

**THE AZAD JAMMU AND KASHMIR COURTS AND LAWS CODE  
1949.**

**Preamble:** Whereas it is expedient to revise the Azad Jammu and Kashmir Courts and Laws Code of 1948 and to set up Courts of Justice in such territories of Jammu and Kashmir State as have been liberated from Dogra Rule or may hereafter be so liberated and provide laws and prescribe procedure keeping in view the independence of judiciary, it is hereby enacted as follows:-

1. **Short title, extent and Commencement:-** (1) This Code may be called the Azad Jammu and Kashmir Courts and Laws Code of 1949.  
  
(2) It shall extend to the territories which are now or may hereafter come under the Azad Jammu and Kashmir Government and shall come into force at once.
2. **Savings & repeals:-** All acts done under any law in force on the date of commencement of this Code, shall be deemed to be in every way valid;  
  
Provided that all proceedings pending on the date of enforcement of this Code, shall be transferred to the Courts set up under this Code.
3. All Laws and enactments of the Dogra Rule inconsistent with the provisions of this Code or with the enactments passed or adapted by the Azad Jammu and Kashmir Government are hereby repealed and all other laws, shall as far as practicable, continue to remain in force.

**CHAPTER — I**

4. **Definitions:-** In this Code unless there is anything repugnant in the subject or context :-
  - (1) 'Small Cause' means a suit of the nature cognizable by a Court of small causes under the Jammu and Kashmir State Small Causes Act in force in the Dogra Rule.
  - (2) 'Land suit' means a suit relating to land as defined in Section 4 (1) of the Punjab Tenancy Act, 1887, or to any right of interest in such land ;
  - (3) 'Unclassed suit' means a suit which is neither Small Cause or a land suit ;
  - (4) 'Value' used with reference to a suit means the amount of the subject matter of the suit ; and
  - (5) 'Government' shall mean the Azad Jammu and Kashmir State Government.

**CHAPTER — II**

**(High Court)**

5. **Constitution and appointment of Judges:-** (1) The High Court shall consist of a Chief Justice and [1]nine other Puisne Judges as may be appointed from time to time by the Government on such salary and allowances as may be fixed in this behalf by the Government.

<sup>2</sup>[(1-A) At any time when:-

- (a) the office of the Chief Justice of the High Court is vacant; or
- (b) the Chief Justice of the High Court is absent or is unable to perform the functions of his office due to any other cause;

The President shall appoint the most senior of the other Judges of the High Court to act as Chief Justice.”]

(2) Every Judge of the High Court shall be appointed by the Azad Jammu and Kashmir Government and shall hold office until he attains the age of 65 years:

Provided that:

- (a) A Judge may by resignation under his hand addressed to the Azad Jammu and Kashmir Government resign his office.
- (b) A Judge may be removed from office by the order of the Azad Jammu and Kashmir Government on the ground of misbehaviour or of infirmity of mind or body if the tribunal or Medical Board to be appointed by Government on reference, being made to them by the Azad Jammu and Kashmir Government, reports that the Judge ought on any such ground to be removed.
- (3) A person shall not be qualified for appointment as

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<sup>1</sup> Section 5(1) was amended/subs. four times. The original extract of Sec. 5(1) of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

**“Constitution and appointment of Judges:-** (1) The High Court shall consist of a Justice and one or two other Puisne Judges as may be appointed from time to time by the Government on such salary and allowances as may be fixed in this behalf by the Government”.

A. For the words “one or two” the words “two or three” shall be Subs. by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1971 (Act XIV of 1971).

B. For the words “two or three other” the words “three or more” shall be subs. by called the Azad Kashmir Courts and Laws Code (Amdt.) Act, 1985 (ACT XXXI OF 1985) dt. 27-11-1985.

C. Subs. by the Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act 1992 ( Act XXIII of 1992) dt. 18-08-1992 as under:-

“(1) The High Court shall consist of a Chief Justice and three or more other Judges”.

D. For the words “three” the words “nine” shall be Subs. by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 2017 (Act XXXIII of 2017) dt. 12-09-2017.

<sup>2</sup> Ins by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992.

Judge of High Court unless he :

- (a) is a Barrister of England of not less than ten years standing; or
- (b) has for at least three years, held a Judicial office in the State or in Pakistan not inferior to that of a District Judge; or
- (c) has for at least five years held a judicial office in the State or in Pakistan not inferior to that of a Subordinate Judge or a Judge of Small Causes Court ; or
- (d) has for at least ten years been a Pleader or Vakil or Advocate of High Court in the State or in Pakistan or of two more such Courts in succession :

Provided that in computing for the purposes of this sub-section the standing of a Pleader, Vakil or Advocate any period during which a person has held a judicial office after he became a Pleader, Vakil or Advocate, as the case may be, shall be computed.

<sup>1</sup>[\*\*\*]

<sup>2</sup>["**6-A. Seat of the High Court.** - (1) The Principal seat of High Court shall be at Muzaffarabad.

(2) The President may establish one or more permanent Benches and Circuit Benches of High Court at such place or places as he may deem expedient.

(3) A Bench referred to in sub-section (2) of this Section shall consist of such of the Judges of the High Court as may be nominated by the Chief Justice from time to time.”]

7. **Seal:** -The High Court shall have and use, as occasion may require, a seal bearing a device and impression of the Government Coat of Arms within an exergue or label surrounding the same, with the inscription ‘Seal of the High Court of Azad Jammu and Kashmir’, the said seal being kept in the custody of such officer as the Chief Justice may appoint in this behalf.

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<sup>1</sup> Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of Sec.6 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

6.”**Oath of office and allegiance:**- The Chief Justice and every other Judge of the High Court prior to his assumption of office, shall make and subscribe the following oath before such authority or person as the Government may commission to administer it :

”I, A.B. 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 it 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 the Azad Jammu and Kashmir State without fear or favour, affection or ill will”.

<sup>2</sup>Ins. by Ibid.

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9. **Admission of Vakils Advocates, Pleaders and Attorneys-at-law:-** The High Court may approve, enroll and admit such and so many Advocates, Vakils and Pleaders and Attorneys-at-laws as to the said High Court may deem fit and such Advocates, Vakils, Pleaders and Attorneys-at-law may appear for the suitors in the said High Court and the Subordinate Courts and plead or act, or plead and act for the said suitors according to the rule.
10. (1) The High Court shall have power to make rules from time to time for the qualifications and admission of proper persons to be Advocates, Vakils, Pleaders and Attorneys-at-law and shall have powers to remove or suspend from practice on reasonable causes the said Advocates, Vakils, Pleaders or Attorneys-at-law.
- (2) Subject, however, to the provisions of any other law in force for the time being, no person except such Advocates, Vakils, Pleaders or Attorneys-at-law or any suitor himself or on behalf of co-suitor shall be entitled to act or plead for or on behalf of any suitor in the said High Court and the Courts subject to its superintendence.
11. **Law to be administered by the High Court:-** The High Court shall apply such law or equity to each case coming before it as would have been applied by the Court in which the proceedings were originally instituted or may have been instituted.

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13. **Civil Jurisdiction of the High Court:-** (1) The High Court

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<sup>1</sup> Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of Sec.8 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

“8. **Appointment of officers:-** The Chief Justice of the High Court is authorised and empowered, subject to any rules and restrictions which may be prescribed by the Government, to appoint so many and, such clerks and other ministerial officers as may be necessary for the administration of Justice and the duty execution of all the powers and authorities granted to the said High Court and for this purpose, may confer upon them such powers as may deem fit. All such clerks and officers shall receive such reasonable salaries as the High Court may from time to time fix and as the Government may approve of.”

<sup>2</sup> Omitted by Ibid. The original extract of Sec.8 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

“12. **Administrative Powers over judicial services including Registrar and Deputy Registrar:-**(1) The High Court shall exercise all administrative powers regarding direct gazetted appointments, salaries, promotions, transfers, reversions and dismissals in the Azad Jammu and Kashmir Judicial services including Registrar and Deputy Registrar subject to the approval of the Government provided that no approval of the Government shall be necessary in matters of leave and suspension.

(2) An appeal shall lie to the Minister concerned against an order passed by the High Court in the case of non-Gazetted officer in matters referred to in clause (1) above.

(3) The appellate decision of the High Court in matters referred to in (1) above regarding orders passed by the District or Sessions Judge or other subordinate judicial officers shall be final”.

shall be a court of appeal from the Civil Courts of the Azad Jammu and Kashmir State and from all other Courts subject to its superintendence.

<sup>1</sup>[\*\*\*]

The High Court shall also hear original suits of above the value of Rs. 10,000/- such suits shall be heard by a Single Judge.

<sup>2</sup>[(2)] An appeal shall lie to the High Court from the judgment or order of one Judge in an original Civil suit.

<sup>3</sup>[(3)] The High Court shall have jurisdiction to entertain and dispose of such appeals, revisions and other cases, civil Criminal or Revenue, as it may be empowered to do under any enactment in force in the Azad Jammu and Kashmir State.

<sup>4</sup>13-A. An appeal shall lie to the Division Bench of the High Court from any judgment, decree or final order of the High Court made by a Judge sitting alone in the exercise of the High Court's appellate jurisdiction in respect of a decree or order made by a Court subordinate to it :-

- (i) If the amount or value of the subject matter of the dispute in the Court of first instance was, and also in dispute on appeal is, not less than Rs. 1,000/-; or
- (ii) If the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value ; or
- (iii) If the Judge of the High Court who passed the Judgment, decree or final order certifies that the case is fit for appeal to the Division Bench of the High Court.

13-B An appeal shall lie to the Division Bench of the High Court from any judgment, final order or sentence of the High Court passed by a Judge

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<sup>1</sup> Sub-section "(2)" shall be omitted by the Azad Jammu & Kashmir Courts and Laws Code (Amdt.) Act 1975 (Act III of 1975) dt. 24-07-1975. Subsection (2) of Sec.13 of the Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under: "The High Court shall also hear original suits of above the value of Rs. 10,000/- such suits shall be heard by a Single Judge."

<sup>2</sup> The existing Subsec. 3 has been renumbered as subsec.2 by the Azad Jammu & Kashmir Courts and Laws Code (Amdt.) Act 1975 (Act III of 1975) dt. 24-07-1975.

<sup>3</sup> The existing Subsec. 4 has been renumbered as subsec. 3 by Ibid.

<sup>4</sup> "Subsections 13A, 13B and 13C" Ins. by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1958 dt. 05-06-1958.

sitting alone in criminal proceedings, if the Judge:-

- (i) certifies that the case is a fit one for appeal to the Division Bench of the High Court; or
- (ii) has imposed any punishment on any person for contempt of the High Court.

13-C Notwithstanding anything contained in the Limitation Act or any other law for the time being in force:-

(1) the period of limitation for an appeal under Sections 13-A and 13-B shall be :-

- (a) 30 days from the date of judgment, order, decree or sentence referred to in clauses (i) and (ii) of Section 13-A and clause (ii) of Section 13-B ;
- (b) 30 days from the date on which the Judge certifies the case to be fit for appeal in terms of clause (iii) of Section 13-A and clause (i) of Section 13-B ;

(2) the period of limitation for an application praying for the grant of certificate, if made by a party, to the Judge who passed the judgment, decree, order, or sentence referred to in clause (iii) of Section 13-A or clause (i) of Section 13-B, shall be 15 days from the date of the judgment, decree, order of sentence, as the case may be .]

14. The High Court shall have power to remove and to try and determine any suit being or falling within the jurisdiction of any court subject to its superintendence when the High Court may think proper to do so either on the agreement of the parties or for purposes of justice.

15. **Pecuniary limits of jurisdiction of civil Courts:-** (1) The High Court shall determine the pecuniary limits of jurisdiction to be exercised in original suits by any person appointed Sub-Judge either by including him in a class or otherwise as it thinks fit.

(2) The High Court may confer upon any officer in the service of the Government, by name or by virtue of his office powers to try civil suits in such local limits of jurisdiction and within such limits of pecuniary jurisdiction either by including him in a class or otherwise, as it thinks fit, and may withdraw such powers.

16. **Ordinary criminal jurisdiction:-** The High Court shall have ordinary original Criminal Jurisdiction in respect of all persons residing in places within the territories of the Government and shall be empowered to try all person brought before it in due course of law.

17. **Extra ordinary criminal jurisdiction:-** (1) The High Court shall have extra-ordinary criminal jurisdiction over all persons residing in places within the jurisdiction of any court subject to its superintendence, and shall have authority to try, at its discretion any such person or charges preferred by any Magistrate or other officer empowered by the Government in that behalf.  
  
1[\*\*\*]
18. **Appeal from Criminal Courts:-** The High Court shall be a Court of appeal from the criminal courts of the Azad Jammu and Kashmir State and from all other courts subject to its superintendence, further the High Court shall be a court of reference and revision for from the criminal Courts subject to its appellate jurisdiction and shall have power to hear and determine all cases referred to it by Government.
19. **Power of transfer:-** The High Court shall have power to direct the transfer of any criminal case or appeal from any court to any other court of equal or superior jurisdiction and also re-direct the preliminary investigation or trial of any criminal case by any officer or court otherwise competent to investigate and try it, though such case belongs, in ordinary course, to the jurisdiction of some other officer or Court.
20. **Criminal Law:-** All persons brought for trial before the High Court, either in the exercise of its jurisdiction as a court of appeal, reference or revision, charged with an offence for which provision is made in the Azad Jammu and Kashmir Penal Code or by any Act, amending or excluding the said Code, shall be liable to punishment under the said Code or Acts and not otherwise.
21. **Power to confer Magisterial powers etc.:-** The High Court <sup>2</sup>[\*] shall be competent to confer upon any person or persons ordinary or special magisterial powers, withdraw the same, pass orders, issue directions exercise control and make rules in accordance with sections 10 (2), 12, 14, 15, 16, 30, 37 to 41, 108, 110, 143, 144, 164, 167, 174, 186, 190, 193, 206, 260, 406, 407, 524 and 565 of the

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<sup>1</sup>Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of Subsec.2 of Sec. 17 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

“(2) The High Court shall have the power to punish with fine not exceeding Rs. 1,000/- or with simple imprisonment for a period not exceeding six months or both any person who is guilty of contempt in relation to itself or to any court subordinate to it;

Provided that the High Court shall not take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it when such contempt is an offence punishable under the Azad Jammu and Kashmir Penal Code”.

<sup>2</sup> The word “Only” omitted by The Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1985 (Act XXXI Of 1985) dt. 27-11-1985.

Criminal Procedure Code.

22. The High Court may pass any sentence authorised by law.
23. **Miscellaneous jurisdiction:-** The High Court shall have such testamentary, intestate or matrimonial jurisdiction as may be prescribed by law for the time being in force and without prejudice to the exercise of such jurisdiction by any other court empowered in that behalf.
24. **Single Judge and Division Courts:-** (1) Any function which is hereby directed to be performed by the High Court, may be performed by any Judge or by any Division Court appointed or constituted for the purpose by the Chief Justice. In case of a Division Court, if the Judges are divided in opinion on any point, the opinion of the Majority, but if the Judges be equally divided then<sup>[1]</sup>the case shall be referred to a Third Judge and his opinion shall prevail]
- (2) Any Single Judge and any Bench of two Judges of High Court not being a full Bench may, in any case, refer for the decision of a Full Bench, any question of law or of the construction of any document or of the admissibility of any evidence arising before such Single Judge or Bench and shall dispose of the case in accordance with the decision of the Full Bench.
- (3) Any Single Judge of High Court, may, if he thinks fit, refer any appeal or application before him for hearing as a Single Judge to a Bench of two Judges for decision.
25. **Special Commissioner and Circuits:-** Whenever it appears to the Chief Justice convenient that the powers vested in the High Court shall be exercised in any place other than the usual place of sitting of the High Court or at several such places by Circuits, one or more Judges of the High Court shall visit such place or places accordingly.
26. **Holidays:-** The High Court may by a notification to be published in the Government Gazette, declare public holidays to be observed by Civil and Criminal Courts in the Azad Jammu and Kashmir Territory.

### CHAPTER III

#### SUBORDINATE CIVIL COURTS

27. **Classes of Courts:-** Besides the High Court, the Courts of Small Causes established under the Small Cause Courts Act of the Dogra Rule or the Courts established under any other enactment for the time being in force, there shall be

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<sup>1</sup>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" subs.by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1975 (ACT III OF 1975) dt. 24-07-1975.



the following classes of Civil Courts, namely :-

- (1) The Court of District Judge;
- (2) The Court of Additional Judge; and
- (3) The Court of Subordinate Judge.

<sup>1</sup>[28. **Civil Districts:-**For the purpose of this Act, the Government shall divide territories under its administration into Civil Districts and Sub-Divisions and may, from time to time, alter the limits or the number of these Districts and Sub-Divisions.]

29. **District Judges:-** (1) The Government shall appoint as many persons, as it thinks necessary, to be District Judge and the High Court shall post one such person, by name or by virtue of office, to each district as District Judge of that District :

Provided that the same person may if the High Court think fit, be appointed to be District Judge of two or more districts.

- <sup>2</sup>[(2) The Government, in consultation with the High Court, may appoint an Additional District Judge for any District or Sub-Division. An Additional District Judge shall discharge the functions of a District Judge in one or more Sub-Divisions, as the Government may direct; and]
- (3) An Additional Judge So appointed shall<sup>3</sup>[also] discharge any of the functions of the District Judge which the District Judge may assign to him and in the discharge of these functions, he shall exercise the same powers as the District Judges.

30. **Subordinate Judges:-** (1) The Government may,<sup>4</sup>[\*\*\*] fix the number of Sub-Judges to be appointed.

<sup>5</sup>[\*\*\*] The High Court shall with the approval of the

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<sup>1</sup> Subs.by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of Sec. 28 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949is reproduced as under:-

**“Civil Districts:-** For the purposes of this Act, the Government shall divide territories under its administration into Civil Districts and may from time to time alter the limits of the number of these districts.”

<sup>2</sup> Subs by Ibid. The original extract of subsec. (2) of Sec. 29 is reproduced as under:-

“ When the business pending before any District Judge required the aid of an Additional Judge or Judges for its speedy disposal the Government may appoint such Additional Judges as may be necessary:-“

<sup>3</sup>In subsection (3) of Sec.29 word “also” inserted between the word ‘shall’ and the word ‘discharge’ by Ibid.

<sup>4</sup>Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amendment) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of Subsec.(1) of Sec. 30 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949is reproduced as under:-

“(1)The Government may after consultation with the High Court fix the number of Sub-Judges to be appointed.”

<sup>5</sup> Omitted by Ibid. The original extract of Subsec.(2) of Sec. 30 of The Azad Jammu and Kashmir Courts and Laws Code 1949is reproduced as under:-

Government determine the seniority of the Judicial officers keeping in view their qualifications, efficiency, past experience, honesty and duration of service under the Government. In doing so the High Court shall fix the salary of each officer within the grade of the class he is placed in.

31. **Pecuniary limits jurisdiction of civil Courts:** -(1) The Court of the District Judge shall have [<sup>1</sup>unlimited] jurisdiction in original suits <sup>2</sup>[\*\*\*].  
(2) The pecuniary limits of jurisdiction of different classes of Sub-Judges will be as follows:-
  1. First Class upto Rs. 5,000/-
  2. Second Class upto Rs. 1,000/-
  3. Third Class upto Rs. 200/-
32. **Local limits of jurisdiction:-** (1) The local limits of jurisdiction of a Subordinate judge shall be such as the High Court may define.  
(2) When the High Court posts a Sub-Judge to a District or a Tehsil, the local limits of the District or the Tehsil as the case may be, shall in the absence of any directions to be contrary, be deemed to be the local limits of his jurisdiction.
33. **Small cause Courts:** - The High Court may confer within such local limits, as it thinks fit, upon any subordinate Judge the jurisdiction of a Judge of a Court of Small Causes under the Jammu and Kashmir State Small Cause Courts Act of the Dogra Rule for the trial of suits cognizable by such Courts upto such value not exceeding Rs. 500/- as it thinks fit, and may withdraw any jurisdiction so conferred.
34. **Places of sitting of Courts:-** (1) The High Court may fix the place or places at which any Court under this Chapter may be held. Such place or places may be beyond the local limits of the jurisdiction of the Court.

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“(2)The High Court shall with the approval of the Government determine the seniority of the Judicial officers keeping in view their qualifications, efficiency, past experience, honesty and duration of service under the Government. In doing so the High Court shall fix the salary of each officer within the grade of the class he is placed in.”

1 In sub-section (1) word “unlimited” Ins. between the word ‘have’ and the word ‘Jurisdiction’ .by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1975 (ACT III OF 1975) dt. 24-07-1975.

2 Omitted by the .by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1975 (ACT III OF 1975) dt. 24-07-1975. The original extract of sec. 31 is reproduced as under:-

“**Pecuniary limits jurisdiction of civil Courts:-**(1) The Court of the District Judge shall have jurisdiction in original suits (upto the value of Rs. 10,000/-).

(2) Except as may be otherwise provided by any order under this section a Court may be held at any place within the local limits of its jurisdiction.

<sup>1</sup>[\*\*\*]

**36. Appeals:-** (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge exercising original jurisdiction shall lie to the High Court.

(2) An appeal from a decree or order of a Subordinate Judge shall lie :-

(a) to the District Judge where the value of the original suit in which the decree or order was made, does not exceed Rs.<sup>2</sup>10000/-;]and

(b) to the High Court in any other case.

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<sup>1</sup>Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of of Sec. 35 of The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

"35. **Control and administrative powers of Courts:-** (1) Subject to such rules and regulations as the Azad Jammu and Kashmir Government may make, the High Court shall have superintendence and control over all courts for the time being subject to its appellate or revisional jurisdiction and all such Courts shall be subordinate to the High Court.

(2) The Chief Justice or a Judge of High Court authorised by him in this behalf shall from time to time, visit and inspect the proceedings of the Courts subordinate to the High Court and shall give such directions in the matters not provided for by law as may be necessary to secure the due administration of Justice.

(3) Subject to the General Superintendence and control of the High Court, the District Judge shall have control over all the Civil Courts within the local limits of his jurisdiction.

(4) Notwithstanding anything contrary in the Code of Civil Procedure, every District Judge, may by written order direct that any Civil business cognizable by his Court and such Courts in such manner as he thinks fit.

Provided that no direction issued under this section shall empower any Court to exercise any power or deal with any business beyond the limits of its jurisdiction.

(5) A District Court or any Court under the control of the District Court may fine, an amount not exceeding one month's salary, any ministerial officer of the Court for misconduct or neglect in the performance of his duties.

(6) The District Court may, on appeal or otherwise, reverse or modify any order made under sub-section (3) by any court under its control, and may on its own motion fine upto the amount of one month's salary any ministerial officer of any courts under its control.

(7) A District Court may, with the previous sanction of the High Court, delegate to any Subordinate Judge in the District the power conferred on a District Court by this section and section 24 of the Code of Civil Procedure to be exercised by the Subordinate Judge in any specified area of the district, subject to the control of the District Judge."

<sup>2</sup>Sec. 36 (2) (a) was amended/subs. two times.

For the words & figures "2500/-" the words and figures "5000/-" Subs.by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1975 (ACT III OF 1975) dt. 24-07-1975.Original extract of Sec.36 (2) (a) of The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

"(a) to the District Judge where the value of the original suit in which the decree or order was made, does not exceed Rs. 2500/-; and"

A.For the word & figure "5000/-" the word and figure "10000/-" Subs.by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1999(ACT II of 2000) dt. 18-01-2000.

(3) Where the function of receiving any appeal, which lies to the District Judge under Sub-section (2) has been assigned to an Additional Judge, the appeal may be preferred to the Additional Judge.

(4) The High Court may, by notification, direct that all appeals that lie to the District Judge from all or any of the decrees or orders passed in an original suit by any subordinate Judge shall be preferred to such other subordinate Judge as mentioned in the notification, and the appeals shall thereupon be preferred accordingly; and the Court of such other Subordinate Judge shall be deemed to be a District Court for the purpose of all appeals so preferred.

37. **Power to transfer cases:-** (1) A District Judge may transfer any appeal pending before him from the decrees or orders of Subordinate Judges to any other Subordinate Judge under his administrative control competent to dispose it of.

(2) The District Judge may withdraw any appeal so transferred and either hear and dispose it of himself or transfer it to a Court, under his administrative control, competent to dispose it of.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

38. **Second Appeals:-** (1) An appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court on any of the following ground, namely :-

(a) the decision being contrary to Law for the time being in force;

(b) the decision having failed to determine some material issue of Law ;

(c) a substantial error or defect in the procedure provided by the Code of Civil Procedure, or by this Act or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

(2) An appeal may lie under this section from an appellate decree passed ex parte.

(3) No second appeal shall lie in any suit of the nature cognizable by court of Small Causes when the amount or value of the subject matter of the original suit does not exceed Rs. 500/-.

39. **In other cases Revision:-** The High Court may call for the

record of any case which has been decided by any court subordinate to it and in which no appeal lies thereto and if such subordinate court appears :-

- (a) to have exercised a jurisdiction not vested in it by Law; or
- (b) to have failed to exercise a jurisdiction so vested; or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity; and may make such order in the case as it thinks fit.

40. **Limitation:** -(1) The period of Limitation for an appeal under Section 38 of this Act shall be 90 days from the date of the decree appealed against.

(2) In computing this period and in all respects not herein specified the Limitation of an appeal under the said section shall be deemed to be governed by the provisions of the Indian Limitation Act, 1908.

40-A. **Law of Procedure:-** Subject to the provisions of this Act, the procedure prescribed by the Code of Civil Procedure, 1908, shall, as far as practicable, be followed by all Civil Courts constituted under this Act.

#### CHAPTER IV

##### SUBORDINATE CRIMINAL COURTS

41. **Classes of Criminal Courts:-** Besides the High Court and the Courts constituted under any other law for the time being in force, there shall be four classes of Criminal Courts in the Azad Jammu and Kashmir State, namely :-

- 1. Court of Sessions.
- 2. Magistrate of the 1st Class.
- 3. Magistrate of the 2nd Class.
- 4. Magistrate of the 3rd Class.

42. **Sessions Court:** -(1) The Government may from time to time fix and alter the limits of a Sessions Division, establish a Court of Sessions for every such Sessions Division and appoint as many persons, as it thinks fit, to be Sessions Judges and the High Court shall post one such person to each Sessions Division as Sessions Judge of that Sessions Division:

Provided that the same person, if the Government thinks fit, be appointed Sessions Judge of two or more Sessions Divisions.

(2) The Government may also appoint Additional Sessions Judge to exercise jurisdiction in one or more

Sessions Division.

43. **District Magistrate and Sub Divisional Magistrates:-** (1) The Government may from time to time fix or alter the limits of districts, divide the district in Sub-Divisions and appoint a Magistrate of the 1st Class to be known as District Magistrate incharge of each District.
- (2) The High Court may appoint any Magistrate of the 1st Class to be an Additional District Magistrate and the Government may place any Magistrate of the 1st Class incharge of a Sub-Division and relieve him of the charge, as occasion require.
44. **Powers of Criminal Courts:-** (1) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law, but any sentence of death passed by any such Judge shall be subject to the confirmation<sup>1</sup>[as provided by the relevant law].
- (2) Courts of the Magistrates may, subject to the provisions of Criminal Procedure Code, pass the following sentence namely
- (i) Court of Magistrate 1st Class. Imprisonment for a term not exceeding two years including such solitary confinement as is authorised by Law. Fine not exceeding 1,000/- rupees. Whipping.
- (ii) Court of the Magistrates 2nd Class. Imprisonment for a term not exceeding six months including such solitary confinement as is authorised by Law. Fine not exceeding Rs. 200/-.
- (iii) Court of the Magistrates 3rd Class. Imprisonment for a term not exceeding one month.

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1, for the words "by the Government" the words "as provided by the relevant law" shall be substituted by The Azad Jammu And Kashmir Courts and Laws Code (Amendment) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of Subsec. (1) of Sec. 44 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

"(1) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law, but any sentence of death passed by any such Judge shall be subject to the confirmation by the Government."

Fine not exceeding Rs.  
50/-.

45. **Application of Criminal Procedure Code:-** (1) Proceedings in all Criminal Cases brought before the High Court in the exercise of its original, appellate or revisional jurisdiction or before any other Criminal Court, subject to its superintendence, shall be regulated by the Code of Criminal Procedure :

Provided that the Government may direct that for such time and in such cases, as it thinks fit, when it appear from a police report that the offence is one triable exclusively by a Court of Sessions or one, which in the opinion of the Magistrate ought to be tried by such Court, the Magistrate shall notwithstanding anything contained in Chapter XVIII of the aforesaid Code, on perusal of the police report or when the accused appears or is brought before him, make over the case to the Sessions Court having jurisdiction for trial and shall forward the accused, if in custody, and shall send all police reports relating to the case to that Court, and every trial in the Court of sessions shall, be held with the aid of assessors.

(2) The Government may also direct that, for such time as it thinks fit, the procedure prescribed for the trial of summons case by Chapter 20 of the said Code shall be adopted by the Courts in all cases, subject, however, in the case of summary trials, to the provisions of sections 263 to 265 of the Code.

46. **Appeals:-** Appeal from any judgment, sentence or order of a Criminal Court shall not lie except as provided for by the Code of Criminal Procedure or by any other Law for the time being in force.

## CHAPTER V

### SUPPLEMENTARY PROVISIONS

47. **Conferring and continuance of powers:-** (1) Except as otherwise provided by this Act, any powers that may be conferred by the High Court on any person under this Code may be conferred on such person either by name or by virtue of office.

(2) Whenever any person, holding an office in the service of the Government, who has been invested with any powers under this Code throughout any local area, is transferred or posted, at any subsequent time, to an equal or higher office of the same nature within a like local he shall unless the High Court otherwise direct, exercise the same powers in the local area to which he is so transferred and posted.

48. **Law to be administered:-** In questions regarding inheritance to land, immovable property, rent, and goods, successions, special property of females, betrothal marriage, divorce (including all forms of dissolution of family relations, wills, Legacies, Gifts, Partitions, contracts or any religious usage or institutions the rule of decisions shall be:-.
- (a) The Hindu Law where the parties are Hindus;
  - (b) The Islamic Shariat according to codified 'Shara Mohammadi (Mohammadan Law) where the parties are Muslims;
  - (c) the dictates of justice, equity and good conscience according to, Law of the defendant or any Law enforce in all other cases.
49. **Azad Kashmir Penal Code:-** The provisions of the Indian Penal Code shall, subject to any modification that may herein or hereafter be made, be applicable to all offences committed in the territories administered by the Government and shall constitute the Azad Kashmir Penal Code. All references to the Queen, Government, British India etc. in the Indian Penal Code shall refer to Azad Kashmir Government or Azad Jammu and Kashmir State or territory as the case may be.
- 1[\*\*\*]
- 2[\*\*\*]
52. **Power to make rule:** (1) The High Court may consistently with the Laws for time being in force make rules:-
- (a) To regulate the practice of the Court;
  - (b) To regulate the practice of the Courts subordinate thereto ;
  - (c) To provide for the forms to be used in the High Court and Courts subordinate thereto for such proceedings Books, entries, statistics and accounts as it thinks fit;
  - (d) To provide for the inspection of Courts subordinate

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<sup>1</sup>Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of of Sec. 50 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949is reproduced as under:-

“50. **Law of Evidence:-** The Indian Evidence Act of 1872, shall, subject to the provisions of this Code, apply to all proceedings before a Court except when the provisions of the Evidence Act are opposed to any principle of Islamic Shariat, in which case the latter shall prevail.”

<sup>2</sup> Omitted by Ibid. The original extract of of Sec. 51 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949is reproduced as under:-

“51. In Section 45 of the Indian Evidence Act of 1872, the words 'Foreign Law' where ever they occur shall be substituted by the words 'Islamic Shariat or Foreign Law'.”



thereto and the supervision of the work thereof;

1[\*\*\*]

- (f) To call for returns and reports;
- (g) To settle tables of fees to be allowed to sheriffs, attorneys and all clerks and officers of the Courts:

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force and shall require the previous approval of the Government;

- (h) Prescribing the qualifications for admission of persons to be Advocates, Vakils, Pleaders and Attorneys-at-Law of the High Court and providing for the removal or suspension from practice, on reasonable cause, of the said Advocates, Vakils, Pleaders and Attorneys-at-Law ;
- (i) Such rules shall be made with the approval of a majority of the Judges of the Court and with the sanction of the Azad Jammu and Kashmir Government.

- 53. **Saving jurisdiction of High Court:-** Notwithstanding anything provided in any enactment to the contrary no Judge of the High Court sitting in a Full Bench thereof, shall, by reason of his having decided or otherwise dealt with any case, be debarred from hearing and deciding the case.
- 54. Nothing herein contained and nothing contained in any other enactment for the time being in force shall be deemed to effect in any way the inherent power of the Azad Jammu and Kashmir Government to grant petitions of mercy and pardon or its power of remitting, committing, reducing or suspending sentences conditionally or otherwise.

## CHAPTER VI MUFTIS

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<sup>1</sup> Omitted by Ibid. The original extract of clause (e) of subsec.(1) of sec.52 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

“(e) To regulate all such matters as it may think fit with a view to promote the efficiency of the judicial and ministerial officers of the High Court and of the Courts subordinate thereto and the maintaining of proper discipline among these officers ;”

<sup>2</sup> Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXII of 1992) dt. 18-08-1992. The original extract of Sec. 55 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

“55. **Appointment of Muftis:-** (1) The Government shall appoint one or more persons as Mufti Ala for advice on all questions of Islamic Shariat for the territories under its administration ;

(2) The Government may, in consultation with Mufti-Ala, on the recommendation of the High Court appoint

1[\*\*\*]

## CHAPTER VII

57. **Law of Limitation:-** 2[“57. (i) The provisions of the Indian Limitation Act shall govern all suits, appeals and application :

Provided that the provisions of the Azad Jammu and Kashmir Limitation. Act of the Old Dogra Regime shall apply to suits based on causes of action which accrued before coming into force of the Azad Kashmir Courts and Laws Code of 1949.

(ii) Notwithstanding anything contained in Section 11 of the Civil Procedure Code or any other Law for the time being in force, proceedings in suits in which the cause of action accrued before coming into force of the Azad Kashmir Courts and Laws Code 1949 and which were dismissed on account of being time barred in consequence of a change in the period of Limitation due to the enforcement of the Indian Limitation Act instead of the Jammu and Kashmir Limitation Act of the Old Regime, shall be revived and continued further by the Courts concerned on the application of the party adversely affected.]

## CHAPTER VIII

### LAW OF COURT FEES AND SUITS VALUATION

58. **Application of Law:-** Subject to the provisions of Section 48 of this Act Indian Court-Fees Act and Suits Valuation Act shall apply to all the suits, appeals and applications.

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one 'Subai Mufti' for the territories under its administration and one Naib Mufti for each Tehsil.

(3) The Mufti appointed, under the foregoing provisions shall not be removable except on grounds of corruption or of acting against the principles of Islamic Shariat or the interests of the Government, but may resign of his own accord.

(4) The pay and remuneration of the Muftis shall be determined by the Government.”

1 Omitted by Ibid. . The original extract of of Sec. 56 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

“56. **References to Muftis and Powers:-** (1) In any civil or criminal case wherein the opinion of the Court any substantive question of principle of Shariat involved, the Court, in its discretion, may request the Mufti-Ala, the Subai Mufti or the Naib Mufti as the case may be, to attend the trial of the case.

(2) At the end of the trial the Court will furnish the Mufti Ala, Subai Mufti or the Naib Mufti as the case may be the questions which the Court thinks necessary for the opinion of the Mufti.

(3) The Muftis recorded opinion on those matters shall receive due consideration of the Court.”

2 Subs. by the Azad Jammu and Kashmir Courts and Laws Code (Amdt.) Act, 1952 (Act I of 1952) dt. 10-02-1952. Original Section is reproduced as under:

“The provisions of the Indian Limitation Act shall govern all suits appeals and applications”.

3 Omitted by The Azad Jammu And Kashmir Courts and Laws Code (Amdt.) Act, 1992 ( Act XXIII of 1992) dt. 18-08-1992. The original extract of of Sec. 59 of Act The Azad Jammu and Kashmir Courts and Laws Code 1949 is reproduced as under:-

**CHAPTER IX**

**LANGUAGE OF THE COURTS**

60. **Language of the High Court and the Subordinate Courts:** -Urdu shall be language of the High Court and all Subordinate Courts:

Provided that if the presiding officer or a Court wishes to keep the record of any case or write the judgment in English he may do so subject to conditions that :-

- (1) A record in Urdu is also maintained of the proceedings; and
- (2) When the judgment is written in English language and any of the parties to the suit or appeal, or if they were represented by Counsel, their Counsel are not acquainted with English Language the judgment must, if any of the parties so required, be translated into Urdu.

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<sup>59</sup>. **Manner of paying the fees:** -(1) The Court-fees payable in all suits, appeals and applications. Manner of paying the fees shall be paid by means of Court-fee or by cash deposits in the Court concerned in accordance with the rules covering the Civil Court Deposit Accounts or as the High Court may direct.

(2) In case of a cash deposit of Court-fees under the foregoing provisions the amount deposited shall be credited to Government treasury on the same day or on the next working day at the latest under the head 'Court-Fees' and the Treasury Receipt will form a part of the record of the case."