

THE AZAD JAMMU AND KASHMIR GOVERNMENT ACT, 1968

(Passed under Government Order No. Admin\3825-3864\SS\68, dated 17th September, 1968)

WHEREAS it is necessary to provide for the government and administration of the territories of Azad Jammu and Kashmir :-

It is hereby enacted as follows :-

CHAPTER I

1. **Short title and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Government Act, 1968.
(2) It shall come into force at once.
2. **Definitions:-** In this Act, unless the context otherwise, requires :
 - (a) "Chairman" means the Chairman of the State Council;
 - (b) "Chief Adviser" means the Chief Adviser to the Government appointed in accordance with the Rules of Business for Government for the time being in force ;
 - (c) "existing law" means any law which was in force immediately before the commencement of this Act;
 - (d) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (e) "prescribed " means prescribed by rules made under this Act;
 - (f) "President" means the President of the Azad Government of the State of Jammu and Kashmir;
 - (g) "Senior Secretary" means the Senior Secretary to the Government;
 - (h) "State Council" means the State Council constituted under this Act.

CHAPTER II

STATE COUNCIL

3. **Constitution of the State Council:-** There shall be constituted a State Council which shall consist of:
 - (a) eight members who shall be elected in the prescribed manner by the elected members of the Union Councils, Union Committees and Town Committees constituted under the Azad Jammu and Kashmir Basic Democracies Act, 1960 (Azad

Jammu and Kashmir Act X of 1960);

- (b) four members who shall be nominated by the Chief Adviser from amongst the refugees of the State of Jammu and Kashmir residing in Pakistan.
4. **The term of the State Council:-** Unless it is sooner dissolved, the term of the State Council shall be five years.
5. **Qualifications of the members of the State Council:-**
- (1) A person shall be disqualified for being elected or nominated as, and for being, a member of State Council:
 - (a) if he ceases to be a national of the State of Jammu and Kashmir ;
 - (b) if he is an undischarged insolvent;
 - (c) if he has been, on conviction for an offence involving moral turpitude, sentenced to imprisonment;
 - (d) if he holds any salaried office, not being the office of the Chairman or member of the State Council, under any Government or a statutory body, local authority or local body within the territories of Azad Jammu and Kashmir, Pakistan or any other country;
 - (e) if he is disqualified for being elected as a member of a local council under the Azad Jammu and Kashmir Basic Democracies Act, 1960, or any elective body under any law for the time being in force; or
 - (f) if he, without reasonable excuse, absents himself from three consecutive meetings of the Council and is for that reason removed by the Chairman.
 - (2) A casual vacancy in the office of a member of the State Council shall be filled for the remainder of the term of such member by election or nomination, as the case may be, of another person in his place in the same manner in which such member was elected or nominated.
6. **Legislative functions of the State Council:-** (1) Subject to the provisions of this Act, the State Council may make laws for the territories of Azad Jammu and Kashmir.
- (2) No legislation shall be undertaken by the State Council except ¹[after obtaining the advice] in writing of

1 In sub-section (2) of sec. 6 s for the words 'with the previous consent' the words 'after obtaining the advice' subs. by the Azad Jammu and Kashmir Government (Amdt.) Act, 1969 (Act I of 1969) dt.06-10-1969. The original extract of subsec.(2) of sec.6 of the Azad Jammu and Kashmir Government Act,1968 is reproduced as under:
“(2) No legislation shall be undertaken by the State Council except with the previous consent in writing of the Chief Adviser.”

the Chief Adviser.

¹[***]

- (3) No law made by the State Council shall have effect unless the Chief Adviser by notification so directs, and in giving such a direction with respect to any law, he may direct that the law shall, in its application to the whole or any part of the territories of Azad Jammu and Kashmir, have effect subject to such exceptions or modifications as may be specified in the direction,

²[7. **Other functions of the State Council:-** 1) The State Council may advise the President in the performance of his functions.

- (2) The State Council shall be informed of every case which is required to be referred to the Public Service Commission but in which the advice of the Commission has not been obtained or has not been accepted.]

8. **Reserved matters:-**The State Council shall not make any law or perform other functions relating to or affecting:

- (a) the provisions of this Act, or the rules made thereunder;
- (b) the organization, discipline and control of the armed forces ; and
- (c) the evacuee property.

9. **Allowances of the members of the State Council:-** The members of the State Council shall be entitled to receive such allowances as may be determined by Government ³[***].

¹ Omitted by the Azad Jammu and Kashmir Government (Amdt.) Act, 1969 (Act I of 1969) dt.06-10-1969. .The original extract of subsec.(3) of sec. 6 of the Azad Jammu and Kashmir Government Act,1968 is reproduced as under:

“(3) No law made by the State Council shall have effect unless the Chief Adviser by notification so directs, and in giving such a direction with respect to any law, he may direct that the law shall, in its application to the whole or any part of the territories of Azad Jammu and Kashmir, have effect subject to such exceptions or modifications as may be specified in the direction”

² Subs.by Ibid. The original extract of sec.(7) of the Azad Jammu and Kashmir Government Act,1968 is reproduced as under:

“7. **Other functions of the State Council:-** The State Council may advise the President in the performance of his functions under any law for the time being in force, and shall also perform such other functions as the Chief Adviser may direct.”

³ in section 9, the words 'with the concurrence of the Chief Adviser' s' occurring at the end of sec. omitted the Azad Jammu and Kashmir Government (Amdt.) Act, 1969 (Act I of 1969) dt.06-10-1969 .

10. **Secretary of the State Council:-** (1) The Senior Secretary shall be *ex-officio* Secretary of the State Council.
- (2) The Secretary of the State Council shall be assisted by such officers or staff as may be appointed in this behalf.
- (3) The Secretary of the State Council shall submit the proposed agenda for a session of the State Council to the Chairman for his approval not less than thirty days before the commencement of that session; and the Chairman may pass such orders thereon as he may think fit.
- (4) Copies of the proceedings of each meeting of the State Council shall be submitted to the Chairman and to such other authority as he may direct.

CHAPTER III

THE CHAIRMAN

11. **Chairman of the State Council:-** As soon as may be after the constitution of the State Council under section 3, the members of the State Council shall meet and elect from amongst themselves the Chairman of the State Council in the prescribed manner.
12. **Qualification for the office of Chairman:-** A person shall not be qualified for election as Chairman:
- (a) if he is not a national of the State of Jammu and Kashmir ; -
- (b) if he is less than thirty years of age ;
- (c) if he is not qualified to be an elector under the Azad Jammu and Kashmir Basic Democracies Act, 1960:
- Provided that a person shall not be disqualified for being elected as the Chairman merely by reason of the fact that his name is not entered in the electoral rolls prepared under that Act if he is qualified to be an elector or is a refugee of the State of Jammu and Kashmir residing in Pakistan;
- (d) if he has been convicted of an offence involving moral turpitude.
13. **Chairman to be the ex-officio President:-** The Chairman shall *ex-officio* be the President of the Azad Government of the State of Jammu and Kashmir.
14. **Term of office of Chairman:-** The Chairman shall hold
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office for a period of five years from the date on which he enters upon his office:

Provided that, notwithstanding the expiration of his term, the Chairman shall continue to hold office until his successor enters upon his office.

- ¹[15. **Interim arrangement regarding Chairman in case of casual vacancy:-** Where any casual vacancy occurs in the office of Chairman on account of death, resignation or any other cause, the Chief-Adviser shall forthwith nominate a person to be the Chairman.]
16. **Acting Chairman:-** (1) At any time when the Chairman is absent or is unable to perform the functions of his office due to illness or any other cause, the Chief Adviser shall, in consultation with the State Council, forthwith nominate a ²[person].
(2) The person nominated under sub-section (1) to act as Chairman shall also act as President.
17. **Legislative powers of President:-** The President may, with the concurrence of the Chief Adviser, make laws by means of Ordinances and such Ordinances may be made:
(a) at any time, on a subject on which the State Council cannot make any law; and
(b) during the continuance of a state of emergency or when the State Council is not in session or stands suspended or dissolved, on any other subject.

³[CHAPTER III-A

¹ Subs. by the Azad Jammu and Kashmir Government (Amdt.) Act, 1969 (Act I of 1969) dt.06-10-1969. The original extract of sec. 15 of the Azad Jammu and Kashmir Government Act, 1968 is reproduced as under:

“15. **Interim arrangement regarding Chairman in case of casual vacancy:-** (1) If the office of the Chairman falls vacant during the term of his office on account of death, resignation or any other cause, the Chief Adviser shall:

(a) in consultation with the State Council, forthwith nominate a person from amongst its members qualified to be elected as Chairman to exercise the functions of the Chairman until the newly elected Chairman enters upon his office ; and

(b) within eight weeks of the occurrence of such vacancy, make arrangements for holding the election to the office of the Chairman in the prescribed manner: Provided that, before such election is held, a vacancy, if any, in the State Council shall be filled in the prescribed manner.

(2) A person elected to fill a casual vacancy in the office of Chairman shall hold office during the unexpired period of the term of his predecessor.”

² In sub-section (1) of sec.16 for the words ' member of the State Council qualified to be elected as Chairman subs. by 'the word ' person ' occurring at the end of subsec. (1) of sec. 16 by the Azad Jammu and Kashmir Government (Amdt.) Act, 1969 (Act I of 1969) dt.06-10-1969..

³ Subs. by Ibid.The original extract of sec. 18 of the Azad Jammu and Kashmir Government Act, 1968 is reproduced as under:

“18. **Relinquishment of office by Chairman:-** (1) If not less than four members of the State Council give fifteen days notice to the Secretary of the State Council of a resolution for a vote of non-confidence in the Chairman, the Secretary shall, as soon as may be, convene a meeting of the Council.

Ministers

18. *Appointment of Minister.*—(1) The President may, if he thinks fit, appoint such number of Ministers as he may consider necessary to assist him in the performance of his functions under this Act.
- (2) A Minister shall hold office during the pleasure of the President.]

CHAPTER IV

EMERGENCY PROVISION

19. **State of emergency:-** (1) Where the Chief Adviser is of opinion that a State of emergency exists in the territories of Azad Jammu and Kashmir, he may, notwithstanding anything contained in this Act:
- (a) notify the Government that a State of emergency exists ;
 - (b) suspend or dissolve the State Council and appoint a person to act as President until the revival or reconstitution of the State Council after the termination of the State of emergency; and
 - (c) if he does not suspend or dissolve the State Council, may appoint a person to act as President, in which case the Chairman of the State Council shall cease, to be the *ex-officio* President.
- (2) Where the Chief Adviser is of opinion that the state of emergency no longer exists, he may notify the Government that the state of emergency has terminated.
- (3) Upon the termination of the state of emergency, the State Council shall, if it was suspended, stand revived and continue until the unexpired period of its term or, if it was dissolved, be reconstituted and a Chairman thereof elected in accordance with the provisions of this Act.

CHAPTER V

MISCELLANEOUS

20. **Oath of office:-** Every person elected or nominated as a member of the State Council, a person elected ¹[or

(2) A meeting convened under sub-section (1) shall not be presided over by the Chairman but by a member of the State Council elected for the purpose by the members present.

(3) No resolution under sub-section (1) shall be moved in the State Council except with the previous approval in writing of the Chief Adviser.

(4) If in a meeting considering a resolution under sub-section (1) at least nine members subscribed to the resolution, the Chairman shall forthwith cease to hold office.

(5) The Chairman shall have a right to appear before the State Council during the consideration of the resolution under sub-section (1) but shall not vote at the meeting considering such resolution."

¹ Ins by Ibid.

nominated'] as Chairman and a person appointed under section 19 to act as President, shall, before he enters upon his office, make or subscribe to an oath prescribed in this behalf.

¹[***]

22. **Rules under any law not to have effect without approval:-** No rules made under any law shall, notwithstanding anything contained in such law, have effect unless they have been ²[made after obtaining the advice in writing of] by the Chief Adviser.

³[22-A. **Chief Adviser to be informed of certain cases:-** The President shall inform the Chief Adviser of every case which is required to be referred to the Public Service Commission but in which the advice of the Commission has not been obtained or has not been accepted.]

23. **Power to make rules:-** The Chief Adviser may make rules for carrying out the purpose of this Act.

24. **Continuance of existing laws:-** Subject to the provisions of this Act, all existing laws shall, with necessary adaptations, continue in force until altered, repealed or amended.

25. **Repeal:-** (1) The Azad Jammu and Kashmir Government Act, 1964, hereinafter referred to as the said Act, together with the Act amending it and the rules made thereunder, is hereby repealed.

(2) Notwithstanding the repeal under sub-section (1), the State Council which, immediately before the commencement of this Act, was functioning as the State Council of Azad Jammu and Kashmir, and any person who, immediately before such commencement, was holding office as the Chairman of that Council under the said Act, shall, until the State Council is constituted and its Chairman is elected in accordance with the provisions of this Act, exercise the powers and perform the functions under this Act respectively of the State Council and its Chairman.

¹ Omitted by Ibid. The original extract of sec.21 of the Azad Jammu and Kashmir Government Act, 1968 is reproduced as under

“21. **Elections under the Act not to be questioned:-** Notwithstanding anything contained in any other law for the time being in force, the election of a member of the State Council or of the Chairman shall not be called in question in any court or before any tribunal or authority by any means whatsoever.”

² In section 22, for the words and commas 'previously approved, with or without modification' subs. by the Words 'made after obtaining the advice in writing of' by the Azad Jammu and Kashmir Government (Amdt.) Act, 1969 (Act I of 1969) dt.06-10-1969.

³ Ins by Ibid.