

THE AZAD JAMMU AND KASHMIR GOVERNMENT ACT, 1970

(Act I of 1970)

(Passed under Government Order No. Admin\15132-78\SS\70, dated 5th September, 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;

It is hereby enacted as follows ;

1. **Short title and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Government Act, 1970;
(2) It shall come into force at once.
2. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context:-
 - (a) "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 ¹[and such other territories as may hereafter come under its administration]
 - (b) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (c) "Prescribed" means ²[as prescribed by law and rules made thereunder] made under this Act.
 - (d) "State Subject" means a person who is a "State subject" as denned in the late Government of the State of Jammu and Kashmir Notification No. I-

¹ The semi-colon occurring at the end of sec.2(a) omitted and thereafter following words ins.by the Azad Jammu and Kashmir Government (Amdt). Act, 1971 (Act IX of 1971).

"and such other territories as may hereafter come under its administration"

² In Section 2 (c) of the Government Act, 1970, the words "prescribed by rules made under this Act" shall be omitted and the words "as prescribed by law and rules made thereunder" subs.by the Azad Jammu and Kashmir Government (Amdt). Act, 1971 (Act IX of 1971).

L/84, dated the 20th April, 1927.

3. **President:-** (1) There shall be a President of Azad Jammu and Kashmir, hereinafter called the President, who shall be elected directly on the basis of adult franchise ¹[by State Subjects living in Azad Kashmir and Pakistan] in such manner as may be prescribed.
- (2) The election to the office of the President shall be conducted under the control and supervision of the 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 any 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 ; ²[**]
 - (c) his name appears on the electoral roll prepared for the election of the members of the legislative Assembly ³]; and]
- ⁴[(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 four 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.
- ⁵[(6) Before he enters upon his office the President shall make before the Chief Justice of the High Court an oath in such form set out in First Schedule as is applicable to his office:
- Provided that this provision will not apply to a person acting as President:
- Provided further that the oath made under the provisions of the Azad Jammu and Kashmir Oath of Offices Ordinance, 1970 shall be deemed to have been made under this Act.

¹ Ins. By Ibid.

² In clause (b) of sub-section (4) the word "and" occurring after the semi-colon omitted by Ibid.

³ in clause (c) of sub-section (4) of sec.3 the full stop after the word "Assembly" subs. by a semicolon and the word "and" add. after the semi-colon by Ibid.

⁴ Ins.by Ibid.

⁵ Add. by Ibid.

(7) A 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.]

4. **Removal of President:-** (1) If one-third of the total number of members of the Legislative 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 Legislative Assembly among 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 Legislative Assembly by the votes of not less than two-third of the total number of members of the Assembly, the President shall forthwith cease to hold office.

¹[5. (1) At any time when:

- (a) the office of President is vacant; or
- (b) the president is unable to perform the functions of his office due to absence, illness or any other cause the Speaker of the Legislative Assembly or in his absence the Chief Justice of the High Court of Azad Jammu and Kashmir shall act as President and except as provided in sub-section (2) of this Section shall perform the functions of the President.

(2) A person acting as President ;

- (a) shall not dissolve the Legislative Assembly ; and
- (b) unless the office of the President is vacant shall not remove or appoint a Minister from office.]

6. **Casual vacancy of the office of President:-** Where the office of President falls vacant due to death, resignation or any other cause ²[or in his absence the Speaker of the

¹ Subs. by Ibid. The original extract of sec.5 of the Azad Jammu and Kashmir Government Act, 1970 is reproduced as under:

"5. **Acting President:-** At any time when the President is absent or is unable to perform the functions of his office due to illness or any other cause, the Chief Justice of the High Court of Azad Jammu and Kashmir shall act as President until the President resumes his office."

² In Section 6 of Government Act, 1970, between the word and comma "cause" and "the" the words "Speaker of the Legislative Assembly or in his "absence" ins. By Ibid.

Legislative Assembly] of Azad Jammu and Kashmir shall:

- (a) Perform the functions of the 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.

¹ ["6-A. President's power of pardon and reprieve.

The President has powers to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any court, tribunal or any other authority."]

- 7. **Adviser:-** There shall be an Adviser to the Government who shall be appointed by the President with the approval of the Government of Pakistan.
- 8. **Plebiscite Adviser:-** The President may, after consultation with the Adviser, appoint a Plebiscite Adviser to advise Government in relation to the holding of a plebiscite in the State, of Jammu and Kashmir in terms of the UNCIP Resolutions.
- 9. **Council of Ministers:-** (1) There shall be a President's Council of Ministers to be known as the Council of Ministers consisting of three members to be appointed by the President in such manner as may be prescribed:

Provided that, when a Plebiscite Adviser is appointed, he shall be an additional member of the Council of Ministers.

(2) If a member of the Legislative Assembly is appointed as a member of the Council of Ministers, he shall cease to be a member of the Assembly on the day he assumes office as Minister.

² [(3) The Ministers shall be appointed by the president from amongst persons qualified to be elected as members of the Legislative Assembly and shall hold office during his pleasure.]

- 10. **General Powers and duties of the President:-** (1) The superintendence, direction and control of the Government shall be vested in the President, acting with the aid and advice of his Council of Ministers.
- (2) All orders of the Government shall be expressed to be made by the President.
- (3) The President may issue general instructions for the convenient transaction of business by the Council of

¹ Ins by Ibid.

² Ins by Ibid.

Ministers and the government and every order made or act done in accordance with such instructions shall be treated as the order or act of the President,

11. **Extent of executive authority:-** The executive authority of the Government shall extend to all matters with respect to which the Legislative Assembly has power to make laws.
12. **Meeting of the Council of Ministers:-** (1) The Council of the Ministers shall meet at such times and at such places as the President may appoint.

(2) The Council of Ministers may function notwithstanding the, absence or any vacancy in the office, of any one of its members.

(3) The meetings of the Council of Ministers shall be conducted, and decisions thereat shall be taken, in such manner as may be prescribed ¹[by president].
13. **Restrictions on the exercise of powers of the President:-** (1) The powers of the President shall be so exercised as not to impede or prejudice :

(a) the responsibilities of the Government of Pakistan under the UNCIP Resolutions; and

(b) the responsibilities of Pakistan for the defence and security of Azad Jammu and Kashmir.

(2) The President shall maintain liaison through the Adviser with the Government of Pakistan with respect to all matters mentioned in sub-section (1).
14. **Legislative Assembly:-** (1) The legislature of Azad Jammu and Kashmir shall consist of the President and a Legislative Assembly consisting of twenty-five members of whom :-

(a) twenty-four shall be elected directly, on the basis of adult franchise; and

(b) one, who shall be a woman, shall be elected, by the directly elected members.

(2) The manner of election of the members of the Legislative Assembly, ²[***] and the manner of filling casual vacancies shall be such as may be prescribed.

(3) Every Legislative Assembly, unless sooner dissolved, shall continue for four years from the date

¹ In sub-section (3) of Section 12 of the Government Act, 1970, the "full stop" after the word "prescribed" omitted and the words "by the President" add. by Ibid.

² In sub- section (2) of Section 14 of the Government Act, 1970, the words "their qualifications and disqualifications for being such members, the number of members required to constitute the quorum" occurring after the word "Assembly" omitted by Ibid.

appointed for their first meeting and no longer, and the expiration of the said period of four years shall operate as a dissolution of the Assembly.

¹[¹14-A **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 such form set out in the First Schedule as is applicable to a Member of the Assembly:

Provided that an oath made under the provisions or the Azad Jammu and Kashmir Oath of Offices Ordinance, 1970 shall be deemed to have been made under this Act.

(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 Azad Jammu and Kashmir Government recoverable as arrears of land revenue."]

²[14-B. 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 as defined in the late Government of the State of Jammu and Kashmir Notification No. 1-L/84 dated the 20th of April, 1927;
- (b) he is not less than 25 years of age; and
- (c) his name appears on the electoral roll of any constituency in Azad Jammu and Kashmir territory or 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 undischarged insolvent unless a period of 10 years has elapsed since his being adjudged as insolvent ; or

¹ Ins by Ibid.

² Ins by Ibid.

- (c) he has been on conviction for any offence sentenced to transportation or any term of imprisonment for a term of not less than two years unless a period of 5 years has elapsed since his release ; or
- (d) he holds any office of profit in the service of Azad Jammu and Kashmir or in Pakistan other than an office which is not a whole time office remunerated either by salary or by fee other than the 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 years 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.

"14-C. Seat in Assembly becomes vacant under certain circumstances.

- (1) The seat of a member of the Legislative Assembly shall become vacant if:
 - (a) he resigns his seat by notice in writing under his hand addressed to the Speaker of the Assembly 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 30 consecutive sitting days of legislative Assembly; or
 - (c) he fails to make the oath referred to in section 14-A within a period of 90 days after the date of his election unless the Speaker of the Assembly for good cause shown extends the period ; or
 - (d) he is elected as President; 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 of the Assembly shall refer the question to 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."]

¹[15. (1) The President may address the Legislative Assembly and send messages to the assembly:

(2) A Member of the Council of Ministers and the Advocate-General shall have the right to speak in, and otherwise take part, the proceedings of the Legislative Assembly, or of any of its Committees, but shall not have the right to vote.]

16. **Meeting of the Legislative Assembly:-** (1) The Legislative 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.

(2) Any meeting of the Legislative Assembly may be adjourned by the Speaker of the Assembly or other person presiding thereat 2["except when the Assembly has been summoned by the Speaker."

(1) Add to Section 16 of the Jammu and Kashmir Act, 1970 a sub-section (3) as follows:-

"(3) There shall be at least two sessions of the Legislative Assembly every year, and six months, shall not intervene between the last sitting of the Assembly in one session and its first sitting in the

¹ Subs. by Ibid. The Original extract of sec.15 of The Azad Jammu And Kashmir Government Act, 1970 is reproduced as under:

"15. **Right of Ministers to take part in Assembly proceedings:-** A member of the Council of Ministers shall have the right to speak in, and otherwise take part in, the proceedings of, the Legislative Assembly or of any of its committees but shall not be entitled to vote"

² In sub-section (2) of section 16 of the Government Act, 1970 'full stop' after the word 'Assembly' omitted and the following words add. by Ibid.

""except when the Assembly has been summoned by the Speaker."

(1) Add to Section 16 of the Jammu and Kashmir Act, 1970 a sub-section (3) as follows:-

"(3) There shall be at least two sessions of the Legislative Assembly every year, and six months, shall not intervene between the last sitting of the Assembly in one session and its first sitting in the next session."

next session."]

17. **Dissolution of Legislative Assembly:-** (1) If at any time the President is satisfied that a situation has arisen in which the administration cannot be carried on in accordance with the provisions of this Act, he may, after consultation with the adviser, dissolve the Assembly¹["Provided that the President shall not dissolve the Assembly if a notice of a resolution is given under Section 4 of this Act before the resolution has been voted upon by the Assembly."]

(2) Where the Legislative Assembly is dissolved under sub-section (1), the President shall cause fresh election to the Legislative Assembly to be held within a period of four months from the date of the dissolution.

18. **Speaker of the Legislative Assembly:-** (1) The members of the Legislative Assembly shall, at its first meeting or as soon thereafter as may be, elect from amongst their number of Speaker of the Assembly.

2["(1-A) A member of the Assembly so elected as Speaker of the Assembly shall make an oath as is prescribed in such form set out in the First Schedule as is applicable to his office before such person as is prescribed by Rules of Procedure of the Legislative Assembly;

Provided that the oath made under the Azad Jammu and Kashmir oath of offices ordinance, 1970, shall be deemed to have been made under this Act."]

(2) All proceedings of the Legislative Assembly shall be conducted in accordance with Rules of Procedure made by the Assembly and approved by the President.

(3) The Speaker of the Legislative Assembly 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 thereat.

³[(4) so often as the office of the Speaker of the Assembly becomes vacant the Assembly shall again choose a member to fill the Office.

(5) The Speaker of the Assembly may resign his office

¹ The full stop occurring at the end of subsec.(1) of sec. 17 omitted by ibid and thereafter following proviso add. by ibid.

"Provided that the President shall not dissolve the Assembly if a notice of a resolution is given under Section 4 of this Act before the resolution has been voted upon by the Assembly."

² Ins by Ibid.

³ 3 Ins by Ibid.

by writing under his hand addressed to the President.

(6) the office of the Speaker of the Assembly shall become vacant, if:

- (a) except as provided in sub-section (7) of this section 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 7 days notice by not less than 6 members has been given) passed by a majority of the total of the votes.]

(7) At the time of codifying the Law it was found that sub- section (7) of Section 15 was not incorporated in Government (Amendment) Act 1971 (Act IX of 1971).

¹[18-A. 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 members 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; and
- (b) the Assembly may act notwithstanding any vacancy in its membership.

(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 10 members are present, it shall be the duty of the person presiding either to adjourn the meeting or to suspend the meeting until 10 members are present.]

19. **Legislative Powers:-** (1) Subject to the provisions of sub-section (3), the Legislative Assembly has power to make laws :

- (a) for the territories of Azad Jammu and Kashmir;
- (b) for all State Subjects wherever they may be;
- (c) for all officers of the Government wherever they may be ;
- (d) for repealing or altering any laws which at the commencement of this Act, are in force in Azad Jammu and Kashmir.

¹ Ins by Ibid.

(2) 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 Legislative Assembly.

(3) The Legislative Assembly shall not have the power to. make any law concerning:

- (a) the responsibilities of the Government of Pakistan under the UNCIP Resolution;
- (b) the defence, and security of Azad Jammu and Kashmir; or
- (c) the current coin or the issue of any bills, notes or other paper currency.

(4) The provisions this Act, except sections 13, 19 and 28, may be amended by an Act of the Legislative Assembly :

Provided that a Bill to amend this Act shall not be presented to the President unless it has been passed by the votes of not less than two-thirds of the total number of members of the Legislative Assembly.

¹[19-A. A General provisions regarding Assembly:- (1) The validity of any proceedings in the Assembly shall not be questioned in any Court.

- (2) An Officer or member of an authority in whom powers are vested for the regulations of proceedings, the conduct of persons or maintaining of order in the Assembly 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 Assembly 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 Assembly or in any Committee of the Assembly.
- (4) A person shall not be liable to any proceedings in any Court in respect of publication by or under the authority of the Assembly of any report, paper, vote or proceedings.
- (5) No process issued by a Court or other authority shall, except with the leave of the Speaker of the Assembly be served or executed within the precincts of the place

¹ Ins. By Ibid.

where a meeting of the Assembly is being held.

- (6) Subject to this Section, the privileges of an Assembly of the Committees and Members of an Assembly and of the person entitled to speak in the Assembly may be determined by law.]

20. **President's assent to Bills:-** (1) When a Bill has been passed by the Assembly it shall be presented to the President, who shall, within thirty days:

- (a) assent to the Bill; or
- (b) declare that he withholds assent therefrom; or
- (c) return the Bill to the Assembly with a message requesting that the Bill, or any specified provision thereof, be reconsidered, and that any amendments specified by him in the message be considered.

(2) When the President has declared that he withholds assent from a Bill or has returned a Bill to the Assembly, the Assembly shall reconsider the Bill, and if it is again passed, with or without amendment by the Assembly, by the votes of not less than two-thirds of the number of members present and voting, it shall be again presented to the President, and the President shall assent thereto.

21. **Budget:-** (1) The President shall, in respect of every financial year, cause to be laid before the Legislative 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 Legislative 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 any demand 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 Legislative Assembly shall be placed before the President who shall, by his signature, authenticate it.

(5) The President may, if necessary, also cause Supplementary Budget to be laid before the Legislative Assembly in respect of any financial year and the provisions of this action shall apply to a Supplementary Budget as they apply to the Annual Budget.

22. **Special Powers of the President Pending Budget:-** (1) Where the Legislative Assembly fails to pass the Annual

Budget for any financial year laid before it under sub-section (1) before the commencement of that year, with or without any reduction of the amount specified therein, the President may, by his signature, authenticate the Annual Budget as laid before the Assembly.

(2) Where the Annual Budget for any financial year cannot be passed by the Legislative 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.

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

23. **Restriction on expenditure:-** (1) No expenditure shall be incurred by the Government except as authorised by the Annual or Supplementary Budget as passed by the Legislative Assembly.

(2) No expenditure on such major development activities as may be specified by the Adviser shall be incurred except with the approval of the Adviser.

24. **Power to make Ordinance:-** The President may, in the case of emergency, make and promulgate Ordinances for the peace and good government of Azad Jammu and Kashmir and an Ordinance so made shall for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Legislative Assembly but the power of making an Ordinance under this section is subject to the like restrictions as the power of the Legislative Assembly to make laws ; and any Ordinance made under this section may be controlled or superseded by an Act of the Legislative Assembly.

- ¹[24-A. **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.]

25. **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 Legislative Assembly.

(2) ²[***] The High Court functioning immediately before

¹ Ins. By Ibid.

² In sub-section (2) of Section 25 of the Government Act, 1970 the words "until

the commencement of this Act shall be the High Court of Azad Jammu and Kashmir.

(3) 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.

¹[(4) Chief Justice and the 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 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 three years shall have been as District and Sessions Judge.

(5) Before he enters upon his office, the Chief Justice of the High Court shall make such oath before the President and another Judge of the High Court shall make before the Chief Justice an oath in such form set out in first Schedule as is applicable to his office.

(6) The Chief Justice or a Judge of the High Court shall hold office until he or they attains the age of 60 years unless he or they sooner resigns or are removed from office in accordance with law:

Provided that the President may appoint a Retired judge of any High Court of Pakistan to be Chief Justice or a Judge of Azad Jammu and Kashmir High Court for a period not exceeding 3 years and such person will hold office till he attains the age of 65 years:

Provided that the Chief Justice of the High Court holding office at the time of the promulgation of this Act shall retire at the age of 65 years.

(7) If at any time any Judge of the High Court is absent or is unable to perform the functions of his office due to illness or some other cause the President may

otherwise provided by an Act, of legislative Assembly" occurring before the words
the 'High Court' omitted by Ibid.

¹ Ins by Ibid

appoint a person qualified for appointment as a Judge of the High Court to be an Additional Judge of the High Court for the purpose or period for which the Judge is absent or unable to perform his functions.

- (8) A Judge of the High Court shall not:
- (a) hold any other office of profit in the Government if his remuneration is thereby increased ; or
 - (b) occupy any other position carrying the right to remuneration for the rendering of service, but this clause shall not be construed as preventing a Judge from holding or managing private property; or
 - (c) a person who has held office as a Judge of the High Court shall not hold any office of profit in the Government before the expiration of two years after he ceased to hold that office.]

¹**[25-A-Writ Petitions.**

- (1) The High Court shall have 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 aggrieved party make an order:
 - (i) directing a person performing functions in connection with the affairs of the Azad Jammu and Kashmir or 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 by local authority has been done or taken without lawful authority, and no legal

¹ Ins. By Ibid.

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 Government or authority or any person 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:

- (a) on application made by or in relation to a person in the Defense 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 Defense Services.
- (4) Where:
- (a) application is made to the High Court for an order under Clause (a) or Clause (c) of this Section; and
 - (b) the Court has any reason to believe that the making of an interim order would have the effect of prejudicing or interfering with the carrying out of a public work or of 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 authorized 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 paragraph (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 Government and any Court or tribunal, other than the Judicial Board or High Court or a Court of tribunal established under law relating to Defense Services.]

¹[**25-B- Fundamental Rights.**

(1) Any law or any custom or usage having the force of law in so far as it is inconsistent with 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 Defense Service 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 persons:-** 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

¹ Ins. Ibid.

arrest, nor shall he be denied the right to consult and be defended by a local 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 Magistrate.

(3) Nothing in sub paragraph (i) and (ii) 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 authorize 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 territory of slavery in any form.

(2) All forms of forced labour are prohibited.

(3) Nothing in this paragraph shall be deemed to effect compulsory service:

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

(b) required by any law for public purposes.

4. **Protection against retrospective punishment:-** No law shall authorize 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 citizen 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 citizen 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:-** Subject to this Act, every citizen 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.

8. **Freedom of trade, business or profession:-** Every citizen, 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 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 citizen 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 citizen has the right to profess and practice his religion ; and
- (b) every religious denomination and every sect thereof has the right to establish, maintain thereof has the right to establish, maintain and manage its places of worship:

Provided that nothing contained in (a) and (b) above 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 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 instruction, 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 citizen 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 State 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 socially or educationally backward class of citizens.

13. **Provision as to property:-** Subject to any reasonable restrictions imposed by

law in the public interest, every citizen shall have right to acquire, hold and dispose of property.

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

No property shall be compulsorily acquired or taken possession of sale for a public purpose, and sale 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.

- (2) 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 State 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 the Azad Jammu and Kashmir Government (Amendment) Act, 1971.

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 citizens:-** All citizens 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 citizen 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 citizen otherwise qualified for appointment in the service 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 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:]

¹[**25-C Contempt of Court.**

1. In this Section Court means and includes the Judicial Board and the High Court.
2. A Court shall have powers 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 the 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 court by this Section may be regulated by law and, subject to law,

¹ Ins. By Ibid.

by rules made by the court.]

¹[25-D High Court to superintend and control all Courts subordinate to it.

1. The Azad Jammu and Kashmir High Court shall superintend and control all other courts that are subordinate to it.
2. There shall in addition to the 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 and shall not have any jurisdiction which is not conferred on it by this Act or by or under any other law.]

26. **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 functions as may be prescribed.

(1) 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.

²[26-A The services:

1. Subject to this Act, the appointment of persons to, and the terms and conditions of service of person in the service of Azad Jammu and Kashmir may be regulated by law.
2. Subject to this Act, person who is a member of any service or who holds the 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) of this Section, 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

¹ Ins. By Ibid.

² Ins. By Ibid.

with respect to him.

3. Clause (b) of sub-Section (2) of this section 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 ;
 - 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 the Azad Jammu and Kashmir for the person to be given such an opportunity.]
27. **Election Commissioner:-** (1) There shall be an Election Commissioner appointed by the President on such terms and conditions as may be prescribed.

(2) The person appointed as Election Commissioner under the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970, and functioning as such immediately before the commencement of this Act shall be deemed to have been appointed as Election Commissioner under sub-section (1) on the same terms and conditions of service as were applicable to him immediately before such commencement.
28. **Act not to derogate from the 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.
29. **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 Legislative Assembly or other appropriate authority.
30. **Power to make rules:-** The President may make rules for carrying out the purposes of this Act.
31. **Repeal and Savings:-** (1) The Azad Jammu and Kashmir Government Act, 1968 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 State Council shall apply for the purposes of the first election of the Legislative Assembly provided for in this Act, reference in those provisions to State Council being construed as reference to Legislative Assembly; and
 - (b) the person, who, immediately before the commencement of this Act, was holding the office of President of Azad Jammu and Kashmir, and the State Council, which, immediately before such commencement, was functioning as the State Council of Azad Kashmir, shall, until the President is elected and the Legislative Assembly is constituted in accordance with the provisions of this Act, exercise the powers and perform the functions under this Act respectively of the President and the Legislative Assembly.

¹[32] General provision 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 of 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 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 60 days before the proceedings are instituted notice in writing has been delivered to him, or sent to him, stating nature of the proceeding, the cause of action, the names, description and place of residence of the party by whom the proceedings are to be instituted and the relief which he claims.

¹ Add. by Ibid.

(4) Except in relation to proceedings referred to in sub-section (2) of this Section, 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 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. Sub-section (1) of this Section shall not be construed as restricting the right of any person to bring appropriate proceedings against the Government.

(6) The Ministers and the Advocate-General shall hold office during the pleasure of the president and may resign office by writing under his hand addressed to the President".

33. Subject to this Act, 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.

34. 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.

Law shall be framed prescribing punishment or penalty for bringing into contempt the basic tenets of Islam.

35. The provisions of this Act shall over-ride and have effect notwithstanding, the provision of any law for the time being in force or which might come into force at any time subsequent to the promulgation of this Act.]

¹[36: Power of Proclamation:- (1) If the President is satisfied that grave emergency exists in which the security of Azad Jammu and Kashmir Territory is threatened by war or external aggression or by internal disturbance, he may issue a proclamation of emergency.

(2) A proclamation shall be laid before the legislative Assembly as soon as conditions make it practicable for the President to summon that Assembly, and if approved by the Assembly, shall

¹ Add. by the Azad Jammu and Kashmir Government (2nd Amdt.) Act, 1971 (Act XXII of 1971).

remain in force until it is revoked or if disapproved, shall cease to operate from the date of disapproval.

(3) A proclamation declaring that the security of Azad Jammu and Kashmir Territory is threatened by war or external aggression may be made before the actual occurrence of war or any other aggression if the President is satisfied that there is imminent danger thereof.

37. (1) While a proclamation issued under Section 36 is in operation, the President may, by order, declare that right to move any Court for the enforcement of such of the rights conferred under Section 25-A sub-section (2) clause (b) and Section 25-B, as may be specified in the order, and all such 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 section 37 shall, as soon as may be laid before the Assembly.

38. (1) The proclamation issued under Section 36 may be varied or revoked by a subsequent proclamation.

(2) The validity of and proclamation issued or order made under Section 36, Section 37 and Section 38 shall not be questioned in any Court.

No. 4815/SL/71 Dated December 14, 1971.]

¹[THE FIRST SCHEDULE

OATH OF OFFICE PRESIDENT

I,.....having being
elected as President of Azad Jammu and Kashmir do hereby
solemnly swear in the name of Allah;

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 :

¹ Add. by the Azad Jammu and Kashmir Government (Amdt). Act,
1971 (Act IX of 1971).

¹[MINISTER

I.....having being
appointed as a Minister of President's Council of Ministers
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 member of president's
Council of Ministers 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 of the Azad Jammu and Kashmir ;

So help me Allah;]

²[SPEAKER OF LEGISLATIVE ASSEMBLY

I, having being
elected 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;]

³ [MEMBER OF LEGISLATIVE ASSEMBLY

Ihaving been
elected as member of the 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 Member of the
Legislative Assembly honestly and faithfully;

1 Add. by Ibid.

2 Add. by Ibid.

3 Add. by Ibid.

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

So help me Allah;]

¹[OATH OF CHIEF JUSTICE/JUDGE HIGH COURT

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 in force in the Azad Jammu and Kashmir State without fear or favour, affection or ill will.

SECOND SCHEDULE

Section II

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.

The above Bill was passed by the Legislative Assembly of Azad Jammu and Kashmir on the day of June 24, 1971.]

(Repealed by Act XVIII of 2020)

¹ Add. by Ibid.