

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Dated the 29th June, 1992.

No. 638-42/LD/Leg/92. The following Act of the Assembly received the assent of the President on the 24th June, 1992 is hereby published for general information:-

(Act II of 1992)

AN

ACT

to provide for Law relating to the terms and conditions of the Chief Election Commissioner;

WHEREAS it is expedient to provide for Law relating to the terms and conditions of the Chief Election Commissioner, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title, Extent and Commencement.**- (1) This Act may be called the Chief Election Commissioner (Terms and Conditions) Act, 1992.
(2) It shall come into force at once.
2. **Definitions.**- In the Act unless there is anything repugnant in the subject or context.—
 - ¹[(a) “Act” means the Chief Election Commissioner (Terms and Conditions) Act, 1992.
 - (aa) “Chief Election Commissioner” means the Chief Election Commissioner appointed under Section 50 of the Constitution;]

1 The existing cl. “(a)” renumbered as cl. “(aa)” and before the cl. “(aa)” as re-numbered, a new cl. “(a)” added by the Chief Election Commissioner (Terms and Condition) (Amdt.) Act I of 2016dt. 09.02.2016.

- ¹[(aaa) “Chief Justice” means Chief Justice of Azad Jammu and Kashmir;]
- (b) “Constitution” means the Azad Jammu and Kashmir Interim Constitution Act, 1974;
- ²[(bb) “Council” means Azad Jammu and Kashmir Council;]
- (c) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (d) “High Court” means the Azad Jammu and Kashmir High Court;
- (e) “President” means the President of Azad Jammu and Kashmir;
- (f) “Supreme Court” means the Supreme Court of Azad Jammu and Kashmir.
3. **Chief Election Commissioner.**- ³[(1) There shall be Chief Election Commissioner of Azad Jammu and Kashmir to be appointed by the President on advice of the Council.]
- (2) The person appointed as Chief Election Commissioner and functioning as such immediately before the Commencement of this Act shall be deemed to have been appointed on the same terms and conditions as are hereinafter specified in this Act from such Commencement.

1 After cl. “(aa)”, a new cl.“(aaa)” added by the Chief Election Commissioner (Terms and Condition) (Amdt.) Act I of 2016 dt. 09.02.2016.

2 Cl.“(bb)” added *ibid*.

3 Sub-section (1) of Section 3 substituted by (Amdt.) Act I of 2016 dt. 09.02.2016. The extract of sub-section (1) of Section 3 of Chief Election Commissioner Act II of 1992 dt. 29-6-1992 is reproduced as under:-

“ (1) There shall be a Chief Election Commissioner.”

¹[(3) No person shall be appointed as Chief Election Commissioner unless he has been Judge of Supreme Court or High Court.]

Explanation.- In this sub-section Judge means as Judge of the Supreme Court or the High Court;

Provided that a person who is a Judge of the High Court or Supreme Court is appointed as Chief Election Commissioner he, in addition to his functioning as Chief Election Commissioner ²[shall also] perform the functions of the Judge of that Court.

³[4. The Chief Election Commissioner shall exercise powers and perform such functions as may be prescribed by law.]

4. **Salary allowances and Privileges of Chief Election Commissioner.**- If a person who is a Judge of the High Court or the Supreme Court is appointed as a Chief Election Commissioner, his terms and conditions as to his salary, allowances, privileges and rights in respect of leave of absence shall be the same as are applicable to a Judge of High Court or the Supreme Court, as the case may be:

⁴[Provided that if a retired Judge or a retiring Judge is appointed as Chief Election Commissioner, he

1 Sub-section (3) of Section 3 is subs. by (Amdt.) Act I of 2016 dt. 09.02.2016. The extract of sub-section (3) of Section 3 of Chief Election Commissioner Act II of 1992 dt. 29-6-1992 is reproduced as under:-

“No person shall be appointed to be Chief Election Commissioner unless he is, or has been, a Judge of the Supreme Court or is, or has been a Judge of the High Court.”

2 For the words and comma “may if so required by the President,” the words “ shall also” subs. by the Act XX of 1992 dt. 15-7-1992.

3 In Section 3, after sub-section (3), a new sub-section (4) added by Chief Election Commissioner (Terms and Condition) (Amdt.) Act I of 2016 dt. 09.02.2016.

4 Subs. by the Chief Election Commissioner (Terms and Conditions) Act III of 1995 dt. 27.04.1995. The extract of proviso of

shall be entitled, in addition to his pension, to the same salary, privileges, allowances and rights in respect of leave of absence as are admissible from time to time to Judge of the High Court or Supreme Court, as the case may be.]

5. **Terms of Office of Chief Election Commissioner.**- (1) The Chief Election Commissioner, shall, subject to this Section, hold his Office for a term of ¹[five] years from the day he enters upon his office:

Provided further that a person appointed as Chief Election Commissioner and functioning as such immediately before the Commencement of this Act shall be deemed to have entered upon his office from the Commencement of this Act.

²[(2) The Chief Election Commissioner shall not removed from office except in the manner provided in

Section 4 of Chief Election Commissioner Act II of 1992 dt 29-6-1992 is reproduced as under:-

“Provided that if a retired Judge or a retiring Judge is appointed as Chief Election Commissioner, he shall be entitled, in addition to his pension, to the same salary, privileges, allowances and rights in respect of leave of absence as are admissible to him before retirement”.

- 1 This sec. was amended two times as under:
- A- For the word “five”, the word “three” substituted by the Chief Election Commissioner (Terms and Condition) (Amendment) Act I of 2016 dt. 09.02.2016.
- B- For the word “three”, the word “five” substituted by the Chief Election Commissioner (Terms and Condition) (Amendment) Act, (Act IX of 2019) dt. 09.05.2019.

- 2 Sub-section (2) of Section 5 is Subs. *ibid.* the extract of sub-section (2) of Section 5 of Chief Election Commissioner Act II of 1992 dt 29-6-1992 is reproduced as under:-

“The Chief Election Commissioner shall not be removed from office except in the manner prescribed by law for the removal from office of a Judge of the Supreme Court or the High Court, as the case may be, and in the application of law for the purposes of this Section, any reference in that law, to a Judge shall be construed as a reference to the Chief Election Commissioner.”

Section 42-E of the Constitution for the removal of office of a Judge of High Court or a Judge of Supreme Court, as the case may be, and in the application of the said Section, for the purposes of this Section, any reference in that Section, to a Judge shall be construed as a reference to the Chief Election Commissioner.]

(3) The terms and conditions of the service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment.

(4) The Chief Election Commissioner may, by writing under his hand-addressed to the President, resign his office.

¹**[6. Chief Election Commissioner not to hold office of profit.-** (1) The Chief Election Commissioner shall not,-

(a) hold any office of profit in the service of Azad Jammu and Kashmir; or

(b) occupy any other position carrying the right to remuneration for the rendering of service.

(2) A person who has held office as Chief Election Commissioner shall not hold any office of profit in the service of Azad Jammu and Kashmir before the expiration of two years after he has ceased to hold that office.]

¹**[6-A. Oath of Office.-** Before entering upon office, the Chief Election Commissioner shall make, before the Chief

1 Section 6 is subs. *ibid*. The extract of Section 6 of Chief Election Commissioner Act II of 1992 dt 29-6-1992 is reproduced as under:-

“(1) The President may make such rules as may appear to him to be necessary or expedient for carrying out the purposes of this Act.

(2) Any rule, regulations, orders or instructions in respect of any terms and conditions of service of the Chief Election Commissioner made or issued by the Government and enforced immediately before the commencement of this Act shall be deemed to be made under this Act.”

Justice, oath in the form set out in the Schedule to the Act.

- 6-B. Rules**.- The Government may by notification in the official gazette make rules, if required, for the carrying out the purposes of the Act.
- 6-C. Act to override other laws**.- The provisions of the Act shall have effect notwithstanding anything contained in any other law for the time being in force.
- 6-D. Removal of difficulties**.- If any difficulty arises in giving effect to any provision of the Act, the Government may make such orders, not inconsistent with the provisions of the Act, as may appear to it to be necessary for the purpose of removing the difficulty.]
7. **Repeal**.- The Chief Election Commissioner (Terms and Conditions) Ordinance, 1992 (Ordinance LIV of 1992) is hereby repealed.

Sd/-
(Syed Shakir Shah)
Deputy Secretary Law

1 New Sections 6-A to 6-D added by the Chief Election Commissioner (Terms and Condition) (Amendment) Act, 2016 (I of 2016) dt. 09.02.2016.