

**THE AZAD KASHMIR PREVENTION OF CORRUPTION ACT,
1950.**

Whereas it is expedient to make more effective provisions for the prevention of bribery and corruption;

It is hereby enacted as follows:-

1. (i) This Act may be called the Azad Kashmir Prevention of Corruption Act, 1950.
(ii) It extends to the whole of Azad Kashmir Territory and to all servants of the Azad Kashmir Government.
2. For the purposes of this Act, 'public servant' means a public servant as defined in section 21 of the Azad Kashmir Penal Code.
3. An offence punishable under section 161 and 165 of the Azad Kashmir Penal Code shall be deemed to be a cognisable offence for the purposes of Criminal Procedure Code, notwithstanding anything to the contrary contained therein¹[.]

²[Provided that a Police-officer below the rank of Assistant Superintendent of Police shall not investigate any such offence or take proceedings for the arrest of a person accused of such offence without the order of a Superintendent of Police.]

4. Where in any trial of an offence punishable under section 16 or Section 165 of the Azad Kashmir Penal Code it is proved that the accused person has accepted or obtained or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification other than legal remuneration, or any valuable thing from any person, it shall be presumed that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification, or that valuable thing as the case may be as a motive or reward such as is mentioned in Section 161, or, as the case may be without consideration or for a consideration which he knows to be inadequate ;

¹The colon at the end of sec.3 subs. by a full stop by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1956 dt. 17-5-1956.

²Omitted by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1956 dt. 17-5-1956. The original extract of sec.3 of Azad Jammu & Kashmir Prevention of Corruption Act, 1950 is reproduced as under:-

“3-An offence punishable under section 161 and 165 of the Azad Kashmir Penal Code shall be deemed to be a cognisable offence for the purposes of Criminal Procedure Code, notwithstanding anything to the contrary contained therein;

Provided that a Police-officer below the rank of Assistant Superintendent of Police shall not investigate any such offence or take proceedings for the arrest of a person accused of such offence without the order of a Superintendent of Police.”

Provided that the Court may decline to draw such presumption if the gratification or thing aforesaid, is in its opinion, so trivial that no inference of Corruption may fairly be drawn.

5. (1) A public servant is said to commit the offence of Criminal misconduct.
 - (a) If he accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification (other than legal remuneration) as a motive or reward such is mentioned in section 161 of the Azad Kashmir Penal Code ; or
 - (b) if he accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or
 - (c) if he dishonestly or fraudulently misappropriate or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or
 - (d) if he, by corrupt or illegal means or by otherwise abusing his position as a public servant obtains for himself or for any other person any valuable thing or pecuniary advantage.
- (1) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.
- (2) In any trial of an offence punishable under subsection.
- (3) the fact that the accused person or any other person on his behalf, is in possession for which the accused person cannot satisfactorily account of pecuniary resources or property disproportionate to his known sources of income may be proved and on such proof the Court shall presume unless the contrary is proved that the accused person is guilty of criminal misconduct and his conviction, therefore, shall not be invalid by reason that it is based solely on such presumption.

¹[(4) The provisions of this section shall in addition to and not in derogation of any other law for the time being in force and nothing contained herein shall exempt any public servant from any proceedings which might, apart from this section, be instituted against him.]

²[5-A "Notwithstanding anything contained to the contrary in the Code of Criminal Procedure, no officer below the rank of an Inspector of Police shall investigate any offence punishable under any of the sections of the Azad Kashmir Penal Code mentioned in section 3 or any offence punishable under section 5 without an order of a Superintendent of Police or a Magistrate of the First Class nor make an arrest without such order or warrant as the case may be :

Provided that an officer of the Anticorruption Department not below the rank of a Sub-Inspector who is generally or specially authorised in this behalf by the Assistant Inspector General of Police, anti-Corruption or by the Inspector General of Police, may, if he has reason to believe that on account of the delay involved in obtaining the order of a Magistrate of the First Class or a Superintendent of Police, any valuable evidence relating to such offence is likely to be destroyed or concealed, investigate the offence without such order but in every case where he makes such investigation he shall, as soon as may be, send a report of the same to a Magistrate of the First Class or to the Superintendent of Police together with the circumstances in which the investigation was made."]

³[5-B. *Declaration of Assets:-* (1) When the Government, on receipt of information and after making such enquiries as it may deem necessary, is satisfied that there is reason to believe that any public servant or any other person on his behalf is in possession of pecuniary resources or property disproportionate to the known sources of income of such public servant it may, by order, require such public servant or other person to furnish in the prescribed manner and within the prescribed time a statement of his property and liabilities and such information relating thereto as may be required by the order.

(2) If such public servant or person:-

¹ Subs. by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1956 dt. 17-5-1956. The original extract of subsec.4 of sec.5 of Azad Jammu & Kashmir Prevention of Corruption Act, 1950 is reproduced as under:-

"4- Notwithstanding anything contained in the Code of Criminal Procedure, a Police Officer below the rank of Assistant Superintendent of Police shall not investigate any offence punishable under sub-section (2) or take proceedings for the arrest of a person accused of such offence without the order of the Superintendent of Police."

²Add. by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1956 dt. 17-5-1956.

³Ins. by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1965 (Act II of 1965) dt. 07-04-1965.

- (a) upon being so required by an order under sub-section (1) fails to furnish the statement or information or furnishes a statement or information which, he knows or has reasonable cause to believe to be false or not true in any material particular, or
- (b) makes in any book, account, record, declaration, return or other document, which he is required by an order under subsection (1) to furnish, any statement which he knows or has reasonable cause to believe to be false or not true in any material particular, he shall be punishable with imprisonment for a term, which may extend to three years and shall also be liable to fine.]

¹[5-C. *Possession of property disproportionate to known sources of income:-* (1) Any public servant who has in his possession any property, movable or immovable, either in his own name or in the name of any other person, which there is reason to believe to have been acquired by improper means and which is proved to be disproportionate to the known sources, of income of such public servant shall, if he fails to account for such possession to the satisfaction of the Court trying him, be punishable with imprisonment for a term which may extend to seven years and with fine, and on such conviction the property found to be disproportionate to the known source of income of the accused by the Court shall be forfeited to the Government.

(2) The reference in sub-section (1) to property acquired by improper means shall be construed as a reference to property acquired by means which are contrary to law or to any rule or instrument having the force of law or by coercion, undue influence, fraud or misrepresentation within the meaning of the Contract Act'.]

²[***]

7. Any person charged with an offence punishable under section 161 or 165 of the Azad Kashmir Penal Code or under subsection (2) of section 5 of this Act shall be a

¹Ins. by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1965 (Act II of 1965) dt. 07-04-1965.

² Omitted by the Azad Kashmir Prevention of Corruption (Amdt.) Act, 1956 dt. 17-5-1956. The original extract of sec. 6 of Azad Jammu & Kashmir Prevention of Corruption Act, 1950 is reproduced as under:-

"6. No court shall take cognizance of an offence punishable under section 161 or section 165 of the Azad Kashmir Penal Code or under Sub-section (2) of Section 5 of this Act, alleged to have been committed by a public servant except with the previous sanction:-

(a) in the case of a person who is not removable from his office, save by or with the sanction of the Azad Kashmir Government.

(b) in the case of any other person, of the authority competent to remove from office."

competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that:-

- (a) he shall not be called as a witness except on his own request;
- (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial ;
- (c) he shall not be asked and if asked shall not be required to answer any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged or is of bad character, unless:
 - (i) the proof that he has committed or been convicted of such offence is admissible in evidence to show that he is guilty of the offence with which he is charged; or
 - (ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature of conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness the prosecution; or
 - (iii) he has given evidence against any other person charged with the same offence.