manufactures for sale or sells any counterfeit drug; or
- (b) gives to the purchaser a false warranty in respect of any drug sold by him that the drug does not in any way contravene the provisions of section 20 and is not able to prove that, when he gave the warranty, he had good and sufficient reason to believe the same to be true; or
- (c) applies or permit to be applied to any drug sold, or stocked or exhibited for sale, by him, whether on the container or a label or in any other manner, a warranty given in respect of any other drug; or
- (d) manufactures for sale or sells any drug under a name other than he registered name; or
- (e) manufactures for sale or sells any drug with which any substance, which should not actually be its component, has been mixed or packed so as to reduce its quality or strength or for which any such substance has been substituted wholly or in part shall be punishable with imprisonment for a term which may extend to seven years, and with fine which may extend to one lakh rupees.

(3) Whoever obstructs an Inspector in the exercise of any

power conferred, upon him by or under this Act, or disobeys the lawful authority of any inspector, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(4) Subject to the provisions of sub-section (1), sub-section (2) and sub-section (3), whoever himself or by any other person on his behalf contravenes any of the provisions of this Act or any rule shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

25. **Penalty for subsequent offence.-** (1) Whoever having been convicted of an offence under sub-section (1) of Section 24 is again convicted of an offence under that sub-section shall be punishable with imprisonment which shall not be less five years and with fine which may extend to two lakh rupees.

(2) Whoever having been convicted of an offence under sub-section (2) of section 24 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which shall not be less than two years or more than ten years, or with fine which may extend to two lakh rupees, or with both.

(3) Whoever having been convicted of an offence under sub-section (4) of section 24 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which may extend to sever years, of with fine which may extend to one lakh rupees, or with both.

26. **Forfeiture.-** (1) Where any person has been convicted under this Act for contravening any such provisions of this Act or any rule as may be prescribed in this behalf, the Drug Court may order that the stock of drug or substance by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such drug or substance, and if such contravention is punishable under sub-section (1) of section 24, any implements used in manufacture or sale of such drug and any receptacles, packages or coverings in which such drug is contained and the animals, vehicles, vessels or other conveyances, used in carrying such drug, be forfeited to the Government and, upon such order being made, such drug, substance, implements, receptacles, packages or coverings, animals, vehicles, vessels or conveyances may be disposed of as the Government may direct.

(2) Without prejudice to this provisions of sub-section (1), where the drug Court is satisfied, on the application of an Inspector or otherwise, and after such inquiry as may be necessary, that a drug contravenes the provisions of this Act, the Drug Court may order that such drug may be forfeited to the Government and, upon such order being made, such drug may be destroyed or otherwise disposed of as the Government may direct.

(3) An Inspector shall release any drug or article seized by him under this Act when he is satisfied that all the provisions of this Act and the rules with respect thereto have been complied with.

27. **Cognizance of offences.**- (1) Subject to the provisions of section 16, no prosecution shall be instituted under this Chapter except, by an Inspector, where the prosecution is in respect of a contravention of clause (h) of sub-section (1) of Section 20 or section 21 or any of the provisions of this Act or the rules relating to the manufacture of drugs for sale, or sale of a drug which is not for the time being registered or for the manufacture for sale of which a license is not for the time being in force:

Provided that, where the public interest so requires, the inspector may with the prior permission of the Government institute a prosecution for a contravention of any other provision of this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),-

- (a) an offence punishable under this Chapter other than an offence mentioned in sub-section of section 24, shall be non-cognizable; and
- (b) no Court other than a Drug Court shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Chapter or to require the transfer to a Drug Court of any case which may be pending in any Court immediately before the establishment of the Drug Court.

28. **Drug courts.**- (1) The Government may, by notification in the official Gazette, establish as many Drug Courts as it considers necessary and, where it establishes more than one Drug Court,

shall specify in the notification the territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) A Drug Court shall consist of a person who is, or has been or is qualified for appointment as, a judge of a High Court, who shall be the Chairman, and two members being persons who, in the opinion of the Government are experts in the medical or pharmaceutical fields.

(3) A Drug Court shall sit at such place or places as the Government may direct.

(4) A Drug Court shall have all the powers conferred by the Code of Criminal Procedure, 1898 (Act V of 1898), on a Court of Session exercising original jurisdiction.

(5) A Drug Court shall not, merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by or produced before it.

(6) A Drug Court shall, in all matters with respect to which no procedure has been prescribed by this Act, follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898) for the trial of summons cases by Magistrate.

(7) A person sentenced by a Drug Court may prefer an appeal to a bench of the High Court consisting of not less than two Judges within thirty days of the Judgment.

(8) The provisions of section 5 and 12 of the Limitation Act, 1908 (IX of 1908) as adapted in Azad Jammu and Kashmir, shall be applicable to an appeal referred, to in sub-section (7).

29. **Please.-** (1) Save as hereafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature, substance or quality or the drug in respect of which the offence has been committed or of the circumstances of its manufacture, or that a purchaser, having brought only for the purpose of test or analysis, has not been prejudiced by the sale.

(2) A drug shall not be deemed to be misbranded or adulterated or substandard only by reason of the fact that there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or preparation of the drug fit for carriage or consumption and not to increase the

bulk, weight or measure of the drug or to conceal its inferior quality or other defect or there is a decomposed substance which is the result of a natural process of decomposition:

Provided that such decomposition is not due to any negligence on the part of the manufacture of the drug or the dealer thereof and that it does not render the drug injurious to health or does not make it substandard.

(3) A person, not being the manufacturer of a drug or his agent for the distribution thereof, shall not be liable for a contravention of section 20 if he proves ---

- (a) that he did not know, and could not with reasonable diligence have ascertained, that the drug in any way contravened the provisions of this Act and that the drug while in his possession remained in the same state as when he acquired it; and
- (b) that acquired the drug from a duly licensed manufacturer or his authorised agent or an importer or an indenter resident in Azad Jammu and Kashmir/Pakistan under a written warranty in the prescribed form stating , in a particular the batch number of the drug and signed by such person that the drug does in any way contravene the provisions of section 20 and that the drug while in his possession was properly stored and remained in the same state as when he acquired it and that the drug has been manufactured by a manufacturer holding a valid license to manufacture drug and permission to manufacture that drug; provided that a defence under clause (b) shall be opened to a person only -
 - (i) if he has, within seven days of the service on him of the summons, sent to the inspector a copy of the warranty with a written notice stating that he intends to rely upon it and giving the name and address of the warrantor; and
 - (ii) if he proves that he has, within the period, sent written notice of such intention to the said warrantor.

30. **Offences by companies, etc.-** Where the person guilty of an offence under this Act, is a company, corporation, firm or institution every director, partner and employee of the company, corporation, firm or institution shall unless he proves that the offence was committed without his knowledge or consent, be

guilty of the offence.

31. **Publication of offender's name.-** (1) If any person is convicted of an offence under this Act, it shall be lawful for the Drug Court to cause the offender's name, place or residence, the offence of which he has been convicted and the penalty which has been inflicted upon him, to be published at the expenses of such person in such newspapers or in such other manner as the Court may direct.

(2) The expenses of such publication shall be recoverable in the same manner as a fine is recoverable.

32. **Powers to exempt.-** Notwithstanding anything contained in this Act the Government, may, if it is of opinion that the public interest so requires, at any time of its own motion or on a representation made to it, by notification in the official Gazette, exempt any drug or class of drugs the operation of any of the provisions of this Act subject to such conditions, if any, and for such period, as may be specified in the notification.

33. **Inspectors to be public servants.-** Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860), and shall be officially subordinate to such authority as the Government may specify in this behalf.

34. **Indemnity.-** Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceedings shall lie against Government or any other authority or person for anything which is in good faith done or intended to be done under this Act or any rule.

35. **Finality of orders etc.-** Save as otherwise expressly provided in this Act, every order passed or decision given by any Board, a Drug Court or any other authority under this Act, be final and shall not be called in question by or before any Court or other authority.

36. **Publication of result of test or analysis, etc.-** (1) It shall be lawful for the Government to publish in such manner as it may deem fit, the result of any test or analysis of any drug for public information and to pass such orders relating to the withdrawal of such drug from sale and its disposal as it may consider necessary.

(2) The Government may, if it considers it necessary in the public interest so to do, publish for public information and to

pass such orders relating to the withdrawal of such drug from sale and its disposal as it may consider necessary.

(3) The Government may, if it consider it necessary in the public interest so to do, publish for public information and to pass such orders relating to a drug or to the use of a drug in specified circumstances.

37. **Cancellation or suspension of licence.-** Where any person has been found to have contravened any of the provisions of this Act, or the rules in respect of any drug and the contravention is of such nature that the manufacture or sale of any drug by such person is, in the opinion of the licensing authority or the Licensing Board, likely to endanger public health, the authority may after giving such person an opportunity of being heard, cancel the license to manufacture or sell drugs issued to such person or suspend the license for a specific period.
38. **Cancellation or suspension of registration of registered drugs.-** Where any person has been found to have contravened any of the provisions of this Act, or the rules in respect of any registered drug, the Registration Board may, after giving such person an opportunity of being heard, cancel the registration of such drugs or suspend such registration for a specified period.

CHAPTER V MISCELLANEOUS

39. **Power of the government to make rules.-** (1) The Government may by notification in the official Gazette, make rules in respect of the following matters, namely:-
- (a) the establishment of laboratories for testing and analysing the drugs;
 - (b) The qualifications and the procedure, for exercise or powers and performance of functions of the inspector;
 - (c) The forms of reports to be given by Government analysts and the manner of application for test or analysis and the fee payable therefor;
 - (d) The conditions to regulate sale or storage or distribution of drugs or any specified drugs or class of drugs;
 - (e) the offences against this Act or any rule in relation to which the stock of drugs shall be liable to confiscation and destruction under this Act;

- (f) the forms of licenses for the sale or distribution of drugs, or any specified drugs or clause of drugs, the authority empowered to issue the same and form of applications for such licenses, the fee payable therefor and the conditions subject to which such licenses may be issued;
- (g) the procedure to be followed by the Quality Control Board; and
- (h) any other matter which is to be or may be, prescribed by the Government.

(2) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publications.

40. **Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Act, the Government may make such orders or issue such directives not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.
41. **Repeal.-** The Azad Jammu and Kashmir Drugs Ordinance (No. IV of 1977) is hereby repealed.

Sd/-
(Muhammad Idbrahim Khan)
President
Azad Jammu and Kashmir

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary,
Law and Parliamentary Affairs,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Muzaffarabad dated the August 18, 1977.

No.2417-18/SL/77. The following Act of the Azad Jammu and Kashmir passed by the Joint-Sitting, received the assent of the President on 7th August, 1977, is hereby published for general information :-

(ACT VII OF 1977)

AN ACT further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VI11 of 1974), for the purposes hereinafter appearing ;

it is hereby enacted as follows :-

1. **Short title and commencement.-** (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (Fifth Amendment) Act, 1977.
(2) It shall come into force at once.
2. **Amendment of Section 21, Act VIII of 1974.-** In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), hereinafter referred to as the said Act, in Section 21, after sub-section (13), the following new subsection shall be added, namely,-
"(14) The words 'The Prime Minister of Pakistan' wherever occurring in this section shall be deemed to include the person for the time being exercising the powers and performing the functions of the Chief Executive of Pakistan."
3. **Amendment of Section 22, Act VIII of 1974.-** In the said Act, in section 22, after sub-section (3), the following new sub-section shall be added, namely :-
"(4) A general election to the Assembly shall be held within a period of sixty days immediately preceding the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the result of the election shall be declared not later than fourteen days before that day."

4. **Amendment of Section 25, Act VIII of 1974.-** In the said Act, in section 25, after sub-section (2), the following new subsection shall be added, namely :-

"(3) When, except by dissolution of the Assembly, a seat in the Assembly has become vacant not later than one hundred and twenty days before the term of the Assembly is due to expire, an election to fill the seat shall be held within sixty days from the occurrence of the vacancy."

5. **Amendment of Section 28, Act VIII of 1974.-** in the said Act, in section 28 :-

- (a) after the heading the brackets and figure the shall be inserted; and
- (b) after sub-section (I) as amended aforesaid, the following new sub section shall be added, namely:-

"(2) When the assembly is dissolved a general election to the Assembly shall be held within a period of ninety days after the dissolution, and the results of the election shall be declared not later than fourteen days after the conclusion of the polls."

6. **Temporary insertion of new Section 53A, Act VIII of 1974.-** In the said Act, after section 53 the following new section shall be inserted and shall stand deleted from the date the Prime Minister elected by the Assembly constituted after second general elections under the Azad Jammu and Kashmir Interim Constitution Act, 1974 enters upon his office :-

"53-A. Proclamation to provide for Interim Government, etc.- (1) Notwithstanding anything contained in the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President shall, if so advised by the Chairman of the Council, issue a Proclamation to make such provisions as may be necessary for dissolving the Assembly before expiry of its term, cessation of elected members of the Council, holding of elections thereof, appointment of a person as Chief Executive of Azad Jammu and Kashmir to perform the functions of and exercise the powers vested in the Government under this Act, during the period intervening the dissolution of Assembly and the day Prime Minister enters upon his office, and for matters incidental or connected therewith.

(2) On coming into force of a Proclamation under sub-section (1), Prime Minister, Ministers, the Advisors, Presidential/Special Assistants, Advisors to the Council elected members of the Council and Speaker of the Assembly shall cease to hold office.”

7. **Amendment of Section 55, Act VIII of 1974.-** In the said Act, in Section 55, in sub-section (2), after the figure '53', the comma, the figure and the letter 53A' shall be inserted.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law & Parliamentary Affair
Azad Government of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 20, 1970.

No. 2404/SL/77. The following Act of the Assembly received the assent of the President on the 7th day of August, 1977, is hereby published for general information:-

(ACT VIII OF 1977)

AN ACT further to amend the Jammu and Kashmir Forest Regulation of 1930

WHEREAS it is expedient further to amend the Jammu and Kashmir Forest Regulation, 1930 (II of 1930) as in force in Azad Jammu and Kashmir, in the manner hereinafter appearing ;

It is hereby enacted as follows :-

1. **Short title and commencement.**- (1) This Act may be called the Jammu and Kashmir Forest Regulation (Amendment) Act, 1977.

(2) It shall come into force at once.
2. **Amendment of Section 6, Regulation II of 1930.**- In the Jammu and Kashmir Forest Regulation, 1930 (II of 1930), hereinafter referred to as the said Regulation, in section 6, in subsection (1) in clause (v), for the words "the amount of compensation shall be assessed at the price of tree at least rates prevalent at the time of the disposal of the case" the words 'the compensation shall extend to rupees one hundred but shall not be less than rupees fifty shall be substituted.
3. **Amendment of Section 28, Regulation II of 1930.**- In the said Regulation, in section 28,-
 - (i) in sub-section (1) between the words 'offence' and 'shall' the words 'with the connivance of the owners thereof shall be inserted and shall be deemed to have been so inserted with effect from the 18th day of April, 1976.
 - (ii) after sub-section (2) the following new sub-section shall be inserted, namely :-

“(2-A) Any person driving a vehicle or cart or the boatman of a boat, as the case may be, which

has been used in the commission of Forest Offence, shall be punishable with a simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees, or both ;

- (iii) after sub- section 6, the following new sub-section shall be inserted, namely :-

"(6-A) All revisions disposed of before the coming into force of this Act shall be deemed to be pending and shall be disposed of in accordance with the provisions of sub-section (1) as amended by this Act."

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT.OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 20, 1977.

No. 2404/SL/77. The following Act of the Assembly received the assent of the President on the 7th day of August, 1977, is hereby published for general information:-

(ACT IX OF 1977)

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

WHEREAS it is expedient to amend to the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing;

It is hereby enacted as follows :-

1. **Short title and commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Act, 1977.

(2) It shall come into force at once.
2. **Amendment of section 5, Ordinance X of 1970.**- In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), in section 5, in subsection (2) clause (d) shall be deleted and the remaining clauses shall be re-numbered accordingly.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated 5th January, 1977.

No. 35/SL/77. The following Ordinance made by the President on the 5th January, 1977, is hereby published for general information :-

(ORDINANCE I of 1977)

AN ORDINANCE to provide for the nationalisation of cooperative banking business in Azad Jammu and Kashmir.

WHEREAS it is expedient in the public interest to provide for the nationalisation of cooperative banking business 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 AJ&K Cooperative Banks (Nationalisation) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.
2. **Ordinance to override other laws:-** This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, award, memorandum or articles of association or other instrument.
3. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject, or context,-

(1) "bank" means a cooperative bank registered under the Cooperative Societies Act, 1925 (VII of 1925; or any other law for the time being in force, relating to cooperative societies, but does not include -

- (a) a Government Saving Bank to which the Government Savings Bank Act, 1873 (V of 1873), applies or
 - (b) a corporation or company owned or controlled by the Federal Government of Pakistan or a Provincial Government of Pakistan and carrying-on cooperative banking business in Azad Jammu and Kashmir ;
 - (2) "commencing day" means the day on which this Ordinance comes into force ;
 - (3) "prescribed" means prescribed by rules made under this Ordinance ;
 - (4) "State Bank" means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1955) ; and
 - (5) Other words and expressions used but not defined in this Ordinance shall have the same meaning as in the Azad Jammu and Kashmir (Interim Constitution) Act, 1974 (VIII of 1974).
4. **Exclusive right to establish cooperative bank.** The Government or a corporation wholly owned or controlled by the Government shall have the exclusive right to establish a bank.
5. **Transfer and vesting of ownership etc. of banks.** (1) The ownership, management and control of all banks mentioned in the Schedule, shall stand transferred to, and vest in, the Government on the commencing day.
- (2) All shares in the capital of a bank held by persons other than the Government or the Federal Government or a Provincial Government of Pakistan, a corporation owned or controlled by the Government or the Federal Government or a Provincial Government of, Pakistan or the State Bank of Pakistan shall stand transferred to, and vest In the Government on the commencing day, free of all trusts, liabilities; and encumbrances.
- (3) The vesting of any shares in the Government under subsection (2) shall not affect the right inters of a Shareholder and any other person who may have an interest in such shares and such other person shall be entitled to enforce his interest against the compensation awarded to the shareholder under section 6.
- (4) The safety of all deposits in banks shall stand guaranteed by the Government.

(5) The provisions of this Ordinance and the vesting of the shares of the banks in the Government thereunder shall not in any way affect the status of the banks as bodies corporate under the Companies Act, 1913 (VII of 1913).

6. **Compensation for transfer of ownership of shares in a bank:-**

(1) Every person who stands registered as a holder of any share of a bank the ownership, management and control of which stands transferred to the Government by virtue of section 5 shall be entitled to receive from the Government by way of compensation per share an amount determined in accordance with the provisions of section 7 in the form of bonds of the Federal Government of Pakistan, repayable at par at any time within a period of fifteen years in accordance with a redemption programme formulated by the Government and bearing interest at the rate of one percent above the bank rate notified by the State Bank of Pakistan from time to time:

Provided that, in formulating the redemption programme, the Government may make provision for preferential redemption of the bonds of such class of persons who are of meager means as orphans, widows and prisoners, and the amount of compensation payable to whom does not exceed such maximum amount, as the Government may deem fit :

Provided further that, where the amount so determined is not an exact multiple of one hundred rupees, the amount in excess of the nearest lower multiple of one hundred rupees shall be paid in cash.

(2) The bonds shall be negotiable and eligible as security for advances.

7. **Assessment of compensation.-** The amount of the compensation shall be the amount equal to the break-up value of the share as determined by an auditor appointed by the Government from the balance-sheet of the bank as on the 31st December, 1976, according to the principles laid down in rule 8 of the Wealth Tax Rules, 1963 as in force in Pakistan.

8. **Removal of previous management.-** (1) Every person holding office in any bank as chairman, director or chief executive by whatever name called, other than a person who holds such office by virtue of his appointment or nomination by the Government, shall stand removed from his office on the commencing day and his removal shall not entitle him to any compensation and no

such claim shall be entertained by any Court, Tribunal or other authority.

(2) The vacation of his office by a chairman, director or chief executive under sub-section (1) or otherwise shall not in any way absolve him of his liability, if any, under any law, contract or otherwise however subsisting immediately before the commencing day or the day on which he ceases to hold such office.

(3) A chairman, director or chief executive by whatever name called ceasing to hold office under any of the aforesaid provisions shall entrust or cause to be entrusted to the person succeeding him in that office, intact and in as good order as they existed on the day immediately preceding the commencing day all properties, all books of accounts and other records and documents belonging to or in the custody or control or pertaining to the affairs, of the bank.

(4) Central Boards of the banks mentioned in Schedule and all local bodies, area boards managing committees, executive committees and similar other bodies for the management of any bank shall stand dissolved, and all members of such bodies shall stand removed from office, on the commencing day.

(5) Vacancies occurring under sub-section (1) and vacancies existing before the commencing day or occurring thereafter shall be filled by the government by appointing such persons as it deems fit.

9. **Transitional arrangements.-** The government may, pending the appointment of any person or persons to fill the vacancy ring in an office under the provisions of section 8 and not withstanding the provisions of sub-section (2) of that section, authorise any person who was, immediately before the commencing day, the chairman, director or chief executive of the bank or was acting in any such capacity to continue to perform his functions as if he were a person appointed under the said sub-section (2).

10. **General provisions pertaining to management.** (1) The general superintendence and direction of the affairs and business of a bank shall, until other provisions are made under any scheme made under section 14, vest in its board of directors which may-exercise all such powers and do all such acts and things as the bank was permitted immediately before the

commencing day, to exercise or do in a general meeting of shareholders or in a meeting of the board of directors.

(2) The Government may, at any time, by order in writing, so alter the strength or composition of the board of directors of a bank as it may deem fit.

(3) The Government may constitute such local boards, executive committees and other bodies of a bank as may, in its opinion, be necessary for the proper management of a bank and may appoint members thereto.

(4) The bodies constituted under sub-section (3) shall have such powers and perform such functions as may be assigned to them by the government or the board of directors.

(5) Subject to sub-section (1), the management, direction or control of a bank shall vest in the chief executive by what ever name called.

(6) A bank, its board of directors, chairman, local boards, executive committee, and chief executive by whatever name called shall in the discharge of their functions act on sound business principles and be guided by such directions in matters of policy involving the public interest as may be given to it by the government which shall be the sole judge as to whether or not any matter is a matter of policy involving the public interest:

Provided that no such directive shall be in contravention of the provisions of any law relating to banking business.

11. **Fidelity and secrecy.-** (1) Every bank, its chairman, director and chief executive by whatever name called and every member of its management body shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, shall not divulge any information relating to the affairs of its constituents except in circumstances in which it is, in accordance with law or practice and usage, customary among bankers, necessary or appropriate for a bank to divulge such information.

(2) Every director, administrator, auditor, advisor, officer or other employee of a bank and every member of its management body shall, before entering upon his office, make a declaration of his fidelity and secrecy in such form as may be prescribed.

Explanation.- In case of any such person employed in

connection with the affairs of a bank as is not required by any provision of this Ordinance to vacate any office held by him, the requirement of this sub-section shall be deemed to be satisfied if such person has already filed with the bank a declaration more or less to the effect of the prescribed form.

12. **Provisions regarding staff.-** (1) save as otherwise provided in this Ordinance, all officers and other employees of a bank shall continue in their respective offices and employments on the same terms and conditions including remuneration and rights to pension and gratuity, as were applicable to them immediately before the commencing day.

(2) Notwithstanding any law or any provision contained in a contract, agreement letter of appointment, rules or regulations of a bank, every officer and employee of a bank shall be liable to transfer to any of its branches in or outside Azad Jammu and Kashmir or to any other bank:

Provided that his status and emoluments shall not be adversely affected.

13. **Certain claims for compensation barred.-** No person including a chairman, director, chief executive by whatever name called, a shareholder, a constituent or an officer or employee of a bank shall have any right, whether in contract or otherwise, to any compensation other than that expressly provided for by this Ordinance, for any loss or damage directly or indirectly incurred by reason of the operation of any of the provisions of this Ordinance or any rule or order made or direction issued thereunder.

14. **Scheme for re-organization of banks etc.-** (1) The Government may, with due regard to the interests of the depositors prepare a scheme for improving the management and operation of a bank or group of banks to serve better the needs of development of the economy.

(2) A scheme prepared under sub-section (1) may inter alias provide for all or any of the following matters, namely :-

- (i) The reconstitution of a bank or a group of banks into a new bank registered under the cooperative Societies Act, 1925, (VII of 1925) or a corporation incorporated under a law, the amalgamation of two or more banks in another bank;

- (ii) Formulation or re-formulation of articles of association of a bank or reconstituted or amalgamated bank;
- (iii) Modification of the capital structure of a bank or reconstituted or amalgamated bank; and
- (iv) Additions to or deletions from the kind of Business in which a bank may engage and the place or place where it may so carry on its business.

(3) A scheme prepared under sub-section (1) shall be published in the official Gazette and shall take effect on the date of such publication.

15. **Removal of doubts.-** For the removal of doubts, it is hereby declare that-

- (a) all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, reserve funds, investments and all other rights and interests arising out of such property as were immediately before the commencing day in the ownership, possession, power or control of a bank, whether within or outside Azad Jammu and Kashmir, shall, unless other provisions are made for their predisposition in accordance with a scheme prepared under sub-section (1) of section 14, continue to vest in that bank, and all borrowings, liabilities, including contingent liabilities, and obligations of a bank of whatever kind subsisting immediately before the commencing day shall, unless other provisions at aforesaid are made for their discharge or performance, continue to be the borrowings, liabilities and obligations of that bank ;
- (b) all contracts, deeds, bonds, agreements, powers of attorney, other than those in favour of a person vacating his office under this Ordinance, grant of legal representation and other instruments of whatever kind subsisting or having effect immediately before the commencing day to which a bank is a party or which are in favour of a bank shall be of as full force and effect against or in favour of a bank as they were immediately before the commencing day; and
- (c) if, on the commencing day, any suit, appeal or other proceeding of whatever nature which is by or against the

bank or to which the bank is a party is pending in any court or before a tribunal or other authority, the same shall not abate, be discontinued or be, in any way, prejudicially affected by any provision of this Ordinance.

16. **Disposal of profits.-** Subject to the provision of the law by or under which a bank has been established, a bank shall not declare any dividend on its share capital unless-

- (a) it has drawn up the annual balance-sheet and profit and loss account of the bank, and it has its accounts audited by an auditor qualified to act as such under the Banking Companies Ordinance, 1962 as in force in Pakistan.
- (b) it has made adequate provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other contingencies for which provision is necessary under any law or which are usually provided for by bankers, and
- (c) a copy of the balance-sheet and profit and loss account along with the audit report has been supplied to the Government and it has approved the declaration of such dividend:

Provided that, before according such approval the Government may, order a second audit of the accounts of the bank and appoint such auditor for the purpose as it thinks fit.

17. **Indemnity.-** No suit, prosecution, or other legal proceeding shall lie against the Government or any officer of the Government for anything in good faith done or purporting to be done under this Ordinance or any rule or order made or direction issued, the services rendered or for any damage caused or likely to be caused by anything done or purporting to be done as aforesaid.

18. **Bar of jurisdiction.-** No provision of this Ordinance or of any rule or order made or direction issued thereunder shall be called in question by or before any Court or other authority.

19. **Power to make rules.-** The Government may, by notification in the official Gazette, make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

20. **Adaptation of laws.-** Any Court, tribunal or authority required

or empowered to enforce the Companies Act, 1913 (VII of 1913), or the memorandum or articles of association of a bank registered thereunder, or any other law for the time being in force shall construe the said Act, memorandum or articles of association or such other law with which such adaptations as are necessary to bring the same into accord with the provisions of this Ordinance.

21. **Penalty-** (1) whoever contravenes any of the provisions of this Ordinance or the rules made thereunder shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both.
- (2) No person shall be prosecuted under this Ordinance except with the sanction of the Government or an officer authorised by it in this behalf.
22. **Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Ordinance, particularly in relation to the management of the affairs and business of a bank, other than a bank established by any law, because of the provisions of the memorandum or articles of association of the bank, the Government may make such order not inconsistent with the provisions of this Ordinance as may appear to it to be necessary for the purpose of removing the difficulty.

THE SCHEDULES

(See section 5 and 8)

1. Kashmir National Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
2. The Kalyal Industrial Cooperative Bank,
Mirpur, Azad Jammu & Kashmir.
3. United Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
4. Kashmir Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir,
5. Azad Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
6. Kashmir Development Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
7. The Premier Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
8. Kashmir Muslim Cooperative Bank Ltd.
Kotli Azad Jammu and Kashmir.

Sd/- (Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/- (Sardar Aftab Ahmed Khan)
Secretary Law,
Azad Government of the State of J&K,
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated 8th January, 1977.

No. 53/SL/77. The following Ordinance made by the President on the 7th January, 1977, is hereby published for general information :-

(ORDINANCE II OF 1977)

AN ORDINANCE to provide for adaptation and enforcement of the Establishment of the Federal Bank for Cooperative and Regulation of Cooperative Banking Ordinance, 1976.

WHEREAS it is necessary and expedient to adapt and to enforce the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, of the Government of Pakistan;

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 Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Adaptation) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir and applies to all State Subjects wherever they may be.

(3) It shall come into force at force.
2. **The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, to apply to Azad Jammu and Kashmir.**- (1) The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, of Pakistan, hereinafter referred to as the said Ordinance, and all rules, notifications and orders made thereunder and in force immediately before the commencement of this Ordinance shall, as far as practicable and with the necessary modifications, be in force in Azad Jammu and

Kashmir and shall apply to all State Subjects wherever they may be.

(2) Any Court, tribunal or authority required or empowered to enforce the said Ordinance or memorandum or articles of association of a bank registered or deemed to have been registered thereunder, or any other law for the time being in force, shall construe the said Ordinance, memorandum or articles of association or such other law with such adaptations as are necessary to bring the same into accord with the provisions of the said Ordinance.

3. **Pending cases.-** All cases pending in Courts on the coming into force of this Ordinance, shall be tried and decided according to the provisions of the law on the subject in force in Azad Jammu and Kashmir immediately before the coming into force of this Ordinance.
4. **Previous law to cease to have effect,-** If immediately before the coming into force of this Ordinance there is in force in Azad Jammu and Kashmir any law corresponding to the said Ordinance, it shall, subject to the other provisions of this Ordinance, cease to have effect on and from that date of the commencement of this Ordinance, provided that the provisions of this Ordinance shall not render invalid anything duly done before the coming into force of this Ordinance, under the provisions of any previous law.
5. **Removal of difficulties.-** If any difficulty or question arises in giving effect to the provisions of the said Ordinance or in regard to the constructions to be placed on any provision thereof, the Azad Government of the State of Jammu and Kashmir may, from time to time, make such provisions as appear to it to be necessary for the purpose of removal of such difficulty.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law,
Azad Government of the State of J&K,
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the March 6, 1977.

The following Ordinance made by the President on the 3rd day of March, 1977, and is hereby published for general information:-

(ORDINANCE III OF 1977)

AN ORDINANCE to extend the scope and functions of the Pakistan House Building Finance Corporation, to the territories of Azad Jammu and Kashmir.

WHEREAS it is expedient to extend the scope and functions of the Pakistan House Building Finance Corporation, to the territories of Azad Jammu and Kashmir, 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 Section 41 (1) 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 Pakistan House Building Finance Corporation (Extension of scope and functions to Azad Jammu and Kashmir) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir Territory.

(3) It shall come into force at once.
2. The scope and functions of the Pakistan House Building Finance Corporation, hereinafter referred to as the said Corporation, incorporated under the House Building Finance Corporation Act, 1952 (XVII of 1952) and the rules and Regulations made thereunder and the administrative orders issued under either of them shall extend mutatis mutandis to the whole of Azad Jammu and Kashmir Territory and the said Corporation shall function in the said Territory as it functions in Pakistan.
3. The Articles of the Pakistan House Building Finance Corporation, as they are or as they may be amended from time to time and rules and Regulations made thereunder and the

administrative orders issued under either of them shall extend and apply to the Azad Jammu and Kashmir Territory as they apply or may apply to Pakistan.

4. Notwithstanding anything contained in any law for the time being in force it shall be lawful for any borrower to pledge mortgage, hypothecate or assign any kind or quantity of movable or immovable property to the Corporation, or otherwise to create a charge on any such property, in order to secure the repayment of the loan and the Corporation shall in accordance with the Articles of the Pakistan House Building Finance Corporation, be competent to deal with and recover its dues from any property so pledged, mortgaged, hypothecated or assigned:

Provided that no property so pledged, mortgaged, hypothecated, assigned or otherwise charged shall not be sold or otherwise disposed of except by public auction and then only so much of it as is sufficient to recover the dues and the Corporation shall not bid at such auction, except in cases where the bid is not sufficient to pay up the Corporation dues or there are no bidders.

5. Notwithstanding anything contained in any other law for the time being in force, any charge created on any property to secure the repayment of the loan of the Corporation or to secure the performance of the stipulations of any bond executed in favour of the Corporation shall be enforceable against such property in the hands of any person to whom it may have been transferred including the person who has secured the property for consideration and without notice of the charge.
6. All sums due to the said Corporation shall be recoverable as arrears of land revenue within the Azad Jammu and Kashmir Territory by the Collector on the application by the Corporation.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah Gardezi)
Deputy Secretary,
Law & Parliamentary Affairs,
Azad Govt. of the State of J & K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the April 20, 1977.

The following Ordinance made by the President on the 16th day of April, 1977, and is hereby published for general information :-

(ORDINANCE IV OF 1977)

AN ORDINANCE to regulate the manufacture, storage, distribution and sale of drugs.

WHEREAS it is expedient to regulate the manufacture storage, distribution and sale of drugs;

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:-

**CHAPTER-1
INTRODUCTORY**

1. **Short title, extent and commencement:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Drugs Ordinance, 1977.
(2) It extends to the whole of Azad Jammu and Kashmir Territory.
(3) It shall come into force at once.
2. **Application of other laws not barred:-** The provisions of this Ordinance, shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 (II of 1930) and any other law for the time being in force.
3. **Definitions:-** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) “Adulterated drug” mean a drug-
 - (i) Which consists in whole or in part of any filthy, putrid, or decomposed substance or which

- contains any foreign matter, vermin, worm, rodent or insect; or
- (ii) which has been manufactured, packed, or held under unsanitary conditions whereby it may have been contaminated with dirt, filth or any other foreign matter or where by it may have been rendered injurious to health; or
- (iii) the container of which releases any poisonous or deleterious substance which may render the contents injurious to health; or
- (iv) which bears or contains as an ingredient a substance other than the prescribed substance; or
- (v) with which any substance has been mixed or packed so as to reduce its quality or strength or for which any substance has been substituted wholly or in part;
- (b) “Appellate Board” means the Board constituted under Section 9;
- (c) “batch” means a quantity of any drug produced during a given cycle of manufacture;
- (d) “batch number” means a designation printed on the label of a drug that identifies the batch and permits the production history of the batch, including all stages of manufacture and control to be traced and reviewed;
- (e) “Licensing Board” means a Board set up under section 4;
- (f) “Counterfeit drug” means a drug the label or outer-packing of which is an imitation of or resembles or so nearly resembles as to be calculated to deceive, the label or outer-packing of a drug of another manufacture;
- (g) “drug” includes;
 - (i) any substance or mixture of substance that it is manufactured, sold stored, offered for sale or represented for internal or external use in the treatment, mitigation, prevention or diagnosis of disease, an abnormal physical state, or the symptoms thereof in human beings or animals or the restoration, correction, or modification of organic function in human beings or animals, not being a substance exclusively used or

prepared for use in accordance with the ayurvedic, unani, homoeopathic or biochemic system of treatment except those substances and in accordance with such conditions as may be prescribed;

- (ii) abortive and contraceptive substances, agents and devices, surgical ligatures, sutures, bandages, absorbent cotton, disinfectants bacteriophages, adhesive plasters, gelatins capsules and antiseptic solution;
- (iii) such substance intended to be used for the destruction or repulsion of such vermin, insects, rodents and other organisms as cause, carry or transmit disease in human beings or animals or for disinfection in residential areas or in premises in which food is manufactured, prepared or kept or stored;
- (iv) such pesticides as may cause health hazard to the public;
- (v) any substance mentioned as monograph or as a preparation in Pakistan Pharmacopoeia or the Pakistan National Formulary or the international pharmacopoeia or the British pharmacopoeia or the British Pharmacopoeia codex or the United States Pharmacopoeia or the National Formulary of United States, whether alone or in combination with any substance exclusively used in the Unani, ayurvedic, homeopathic or bio-chemic system of treatment, and intended to be used for any of the purposes mentioned in sub-clauses (i), (ii) and (iii); and
- (vi) any other substance which the Government may, by notification in the official gazette, declare to be 'drug' for the purposes of this Ordinance;
- (h) 'expiry date' means the date stated on the label of a drug after which the drug is not expected to retain its claimed efficacy, safety, quality or potency or after which it is not permissible to sell the drug;
- (i) 'expert' means a specialist through University education experience in the relevant field;
- (j) 'generic name' means the non-proprietary, scientific or

official name of a drug as approved by the Federal Government of Pakistan;

- (k) 'Government Analyst' means the Analyst appointed under section 15;
- (l) 'Inspector' means an inspector appointed under section 16;
- (m) 'Label' means a display of written, printed or graphic matter upon the immediate container, or the outside container or wrapper of a drug package;
- (n) 'Labeling' means all labels and other written, printed or graphic matter accompanying any drug;
- (o) 'Licensing authority' means any such authority as may be prescribed;
- (p) 'manufacture' in relation to a drug, means all operations involved in the production of the drug, including processing, compounding, formulating, filling, packing, repacking, or ornamenting, finishing and labeling with a view to its storage, sale and distribution, but does not include the compounding and dispensing on the package of any Drug in the ordinary course of retail business or on a prescription of registered medical practitioner or dentist or of a veterinarian and to 'manufacture' shall be construed accordingly;
- (q) 'misbranded drug' means a drug---
 - (i) which is not labeled in the prescribed manner; or
 - (ii) on the label or labelling of which any word, statement, or other matter or information required by the rules to appear on the label or labeling is not prominently placed with such conspicuousness (as compared with other words, statements, designs, or devices on the label or labeling and in such terms as may render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or
 - (iii) which is not labelled with such directions for use and such warnings against use in indications where its use may be danger to health, or against unsafe dosage or duration of administration or application, in such manner and form as are

necessary for the protection of users or as may be prescribed; or

- (iv) the label or, container of which, or any thing accompanying which, bears any statement design or device which makes any false claim for the drug or which is false or misleading in any particular; or
 - (v) which is so coloured, coated, powdered or polished that damage is concealed, or which is made to appear of better or greater therapeutic value than it really is; or
 - (vi) which is manufactured according to the specifications of a particular pharmacopoeia or any other document as may be prescribed and the label does not bear the name of that pharmacopoeia or document;
- (r) 'prescribed' means prescribed by rules;
- (s) 'Quality Control Board' means a Board set up under section (10);
- (t) 'Registration Board' means a Board set up under section (6);
- (u) 'Registered drug' means any drug registered under section 6;
- (v) 'rule' means rules made under this Ordinance;
- (w) 'Drug Court' means a Court established under Section 29;
- (x) 'specifications when applied to drug' mean---
- (i) such specification as may be prescribed; or
 - (ii) when the specifications are not prescribed, the specifications as contained in the most recent edition of any of the following publications namely:-
 - (1) the Pakistan pharmacopoeia;
 - (2) the international pharmacopoeia;
 - (3) the European pharmacopoeia;
 - (4) the United States pharmacopoeia;
 - (5) the British pharmacopoeia;

- (6) the British pharmaceutical Codex;
- (7) the United States National Formulary;
and
- (8) such other publications as may be prescribed.

Provided that, if the specifications do not appear in the most recent edition of any such publication the specifications appearing in the next preceding edition of such publication in which the specifications appear shall apply; or

- (iii) if no specifications are either prescribed or contained in any of the publications referred to in sub-clause (ii), the specifications approved for the purpose of registration under this Ordinance;
- (y) 'sell' means sell offer for sale, expose for sale, have the possession for sale and distribution and to 'sell' 'sold' or 'sale' shall be construed accordingly;
- (z) 'spurious drug' means a drug-
 - (i) which purports to be a drug but does not contain the active ingredient of the drug; or
 - (ii) which purports to be the product of a manufacturer, place or country of whom or of which it is not truly a product; or
 - (iii) which is sold or offered or exposed for sale under a particular name while actually it is another drug; or
 - (iv) the label of which bears the name of an individual or company purporting to be its manufacturer or producer which individual or company is fictitious or does not exist;
- (za) 'storage' means storage for sale and 'to store' or 'stored' shall be construed accordingly; and
- (zb) 'substandard drug' means a drug which is not of specifications.

CHAPTER II
ADMINISTRATION AND ENFORCEMENT

4. **Regulation of manufacture of drug:-** (1) The grant of licenses to manufacture drugs shall be regulated in accordance with such conditions and procedure as may be prescribed, by a licensing Board to be set up by the Government and consisting of such representatives of the Government as may be prescribed.
- (2) The members of the Licensing Board shall exercise such powers including the powers of an Inspector, as may be prescribed.
- (3) The Licensing Board shall make regulations to regulate the conduct of its business.
- (4) Any member of the Licensing Board may, at any time by writing under his hand addressed to the Government, resign his office or shall vacate his office if the Government, being of the opinion that in the public interest it is necessary so to do, so directs.
- (5) Subject to sub-section (4), a member of the Licensing Board shall hold office for the prescribed period.
5. **Regulation of sale of drugs:-** The Government shall regulate the sale of drugs in the prescribed and may for that purpose make such orders, and issue such directions to the manufacturers, stockists, retailers or other dealers of drugs, as it may deem fit.
6. **REGISTRATION OF DRUGS:-** (1) The Government shall cause all drugs to be registered in accordance with such conditions and procedure as be prescribed and for that purpose set up a Registration Board, consisting of such member of persons, possessing such qualifications, as may be prescribed.
- Explanation:-** In this section, 'drug' means drugs which are in the finished form ready for use.
- (2) The members of the Registration Board shall exercise such powers, including the powers of an inspector as may be prescribed.
- (3) The Registration Board shall make regulations to regulate the conduct of its business.
- (4) Any member of the Registration Board may, at any time, by writing under his hand addressed to the Government, resign his office or shall vacate his office if the Government being of opinion that in the public interest it is necessary so to do, so

directs.

(5) Subject to sub-section (4), the members of the Registration Board shall hold office for the prescribed period.

(6) The Government shall, by notification in the official Gazette, fix the date after which no drug which is not registered shall be allowed to be manufactured, stored, distributed or sold.

(7) A person applying for the registration of a drug shall furnish such information in respect of the drug as may be prescribed, including information relating to its efficacy, safety and quality, or as may be required by the Registration Board for the purpose of the evolution of the drug.

(8) Single ingredient drugs shall be registered generally by their generic names while compound drugs shall be registered by their proprietary names.

Explanation:- In this sub-section:-

(a) 'Single-ingredient drug' means drugs containing one active ingredient;

(b) 'compound drugs' means drugs containing more than ingredient.

(9) The registration of a drug shall be subject to such conditions if any, as the Registration Board may specify at the time of its registration.

(10) Where the Registration Board registers a drug, it shall inform the person applying for its registration, of its having done so and of the conditions subject to which it has been registered.

(11) If the Registration Board, on the basis of information received or an inquiry conducted by it is of opinion that:-

(a) the registration of a drug was procured by fraud or misrepresentation; or

(b) the circumstances in which a drug was registered no longer exists; or

(c) there has been a volition of the conditions, subject to which a drug was registered; or

(d) it is necessary in the public interest so to do, the registration Board may, after affording to the person on whose application the drug was registered an opportunity of showing cause against the action proposed to be taken, cancel or suspend the registration

or specify, any further conditions to which the registration shall be subject and inform such person accordingly.

(12) The Government shall take all such steps as may be necessary to ensure compliance with the conditions subject to which a drug is registered and to prevent the manufacture or sale of a drug -

- (a) which has not been registered; or
- (b) the registration of which has been cancelled or stands suspended.

7. **National formulary:-** National Formulary compiled, reviewed or modified from time to time by the Federal Government of Pakistan comprising all drugs allowed to be imported, manufactured or sold, shall be the National Formulary of Azad Jammu and Kashmir.

8. **Appellate board:-** (1) The Government shall in accordance with the rules constitute an Appellate Board for the disposal of appeals preferred by persons aggrieved by any decision of the Licensing Board or the Registration Board or the Licensing authority or a Board or Authority to which the powers of the Government under Section 11 have been delegated under sub-section (3) of that section and for revision of any such decision on its own motion.

(2) The Appellate Board shall consist of such representatives of the Government, including a Chairman as the Government may from time to time, appoint.

(3) Subject to sub-section (4), the Chairman and other members of the Appellate Board shall held office for the prescribed period.

(4) The Chairman or any other member of the Appellate Board may, by writing under his hand addressed to the Government, resign his office or shall vacate his office if the Government, being of opinion that in the public interest it is necessary so to do, so directs.

(5) The members of the Appellate Board shall exercise such powers including the powers of an Inspector, as may be prescribed.

(6) The Appellate Board may appoint experts for the purpose of detailed study of any specific matter before it.

(7) The Appellate Board shall make regulations to regulate the conduct of its business.

9. **Expert committees:-** (1) The Government may constitute Committee of experts on Drugs Evaluation, on advertising and on such other matters as may be necessary for the purposes of this Ordinance.

(2) Each Committee constituted under sub-section (1) shall consist of such member Government may from time to time such member shall hold office during the pleasure of the Government.

10. **Quality control board:-** (1) The Government shall set up a Quality Control Board consisting of such members including a Chairman, as the Government may appoint from time to time.

(2) The Chairman and other members of the Quality Control Board shall hold office during the pleasure of the Government, on such terms and conditions as the Government may determine.

(3) The Government shall appoint a person to be the Secretary of the Quality Control Board and provide the Board with such staff as the Government may consider necessary.

(4) The Quality Control Board shall make regulations to regulate the conduct of its business.

(5) The following shall be the powers and functions of the Quality Control Board, namely:-

(a) to inspect any premises where any drug is being, or is to be, manufactured or sold and to recommend the appropriate authority the cancellation or suspension of the license or to manufacture or sell drugs granted to any person who is found to be contravening, or to have contravened, any of the provisions of this Ordinance, or the rules;

(b) to scrutinize the reports of Inspectors in respect of contraventions of this Ordinance and reports of the Government analysis in respect of drugs sent to them by Inspectors for test and analysis and issue instructions to the inspectors as to the action to be taken on such reports:

Provided that the Quality Control Board may specify the class of cases in which an inspector may make a complaint to the Drug Courts, or take any other action, without the specific instructions of the Board;

- (c) to exercise all the powers of an inspector under this Ordinance and the rules, and
- (d) to advise the Government on ways and means to ensure quality control of drugs manufactured in Azad Jammu and Kashmir.
- (6) The Quality Control Board may entrust any of its powers or functions under sub-section (5) to any one or more of its members.

11. Power to fix maximum prices of drugs:- (1) The Government may, by notification in the official Gazette,-

- (a) fix the maximum price at which any drug specified in the notification is to be sold; and
- (b) specify a certain percentage of the profits of manufactured of drugs which shall be utilized in accordance with the rules for purposes of research in drugs.
- (2) For the purpose of the exercise of its powers under sub-section (1), the Government may require a manufacturer stockiest, retailer or other dealer in drugs to furnish such relevant information as may be necessary.
- (3) The Government may by notification in the official Gazette delegate any of its powers under this section to any Board or other authority.

12. Drugs testing laboratory:- The Government shall, as soon as may be set up a Drug Testing Laboratory for such purposes as may be prescribed:

Provided that, till the said laboratory is set up any Drug Testing Laboratory Pakistan may be declared by notification in the official Gazette to be the Drug Testing laboratory for such purposes as may be prescribed.

13. Government analysts:- The Government may by notification in the official Gazette appoint such persons as it thinks fit, having the prescribed qualifications, to be the Government Analysts, for such areas and in respect of such drugs or classes of drugs as may be specified in the notifications:

Provided that no person who has any financial interest in the manufacture or sale of drugs shall be so appointed.

14. Inspectors:- Government may by notification in the official Gazette appoint such persons as it thinks fit, having the

prescribed qualifications, to be the inspectors for the purposes of this Ordinance within such local limits as it may assign to them:

Provided that no person who has any financial interest in the manufacture or sale of drug shall be so appointed.

15. **Power of inspectors:-** (1) Subject to the provisions of section 16 and of any rules made in this behalf, an Inspector may within the local limit for which he is appointed, and in any other area with the permission of the licensing authority,-

- (a) inspect premises wherein any drug is manufactured, the plant and process of manufacture, the means employed for standardizing and testing the drugs and all relevant records and registers;
- (b) inspect any premises wherein any drug is sold or is stocked or exhibited for sale or is distributed, the storage arrangements and all relevant records and registers;
- (c) take samples of any drug which is being manufactured, or being sold or is stocked or exhibited for sale or is being distributed;
- (d) enter and search, with such assistance, if any, as he considers necessary, any building vessel or place, in which he has reason to believe that an offence under this Ordinance or rules has been or is being committed or continue to be committed;
- (e) call any person to be present as witness in the course of search or seizure or in connection with any other matter where the presence of witnesses is necessary;
- (f) seize such drug and all materials used in the manufacture thereof and any other articles, including registers, cash-memo, invoices and bills, which he has reason to believe may furnish evidence of the commission of an offence punishable under this Ordinance or any rules;
- (g) require any person to appear before him at any reasonable time and place to give statement, assistance or information relating to or in connection with the of an offence under this Ordinance or the rules:

Provided that the exemptions under section 132 and 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to requisitions for attendance under this clause.

- (h) look and seal any factory, laboratory, shop, building, store-house or godown, or a part thereof, where any drug is or is being manufactured, stored, sold or exhibited for sale in contravention of any of the provisions of this Ordinance or the rules;
- (i) forbid for a reasonable period, not exceeding four weeks or such further period, which shall not be more than three months, as the Inspector may, with the approval of the Quality Control Board, the Licensing Board, the Registration Board or the Licensing Authority as the case may be specify any person in charge of any premises from removing or of any drug; article or other thing likely to be used in evidence of the commission of an offence under this Ordinance or the rules; and
- (j) exercise such other powers as may be necessary for carrying out the purposes of this Ordinance or rules:

Provided that the powers under clauses (f) to (j) shall be exercisable only by an inspector specifically authorised in this behalf, by an order in writing, by the government, subject to such conditions as may be specified in such order:

Provided further that the powers under clause (h) may be exercised by an inspector not authorised as aforesaid where the contravention is of a provision which requires a license to be obtained for the manufacture, storage or sale of a drugs.

- (2) The provisions of the Code of Criminal Procedure 1898 (Act V of 1898), in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to searches and seizures made under this Ordinance.

16. **Procedure for inspectors:-** (1) Where an inspector seizes drug or any other article under section 15, he shall tender a receipt therefor in the prescribed form.

- (2) where an inspector takes a sample of a drug for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in presence of such person unless he willfully absents him, shall divide the sample into four portions and effectively seal and suitably mark the same and permit such person to add his own seal, if any, and mark all or any of the portions so sealed and marked:

Provided that, where the sample is taken from premises whereon this drug is being manufactured, it shall be necessary to divide the sample into three portions only:

Provided further that, where the drug is made up in containers of small volume, instead of dividing a sample as aforesaid, the inspector may, and if the drug be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three or four, as the case may be, of the said containers after suitably marketing the same and, where necessary, sealing them:

Provided further that if the contents of one container are insufficient for the laboratory test and analysis the Inspector may increase the number of the containers in order to make the sample sufficient for this purpose.

(3) The inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person whom he takes it and shall retain the remainder and dispose of the same within seven days as follows:-

- (i) one portion or sample he shall send to the Government Analyst concerned for test and analysis;
- (ii) the second he shall send to the Chairman Quality Control Board or the Licensing Board or the Registration Board, as the case may be; and
- (iii) the third, where taken, he shall send to the warrantor, if any, named under the proviso to sub-section (3) of section 29;

(4) Where an inspector seizes any drug containing any filthy or putrid substance, vermin, worm, rodent, insect or any foreign matter which is visible to the naked eye and the sample is such that it cannot or need not be divided, he shall effectively seal and suitably mark the same and permit the person from whom he seizes the drug to add his own seal if any, and mark to it and shall produce the same before the Drug Court of the Licensing Board or the Registration Board, as the case may be, before which proceedings are instituted or action is initiated in respect of the drug.

(5) Where an Inspector takes any action under Section 15,

- (a) he shall as soon as practicable ascertain whether or not the drug contravenes any of the provisions of this Ordinance and, if it is ascertained that the drug does not so contravenes, he shall forthwith revoke the order

passed under the said section or, as the case may be, take such action as may be necessary for the return of the stock seized and payment for the samples taken, under intimation to the Board concerned;

(b) if he seizes the stock of the drug, he shall, as soon as may be, inform the Board concerned and take its order as to the custody thereof.

(6) The Inspector on finding any contravention of this Ordinance for which he is authorised shall, unless otherwise, always refer the case to the Licensing Board or the Registration Board or any other authority as may be specified for the purpose and seek any further orders as to the action to be taken in respect of such contravention.

17. **Persons bound to disclose place where drugs are manufactured or kept:-** Every person for the time being in charge of any premises whereon any drug is being manufactured or is kept for sale or distribution shall, on being required by an Inspector so to do, disclose to the inspector the place where the drug is being manufactured or is kept, as the case may be.

18. **Disclosure of the name of the manufacture.-** Every person, not being the manufacturer of a drug or his agent for the distribution thereof, shall, if so required by an inspector, disclose to him the name, address and other particulars of the manufacturer or other person from whom he acquired the drug.

19. **Reports of government analysts:-** (1) The Government Analyst to whom a sample of any drug has been submitted for test and analysis under sub-section (3) of section 16 shall deliver to the Inspector submitting it a signed report in quadruplicate in the prescribed form and forward one copy thereof to the authority as may be prescribed.

(2) The government Analyst, as far as may be, shall submit the report referred to in sub-section (1) within sixty days of the receipt by him of the sample of the drug and, if he is not able to do so for reasons beyond his control, shall communicate the reasons to the Inspector in writing and shall endorse its copy to the Board concerned who shall have the sample tested from the same or any other Government Analyst or a Government Drug Testing Laboratory or any other laboratory and shall ensure the receipt of results of such test and analysis within a further period as may be prescribed and shall make the test report available to the inspector for further action.

- (3) on receipt of the report, the Inspector shall—
 - (a) deliver one copy thereof to the person from whom the sample was taken;
 - (b) forward one copy to the warrantor, if any, named under the proviso to sub-section (3) of section 29;
 - (c) forward, one copy to the Board concerned for its directions as to the action to be taken on the reports; and
 - (d) retain the fourth copy for use in any prosecution or for any other purposes.
- (4) Notwithstanding anything contained in any other law for the time being in force, any document purporting to be a report signed by a government Analyst shall be admissible as evidence of the facts stated therein without formal proof such evidence shall be conclusive unless the person from whom the sample was taken or the said warrantor has, within thirty days of the receipt of a copy of the report notified in writing to the inspector or the Drug Court or, as the case may be, the Licensing Board or the Registration Board before which may proceedings in respect of the sample are pending that he intends to Adduce evidence in contravention, of the report.
- (5) Where a person has, under subsection (4), notified his intention of adducing evidence in contravention of a Government Analyst report, the Drug Court or the Board concerned may, of its own motion or in its discretion at the request either of the complainant or the accused, cause the sample of the drug lying with the Board concerned under sub-section (3) of section 16 to be sent for test or analysis to the Drug Testing Laboratory or any other Laboratory specified for the purpose by the Government which shall make the test or analysis and report in writing signed, by, or under the authority of, the person for the time being incharge of the Drug Testing Laboratory, or, as the case may be, such other Laboratory, the result thereof and such report shall be, conclusive evidence of the facts stated therein.
- (6) The cost of a test or analysis made by the Drug Testing Laboratory or other Laboratory under subsection (5) shall be paid by the complainant or accused as the Drug Court or the Board concerned shall direct.

**CHAPTER III –
PROHIBITIONS**

20. **Manufacture and sale of drugs.-** (1) No person shall himself or by any other person on his behalf.
- (a) manufacture for sale or sell –
 - (i) any spurious drug;
 - (ii) any counterfeit drug;
 - (iii) any misbranded drug;
 - (iv) any adulterated drug;
 - (v) easy substandard drug;
 - (vi) any drug after its expiry date;
 - (vii) any drug which is not registered or is not in accordance with the conditions of registration;
 - (viii) any drug which, by means of any statement, design or device accompanying it or by any other means, purports or claims to cure or mitigate any such disease or ailment, or to have any such other effect, as be prescribed;
 - (ix) any drug if it is dangerous to health when used in the dosage or with the frequency or for the duration specified recommended or suggested in the labeling thereof; or
 - (x) any drug in contravention of any of the provisions of this Ordinance or any rule;
 - (b) Manufacture for sale any drug except under, and in accordance with the conditions of, a license issued under this Ordinance;
 - (c) sell any drug except under, and in accordance with the conditions of, a license issued under this Ordinance;
 - (d) supply an incorrect, incomplete or misleading information when requires to furnish information under this Ordinance or the rules;
 - (e) peddle hawk or offer for sale any drug in a park or public street or on a highway, footpath or public transport or conveyance;
 - (f) manufacture for sale, or sell any substance, or mixture of

substances, which is not a drug but is presented in a form or manner which is intended or likely to cause the public to believe it to be a drug;

(g) sell drug without having a warranty in the prescribed form bearing the name and batch number of the drug, manufactured in Azad Jammu and Kashmir, by the manufacturer holding a valid license to manufacture drugs and permission to manufacture that drug or by his authorised agent;

(h) apply an incorrect batch number to a drug;

(2) nothing in subsection (1) shall apply to the manufacture or subject to prescribed conditions, of small quantities of any drug for the purpose of clinical trial, examination, test, analysis or personal use.

21. **Control of advertisement:-** No person shall himself or by any other person on his behalf advertise, except in accordance with such conditions as may be prescribed.

(i) any drug;

(ii) any substance used or prepared for use in accordance with ayurvedic, unani, homeopathic or biochemic system of treatment or any other substance or mixture of substances as may be prescribed;

(iii) any remedy, treatment or offer of a treatment for any disease.

EXPLANATION:- In this section, 'advertise' means to make any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of a drug, a substances or a mixture of substances, a remedy or a treatment except the display of sign boards for a clinic, a dispensary or a hospital or such other institution offering treatment.

22. **Control of sampling:-** No person shall distribute or cause to be distributed any drug as a sample except in accordance with such conditions as may be prescribed.

23. **Control of printing of labelling:-** No person shall print any labeling in respect of any drug which is required to be registered under this Ordinance, but is not so registered after the date fixed by the Government under sub-section(6) of section 6 or for a person who does not possess a license under this Ordinance to manufacture that drug.

**CHAPTER IV-
OFFENCES, PENALTIES AND PROCEDURE**

24. **Penalties.-** Whoever himself or by any other person on his behalf .

- (a) manufactures for sale or sells any spurious drug or any drug which is not registered;
- (b) manufactures for sale any drug without a license; shall be punishable with imprisonment for a term which shall not be less than three years of more than ten years and with fine which may extend to one lakh rupees:

Provided that the Drug Court may, for air special reasons to be recorded award a sentence of imprisonment for a term of less than three years,

(2) Whoever himself or by any other person on his behalf.-

- (a) manufactures for sale or sells any counterfeit drug; or
- (b) gives to the purchaser a false warranty in respect of any drug sold by him that the drug does not in any way contravene the provisions of section 20 and is not able to prove that, when he gave the warranty, he had good and sufficient reason to believe the same to be true; or
- (c) applies or permit to be applied to any drug sold, or stocked or exhibited for sale, by him, whether on the container or a label or in any other manner, a warranty given in respect of any other drug; or
- (d) manufactures for sale or sells any drug under a name other than he registered name; or
- (e) manufactures for sale or sells any drug with which any substance, which should not actually be its component, has been mixed or packed so as to reduce its quality or strength or for which any such substance has been substituted wholly or in part shall be punishable with imprisonment for a term which may extend to seven years, and with fine which may extend to one lakh rupees.

(3) Whoever obstructs an Inspector in the exercise of any power conferred, upon him by or under this Ordinance, or disobeys the lawful authority of any inspector, shall be punishable with imprisonment for a term which may extend to

one year, or with fine which may extend to ten thousand rupees, or with both.

(4) Subject to the provisions of sub-section (1), sub-section (2) and sub-section (3), whoever himself or by any other person on his behalf contravenes any of the provisions of this Ordinance or any rule shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

25. **Penalty for subsequent offence.-** (1) Whoever having been convicted of an offence under that sub-section shall be punishable with imprisonment for life or with imprisonment which shall not be less than five years and with fine which may extend to two lakh rupees.

(2) Whoever having been convicted of an offence under sub-section (2) of section 24 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which shall not be less than two years or more than ten years, or with fine which may extend to two lakh rupees, or with both.

(3) Whoever having been convicted of an offence under sub-section (4) of section 24 is again convicted of an offence under that sub-section shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

26. **Forfeiture.-** (1) Where any person has been convicted under this Ordinance for contravening any such provisions of this Ordinance or any rule as may be prescribed in this behalf, the Drug Court may order that the stock of drug or substance by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such drug or substance, and if such contravention is punishable under sub-section (1) of section 24, any implements used in manufacture or sale of such drug and any receptacles, packages or coverings in which such drug is contained and the animals, vehicles, vessels or other conveyances, used in carrying such drug, be forfeited to the Government and, upon such order being made, such drug, substance, implements, receptacles, packages or coverings, animals, vehicles, vessels or conveyances may be disposed of as the Government may direct.

(2) Without prejudice to the provisions of sub-section (1),

where the drug Court is satisfied, on the application of an Inspector or otherwise, and after such inquiry as may be necessary, that a drug contravenes the provisions of this Ordinance, the Drug Court may order that such drug be forfeited to the Government and, upon such order being made, such drug may be destroyed or otherwise disposed of as the Government may direct.

(3) An Inspector shall release any drug or article seized by him under this Ordinance when he is satisfied that all the provisions of this Ordinance and the rules with respect thereto have been complied with.

27. **Cognizance of offences.**- (1) Subject to the provisions of section 16, no prosecution shall be instituted under this Chapter except, by an Inspector, where the prosecution is in respect of a contravention of clause (h) of sub-section (1) of Section 20 or section 21 or any of the provisions of this Ordinance or the rules relating to the manufacture of drugs for sale, or sale of a drug which is not for the time being registered or for the manufacture for sale of which a license is not for the time being in force:

Provided that, where the public interest so requires, the inspector may with the prior permission of the Government institute a prosecution for a contravention of any other provision of this Ordinance.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),-

- (a) an offence punishable under this Chapter other than an offence mentioned in sub-section of section 24, shall be non-cognizable; and
- (b) no Court other than a Drug Court shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Chapter or to require the transfer to a Drug Court of any case which may be pending in any Court immediately before the establishment of the Drug Court.

28. **Drug courts.**- (1) The Government may, by notification in the official Gazette, establish as many Drug Courts as it considers necessary and, where it establishes more than one Drug Court, shall specify in the notification the territorial limits within which,

or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Ordinance.

(2) A Drug Court shall consist of a person who is, or has been or is qualified for appointment as, a judge of a High Court, who shall be the Chairman, and two members being persons who, in the opinion of the Government are experts in the medical or pharmaceutical fields.

(3) A Drug Court shall sit at such place or places as the Government may direct.

(4) A Drug Court shall have all the powers conferred by the Code of Criminal Procedure, 1898 (Act V of 1898), on a Court of Session exercising original jurisdiction.

(5) A Drug Court shall not, merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by or produced before it.

(6) A Drug Court shall, in all matters with respect to which no procedure has been prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898) for the trial of summons cases by Magistrate.

(7) A person sentenced by a Drug Court may prefer an appeal to a bench of the High Court consisting of not less than two Judges within thirty days of the Judgment.

(8) The provisions of section 5 and 12 of the Limitation Act, 1908 (IX of 1908) as adapted in Azad Jammu and Kashmir, shall be applicable to an appeal referred, to in sub-section (7).

29. **Please.-** (1) Save as hereafter provided in this section, it shall be no defence in a prosecution under this Ordinance to prove merely that the accused was ignorant of the nature, substance or quality or the drug in respect of which the offence has been committed or of the circumstances of its manufacture, or that a purchaser, having brought only for the purpose of test or analysis, has not been prejudiced by the sale.

(2) A drug shall not be deemed to be misbranded or adulterated or substandard only by reason of the fact that there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or preparation of the drug fit for carriage or consumption and not to increase the bulk, weight or measure of the drug or to conceal its inferior

quality or other defect or there is a decomposed substance which is the result of a natural process of decomposition:

Provided that such decomposition is not due to any negligence on the part of the manufacture of the drug or the dealer thereof and that it does not render the drug injurious to health or does not make it substandard.

(3) A person, not being the manufacturer of a drug or his agent for the distribution thereof, shall not be liable for a contravention of section 20 if he proves ---

- (a) that he did not know, and could not with reasonable diligence have ascertained, that the drug in any way contravened the provisions of this Ordinance and that the drug while in his possession remained in the same state as when he acquired it; and
- (b) that acquired the drug from a duly licensed manufacturer or his authorised agent or an importer or an indenter resident in Azad Jammu and Kashmir/Pakistan under a written warranty in the prescribed form stating , in a particular the batch number of the drug and signed by such person that the drug does in any way contravene the provisions of section 20 and that the drug while in his possession was properly stored and remained in the same state as when he acquired it and that the drug has been manufactured by a manufacturer holding a valid license to manufacture drug and permission to manufacture that drug; provided that a defence under clause (b) shall be opened to a person only -
 - (i) if he has, within seven days of the service on him of the summons, sent to the inspector a copy of the warranty with a written notice stating that he intends to rely upon it and giving the name and address of the warrantor; and
 - (ii) if he proves that he has, within the period, sent written notice of such intention to the said warrantor.

30. **Offences by companies, etc.-** Where the person guilty of an offence under this Ordinance, is a company, corporation, firm or institution every director, partner and employee of the company, corporation, firm or institution shall unless he proves that the offence was committed without his knowledge or consent, be guilty of the offence.

31. **Publication of offender's name.-** (1) If any person is convicted of an offence under this Ordinance, it shall be lawful for the Drug Court to cause the offender's name, place or residence, the offence of which he has been convicted and the penalty which has been inflicted upon him, to be published at the expenses of such person in such newspapers or in such other manner as the Court may direct.
- (2) The expenses of such publication shall be recoverable in the same manner as a fine is recoverable.
32. **Powers to exempt.-** Notwithstanding anything contained in this Ordinance the Government, may, if it is of opinion that the public interest so requires, at any time of its own motion or on a representation made to it, by notification in the official Gazette, exempt any drug or class of drugs the operation of any of the provisions of this Ordinance subject to such conditions, if any, and for such period, as may be specified in the notification.
33. **Inspectors to be public servants.-** Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860), and shall be officially subordinate to such authority as the Government may specify in this behalf.
34. **Indemnity.-** Except as otherwise expressly provided in this Ordinance, no suit, prosecution or other legal proceedings shall lie against Government or any other authority or person for any thing which is in good faith done or intended to be done under this Ordinance or any rule.
35. **Finality of orders. etc.-** Save as otherwise expressly provided in this Ordinance, every order passed or decision given by any Board, a Drug Court or any other authority under this Ordinance, be final and shall not be called in question by or before any Court or other authority.
36. **Publication of result of test or analysis, etc.-** (1) It shall be lawful for the Government to publish in such manner as it may deem fit, the result of any test or analysis of any drug for public information and to pass such orders relating to the withdrawal of such drug from sale and its disposal as it may consider necessary.
- (2) The Government may, if it considers it necessary in the public interest so to do, publish for public information and to pass such orders relating to the withdrawal of such drug from sale and its disposal as it may consider necessary.

(3) The Government may, if it consider it necessary in the public interest so to do, publish for public information and to pass such orders relating to a drug or to the use of a drug in specified circumstances.

37. **Cancellation or suspension of licence.-** Where any person has been found to have contravened any of the provisions of this Ordinance, or the rules in respect of any drug and the contravention is of such nature that the manufacture or sale of any drug by such person is, in the opinion of the licensing authority or the Licensing Board, likely to endanger public health, the authority may after giving such person an opportunity of being heard, cancel the license to manufacture or sell drugs issued to such person or suspend the license for a specific period.
38. **Cancellation or suspension of registration of registered drugs.-** Where any person has been found to have contravened any of the provisions of this Ordinance, or the rules in respect of any registered drug, the Registration Board may, after giving such person an opportunity of being heard, cancel the registration of such drugs or suspend such registration for a specified period.

CHAPTER V MISCELLANEOUS

39. **Power of the government to make rules.-** (1) The Government may by notification in the official Gazette, make rules in respect of the following matters, namely:-
- (i) the establishment of laboratories for testing and analysing the drugs;
 - (ii) The qualifications and the procedure, for exercise or powers and performance of functions of the inspector;
 - (iii) The forms of reports to be given by Government analysts and the manner of application for test or analysis and the fee payable therefor;
 - (iv) The conditions to regulate sale or storage or distribution of drugs or any specified drugs or class of drugs;
 - (v) the offences against this Ordinance or any rule in relation to which the stock of drugs shall be liable to confiscation and destruction under this Ordinance;

- (vi) the forms of licenses for the sale or distribution of drugs, or any specified drugs or clause of drugs, the authority empowered to issue the same and form of applications for such licenses, the fee payable therefor and the conditions subject to which such licenses may be issued;
- (vii) the procedure to be followed by the Quality Control Board; and
- (viii) any other matter which is to be or may be, prescribed by the Government.

(2) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publications.

- 40. Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Ordinance, the Government may make such orders or issue such directives not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

SD/-
(Muhammad Idbrahim Khan)
President
Azad Jammu and Kashmir

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary,
Law and Parliamentary Affairs,
Azad Govt. of the State of J&K.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the May 7, 1977.

No. 1139/SL/77. The following Ordinance made by the President on 7th May, 1977, is hereby published for general information:-

(ORDINANCE V OF 1977)

AN ORDINANCE to provide for adaptation and enforcement of the Establishment of the Federal Bank for Co-Operatives and Regulation of Co-Operative Banking Ordinance, 1976.

WHEREAS it is necessary and expedient to adapt and to enforce the Establishment of the Federal Bank for Co-Operatives and Regulation of Cooperative Banking Ordinance, 1976, of the Government of Pakistan;

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 Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Adaptation) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir and applies to all State Subjects wherever they may be.

(3) It shall come into force at once.
2. **The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, to apply to Azad Jammu and Kashmir.-** (1) The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, of Pakistan, hereinafter referred to as the said Ordinance, and all rules, notifications and orders made thereunder and in force immediately before the commencement of this Ordinance shall, as far as practicable and

with the necessary modifications, be in force in Azad Jammu and Kashmir and shall apply to all State Subjects wherever they may be.

(2) Any Court, tribunal or authority required or empowered to enforce the said Ordinance or memorandum or articles of association of a bank registered or deemed to have been registered thereunder, or any other law for the time being in force, shall construe the said Ordinance, memorandum or articles of association or such other law with such adaptations as are necessary to bring the same into accord with the provisions of the said Ordinance.

3. **Pending cases.** All cases pending in Courts on the coming into force of this Ordinance, shall be tried and decided according to the provisions of the law on the subject in force in Azad Jammu and Kashmir immediately before the coming into force of this Ordinance.
4. **Removal of difficulties.-** If any difficulty or question arises in giving effect to the provisions of the said Ordinance or in regard to the constructions to be placed on any provision thereof, the Azad Government of the State of Jammu and Kashmir may, from time to time, make such provisions as appear to it to be necessary for the purpose of removal of such difficulty.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs
Azad Govt. of the State of Jammu & Kashmir.

**AZAD GOVT.OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 20, 1977.

No. 2396-97/SL/77. The following Ordinance made by the President on the 20th day of August, 1977, is hereby published for general information:-

(ORDINANCE VI OF 1977)

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

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exists 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, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the first-day of August, 1977.

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, after clause (xxiv), the following new clause (xxv) shall be inserted :-

"(xxv) 'Validly nominated candidate' means a candidate' whose nomination has been accepted;"

And

existing clause (xxv) shall be renumbered as clause (xxvi).

3. **Amendment of Section 10, Ordinance X of 1970.-** In the said Ordinance, in section 10-
- (a) in sub-section (i) for clause (a) the following shall be substituted, namely :-

"(a) a day on or before which nomination of the candidate is to be made.
 - (b) in sub-section (3) for the word 'before' the word 'by' shall be substituted."
4. **Amendment of Section 11, Ordinance X of 1970.-** In the said Ordinance, in section 11,-
- (a) after sub-section (3), the following proviso shall be added :-

"Provided that a candidate may deliver or cause to be delivered, to the Commissioner a duplicate of the nomination paper on or before the nomination day or may send it to the Commissioner by registered post so as to reach him on or before that day."
 - (b) in sub-section (5) the words 'except the one received first by the Returning Officer' shall be omitted."
5. **Amendment of Section 13, Ordinance X of 1970.-** In the said Ordinance, in Section 13,-
- (a) in sub-section (3). in clause (d), in the proviso, in sub-clause (ii) between the words 'nature' and 'and' the words and commas 'including an error in regard to the name, serial number in the Electoral Roll or other particulars of the candidate, his propose or seconder' shall be inserted.
 - (b) for sub-section (4) and (5) the following shall be substituted, namely :-

"(4) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it and shall, in the case of rejection, record the reasons for rejection and, in the case of an objection being raised to his decision to accept the nomination paper, record brief reasons for rejecting the objection.

(5) Any person aggrieved by an order under sub-section (4) may file an appeal within a prescribed period to the

Commissioner whose decision shall be final.

- (6) Announcement of the day and time appointed for the hearing of an appeal under sub-section (5) over the radio or by publication in the press shall be deemed to be sufficient notice of the day and time so appointed."

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

"13-A. Action on duplicate of nomination paper.- (1) in a case in which the Returning Officer denies receipt of the nomination paper of a candidate and the candidate asserts that the duplicate of the nomination paper had been delivered, or sent by post to the Commissioner in accordance with the proviso to sub-section (3) of Section 11, and produces a receipt issued by the Commissioner or by the Post office on its having been so delivered or sent, it shall be the duty of the Returning Officer to inform the Commissioner of such assertion.

(2) If the Commissioner is in receipt of the duplicate of the nomination paper, he shall at the request of the Returning Officer, forward it to the Returning Officer.

(3) A duplicate of a nomination paper forwarded to the Returning Officer under sub-section (2) shall be treated as if it were the original nomination paper delivered to him under sub-section (3) of section 11 and the provisions of section 13 shall apply to it accordingly."

7. **Amendment of Section 15, Ordinance X of 1970.-** In the said Ordinance, in section 15, in sub-section (1) for the word 'agent' the word 'advocate' shall be substituted.

8. **Omission of section 15-A, Ordinance X of 1970.-** In the said Ordinance, Section 15-A, shall be omitted.

9. **Substitution of Section 18, Ordinance X of 1970.-** In the said Ordinance, for section 18, the following shall be substituted, namely:-

"18. Un-contested election.- (1) Where after scrutiny under section 13, there remains only one validly nominated candidate or where, after withdrawal under section 15, there remains only one contesting candidate, the Returning Officer shall so inform the Commissioner and forward to him all the nomination papers

received by him from the constituency concerned and such other papers as may be specified by the Commissioner.

(2) The Commissioner shall, after such inquiry as he may deem necessary in any case, by notification in the official Gazette, declare the candidate referred to in sub-section (1) to be elected to the seat:-

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 13, no person shall be declared elected until the period prescribed for filing such appeal has expired and no such appeal has been filed or, where an appeal is filed, until the disposal of such appeal.

10. **Amendment of Section 29, Ordinance X of 1970.-** In the said Ordinance, in Section 29, in sub-section (2), after the words 'Police officer', at the end, the words 'or member of the armed forces' shall be added.
11. **Substitution of section 30, Ordinance X of 1970.-** In the said Ordinance, for section 30, the following shall be substituted, namely:-

"30. Voting Procedure.- (1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall, after satisfying himself about the identity of the elector, issue to him a ballot paper.

- (2) Before a ballot paper is issued to an elector
 - (a) the number and name of the elector as entered in the electoral roll shall be called out;
 - (b) a mark shall be placed on the electoral roll against the number and name of the elector to indicate that a ballot paper has been issued to him;
 - (c) a ballot paper shall on its back be stamped with the official mark and initialed by the Presiding Officer; and
 - (d) the Presiding Officer shall record on the counter-foil of the ballot paper the number of the elector on the electoral roll, stamp it with the official mark, put his initial on it and obtain on it in indelible ink the thumb impression of the elector.

(3) A ballot paper shall not be issued to a person who refuses to put thumb impression on the counter-foil or whose thumb bears traces of its having already been used for putting the impression.

(4) If a contesting candidate or his election agent or polling agent alleges that an elector to whom a ballot paper is about to be issued already has one or more ballot papers in his possession, the Presiding Officer may require the elector to satisfy him that he does not have any other ballot paper in his possession and may also take such measure as he thinks fit to ensure that such elector does not insert more than one ballot paper in the ballot box.

(5) On receiving the ballot paper, the elector shall-

- (a) forthwith proceed to the place reserved for marking the ballot paper;
- (b) put the prescribed mark on the ballot paper at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote; and
- (c) after he has so marked the ballot paper, fold and insert it in the ballot box.

(6) The elector shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper in the ballot box.

(7) Where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of an companion, the Presiding Officer shall allow him such assistance and thereupon such elector may do with such assistance anything which an elector is required or permitted to do under this Ordinance.

12. **Amendment of Section 35, Ordinance X 1970.-** In the said Ordinance, in section 35, in sub-section (4),-

(1) in clause (c) -

- (a) in sub-clause (i) after the word 'mark' at the end, the words 'and initials of the Presiding Officer' shall be added; and
- (b) for sub-clause (ii), the following shall be substituted, namely:-

- "(ii) any writing or any mark other than the mark of his thumb, the official mark, the initials of the presiding Officer and the prescribe mark or to which a piece of paper or any other object of any kind has been attached."
 - (c) in sub-clause (iv) the word 'or' at the end shall be omitted ; and
 - (d) sub-clause (v) shall be omitted;
 - (2) in sub-section (12), clause (j) shall be omitted.
- 13. **Amendment of Section 40, Ordinance X of 1970.-** In the said Ordinance, in section 40, in sub-section (1) the following words, at the end, 'or who has retired from contest under Section 15-A,' shall be omitted.
- 14. **Amendment of Section 53, Ordinance X of 1970.-** In the said Ordinance, in section 53, for sub-section (2) the following shall be substituted, namely :-

"(2) An Election Tribunal shall consist of a person who has been, or is, or, at the time of his retirement as a District and Session Judge, was qualified to be, a Judge of the High Court."
- 15. **Amendment of Section 64, Ordinance X of 1970.-** In the said Ordinance, in section 64, in sub-section (1) clauses (a) and (b) shall be omitted.
- 16. **Amendment of Section 86, Ordinance X of 1970.-** In the said Ordinance, in section 86,-
 - (a) after the word and comma 'Ordinance, the words, brackets and figures' or any person required under sub-section (2) of section 4, to perform any functions or render any assistance' shall be inserted; and
 - (b) after the word 'omission' at the end, the comma and words 'or fails to perform such functions or render such assistance' shall be added.
- 17. **Amendment of Section 88, Ordinance X of 1970.-** In the said ordinance, in section 88, after the words 'Police Officer' twice occurring, the words 'member of the armed forces' shall be inserted.

18. **Substitution of Section 92, Ordinance X of 1970.-** In the said Ordinance, for section 92, the following shall be substituted, namely:-

"92. Commissioner to ensure fair election, etc.- Save as otherwise provided, the Commissioner may-

- (a) Stop the polls at any stage of the election, if he is convinced that he shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale malpractices, including coercion, intimidation and pressures, prevailing at the election ;
- (b) review an order by an officer under this ordinance, or the rules, including rejection of ballot papers; and
- (c) Issue such instructions and exercise such powers, and make such consequential orders, as may, in his opinion, be necessary for ensuring that the election is conducted honestly, justly and fairly, and in accordance with the provisions of this ordinance, and the rules."

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

"92-A. Directions of Commissioner in certain matters.- Anything required to be done for carrying out the purpose of this ordinance, for which no provision or no sufficient provision exist shall be done by such authority and in such manner as the Commissioner may direct."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of J & K
Muzaffarabad.

**AZAD GOVT.OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 20, 1977.

No. 2396-97/SL/77. The following Ordinance made by the President on the 20th day of August, 1977, is hereby published for general information :-

(ORDINANCE VII OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Electoral1 Rolls Ordinance, 1970 (I of 1970) for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exists 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 Electoral Rolls (Amendment) Ordinance, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the first day of August, 1977.
2. **Amendment of Section 2, I of 1970:-** In the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 (I of 1970) in section 2, for clause (e) the following shall be substituted, namely:-

"(e) 'Qualifying date' means the first day of January, 1977."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

No 2419-20/SL/77. The following Ordinance made by the President on the 20th day of August, 1977, is hereby published for general information:-

(ORDINANCE VIII OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1976

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1977 (Act II of 1976), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exists 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 Azad and Jammu Kashmir Chhamb Area Administration and Development (Amendment) Ordinance, 1977.

(2) It shall come into force at once.

2. **Amendment of Section 2,-Act II of 1976.**- In the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1976 (Act, II of 1976), hereinafter referred to as the said Act, in Section 2, for sub-section (3) the following shall be substituted, namely:-

"(3)'Deputy Commissioner' means the Deputy Commissioner of Mirpur District and any other person appointed as Deputy Commissioner to perform the duties as such under this Act;"

3. **Amendment of Section 4, Act, II of 1976.**- In the said Act, in section 4 in sub-section (1), for clauses (i), (ii), (iii) and (iv) the following shall be substituted, namely :-

"(i) 1965 War refugees from Indian held-part of the State of Jammu and Kashmir duly registered with the Deputy

Commissioner of the respective districts in Azad Jammu and Kashmir;

- (ii) Ex-Servicemen;
- (iii) 1976 War displaced persons;
- (iv) land owners of the Chhamb Area who have not been allotted any agriculture land either in Pakistan or in Azad Jammu and Kashmir in lieu of land held by them in Chhamb Area or whose allotment of land is less than the land they owned in Chhamb Area, prior to October, 1947."

Sd/
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 29, 1977.

No. 2494-95/SL/77. The following Ordinance made by the President on the 26th day of August, 1977, is hereby published for general information:-

(ORDINANCE IX OF 1977)

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

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing;

AND WHEREAS 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, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 1st day of August, 1977.

2. **Amendment of Section 5, 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 5, in sub-section (2) after clause (f), as re-numbered by Act IX of 1977, the following new clause shall be added, namely :-

"(g) he has been in the service of Azad Jammu and Kashmir or in the service of Pakistan or statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest, unless a period of 2 years has elapsed since he ceased to be in such service.

Explanation.- In clause (g) of sub-section (2) 'service of Azad

Jammu and Kashmir' has the same meaning as in section 49 of the Azad Jammu and Kashmir Interim Constitution Act, 1974."

3. **Substitution of Section 24, Ordinance X of 1970.-** In the said Ordinance, for section 24, the following shall be substituted, namely :-

"24. Adjournment of poll in emergencies.- (1) If at an election the proceedings at any Polling Station are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any Polling Station on account of any natural calamity, or any other sufficient cause, the Presiding Officer shall report the circumstances to the Returning Officer who may adjourn the poll to a date to be notified later.

(2) Whenever a poll is adjourned under sub-section (1), the Returning Officer shall immediately report the circumstances to the Commissioner and shall, as soon as may be with the previous approval of the Commissioner, appoint the day on which the poll shall re-commence and fix the Polling Station at which, and the hours during which, the Poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Commissioner may direct the date, place and hours of polling fixed under sub-section (2).

24-A. Fresh poll in the case of destruction, etc. of ballot boxes.- (1) If at any election-

- (a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or is accidentally or intentionally destroyed or lost or is damaged or tampered with, to such an extent that the result of the poll at that polling station cannot be ascertained, or
- (b) any error or irregularity which is likely to vitiate the poll is committed at a polling station the Returning Officer shall forthwith report the matter to the Commissioner.

(2) The Commissioner may, on its own motion or on receipt of a report under sub-section (1), and for reasons to be recorded, either -

- (a) declare the poll at that polling station to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station and notify the day so appointed and the hours so fixed in such manner as he may deem fit or
 - (b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity is not material, issue such directions to the Returning Officer as he may deem proper for the further conduct and completion of the election.
- (3) The provisions of this Ordinance and the rules and orders made thereunder shall apply to every fresh poll taken under sub-section (2).

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
Mohammad Akram Shah
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 29, 1977.

No. 2494-95/SL/77. The following Ordinance made by the President on the 26th day of August, 1977, is hereby published for general information :

(ORDINANCE X OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir De-limitation of Constituencies Ordinance, 1970 (Ordinance VII of 1970) for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred in it under 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 Delimitation of Constituencies (Amendment) Ordinance, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 3rd day of September, 1974.
2. **Amendment of Section 7, Ordinance VII of 1970.-** In the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance VII of 1970), hereinafter referred to as the said Ordinance,-
 - (1) In Section 7, in sub-section (1), in clause (b)
 - (i) between the words 'Province' and 'divide' the words 'and Federal Capital and Federally Administered Tribal Areas' shall be inserted and
 - (ii) between the words 'Provinces' and 'into' the words 'or areas' shall be inserted.

(2) In sub-section (2) in clause (b) between the words Provinces and shall the words 'or areas' shall be inserted.

3. **Amendment of Schedule II, Ordinance VII of 1970.-** In the said Ordinance, Schedule II, after the words 'North-West Frontier Province' wherever occurring, the words 'Federal Capital and Federally Administered Tribal Areas shall be added.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law, & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU &- KASHMIR,
LAW & PARLTMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 29, 1977.

No. 2494-95/SL/77. The following Ordinance made by the President on the 26th day of August, 1977, is hereby published for general information:-

(ORDINANCE XI OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Legislative Assembly Ordinance, 1970.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly Ordinance, 1970 (Ordinance VI of 1970) for purposes hereinafter appearing;

AND WHEREAS the President is satisfied that the circumstances exists 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 (Amendment) Ordinance, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the 3rd day of September, 1974.
2. **Amendment of Section 2, Ordinance VI of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly Ordinance, 1970 (Ordinance VI of 1970) in section 2,-
 - (i) in clause (2) after the words 'North- West Frontier Province the end, the words 'and Federal Capital and Federally Administered Tribal Areas' shall be added;
 - (ii) in clause (3), between the words 'Provinces' and 'referred', the words 'and the areas' shall be inserted.

Sd/-
(Muhammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary,
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 31, 1977.

No. 2515-16/SL/77. The following Ordinance made by the President on the 26th day of August, 1977, is hereby published for general information:-

(ORDINANCE XII OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Civil Servants Act, 1976.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Civil Servants Act, 1976 (Act VI of 1976), in the manner hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exists 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 Civil Servants (Amendment) Ordinance, 1977.
(2) It shall come into force at once.
2. **Amendment of Section 12, Act VI of 1976.-** In the Azad Jammu and Kashmir Civil Servants Act, 1976 (Act VI of 1976) hereinafter referred to as the said Act, in section 12, in clause (iv) for the words "fifty-fifth year" the words "Sixtieth year" shall be substituted.
3. **Amendment of Section 13, Act VI of 1976.-** In the said Act, in Section 13, after sub-section (1), the proviso shall be deleted.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 7, 1977.

No. 2574/SL/77. The following Ordinance made by the President on the 7th day of September, 1977, is hereby published for general information :-

(ORDINANCE XIII OF 1977)

AN ORDINANCE to provide for adaptation and enforcement of the Establishment of the Federal Bank for Co-operatives and Regulation of Co-operative Banking Ordinance, 1976

WHEREAS it is necessary and expedient to adapt and to enforce the Establishment of the Federal Bank for Co-operatives and Regulation of Co-operative Banking Ordinance, 1976, of the Government of Pakistan;

AND WHEREAS 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 Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Adaptation) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir and applies to all State Subjects wherever they may be.

(3) It shall come into force at once.
2. **The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, to apply to Azad Jammu and Kashmir:-** (1) The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, of Pakistan, hereinafter referred to as the said Ordinance, and all rules, notifications and orders made thereunder and in force immediately before the commencement of this Ordinance shall, as far as practicable and

with the necessary modifications, be in force in Azad Jammu and Kashmir and shall apply to all State Subjects wherever they may be.

(2) Any Court, tribunal or authority required or empowered to enforce the said Ordinance or memorandum or articles of association of a bank registered or deemed to have been registered thereunder, or any other law for the time being in force, shall construe the said Ordinance, memorandum or articles of association or such other law with such adaptations as are necessary to bring the same into accord with the provisions of the said Ordinance.

3. **Pending cases.-** All cases pending in Courts on the coming into force of this Ordinance, shall be tried and decided according to the provisions of the law on the subject in force in Azad Jammu and Kashmir immediately before the coming into force of this Ordinance.
4. **Removal of difficulties:-** If any difficulty or question arises in giving effect to the provisions of the said Ordinance or in regard to the constructions to be placed on any provision thereof, the Azad Government of the State of Jammu and Kashmir may from time to time, make such provisions as appear to it to be necessary for the purpose of removal of such difficulty.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
Secretary Law
Azad Govt. of the State of J & K
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW SECRETARIAT, MUZAFFARABAD.**

Dated the September 24, 1977.

No. 2642-43/SL/77. The following Ordinance made by the President on 23rd day of September, 1977, is hereby published for general information .

(ORDINANCE XIV of 1977)

AN ORDINANCE further to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing;

AND WHEREAS 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 (I) 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, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the 1st day of August, 1977.
2. **Amendment of Section 92, Ordinance X of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), in Section 92, for clause (b), the following shall be substituted, namely :-
"(b) revise an order passed by an officer under this Ordinance, or the rules, including rejection of Ballot Papers; and".

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Government of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September 24, 1977.

No. 2642-43/SL/77. The following Ordinance made by the President on the 21st day of September, 1977, is hereby published for general information:-

(ORDINANCE XV OF 1977)

AN ORDINANCE to provide for law relating to the declaration of assets by the Members of the Assembly and Council.

WHEREAS it is expedient to provide for law relating to the declaration of assets by the Members of the Assembly and Council, in the manner hereinafter appearing;

AND WHEREAS 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. **Shore title, extent and commencement.-** (1) This Ordinance may be called Members of Assembly and Council (Declaration of Assets) Ordinance, 1977.
 - (2) It extends to the whole of Azad Jammu and Kashmir and shall apply to all State Subjects where ever they may be.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Ordinance, unless there is, anything repugnant in the subject or context,-
 - (a) 'Assembly' means the Legislative Assembly of Azad Jammu and Kashmir;
 - (b) 'Chief Executive' means the Chief Executive of the Azad Jammu and Kashmir;
 - (c) 'Council' means the Azad Jammu and Kashmir Council constituted under the Azad Jammu and Kashmir Interim Constitution Act, 1974;

(d) 'Government' means the Azad Government of the State of Jammu and Kashmir,

3. (1) Any person who has, at any time, been a member of the Legislative Assembly during the period December, 1970 and August, 1977, or who has at any time, been a Member of the Council during the period July, 1975, and August, 1977, shall submit to the Chief Executive within a period of 15 days from the commencement of this Ordinance and in accordance with the Schedule to this Ordinance, a statement of properties and assets, both movable and immovable, whether within or outside the Azad Jammu and Kashmir, which he owns, or has in his possession or under his control, directly or indirectly, either in his own name or in the name of any other person and shall also furnish such other information relating to such properties and assets as the Chief Executive may require.-

EXPLANATION: Property shall include.-

- (a) Lands rural or urban, all types of buildings and structures whether completed or under construction, compounds and enclosures of any type factories and firms registered or otherwise;
- (b) All types of machines whether fixed or movable including mechanical transport, tractors and similar machines, but excluding machines used for house-hold purposes;
- (c) Jewellery, precious stones all types in any form, pearl, gold, silver and other precious metals in any form;
- (d) Contracts, depots, import and export licences, route permits, agencies granted to or obtained by a person in his own name or in the name of any other person from the Government or any corporation or institution including autonomous and Semi-autonomous body or association, controlled by the Government or in which the Government has any interest;
- (e) Certificates, insurance policies, securities, bonds, bank balances, whether with in or outside Azad Jammu and Kashmir, cash in any type of currency, shares, stocks, debentures or any other instrument carrying pecuniary benefit or advantage to a person;
- (f) Any other movable or immovable property, not being a

property used for house-hold purposes.

(2) In his statement of properties and assets the person concerned shall specify the properties and the assets held by him at the time when he was elected as a member of Assembly or of the Council and the properties and assets held by him when he ceased to be a member of the Assembly or of the Council.

(3) Upon receiving a statement under sub-section (2), the Chief Executive after making such inquiries and in such manner as he may think fit, determine the correctness or otherwise of the statement and also the legality or propriety of acquisition of such properties and assets by the person concerned.

4. If the Chief Executive is of the opinion that any person mentioned in Section 3 has acquired any property or assets by unlawful or improper means or by means of bribery, corruption, jobbery, favouritism, nepotism, wild mal-administration, wilful misapplication or diversion of public money or by abuse of whatever kind of official power or position the Chief Executive may direct such action to be taken against such person, as the Chief Executive may deem fit.
5. A person who, being required to submit to the Chief Executive a statement of his properties and assets fails to submit statement or knowingly submits a false or incorrect statement shall be punishable with rigorous imprisonment for a term which may extend, to seven years and; or fine and or forfeiture of the whole or part of his properties and assets.
6. (1) Save as otherwise provided in Section 7, a person who sells, transfers or otherwise disposes of any of the properties and asset in respect of which he is required to submit a statement under this Ordinance shall: be punishable with rigorous imprisonment for a term which may extend to seven years and or fine and or forfeiture of the whole or part of his properties and assets.

(2) Nothing in this Section shall apply to the operation of any bank account by a person for meeting his bonafide requirements or the sale, transfer, disposal of his property which he is required to do under any law or to meet any lawful obligation or in pursuance of any direction or order of a Court or other lawful authority.
7. (1) A person who owns, or has in possession or under his control directly or indirectly, either in his own name or in the name of any other person, any property or assets which he has reason to

believe have been acquired by unlawful or improper means or by means of bribery, corruption, jobbery, favouritism, nepotism, wilful mal-administration, wilful, misapplication or diversion of public money or by abuse of whatever kind of official power or position shall surrender such properties and assets in favour of the Government in such manner, to such person and within such time as the Chief Executive may by order, specify.;

(2) Subject to the provision of .Section 11, no action of any kind shall be taken against a person who surrenders the properties and assets he is required to surrender under sub-section (1), except the forfeiture of such properties and assets.

8. A person who owns, or has in his possession or under his control, any properties and assets which he is required to surrender under Section 7 but fails to so surrender shall be punishable with rigorous imprisonment for a term which may extend to fourteen years and or fine and or for feature of the whole or part of his properties and assets.
9. No Court or tribunal shall take cognizance of an offence under Section 5, 6 and 7 of this Ordinance unless the Chief Executive has recommended punitive action against the accused.
10. (1) All Departments of the Government and of corporations or institutions including autonomous or semi-autonomous bodies or associations controlled by the Government or in which the Government has any interest, which are concerned with the allotment of rural or urban land, the issuance of contracts, import, export licences, route permits or allotment of depots or agencies and selling or purchase of shares and stocks, shall within a period of fifteen days from the commencement of this Ordinance, submit to the Chief Executive, full particulars of the properties mentioned in this Section which have been issued, allotted, granted, purchased or sold to persons, mentioned in sub-section (1) of Section 3 between December, 1970 and August, 1977.

(2) The Department concerned may obtain the list of the persons mentioned in sub-section (1) of Section 3 from the Secretary, legislative Assembly or Secretary, Council, as the case may be.
11. Notwithstanding anything contained in any law for the time being in force, a person who is required to submit a statement of properties and assets under this Ordinance, shall be disqualified from being elected or chosen as, and from being a member of

Assembly or of the Council, if the properties and assets acquired by him during the period he remained as a member of Assembly or of the Council, are found by the Chief Executive to be disproportionate to his known sources of income, and the Chief Election Commissioner of Azad Jammu and Kashmir shall be informed accordingly:

Provided if, before the elections are held, a candidate of a political party from any constituency is disqualified under the provision of this Section, all parties shall be entitled to nominate fresh candidates for that constituency and election in that constituency be held on such latter date as the Chief Election Commissioner may notify in this behalf.

Provided further that, if the person disqualified as aforesaid is an independent candidate, election in the constituency concerned shall not be postponed unless there is no other contesting candidate in that constituency.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 1, 1977.

No. 2718-20/SL/77. The following Ordinance made by the President on the 1st day of October, 1977, is hereby published for general information:-.

(ORDINANCE XVI OF 1977)

AN ORDINANCE to amend the Members of Assembly and Council (Declaration of Assets) Ordinance, 1977.

WHEREAS it is expedient to amend the Members of Assembly and Council (Declaration of Assets) Ordinance, 1977 (Ordinance, XV of 1977) in the manner hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the power 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 Member of Assembly and Council (Declaration of Assets) (Amendment) Ordinance, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the 21st day of September, 1977.
2. **Amendment of Preamble, Ordinance XV of 1977.-** In the Members of Assembly and Council (Declaration of Assets) Ordinance, 1977 (Ordinance XV of 1977), hereinafter referred to as the said Ordinance, in the preamble,-
 - (a) in para I, between the words 'the' and 'Members' the word and comma 'Minister,' shall be inserted; and
 - (b) in para II, between the words 'the' and 'Members' the word and comma 'Minister' shall be inserted.
3. **Amendment of Section 1, Ordinance XV of 1977.-** In the said Ordinance, in section 1, for sub-section (1), the following shall be substituted, namely :-

"(1) This Ordinance may be called the Ministers, Members of Assembly and Council (Declaration of Assets) Ordinance, 1977."

4. **Amendment of section 3, Ordinance XV of 1977.-** In the said Ordinance, in section 3,-
- (a) in sub-section (1) between the words 'a' and 'member' occurring first time, the words 'Minister or' shall be inserted; and
 - (b) for sub-section (2) the following shall be substituted, namely :-

(2) In his statement of properties and assets the person concerned shall specify the properties and the assets held by him at the time when he was appointed as a Minister or elected as a member of the Assembly or of the Council and the properties and assets held by him when he ceased to be a Minister or Member of the Assembly or of the Council."
5. **Amendment of Section 10, Ordinance XV of 1977.-** In the said Ordinance, in section 10, in sub-section (2), between the words 'Secretary' and 'Legislative' the words 'Services and General Administration or Secretary' shall be inserted.
6. **Amendment of Section, 11, ordinance XV of 1977.-** In the said Ordinance, in section II, between the words, a and 'member', occurring second time, the words 'Minister or' shall be inserted.
7. **Amendment of Schedule, Ordinance XV of 1977.-** In the said Ordinance, in the Schedule,-
- (a) In the declaration, between the words 'resident of' and 'Member' the words 'Ex-Minister' shall be inserted and between the words 'the' and 'Member' the words and comma 'Minister' shall be inserted;
 - (b) in Part I, in the heading, between the word 'a' and 'Member' the word and comma 'Minister,' shall be inserted; and
 - (c) in Part II, in the heading, between the words 'a' and 'member' the word and comma 'Minister' shall be inserted.

Sd/-
(Mohammad Ibrahim Khan)
President
Azad Jammu & Kashmir.

Sd/-
Secretary Law
Azad Govt. of the State of
J&K Muzaffarabad.

**AZAD GOVT. OF THE STAE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 1, 1977.

No. 2718-20/SL/77. The following Ordinance made by the President on the 1st day of October, 1977, is hereby published for general information:-

(ORDINANCE XVII OF 1977)

AN ORDINANCE to provide for law relating to the appointment of Commission or Inquiry

WHEREAS it is expedient to provide for law relating to the appointment of Commission of Inquiry for the purpose of making inquiry into any matter of public importance, in the manner hereinafter appearing;

AND WHEREAS 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 Commission of Inquiry Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir and shall apply to all State Subjects wherever they may be.

(3) It shall come into force at once.
2. **Definitions** - In this Ordinance, unless there is anything repugnant in the subject or context,-

(1) 'Chief Executive' means the Chief Executive of Azad Jammu and Kashmir; and

(2) 'Government' means the Azad Government of the State of Jammu and Kashmir.
3. (1) The Chief Executive may, if is of opinion that it is necessary so to do by order in writing appoint a Commission of Inquiry hereinafter referred to as Commission, for the purpose of making an inquiry into any matter of public importance and performing

such functions and within such time as he may specify and the Commission so appointed shall make the Inquiry and perform the functions accordingly.

(2) The Commission may consist of two or more member from the following :-

- (i) an officer nominated by the Chief Executive ;
- (ii) a person who is or has been a Sessions Judge; or
- (iii) a Magistrate with power under section 30 of the Code of Criminal Procedure, 1898.

(3) The Chief Executive may appoint a President from amongst the members.

4. The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, :-

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents; and
- (e) requisitioning any public record or copy thereof from any court or office.

5. (1) Where the Chief Executive is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) should be made applicable to a Commission, the Chief Executive may direct, by order in writing, that all or such of the said provisions as may be specified in the order shall apply to that Commission and on the making of such an order the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force to furnish information on such points or matters as, in the opinion of the Commission,

may be useful for, or relevant to, the subject matter of the inquiry.

(3) The President of the Commission or any officer, not below the rank of a Gazetted officer, specially authorised in this behalf by the President of the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found and may seize any such books of account or documents or take extracts or copies there from, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.

(4) The Commission shall be deemed to be a civil Court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Azad Kashmir penal Code, is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal procedure, 1898 forward the case to a Criminal Court having jurisdiction to try the same and the Court to whom any such case is forwarded shall proceed to try accused.

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Azad Kashmir Penal Code.

6. If the President or any member of the Commission through death, illness or any other reason is unable to perform his functions, the Chief Executive may, by order in writing, declare the office of the President or such member to be vacant and appoint thereto another person qualified to hold the office.
7. If, in the course of a trial, the President or any member of the Commission is, for any reason, unable to attend any sitting thereof, the proceedings of the Commission may continue before the remaining person comprising the Commission.
8. The Commission shall not merely by reason of any change of the President or in its membership or the absence of its President or any of its members from any sitting, be bound to recall and re-hear any witness who has already given any evidence and may act on the evidence already given or produced before it.
9. In the event of any difference of opinion among the members of

the Commission, the opinion of the majority shall prevail and the recommendation of the Commission shall be expressed in terms of the views of the majority, but in case the Commission consists of only a President and a member, the opinion of the President shall prevail.

10. The Chief Executive may, if is of opinion that the continued existence of a Commission is un-necessary, by order in writing declare that the Commission shall cease to exist from such date as may be specified in this behalf in such order, and thereupon, the Commission shall cease to exist.
11. The Commission shall subject to any rules that may be made in this behalf, have power to regulate its own procedure including the fixing of places and times of its sittings and deciding whether to sit in public or in private and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.
12. In ease the Commission has been appointed to enquire into allegations against a particular person, such person shall be present during the examination of witnesses appearing before the Commission against such person and shall have the right to cross examine such witnesses if he so chooses.
13. Before commencement of the proceedings, the President of the Commission may, with the permission of the Chief Executive release a concise statement of the case to the press to enable members of the public who may have some knowledge of the case to appear before the Commission and make a statement in respect thereof:

Provided that such a person shall be liable to be cross-examined by any person who may have some interest in the subject matter of the inquiry.

14. No suit or other legal proceedings shall lie against the Chief Executive, the Commission or any member thereof, or any person acting under the direction either of the Chief Executive or of the Commission in respect of anything which is in good faith done or intended to be done in Pursuance if this Ordinance or in respect of the publication, by or under the authority of the Chief Executive or the Commission, of any report, paper or proceedings.
15. (1) The Chief Executive may, by order in writing and subject to such conditions or restrictions, if any, as may be

mentioned in the order, confer upon the commission power to order a Police investigation into any matter coming before it.

(2) In conducting an investigation ordered under sub-section (1) the Police shall exercise the powers conferred on the Police in respect of a cognizable case by Chapter XIV of the Code of Criminal Procedure, 1898.

16. The Chief Executive may, by order in writing, make rules for carrying out the purposes of this Ordinance.
17. The Commission shall have the same power as the High Court has to punish any person for contempt of Court and the Contempt of Court Act, 1925 (XII of 1926), as inforce in Azad Jammu and Kashmir shall have effect accordingly as if reference therein to a 'Court' and to a 'Judge' were a reference, respectively, to the 'Commission' and a member of a Commission.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
Secretary Law,
Azad Government of the State of J & K,
Muzaffarabad.

**AZAD GOVT.OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 2, 1977.

No. 2725-27/SL/77. The following Ordinance made by the President on the 1st day of October, 1977, is hereby published for general information :-

(ORDINANCE XVIII OF 1977)

AN ORDINANCE to amend the Mirpur Development Authority Ordinance, 1974

WHEREAS it is expedient to amend the Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that the 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.-** (i) This Ordinance may be called the Mirpur Development Authority (Amendment) Ordinance, 1977.
(ii) It shall come into force at once.
2. **Amendment of Section 6, Ordinance IV of 1974.-** In the Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974) hereinafter referred to as the said Ordinance, in section 6, in sub-section (1) for the words 'not less than three' the word 'five' shall be substituted.
3. **Amendment of Section 8 Ordinance IV of 1974.-** In the said section 8. between the words, 'person' and 'shall' the words and comma 'Other than a Government servant', shall be inserted.
4. **Amendment of section 15, Ordinance IV of 1974.-** In the said Ordinance, in section 15, in sub-section (2) after clause (xi), the following shall be added:-
 - (xii) Recover such development cess from the beneficiaries for improvement or development of any area a may be approved by the Government by a general or special

order.

5. **Addition of Section 31-A, Ordinance IV of 1974.-** In the said Ordinance, after section 31, the following new Section 31-A, shall be inserted, namely:-

'31-A. Notwithstanding any thing contained in any other law for the time being in force, all property of the following nature situated within the 'Specified Areas', shall vest in and be under the control of the Authority and shall be held and applied by it for the purposes of this ordinance ;

- (i) All Lands or other property already acquired for the construction of new Mirpur Town and Hamlets and other townships on the periphery of the Mangla Reservoir;
- (ii) All Lands or other property which may be acquired by purchase, lease exchange or compulsory acquisition under Land Acquisition Act, 1894, by the Authority;
- (iii) All Lands or other property which may be transferred to the Authority by the Government or any other Agency for purposes of control and management or for any other purposes under this Ordinance.

6. **Substitution of Section 39, Ordinance IV of 1974.-** In the said Ordinance, for Section 39, the following shall be substituted:-

- '39. (i) The Authority may retain, or may lease, sell, exchange rent or otherwise transfer any land vested in it, subject to such terms and conditions as it may impose in this behalf.
- (ii) Notwithstanding anything contained in any other law for the time being in force a certificate of title issued by the Authority in respect of any lease, sale, exchange or transfer of any piece of land within specified areas shall be sufficient proof of the said title and shall be admissible in evidence of that title in any Court proceedings;
 - (iii) The Authority may charge such fees for the issue of certificate of title under clause (ii) above as it may fix from time to time with previous sanction of the Government."

7. **Addition of a new Section 42-A.** In the said Ordinance after section 42 a new section 42-A, shall be inserted as under:-

'42-A' Removal of Encroachments etc."

- (i) The Deputy Commissioner or any other person authorised by the Authority in this behalf may after giving reasonable opportunity of being heard, direct any person to remove any movable or immovable encroachment made by him without any lawful authority on any land or property vesting in the Authority,
- (ii) If any direction under Sub Section (1) is not complied with within such time as may be specified therein, the Deputy Commissioner or any person empowered in this behalf by the Authority, may get the encroachment removed and in so doing may use such force including Police force as may be necessary and may also recover the cost thereof from the person responsible for the encroachment:

Provided that the Authority may instead of requiring the removal of encroachment accept by way of compensation such sum consisting of penalty and market price of the land or property encroached upon as it may prescribe by a general or a special order:

Provided farther that the Authority may require an encroachment to be altered partially so far as is necessary to avoid contravention of a Scheme approved by it.

8. **Substitution of Section 48, Ordinance IV of 1974.** In the said Ordinance, for Section 48, the following shall be substituted:-

(1) "Repeal and Consequential Provisions".

(1) The New Mirpur Town (Allotment of Land) Act, 1964 hereinafter referred to as the said Act, and rules and orders made thereunder by the Government are hereby repealed. All assets, rights and all property moveable and immoveable and all interests therein and all debts liabilities and obligations of the Allotment Committee constituted under the said Act shall stand transferred to and be deemed to be assets, rights property and interests of the Authority established under the Ordinance.

(2) Without prejudice to the general provisions under Sub-Section (1) above, the Authority shall exercise all the powers of Allotment Committee constituted under the said Act, in respect of the plots / property allotted / disposed of to different persons by the said Allotment Committee, including the powers of

cancellation in cases of infringement of any conditions of allotment.

(3) The Allotment Committee established, altered or substituted by the Government from time to time under the MDA Ordinance 1974 shall stand dissolved, and all its powers of allotment and cancellation of allotment shall be exercisable by the Authority. In future the Authority shall prescribe the procedure and make necessary arrangements for the disposal of Estates developed by it, subject to such, regulations if any made in this behalf.

(4) (i) Whenever the Government is satisfied that any property, plots or estates have been disposed of or allotted by any previous Allotment Committee or by the Authority, in an illegal or improper manner, or to undeserving persons or any other irregularity or impropriety has been committed in respect of any matter relating to the allotment or disposal of property etc. then it may appoint a revising authority for scrutiny and suitable orders in respect of such cases.

(ii) All appeals and other proceedings pending with the Appellate Authority created under the said Act, or any other Authorities, in respect of any orders of Allotment, shall be forwarded by the Authority/ Authorities with whom such appeals or proceedings are pending to the Revising Authority constituted under clause (i) above, and the Revising Authority shall make suitable orders in all cases.

Sd/-
(Muhammad Ibrahim Khan)
President,
Azad Jammu & Kashmir,

Sd/-
Secretary Law
Azad Govt. of the State of Jammu & Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 11, 1977.

No. 2911-12/SL/77. The following Ordinance made by the President on the 7th day of October, 1977, is hereby published for general information :-

(ORDINANCE XIX OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 (Ordinance I of 1970) for the purposes hereinafter appearing;

AND WHEREAS 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 Electoral Rolls (Amendment) Ordinance, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 1st day of August, 1977.
2. **Amendment of Section 15, Ordinance I of 1970.-** In the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 (Ordinance I of 1970) in Section 15,-
 - (a) after the heading the brackets and figure '(1)' shall be inserted; and
 - (b) after sub-section (1), as amended aforesaid, the following shall be added, namely:-

"(2) The Commissioner may, at any time before the day appointed for the taking of the poll, after such inquiry as he may deem proper, or on a report made to him after similar inquiry by an officer authorised by him in this behalf, exclude from the

electoral roll of an electoral area, the name of any person who was not qualified to be enrolled on such electoral roll and whose name was included in the roll at any time between the ninth day of August, 1977, and the twentieth day of August, 1977.

(3) Announcement by beat of drum or any other proper method in relation to one or more electoral areas shall be sufficient notice to a person referred to in sub section (2) to appear before the Commissioner or the officer authorised by him on the date specified in the announcement."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
Syed Mohammad Akram Shah)
Deputy Secretary Law.

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

Dated the November 20, 1977.

No. 3258-60/SL/77. The following Ordinance made by the President on the 20th day of November, 1977, is hereby published for general information:-

(ORDINANCE XX OF 1977)

AN ORDINANCE to amend the Commissions of Inquiry Ordinance, 1977.

WHEREAS it is expedient to amend the Commissions of Inquiry Ordinance, 1977 (Ordinance XVII of 1977) in the manner hereinafter appearing;

AND WHEREAS 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 Commissions of Inquiry (Amendment) Ordinance, 1977.
(2) It shall come into force at once.
2. **Amendment of Section 3, Ordinance XVII of 1977.-** In the Commissions of Inquiry Ordinance, 1977 (Ordinance XVII of 1977) in Section 3, for sub-section (2) the following shall be substituted, namely:-
“(2) The Commission may consist of two or more members from the following:-
 - i. a person who is a Judge of the Supreme Court or High Court of Azad Jammu and Kashmir;
 - ii. a person who is or has been a Sessions Judge;
 - iii. a Magistrate with power under Section 30 Code of Criminal Procedure;
 - iv. an Officer nominated by the Chief Executive.”

Sd/-
(Mohammad Ibrahim Khan)
President
Azad Jammu & Kashmir

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the November 20, 1977.

No. 3258-60/SL/77. The following Ordinance made by the President on the 20th day of November, 1977, is hereby published for general information:-

(ORDINANCE XXI OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 (Ordinance I of 1970) for the purposes hereinafter appearing;

AND WHEREAS 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 commence.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Electoral Rolls (Amendment) Ordinance, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the first day of August, 1977.
2. **Amendment of Section 3, I Ordinance I of 1970.-** In the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970 (I of 1970) in Section 3, for clause (e) the following shall be substituted, namely:-
"(e) 'Qualifying date' means the first day of January, 1978."
3. **Repeal.-** The Azad Jammu and Kashmir Electoral Rolls (Amendment) Ordinance, 1977 (Ordinance VII of 1977) is hereby repealed.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir,

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the November 20, 1977.

No. 3261/SL/77. The following Ordinance made by the President on the 20th day of November, 1977, is hereby published for General information :-

(ORDINANCE XXII OF 1977)

AN ORDINANCE to amend the Azad Kashmir Logging and Saw Mill Corporation Ordinance, 1968

WHEREAS it is expedient to amend the Azad Kashmir Logging and Saw Mill Corporation Ordinance, 1968 (Ordinance IV of 1968) for the purposes hereinafter appearing;

AND WHEREAS 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 (I) 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 Kashmir Logging and Saw Mill Corporation (Amendment) Ordinance, 1977.
(2) It shall come into force at once.
2. **Amendment of Section 6, Ordinance IV of 1968.-** In the Azad Kashmir Logging and Saw Mill Corporation Ordinance, 1968 (Ordinance IV of 1968), in section 6, for sub-section (3) the following shall be substituted, namely:-
"(3) Secretary AKMIDC or any other officer nominated by the Board shall act as secretary to the Board or Directors AKLASC."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 30th November, 1977

No. 3310-12/SL/77. The following Ordinance made by the President on the 29th day of November, 1977, is hereby published of general information:-

(ORDINANCE XXIII OF 1977)

AN ORDINANCE to provide for adaptation and enforcement of the National Guards Act, 1973.

WHEREAS it is necessary and expedient to adapt and to enforce the National Guards Act, 1973, of the Government of Pakistan;

AND WHEREAS 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 National Guards (Adaptation) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir and applies to all State Subjects wherever they may be.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 12th day of August, 1973.
2. **The National Guards Act, 1973, to apply to Azad Jammu and Kashmir.-** (1) The National Guards Act, 1973, of Pakistan, hereinafter referred to as the said Act, and all rules, notifications and orders made thereunder and in force in Pakistan immediately before the commencement of this Ordinance shall, as far as practicable, be in force in Azad Jammu and Kashmir with the following modification:-
 - (i) The expression 'Provincial Government' in the said Act shall be construed to refer to the Azad Government of the State of Jammu and Kashmir; and

- (ii) All other expression occurring in the said Act shall have the same meaning as are assigned to them under the said Act.

3. **Removal of difficulties.**- If any difficulty or question arises in giving effect to the provisions of the said Act or in regard to the constructions to be placed on any provision thereof, the Azad Government of the State of Jammu and Kashmir may, from time to time, by notification in the official Gazette, make such provisions as appear to it to be necessary for the purpose of removal of such difficulty.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 10, 1977.

No. 3377-79/SL/77. The following Ordinance made by the President on the 10th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXIV OF 1977)

AN ORDINANCE to provide for law relating to the prohibition of transfer of certain properties, and for matters connected therewith.

WHEREAS it is expedient to provide for law relating to the prohibition of transfer of certain properties, and for matters connected therewith, in the manner hereinafter appearing;

AND WHEREAS 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 Jammu and Kashmir Transfer of Properties (Prohibition) Ordinance, 1977.

(2) It shall extend to the whole of Azad Jammu and Kashmir and shall apply to all State Subjects wherever they may be.

(3) It shall come into force at once.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) 'Assembly' means the Legislative Assembly of Azad Jammu and Kashmir;
 - (b) 'Council' means the Azad Jammu and Kashmir Council constituted under the Azad Jammu Kashmir Interim Constitution. Act, 1974;
 - (c) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(d) 'Specified person' means any person who has, at any time, been a Prime Minister, Minister, Advisor or Special Assistant to Prime Minister Presidential Assistant or Member of the Legislative Assembly, during the period December, 1970 and August, 1977, or who has at any time been member or advisor of the Council during the period July, 1975 and August, 1977 or any other person as may be notified by the Government in the official Gazette.

3. **Prohibition of transfer of property generally.-** The Government may, by notification in the official Gazette, declare that for such period as may be specified in the notification, the transfer of any property or class of property, or the creation of any right or interest therein or encumbrance thereon, by or on behalf of any person, specified in the notification, shall be prohibited, and where any such declaration has been made, no such transfer or creation shall be made during that period.

4. **Prohibition of transfer of property by specified persons.-** No creation or transfer of any right or interest in or encumbrance upon any property made in any manner what so ever after commencement of this Ordinance by or on behalf of a specified person shall be effective so as to confer any right or remedy on any party thereto or on any person claiming under any such party, till such date as may be notified by the Government in the official Gazette.

Explanation - In this section the 'property' shall have the same meaning as explained in the 'explanation' to section 3 of the Members of Assembly and Council (Declaration of Assets) Ordinance, 1977.

5. **Penalty.-** Any person who-

(a) contravenes, or resists or interferes with the enforcement of the provisions of this Ordinance or any rule or order made thereunder ; or

(b) in an application or in any proceedings under this Ordinance, furnishes or abets or has reasons to believe to be false, or fraudulently conceals or mis-represents facts, or abets such concealment of mis-representation, shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both or forfeiture of the whole or part of his properties.

6. **Bar of jurisdiction.-** No court shall grant any injunction or make any order, nor shall any court entertain any proceeding, in relation to anything done under this Ordinance.
7. **Indemnity.-** No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything in good faith done or intended to be done under this Ordinance.
8. **Delegation of powers.-** The Government may, by notification in the official Gazette, direct that all or any of its powers under this Ordinance shall be exercised also by such officer or authority as may be so specified.
9. **Ordinance to override other laws.-** The provisions of this Ordinance, or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.
10. **Power to make rules.-** The Government may, by notification in the Official Gazette, make such rules as appear to it to be necessary for carrying out the purposes of this Ordinance.
11. **Removal of difficulties.-** If any difficulty arises in giving effect to any provisions of this Ordinance, the Government may make such order, as it considers necessary or expedient for the purpose of removing that difficulty.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 22, 1977.

No.3511-13/SL/77. The following Ordinance made by the President on the 20th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXV OF 1977)

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

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing;

AND WHEREAS 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, 1977.

(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, after clause (xxiv), the following new clause (xxv) shall be inserted, namely :-

"(xxv) 'Validly nominated candidate' means a candidate whose nomination has been accepted;"

and

existing clause (xxv) shall be re-numbered as clause (xxvi).

3. **Amendment of Section 5, Ordinance X of 1970.-** In the said Ordinance, in Section 5, in sub-section (2) after clause (f), as re-numbered by Act IX of 1977, the following new clause (g) shall be added, namely:-

- "(g) he has been in the service of Azad Jammu and Kashmir or in the service of Pakistan or statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest, unless a period of 2 years has elapsed since he ceased to be in such service.

Explanation.- In clause (g) of sub-section (2) 'service of Azad Jammu and Kashmir' has the same meaning as in Section 2, of the Azad Jammu and Kashmir Interim Constitution Act, 1974."

4. **Amendment of Section 10, Ordinance X of 1970.-** In the said Ordinance, in section 10-
- (a) in sub-section (1) for clause (a) the following shall be substituted, namely:-
- "(a) a day on or before which nomination of the candidate is to be made.
- (b) in sub-section (3) for the word 'before' the word 'by' shall be substituted."
5. **Amendment of Section 11, Ordinance X of 1970.-** In the said Ordinance, in section 11,-
- (a) after sub-section (3), the following proviso shall be added:-
- "Provided that a candidate may deliver or cause to be delivered, to the Commissioner a duplicate of the nominal on paper on or before the nomination day or may send it to the Commissioner by registered post so as to reach him on or before that day."
- (b) in sub-section (5) the words "except the one received first by the Returning Officer" shall be omitted.
6. **Amendment of Section 13, Ordinance X of 1970.-** In the said Ordinance, in Section 13,-
- (a) in sub-section (3), in clause (d), in sub-clause (ii) of the proviso, between the words 'nature' and 'and' the word; and commas", including an error in regard to the name, serial number in the Electoral Roll or other particulars of the candidate, his propose, or seconder," shall be inserted.

- (b) for sub-sections (4) and (5) the following shall be substituted, namely:-
 - "(4) "the Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it and shall, in case of rejection, record the -reasons for rejection and, in the case of an objection being raised to his decision to accept the nomination paper, record brief reasons for rejecting the objection.
 - (5) Any person aggrieved by an order under sub-section (4) may file an appeal within a prescribed period to the Commissioner whose decision shall be final.
 - (6) Announcement of the day and time appointed for the hearing of an appeal under sub-section (5) over the radio or by publication in the press shall be deemed to be sufficient notice of the day and;" time so appointed."
- 7. **Insertion of new Section 13-A, Ordinance X of 1970.-** In the said Ordinance, after Section 13, the following new Section 13-A, shall be.; inserted, namely :-

"13-A- Action on duplicate of nomination paper - (1) In a case in which the Returning Officer denies receipt of the nomination paper of a candidate and the candidate asserts that the duplicate of the nomination paper had been delivered, or sent by post to the; Commissioner in accordance with the proviso to sub-section (3) of section 11 and produces a receipt issued by the Commissioner or by the Post Office on its having been so delivered or sent, it shall be the duty of the Returning Officer to inform the Commissioner of such assertion

 - (2) If the Commissioner is in receipt of the; duplicate of the nomination paper, he shall at the request the Returning Officer, forward it to the Returning Officer.
 - (3) A duplicate of a nomination paper forwarded to the Returning Officer under sub-section (2) shall be treated as if it were the original nomination paper delivered to him under sub-section (3) of section 11 and the provisions of section 13 shall apply to it accordingly."
 - 8. **Amendment of Section 15, Ordinance X of 1970.-** In the said Ordinance, in section 15, in sub section (1) for the word 'agent' the word 'advocate' shall be substituted.
 - 9. **Omission of Section 15-A, Ordinance X of 1970.-**In the said

Ordinance, Section 15-A, shall be omitted.

10. **Substitution of Section 18, Ordinance X of 1970).**- In the said Ordinance, for Section 18, the following shall be substituted, namely:-

"18. **Uncontested election** - (1) Where after scrutiny under section 13, there remains only one validly nominated candidate or where, after withdrawal under section 15, there remains only one contesting candidate, the Returning Officer shall so inform the Commissioner and forward to him all the nomination papers received by him from the constituency concerned and such other papers as may be specified by the Commissioner.

(2) The Commissioner shall, after such inquiry as he may deem necessary in any case, by notification in the official Gazette, declare the candidate referred to in sub-section (1) to be elected to the seat:

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 13, no person shall be declared elected until the period prescribed for filing such appeal has expired and no such appeal has been filed or, where an appeal is filed, until the disposal of such appeal."

11. **Substitution of Section 24, Ordinance X of 1970.**- In the said Ordinance, & Section 24, the following shall be substituted, namely:-

"24. **Adjournment of poll in emergencies.**- (1) If at an election the proceedings at any Polling Station are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling Station on account of any natural calamity, or any other sufficient cause, the Presiding Officer shall report the circumstances to the Returning Officer who may adjourn the poll to a date to be notified later.

(2) Whenever a poll is adjourned under-section (1), the Returning Officer shall immediately report the circumstances to the Commissioner and shall, as soon as may be with the previous approval of the Commissioner, appoint the day on which the poll shall recommence and fix the polling Station at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Commissioner may direct the date, place and hours of polling fixed under sub-section (2)."

12. **Insertion of Section 24-A, Ordinance X of 1970.-** In the said Ordinance, after Section 24, the following new section 24-A, shall be inserted, namely:-

"24-A. Fresh poll in the case of destruction, etc., of ballot boxes.-

(1) If at any election-

- (a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or is accidentally or intentionally destroyed or lost or is damaged or tampered with, to such an extent that the result of the poll at that Polling Station cannot be ascertained; or
- (b) any error or irregularity which is likely to vitiate the poll is committed at a polling station the Returning Officer shall forthwith report the matter to the Commissioner;

(2) The Commissioner may, on its own motion or on receipt of a report under sub section (1), and for reasons to be recorded, either-

- (a) declare the poll at that polling station to be void, appoint a day and fix the hours, for taking a fresh poll at that a polling station to be notify the day so appointed and the hours so fixed in such matter as he may deem fit; or
- (b) if satisfied that the result of a fresh poll at that polling station will not, in any way, after the result of the election or that the error or irregularity is not material, issue such directions to the Returning Officer as he may deem proper for the further conduct and completion of the election.

(3) The provisions of this Ordinance and the rules and orders made there under shall apply to every fresh poll taken under sub-section (2) "

13. **Amendment of Section 29, Ordinance X of 1970 -** In the said Ordinance in Section 29 sub-section (2), after the words 'Police Officer', at the end, the words 'or member of the armed forces'

shall be added.

14. **Substitution of section 30, Ordinance X of 1970** In the said Ordinance, for section 30, the following shall be substituted, namely:-

30. Voting Procedure.- (1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall, after satisfying himself about the identity of the elector, issue to him a ballot paper.

(2) Before a ballot paper is issued to an elector-

- (a) the number and name of the elector as entered in the electoral roll shall be called out;
- (b) a mark shall be placed on the electoral roll against the number and name of the elector to indicate that a ballot paper has been issued to him;
- (c) a ballot paper shall on its back be stamped with the official mark and initialed by the Presiding Officer; and
- (d) the Presiding Officer shall record on the counter-foil of the ballot paper the number of the elector on the electoral roll, stamp it with the official mark, put his initials on it and obtain on it in indelible ink the thumb impression of the elector.

(3) A ballot paper shall not be issued to a person who refuses to put thumb impression on the counter-foil or whose thumb bears traces of its having already been used for putting the impression.

(4) If a contesting candidate or his election agent or polling agent alleges that an elector to whom a ballot paper is about to be issued already has one or more ballot papers in his possession, the Presiding Officer may require the elector to satisfy him that he does not have any other ballot paper in his possession and may also take such measures as he thinks fit to ensure that such elector does not insert more than one ballot paper in the ballot box.

- (5) On receiving the ballot paper, the elector shall-
 - (a) forthwith proceed to the place reserved for marking the ballot paper;
 - (b) put the prescribed mark on the ballot paper at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote; and
 - (c) after he has so marked the ballot paper, fold and insert it in the ballot box.
- (6) The elector shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper in the ballot box.
- (7) Where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of and companion, the Presiding Officer shall allow him such assistance and thereupon such elector may do with such assistance anything which an elector is required or permitted to do under this Ordinance."

15. **Amendment of Section 35, Ordinance X of 1970.-** In the said Ordinance, in section 35, in sub-section (4),

- (1) in clause (c)-
 - (a) in sub-clause (i), after the word 'mark' at the end, the words 'and initials of the Presiding Officer;' shall be added; and
 - (b) for sub-clause (ii), the following shall be substituted, namely.-
 - "(ii) any writing or any mark other than the mark of his thumb, the official mark, the initials of the Presiding Officer and the prescribed mark or to which a piece of paper or any other object of any kind has been, attached."
 - (c) in sub-clause (iv) the word 'or' at the end shall be omitted; and
 - (d) sub-clause (v) shall be omitted.
- (2) In sub-section (12), clause (j) shall be omitted.

16. **Amendment of Section 40, Ordinance X of 1970.-** In the said Ordinance, in Section 40, in sub-section (1) the following words, at the end, 'or who has retired from contest under section 15—A' shall be omitted.
17. **Amendment of Section 53, Ordinance X of 1970.-** In the said Ordinance, in section 53, for sub-section (2) the following shall be substituted, namely:-

"(2) An Election Tribunal shall consist of a person who has been, or is, or, at the time of his retirement as a District and Sessions Judge, was qualified to be, a Judge of the High Court."
18. **Amendment of Section 64, Ordinance of X 1970.-** In the said Ordinance, in section 64, in sub-section (1) clauses (a) and (b) shall be omitted.
19. **Amendment of Section 86, Ordinance X of 1970.-** In the said Ordinance, in section 86,-
 - (a) after the word and comma 'Ordinance', the words, brackets and figures 'or any person required under sub-section (2) of section 4, to perform any functions or render any assistance', shall, be inserted; and
 - (b) after the word 'omission' at the end, the coma and words, 'or fails to perform such functions or render such assistance' shall be added.
20. **Amendment of Section 88, Ordinance X of 1970.-** In the said Ordinance, in section 88, after the words 'Police Officer' twice occuring, the words 'member of the armed forces' shall be inserted.
21. **Substitution of Section 92, Ordinance X of 1970.-** In the said Ordinance, for section 92, the following shall be substituted, namely:-

"92. **Commissioner to ensure fair election, etc.-** Save as otherwise 'provided the Commissioner may-

 - (a) Stop the polls at any stage of the election, if he is convinced that he shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale; malpractices, including coercion, intimidation and pressures, prevailing at the election;
 - (b) revise an order passed by an officer under the

Ordinance, or the rules, including rejection of ballot papers; and

- (c) issue such instructions and exercise such powers, and make such consequential orders, as may, in his opinion, be necessary for ensuring that the election is conducted honestly, justly and fairly, and in accordance with the provisions of this Ordinance, and the rules."

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

"92-A. Directions of Commissioner in certain matters.- Anything required to be done for carrying out the purpose of this Ordinance, for which no provision or no sufficient provision exist shall be done by such authority and in such manner as the Commissioner may direct."

23. **Repeal.-** The Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Ordinance, 1977 (Ordinance IX of 1977) and Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Ordinance, 1977 (Ordinance XIV of 1977) are hereby repealed.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu Kashmir
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 22, 1977.

No. 3511-13/SL/77. The following Ordinance made by the President on the 20th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXVI OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1976.

WHERE AS it is expedient to amend the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1976 (Act II of 1976) for the purposes hereinafter appearing;

AND WHEREAS 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 Chhamb Area Administration and Development (Amendment) Ordinance, 1977.

(2) It shall come into force at once.

2. **Amendment of Section 2, Act II of 1976.-** In the Azad Jammu and Kashmir Chhamb Area Administration and Development Act, 1976 (Act II of 1976), hereinafter referred to as the said Act, in section 2, for sub-section (3) the following shall be substituted, namely:-

"(3) 'Deputy Commissioner' means the Deputy Commissioner of Mirpur District and any other person appointed as Deputy Commissioner to perform the duties as such under this Act;"

3. **Amendment of Section 4, Act II of 1976.-** In the said Act, in Section 4, in sub-section (1), for clauses (i), (ii), (iii) and (iv), the following shall be substituted, namely:-

- "(i) 1965 War refugees from Indian held part of the State of Jammu and Kashmir duly registered with the Deputy Commissioner of the respective districts in Azad Jammu and Kashmir;
- (ii) Ex-Servicemen;
- (iii) 1971 War displaced persons;
- (iv) land owners of the Chhamb Area who have not been allotted any agriculture land either in Pakistan or in Azad Jammu and Kashmir in lieu of land held by them in Chhamb area or whose allotment of land is less than the land they owned in Chhamb Area prior to October, 1947."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of J&K
Muzaffarabad.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 26, 1977.

No. 3535/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXVII OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Civil Servants Act, 1976.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Civil servants Act, 1976 (Act, VI of 1976), in the manner hereinafter appearing;

ND WHEREAS 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 Civil Servants (Amendment) Ordinance, 1977.

(2) It shall come into force at once.
2. **Amendment of Section 12, Act VI of 1976.-** In the Azad Jammu and Kashmir Civil Servants Act, 1976 (Act VI of 1976) hereinafter referred to as the said Act, in section 12, in clause (iv) for the words 'fifty-fifth year' the words 'Sixtieth year' shall be substituted.
3. **Amendment of Section 13, Act VI of 1976.-** In the said Act, in section 13, after sub-section (1), the proviso shall be deleted.

Sd/-
(Mohammad Ibrahim Khan)
President
Azad Jammu and Kashmir.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

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

Dated the December, 26 1977.

No. 3536/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information:-

(Ordinance XXVIII of 1977)

AN ORDINANCE to provide for the frame work for review of the cases of those persons compulsorily removed from the Government service

WHEREAS it is expedient to provide for the frame work for review of the cases of those persons compulsorily removed from Government service;

AND WHEREAS, 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 Constitution of Review Boards Ordinance, 1977.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once and shall have effect notwithstanding anything contained in any other law for the time being in force.
2. **Definitions.**- In this Ordinance, unless anything repugnant in the subject or context,-
 - (a) 'Competent Authority' means the Chief Executive of Azad Jammu and Kashmir or any person authorized by him to exercise the powers of the competent authority under this Ordinance.
 - (b) 'Person who was in the Government service' includes every person who was on or after the first day of July, 1975 in the service of Azad Jammu and Kashmir who held a civil post in connection with the affairs of the

Government but does not include a Judge of the Supreme Court or the High Court;

- (c) 'Person who was in Corporation service' means every person who was on or after the first day of July, 1975; in the employment of a corporation or other institution set up or established by the Government or by or under law for the time being in force and includes the Chairman and the Managing Director of, and holder of any office in such corporation or institution.
- (d) 'Compulsorily removed' means dismissed or removed or prematurely retired from service and includes premature retirement ordered on completion of twenty five years service but does not include termination of service on giving notice as provided in the terms and conditions of service of the affected person.

3. **Application.**- (a) Any person who was in Government service and was compulsorily removed from such service between the first day of July, 1975, and the eleventh day of August, 1977, and every person who was in corporation service and was removed from service may submit a review petition to the competent authority.

(b) A person referred to in clause (a) whose appeal or petition against compulsorily removal from service, on the date of carrying into force of this Ordinance, pending in a Court or with the Service Tribunal may submit a review petition under that clause only after he has withdrawn his appeal or petition from the court or Service Tribunal, as the case may be.

(c) A petition under clause (a), shall be accompanied by a copy of the order a compulsory removal from service passed against the petitioner and the grounds on which he seeks review of that order.

(d) All petitions under this Ordinance shall reach the Chief Secretary on or before the date to be notified in this behalf.

(e) A petition submitted by any person referred to in clause (a) at any time after the thirteenth day of September, 1977, but before the commencement of this Ordinance shall be deemed to be a review petition submitted under this Ordinance.

4. The competent authority may set up such number of review boards consisting of such members as it may deem it fit.

5. (a) A review board, on receipt of a review petition forwarded to it by the competent authority shall review the said petition and after giving an opportunity to a petitioner of being heard and making such further inquiry as it may deem appropriate submit its report together with its recommendations to the competent authority who may pass such order as he may deem appropriate:

Provided that any order passed on a petition, including an order of reinstatement shall not entitle a petitioner to any damages, compensation of arrears of emoluments or other benefits for the period he remained out of service. This period shall be considered as leave without pay.

(b) The order passed by the competent authority on a report submitted by a review board set up under this Ordinance and consequential orders shall be final and shall not be called in question before any court, tribunal or authority.

6. A review board shall determine its own procedure and shall, in the performance of its functions be guided by such directions as the competent authority may issue from time to time.
7. All heads of departments and offices and other authorities who possess any records or information in respect of persons who submit petition under this Ordinance, shall, on receipt of request from the review board, provide it with all such record and information and render all other possible assistance in the disposal of petition as may be required of them.
8. All actions taken by the Review Board not formally set up under this Ordinance, to receive petition to give hearing to the petitioners and to enquire into petition, and all recommendations made by such Board, shall be deemed to have been validly taken or made.

Sd/-
(Mohammad Ibrahim Khan)
President
Azad Jammu and Kashmir.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 26, 1977

No. 3537/SL/77. The following Ordinance made by the President on the 26th day of December 1977, is hereby published for general information:-

(ORDINANCE XXIX OF 1977)

AN ORDINANCE further to amend the Ministers, Members of Assembly and Council (Declaration of Assets) Ordinance, 1977.

WHEREAS it is expedient further to amend the Ministers Members of Assembly and Council (Declaration of Assets) Ordinance, 1977 (Ordinance XV of 1977) in the manner hereinafter appearing;

AND WHEREAS 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 Ministers, Members of Assembly and Council (Declaration of Assets) (Amendment) Ordinance, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the twenty - first day of September, 1977.
2. **Amendment of Section 3, Ordinance XV of 1977.-** In the Ministers, Members of Assembly and Council (Declaration of Assets) Ordinance, 1977 (Ordinance XV of 1977), herein after referred to as the said Ordinance, in section 3,-
 - (a) in sub-section (1)-
 - (i) between the words 'or' and 'Member' the words 'Presidential Assistant or' shall be inserted; and
 - (ii) between the words 'a' and 'Member of the Council' the words 'Special Assistant or Advisor to the Prime Minister or' shall be inserted;
 - (b) in sub section (2), between the words 'Minister' and 'or'

occurring twice, the words and commas, 'Presidential Assistant, Special Assistant or Advisor to the Prime Minister' shall be inserted; and

- (c) in sub section (3), for the words 'and in such', occurring between the words 'inquiries' and 'manner', the words 'through a commission of' inquiry to be appointed by him and in such other' shall be substituted.
- 3. **Amendment of Section 10, Ordinance XV of 1977.-** In the said Ordinance, in section 10, in sub section (1), between the words 'Ordinance' and 'submit' the words 'or within such period as may be specified by the Chief Executive from time to time,' shall be inserted.
 - 4. **Amendment of Section 11, Ordinance XV of 1977.-** In the said Ordinance, in section 11, between the words 'Minister' and 'or the words, 'Presidential Assistant, Special Assistant or Advisor to the Prime Minister' shall be inserted.
 - 5. **Amendment of Schedule, Ordinance XV of 1977.-** In the said Ordinance, in the Schedule,-
 - (a) in the declaration, between the words 'Ex-Minister'/ and 'Member' the words 'President Assistant / Special Assistant or Advisor to the Prime Minister' shall be inserted;
 - (b) in part-I in the heading, between the words 'Minister' and 'Member' the words and commas 'Presidential Assistant, Special Assistant or Advisor to the Prime Minister', shall be inserted; and
 - (c) in part-II, in the heading between the words 'Minister' and 'Member' the words an commas 'Presidential Assistant, Special Assistant or Advisor to the Prime Minister' shall be inserted.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December, 26th 1977.

No. 3538/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXX OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Ministers (Salaries, Allowances and Privileges) Act, 1975

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Ministers (Salaries, Allowances and Privileges) Act, 1975 (Act XVIII of 1975) in the manner hereinafter appearing;

AND WHEREAS 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 Ministers (Salaries, Allowances and Privileges) (Amendment) Ordinance, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the first day of November, 1977
2. **Amendment of Section 3, Act, XVIII of 1975.-** In the Azad Jammu and Kashmir Ministers (Salaries, Allowances and Privileges) Act, 1975 (Act XVIII of 1975) in Section 3, the following proviso shall be added:-

"Provided that if at any time a person is appointed as Chief Executive of Azad Jammu and Kashmir to perform the functions of, and exercise the powers vested in, the Government,

the terms and conditions of his service in respect of pay and allowances, pension and transfer/posting entitlements, as may be specified in his deputation order, shall be applicable to him in addition to other privileges and allowances provided for the Prime Minister of Azad Jammu and Kashmir."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the 26, December, 1977.

No. 3539/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information :-

(ORDINANCE XXXI OF 1977)

AN ORDINANCE further to amend the Commissions of Inquiry Ordinance, 1977.

WHEREAS it is expedient further to amend the Commissions of Inquiry Ordinance, 1977 (Ordinance XVII of 1977) in the manner hereinafter appearing;

AND WHEREAS 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 Commission of Inquiry (Amendment) Ordinance, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and-from the first day of October, 1977.
2. **Amendment of Section 7, Ordinance XVII of 1977.-** In the Commissions of Inquiry Ordinance, 1977 (Ordinance XVII of 1977) hereinafter referred to as the said Ordinance, in Section 7, for the words 'a trial' the words 'an Inquiry' shall be substituted.
3. **Amendment of Section 12, Ordinance XVII of 1977.-** In the said Ordinance, in section 12, the full stop, at the end, shall be omitted and thereafter the words 'and if he fails to appear before the commission on a date fixed for hearing, the commission may proceed ex-prate and presume that he has nothing to say in answer to allegations' shall be added.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 26, 1977.

No. 3540/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXXII OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Legislative Assembly Ordinance, 1970

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly Ordinance, 1970 (Ordinance VI of 1970) for the purposes hereinafter appearing;

AND WHEREAS 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 (Amendment) Ordinance, 1977.
(2) It shall come into force at once and shall be deemed to have taken effect on and from the 3rd day of September, 1974.
2. **Amendment of Section 2, Ordinance VI of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly Ordinance, 1970 (Ordinance VI of 1970) in section 2,
 - (i) in clause 2 after the words 'North - West Frontier province at the end, the words 'and Federal Capital and Federally Administered Tribal Areas' shall be added;
 - (ii) in clause (3), between the words 'Province' and 'referred', the words 'and the areas shall be inserted.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 26, 1977.

No. 3541/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXXIII OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970. (Ordinance VII of 1970) for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that 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.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Delimitation of Constituencies (Amendment) Ordinance, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 3rd day of September, 1974.
2. **Amendment of section 7, Ordinance VII of 1970.-** In the Azad Jammu and Kashmir Delimitation of Constituencies Ordinance, 1970 (Ordinance VII of 1970) hereinafter referred to as the said Ordinance, in Section 7,-
 - (1) in sub-section (1), in clause (b)
 - (i) between the words 'province' and divide the words 'and Federal Capital and Federally Administered Tribal Areas' shall be inserted; and
 - (ii) between the words 'Provinces' and 'into' the words 'or areas' shall be inserted.

(2) In sub-section (2) in clause (b) between the word 'Province' and 'shall' the words 'or areas' shall be inserted.

3. **Amendment of Schedule II, Ordinance VII of 1970.-** In the said Ordinance, in Schedule II, after the words North-west Frontier Province, wherever occurring, the words 'Federal Capital and Federally Administered Tribal Areas' shall be added.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Syed Mohammad Akram Shah)
Deputy Secretary Law.

**AZAD GOVT, OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the December 31, 1977.

No. 3504/SL/77. The following Ordinance made by the President on the 26th day of December, 1977, is hereby published for general information:-

(ORDINANCE XXXIV OF 1977)

AN ORDINANCE to provide for the law relating to the repayment and recovery of loans advance by the Cooperative Banks

WHEREAS on account of Promulgation of Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Adaptation) Ordinance, 1977, all the Cooperative Banks except the Azad Kashmir Government Cooperative Bank, in Azad Jammu and Kashmir territory, functioning on or before the 7th January. 1977 have ceased functioning as such banks and heavy loans advanced by these banks are outstanding;

AND WHEREAS it is expedient to provide for the repayment and recovery of these loans in order to facilitate the payment to the depositors and creditors of these banks;

AND WHEREAS 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 commence.-** (1) This Ordinance may be called the Cooperative Banks (Repayment and Recovery of Loans) Ordinance, 1977.

(2) It extends to the whole of Azad Jammu and Kashmir territory and shall apply to the debtor and borrower of the Cooperative Banks where-ever they may be.

(3) It shall come into force at once and shall override all other laws.
2. **Definition.-** In this Ordinance, unless there is anything repugnant in the Subject or context,-
 - (a) 'Borrower' includes in the case of a benami loan, the

real beneficiary or recipient of a loan as determined by the Registrar;

- (b) 'Cooperative Bank' means a Cooperative Society carrying on banking business immediately before coming into force of the establishment of Federal Bank for Cooperatives and Regulation of Cooperative Banking (Adaptation) Ordinance, 1977;
- (c) 'Cooperative Society' means any society established and registered under the provisions of the Cooperative Societies Act, 1925 or under any other law for the time being in force relating to the registration of Cooperative Societies;
- (d) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (e) 'Loan' include a benami loan, an advance, a cash credit an overdraft, a packing credit, a bill discounted and purchased, letter of credit, any other financial accommodation or engagement provided by a Cooperative Bank to a borrower or any transaction which in the opinion of the Registrar is in substance a loan whether based on a valid instrument or not.

EXPLANATION.- 'Benami loan' means a loan the real beneficiary or recipient whereof is a person other than the person in whose name the loan is advanced or granted.

- (f) 'Registrar' means the Registrar Cooperative Societies, Azad Government of the State of Jammu and Kashmir or any other officer specially appointed or empowered as such by the Government;
- (g) 'provincial Cooperative Bank' means Azad Kashmir Government Cooperative Bank Ltd., or any cooperative society as defined and notified under clause (P) of section 2 of the 'Establishment of Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, as adapted in Azad Jammu and Kashmir;
- (h) 'Unsecured or insufficiently secured loan' means a loan which is not secured by mortgage, pledge, hypothecation, assignment of such property of the borrower or of his surety or of both as the Registrar may

think adequate.

3. **Payment and securing of loans** - Notwithstanding anything contained in any other law for the time being in force or in any agreement or other instrument, award or decree of any Court, every loan payable to a cooperative bank shall, unless repaid earlier, be repaid to the Provincial Cooperative Bank in case of Cooperative Banks which stand dissolved under section 42, sub-section (4) of the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, as adapted in Azad Jammu and Kashmir, and to the successor Cooperative Society in case of Cooperative Banks which have been converted into non-banking societies under sub-section (5) of the said section, in the following manner. that is to say:-

- (a) not less than twenty percent of the loan shall be paid within sixty days from the commencement of this Ordinance or in such extended period not exceeding thirty days as the Registrar may fix;
- (b) the balance of the loan after payment as aforesaid shall, within one month from the expiry of the period mentioned in clause (a), be secured by mortgage, pledge, hypothecation or assignment of such property of the borrower or his surety or of both as the Registrar may think adequate and shall be repaid in such installments within a period not exceeding one year from the commencement of this Ordinance as the Registrar directs:

Provided that the Registrar may, if he considers necessary in case in which not less than fifty percent of the loan has been repaid within the aforesaid period of one year, extend the period by a further period and such further period shall not exceed six months.

4. **Recovery of loans.-** (1) If the amount of any loan or any part thereof to be repaid in accordance with the provisions of section 3, is not paid within the period or periods specified in the said section, the same may be recovered by the Registrar according to the law and under the rules for the time being in force for the recovery of arrears of land revenue and while doing so he may exercise all or any of the powers of Collector under the Land Revenue Act, and the rules made thereunder.

- (2) where .-

- (a) the borrower is a company, partnership or association of persons and the assets of such company, partnership or association are not sufficient to meet the total liability including the loans payable under this ordinance, of such company, partnership or association;
 - (b) the borrower is an individual person and his assets are not sufficient to meet his total liability; and the Registrar is of the opinion, after such enquiry as he may deem fit, to hold in the matter, that the loan has been appropriated by any director, shareholder, partner or member, as the case may be, of such company, partnership or association or any other person and, in case of an individual borrower by any other person than the borrower himself, the loan shall be recoverable from the person who has appropriated the loan as aforesaid and his assets as if the loan had been taken by him;
 - (3) The recovery under this section shall not save a borrower from any other means of recovery or punishment provided in this Ordinance or rules made thereunder or under any other law for the time being in force.
5. (1) In respect of Cooperative Banks which stand dissolved by the operation of section 42 sub-section (4) of the Establishment of Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976, as adapted in Azad Jammu and Kashmir, the provincial Cooperative Bank and in respect of the cooperative banks which have been converted into non-banking societies under sub-section (5) of section 42 of the said Ordinance, such societies, shall, within thirty days of the commencement of the Ordinance, or within such extended period as the Registrar may allow, furnish to the Registrar full particulars in respect of all cases of loans required to be, repaid under section 3;
- (2) On receipt of information under sub-section (1) in respect of any loan the Registrar shall cause notice to be issued to the borrower requiring him to repay and secure the loan in accordance with the provision of section 3;
- (3) Where any borrower to whom notice under sub-section (2) is issued does not admit the loan or any liability arising there from, he shall within thirty days of the receipt of notice, or within such further period as the Registrar may, in special circumstances allow, submit either personally or by registered post (acknowledgement due), a written statement to that effect to

the Registrar, who thereupon shall cause notice to be issued to the bank or society concerned, and shall, after making such inquiry as he Considers necessary, and giving the parties reasonable opportunity of being heard, decide about the liability;

(4) The decision of the Registrar under sub-section (3) shall be final and shall not be called in question in any Court.

6. **Power of Registrar when making inquiry.-** The Registrar shall, for the purpose of making any inquiry under this Ordinance, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery or production of any document;
- (c) requisitioning any public record from any court or office;
- (d) issuing commission for the examination of witness;
- (e) appointing guardians or next friends of persons who are minors or of unsound mind;
- (f) adding legal representatives of deceased borrowers or societies;
- (g) substituting the names of rightful parties;
- (h) consolidation of cases; and
- (i) any other matter which may be prescribed by rules, made under Section 7.

7. **Rules.** The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.

8. **Detention in civil prison** The Registrar may send a borrower or debtor or his surety to Civil Prison if any one of them is not ready or has failed to furnish security to the satisfaction of the Registrar when so required by him under section 3 and may keep the them or any one of them in the prison till such security is furnished by them or any one of them.

9. **Restrictions on alienations** (1) Where any person owing a loan to a Cooperative Bank has, on or after the 7th day of January, 1977, alienated any property by sale, exchange, gift, mortgage or

will, otherwise than by or under an order or decree of a Court, such alienation shall not operate to transfer any right, title or in interest in the property of the borrower unless the loan due from the borrower has been repaid;

(2) Any alienation as aforesaid shall become void upon a declaration to that effect made by the Registrar and published in the Official Gazette and this declaration shall have effect of and be acted upon as a decree of a Civil Court;

(3) Any party aggrieved by a declaration made by the Registrar under sub-section (2) may prefer an appeal to Government against such declaration and the order made by Government on such appeal shall be final and shall not be open to question in any Court;

10. **Punishment.-** Whoever contravenes any of the provisions of this Ordinance or the rules made thereunder shall be punishable with imprisonment for a term which may extend to seven years or with fine, which in the case of default in the repayment of loan shall not be less than one-half of the amounts of the loan outstanding against him.
11. **Cognizance of offence.-** (1) No Court shall take cognizance of any case under this Ordinance except on a complaint in writing made by the Registrar;
- (2) Offences under this Ordinance shall be non-bailable and shall be triable by a Magistrate of the 1st Class.
12. **Assistance to Registrar.-** All officers and servants of the Government shall assist the Registrar in the performance of his functions.

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/-
(Sardar Aftab Ahmed Khan)
Secretary Law.