

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

Dated the 29th June, 1992.

No. 700-704/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 XIV of 1992)**

**AN**

**ACT**

to provide for the Office of Mohtasib (Ombudsman) in Azad Jammu and Kashmir;

WHEREAS it is expedient to provide for the appointment of Mohtasib (Ombudsman) to diagnose, investigate, redress and rectify the injustice done to a person through maladministration;

It is hereby enacted as follows:-

1. **Short title, Extent and Commencement.**- (1) This Act may be called the Establishment of the Office of Mohtasib (Ombudsman) in Azad Jammu and Kashmir Act, 1992.
  - (2) It extends to the whole of Azad Jammu and Kashmir.
  - (3) It shall come into force at once.
2. **Definitions.**- In this Act, unless there is anything repugnant in the subject or context,-
  - (1) "Agency" means a Secretariat Department, Attached Department Commission or office of the Government or a statutory corporation or other institution established or controlled by the Government but does not include the Supreme Court, the Supreme

Judicial Council, the Shariat Court, High Court, Service Tribunal, any Court or a Judicial Tribunal;

(2) “Government” means the Azad Government of the State of Jammu and Kashmir;

(3) “Maladministration” includes,-

(i) a decision, process, recommendation, act of omission or commission which-

(a) is contrary to law, rules or regulations or a departure from established practice or procedure, unless it is *bona fide* and for valid reasons; or

(b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or

(c) is based on irrelevant grounds; or

(d) involves the exercise of powers, or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and

(ii) neglect, inattention, delay, incompetence, inefficiency and inaptitude, in the administration or discharge of duties and responsibilities;

(4) “Mohtasib” means the Mohtasib (Ombudsman) appointed under Section 3;

(5) “Office” means the office of the Mohtasib;

(6) “Prescribed” means prescribed by rules made under this Act;

(7) “Public servant” means a public servant as defined in Section 21 of the Pakistan Penal Code (Act XLV of 1860) and includes a Minister, Adviser, Parliamentary Secretary and the Chief Executive,

Director or other officer employee or member of an Agency; and

(8) “Staff” means any employee or Commissioner of the Office and includes co-opted members of the staff, consultants, advisers, bailiffs, liaison officer and experts.

3. **Appointment of Mohtasib.**- (1) There shall be a Mohtasib (Ombudsman), who shall be appointed by the President.

(2) Before entering upon office, the Mohtasib shall take an oath before the President in the form set out in the First Schedule.

(3) The Mohtasib shall, in all matters, perform his functions and exercise his powers fairly, honestly, diligently and independently of the Executive; and all executive authorities throughout Azad Jammu and Kashmir shall act in aid of the Mohtasib.

4. **Tenure of the Mohtasib.** – <sup>1</sup>[(1) The Mohtasib shall hold Office for a period of three years and shall not be eligible for any extension of tenure or for re-appointment as Mohtasib under any circumstances.]

(2) The Mohtasib may resign his office by writing under his hand addressed to the President.

5. **Mohtasib not to hold any other office of profit, etc. -**

(1) The Mohtasib shall not

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

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1 Sub-section (1) subs. by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1993 (XXXIII of 1993) dt. 13.09.1993. The extract of sub-section (1) of Section 4 of Act XIV of 1992 dt. 29-6-1992 is as under:-

“(1) The Mohtasib shall hold office for a period as may be determined by the President not exceeding three years and shall not be eligible for any extension of tenure or for re-appointment as Mohtasib under any circumstances.”

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

(2) The Mohtasib 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 nor shall he be eligible during the tenure of office for a period of two years thereafter for election as a member of Legislative Assembly or any local body or take part in any political activity.

6. **Terms and conditions of service and remuneration of Mohtasib.**- (1) The Mohtasib shall be entitled to such salary, allowances and privileges and other terms and conditions of service as the President may determine and these terms shall not be varied during the term of office of a Mohtasib.

<sup>1</sup>[(1-A) In addition to the remuneration fixed under sub-section (1), the Mohtasib shall be entitled to receive rupees three thousand per month as sumptuary allowance and rupees one thousand per month as maintenance of residence charges in case the Mohtasib resides at his own house.

(1-B) (a) Mohtasib shall be entitled to use:-  
(i) an official car; and  
(ii) a telephone one at office and one at residence.

(a) A Mohtasib who is a retired Judge of Supreme Court or High Court and he has availed the facility of car and drive after retirement, he shall not be entitled to get this facility again on completion of his tenure as Mohtasib.

(1-C) If a person, who is not a Judge of the High Court or Supreme Court is appointed as Mohtasib, his

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1 New sub-section (1-A), (1-B) and (1-C) added by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

pay, allowance and other privileges shall be fixed by the President under sub-section (1).]

(2) The Mohtasib may be removed from office by the President on the ground of misconduct or, of being incapable of properly performing the duties of his office by reason of physical or mental incapacity:

Provided that the Mohtasib may, if he sees fit and appropriate to refute any charges, request an open public evidentiary hearing before the Supreme Judicial Council and, if such a hearing is not held within thirty days of the receipt of such request or not concluded within ninety days of its receipt, the Mohtasib will be absolved of any and all stigma whatsoever. In such circumstances, the Mohtasib may choose to leave his office and shall be entitled to receive full remuneration and benefits for the rest of his term.

(3) If the Mohtasib makes a request under the proviso to clause (2), he shall not perform his functions under this Ordinance until the hearing before the Supreme Judicial Council has concluded.

(4) A Mohtasib removed from office on the ground of misconduct shall not be eligible to hold any office of profit in the service of Azad Jammu and Kashmir or for election as a member of Legislative Assembly or any local body.

7. **Acting Mohtasib.**- At any time when the office of Mohtasib is vacant, or the Mohtasib is absent or is unable to perform his functions due to any cause, the President shall appoint an acting Mohtasib.

8. **Appointment and terms and conditions of service of staff.**- (1) The members of the staff, other than those mentioned in Section 20 or those of a class specified by the President by order in writing, shall be appointed by the President in consultation with the Mohtasib.

(2) It shall not be necessary to consult the Public Service Commission for making appointment of the members of the staff or on matters relating to

qualifications for such appointment and methods of their recruitment.

(3) The member of the staff shall be entitled to such salary, allowances and other terms and conditions of service as may be prescribed having regard to the salary, allowances and other terms and conditions of service that may for the time being be admissible to other employees of the Government in the corresponding Grades in the Basic Pay Scales.

(4) Before entering upon office a member of the staff mentioned in sub-section (1) shall take an oath before the Mohtasib in the form set out in the second schedule.

9. **Jurisdiction, functions and powers of the Mohtasib.-**

(1) The Mohtasib may on a complaint by and aggrieved person, on a reference by the President, the Azad Jammu and Kashmir Council or the Assembly, as the case may be, or on a motion of the Supreme Court or a High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into any allegation of maladministration on the part of any Agency or any of its officers or employees:

Provided that the Mohtasib shall not have any jurisdiction to investigate or inquire into any matters which-

- (a) are sub judice before a Court of competent jurisdiction or judicial tribunal or board in Azad Jammu and Kashmir on the date of the receipt of a complaint, reference or motion by him; or
- (b) relate to the external affairs of Pakistan or the relations or dealing of Pakistan with any foreign state or Government; or
- (c) relate to, or are connected with, the defence of Pakistan or Azad Kashmir or any part thereof, the military, naval and air Forces of Pakistan, or the

matters covered by the laws relating to those forces <sup>1</sup>[:]

- [(d) relates to a time barred matter under the provisions of Limitation Act;
- (e) directly affects the finance of Government, in such a case the Mohtasib shall examine the complaint and establish a prima facie case and get proper, specific and early information from the agency for financial implications involves in the case, before issuing order. The cases which have been decided by the Court or any other forum or matters relating to the contract shall not be re-opened by the Mohtasib.]

(2) Notwithstanding anything contained in sub-section (1), the Mohtasib shall not accept for investigation any complaint by or on behalf of a public servant <sup>2</sup>[civil servant]or functionary concerning any matter relating to the Agency in which he is, or has been, working in respect of any personal relating to his service therein.

(3) For carrying out the objectives of this Act and, in particular for ascertaining the root causes of corrupt practices and injustice, the Mohtasib may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.

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1 The full stop at the end of clause (c) is subs. by colon and thereafter new cl. (d) and (e) added by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

2 Between the words “public servant” and “or”, the comma and words “civil servant” inserted by the Establishment of Office of Mohtasib (Ombudsman) in Azad Jammu and Kashmir (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

10. **Procedure and evidence.**- (1) A complaint shall be made on solemn affirmation or oath and in writing addressed to the Mohtasib by the person aggrieved or, in the case of his death, by his legal representative and may be lodged in person at the Office or handed over to the Mohtasib in person or sent by any other means of communication to the office.

(2) No anonymous or pseudonymous complaints shall be entertained.

(3) A complaint shall be made not later than three months from the day on which the person aggrieved first had the notice of the matter alleged in the complaint, but the Mohtasib may conduct an investigation pursuant to a complaint which is not within time if he considers that there are special circumstances which make it proper for him to do so.

(4) Where the Mohtasib proposes to conduct an investigation he shall issue to the principal officer of the Agency concerned, and to any other person who is alleged in the complaint to have taken or authorized the action complained of a notice calling upon him to meet the allegations contained in the complaint, including rebuttal:

Provided that the Mohtasib may proceed with the investigation if no response to the notice is received by him from such principal officer or other person within <sup>1</sup>[sixty days] of the receipt of the notice or within such longer period as may have been allowed by the Mohtasib.

<sup>2</sup>[(4-A) When a Complaint is received by the Mohtasib he shall examine the complaint, frame issues and

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1 For the words "thirty days" the words "sixty days", substituted by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

2 New sub-section (4-A) added by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.



thereafter ask agency or person concerned to submit comments. If he is not satisfied with the reply of the agency, he shall hear the Secretary to the Government concerned before passing any order.]

(5) Every investigation shall be conducted in private, but the Mohtasib may adopt such procedure as he considers appropriate for such investigation and he may obtain information from such persons and in such manner and make such inquiries as he thinks fit.

(6) A person shall be entitled to appear in person or be represented before the Mohtasib.

(7) The Mohtasib shall, in accordance with the rules made under this Act pay expenses and allowances to any person who attends or furnishes information for the purposes of an investigation.

(8) The conduct of an investigation shall not affect any action taken by the Agency concerned, or any power or duty of that Agency to take further action with respect to any matter subject to the investigation.

(9) For the purposes of an investigation under this Act the Mohtasib may require any officer or member of the Agency concerned to furnish any information or to produce any document which in the opinion of the Mohtasib is relevant and helpful in the conduct of the investigation, and there shall be no obligation to maintain secrecy in respect of disclosure of any information or document for the purposes of such investigation:

Provided that the President may, in his discretion, on grounds of its being a State secret, allow claim of privilege with respect to any information or document.

(10) In any case where the Mohtasib decides not to conduct an investigation, he shall send to the complainant a statement of his reasons for not conducting the investigation.

(11) Save as provided in this Act the Mohtasib shall regulate the procedure for the conduct of business or the exercise of powers under this Act.

11. **Recommendations for implementation.**- (1) If, after having considered a matter on his own motion or on a complaint or on a reference by the President, the Azad Jammu and Kashmir Council or the Assembly, or on a motion by the Supreme Court or a High Court, as the case may be, the Mohtasib is of the opinion that the matter considered amounts to maladministration, he shall communicate his findings to the Agency concerned:-

- (a) to consider the matter further;
- (b) to modify or cancel the decision, process, recommendation, act or omission;
- (c) to explain more fully the act or decision in question;
- (d) to take disciplinary action against any public servant of any Agency under the relevant laws applicable to him;
- (e) to dispose of the matter or case within a specified time;
- (f) to take action on his findings and recommendation to improve the working and efficiency of the Agency within a specified time; or
- (g) to take any other help specified by the Mohtasib.

(2) The Agency shall, within such time as may be specified by the Mohtasib, inform him about the action taken on his recommendations or the reasons for not complying with the same.

(3) In any case where the Mohtasib has considered a matter, or conducted an investigation, on a complaint or on a reference or the Legislative Assembly or on a motion by the Supreme Court or a High Court, the Mohtasib shall forward a copy of the communication

received by him from the Agency in pursuance of sub-section (2) to the complainant or, as the case may be, the President, the Azad Jammu and Kashmir Council, the Assembly, the Supreme Court or the High Court.

(4) If, after conducting an investigation, it appears to the Mohtasib that an injustice has been caused to the person aggrieved in consequence or maladministration and that the injustice has not been or will not be remedied he may, if he thinks fit, lay a special report on the case before the President.

(5) If the Agency concerned does not comply with the recommendations of the Mohtasib or does not give reasons to the satisfaction of the Mohtasib for non-compliance, it shall be treated as "Defiance of Recommendations" and shall be dealt with as hereinafter provided.

12. **Defiance of recommendations.**- (1) If there is a "Defiance of Recommendations" by any public servant in any Agency with regard to the implementation of a recommendation given by the Mohtasib, the Mohtasib may refer the matter to the President who may, in his discretion, direct the Agency to implement the recommendation and inform the Mohtasib accordingly.

(2) In each instance of "Defiance of Recommendation" a report by the Mohtasib shall become a part of the personal file or Character Roll of the public servant primarily responsible for the defiance:

Provided that the public servant concerned had been granted an opportunity to be heard in the matter.

13. **Reference by Mohtasib.**- Where during or after an inspection or an investigation, the Mohtasib is satisfied that any person is guilty of any allegations as referred to in sub-section (1) of Section 9, the Mohtasib may refer the case to the concerned authority for appropriate corrective or disciplinary action, or both corrective and disciplinary action, and the said authority shall inform the Mohtasib within thirty days of receipt of reference of

the action taken. If no information is received within this period, the Mohtasib may bring the matter to the notice of the President for such action as he may deem fit.

14. **Powers of the Mohtasib.**- (1) The Mohtasib shall, for the purposes of this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for the examination of witnesses.

- <sup>1</sup>[(e) the provisions of order XXXIX shall mutatis mutandis apply in case of temporary injunctions.]

(2) The Mohtasib shall have the power to require any person to furnish information on such points or matters as, in the opinion of the Mohtasib, may be useful for, or relevant to, the subject-matter of any inspection or investigation.

(3) The powers referred to in sub-section (1) may be exercised by the Mohtasib or any person authorized in writing by the Mohtasib in this behalf while carrying out an inspection or investigation under the provisions of this Act.

(4) Where the Mohtasib finds the complaint referred to in clause (1) of Section 9 to be false, frivolous or vexatious, he may award reasonable compensation to the Agency, public servant or other functionary against whom the complaint was made; and the amount of such

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1 After clause (d), a new clause (e) added by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

compensation shall be recoverable from the complainant as an arrear of land revenue:

Provided that the award of compensation under this sub-section shall not debar the aggrieved person from seeking civil and criminal remedy.

(5) If any Agency, public servant or other functionary fails to comply with a direction of the Mohtasib, he may, in addition to taking other action under this Act, refer the matter to the appropriate authority for taking disciplinary action against the person who disregarded the direction of the Mohtasib.

(6) If the Mohtasib has reason to believe that any public servant or other functionary has acted in a manner warranting criminal or disciplinary proceedings against him, he may refer the matter to the appropriate authority for necessary action to be taken within the time specified by the Mohtasib.

(7) The staff and the nominees of the Office may be commissioned by the Mohtasib to administer oaths for the purposes of this Act and to attest various affidavits, affirmations or declarations which shall be admitted in evidence in all proceedings under this Act without proof of the signature or seal or official character of such person.

15. **Power to enter and search any premises.**- (1) The Mohtasib, or any member of the staff authorized in this behalf, may, for the purpose of making any inspection or investigation, enter any premises where the Mohtasib or, as the case may be, such member has reason to believe that any article, book of accounts, or any other document relating to the subject-matter of inspection or investigation may be found, and may—

- (a) search such premises and inspect any article, book of accounts or other documents;
- (b) take extract or copies of such books of accounts and documents;

- (c) impound or seal such articles, books of accounts or documents; and
  - (d) make an inventory of such articles, books of accounts and other documents found in such premises.
- (2) All searches made under sub-section (1) shall be carried out, mutatis mutandis, in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).

16. <sup>1</sup> [xxx]

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1 Section 16 omitted by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

Original is reproduced as under:-

**“16. Power to punish for contempt.”** (1) The Mohtasib shall have the same powers, mutatis mutandis, as the Supreme Court has to punish any person for its contempt who—

- (a) abuses, interferes with, impedes, imperils, or obstructs the process of the Mohtasib in any way disobeys any order of the Mohtasib;
- (b) scandalizes the Mohtasib or otherwise does anything which tends to bring the Mohtasib, his staff or nominees or any person authorized by the Mohtasib in relation to his office, into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending before the Mohtasib; or
- (d) does any other thing which, by any other law, constitutes contempt of Court:

Provided that fair comments made in good faith and in public interest on the working of the Mohtasib or any of his staff, or on the final report of the Mohtasib after the completion of the investigation shall not constitute contempt of the Mohtasib or his Office.

- (2) Any person sentenced under sub-section (1) may, notwithstanding anything herein contained, within thirty days of the passing of the order, appeal to the Supreme Court.

17. **Inspection Team.**- (1) The Mohtasib may constitute an inspection team for the performance of any of the functions of the Mohtasib.
- (2) An Inspection Team shall consist of one or more members of the staff and shall be assisted by such other person or persons as the Mohtasib may consider necessary.
- (3) An Inspection Team shall exercise such of the powers of the Mohtasib as he may specify by order in writing and every report of the Inspection Team shall first be submitted to the Mohtasib with its recommendations for appropriate action.
18. **Standing Committees, etc.**- The Mohtasib may, whenever he thinks fit, establish standing or advisory committees at specified places with specified jurisdiction for performing such functions of the Mohtasib as are assigned to them from time to time and every report of such committee shall first be submitted to the Mohtasib with its recommendations for appropriate action.
19. **Delegation of Powers.**- The Mohtasib may, by order in writing, delegate such of his powers as may be specified in the order to any member of his staff or to a standing or advisory committee, to be exercised subject to such conditions as may be specified and every report of such member or committee shall first be submitted to the Mohtasib with his own recommendations for appropriate action.
20. **Appointment of advisers, etc.**- The Mohtasib may appoint advisers, consultants, fellows, bailiffs, interns, commissioner and experts, or ministerial staff with or without remuneration, to assist him in the discharge of his duties under this Act.

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(3) Nothing in this Section takes away from the power of the President to grant pardon, reprieve or respite and to remit, suspend or commute any sentence passed by any Court, tribunal or other authority.

21. **Authorization of Government functionaries, etc.-**  
The Mohtasib may, if he considers it expedient, authorize <sup>1</sup>[xxxx] of the Government, any agency, public servant or other functionary working under the administrative control of the Government to undertake the functions of the Mohtasib under sub-section (1) of Section (2) of Section 14 in respect of any matter falling within the jurisdiction of the Mohtasib; and it shall be the duty of the agency, public servant or other functionary so authorized to undertake such functions to such extent and subject to such conditions as the Mohtasib may specify.
22. **Award of costs and compensation and refund of amounts.-** (1) The Mohtasib may, where he deems necessary, call upon a public servant, other functionary or any Agency to show cause why compensation be not awarded to an aggrieved party for any loss or damage suffered by him on account of any maladministration committed by such public servant, other functionary or Agency, and after considering the explanation and hearing such public servant, other functionary or Agency, award reasonable costs or compensation and the same shall be recoverable as arrears of land revenue from the public servant, functionary or Agency.
- (2) In case involving payment of illegal gratification to any employee of any Agency, or to any other person on his behalf, or misappropriation, criminal breach of trust or cheating, the Mohtasib may order the payment thereof for credit to the Government or pass such other order as he may deem fit.
- (3) An order made under sub-section (2) against any person shall not absolve such person of any liability under any other law.

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1 In Section 21, between the word “authorize” and “of” the words “with the consent of the Government”, omitted by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.



23. **Assistance and advice to Mohtasib.**- (1) The Mohtasib may seek the assistance of any person or authority for the performance of his functions under this Act.
- (2) All officers of an Agency and any person whose assistance has been sought by the Mohtasib in the performance of his functions shall render such assistance to the extent it is within their power or capacity.
- (3) No statement made by a person or authority in the course of giving evidence before the Mohtasib or his staff shall subject him to, or be used against him in, any civil or criminal proceedings except for prosecution of such person for giving false evidence.
24. **Conduct of business.**- (1) The Mohtasib shall be the Chief Executive of the Office.
- (2) The Mohtasib shall be the Principal Accounts Officer of the Office in respect of the expenditure incurred against budget grant or grants controlled by the Mohtasib and shall, for this purpose, exercise all the financial and administrative powers delegated to a Department.
25. **Requirement of affidavits.**- (1) The Mohtasib may require any complainant or any party connected or concerned with a complaint, or with any inquiry or reference, to submit affidavits attested or notarized before any competent authority in that behalf within the time prescribed by the Mohtasib or his staff.
- (2) The Mohtasib may take evidence without technicalities and may also require complainants or witnesses to take lie detection tests to examine their veracity and credibility and draw such inferences that are reasonable in all circumstances of the case especially when a person refuses, without reasonable justification, to submit to such tests.
26. **Remuneration of advisers, consultants, etc.**- (1) The Mohtasib may, in his discretion, fix an honorarium or remuneration of advisers, consultants, experts and

interns engaged by him from time to time for the services rendered.

(2) The Mohtasib may, in his discretion, fix a reward or remuneration to any person for exceptional services rendered, or valuable assistance given to the Mohtasib in carrying out his functions:

Provided that the Mohtasib shall withhold the identity of that person, if so requested by the person concerned, and take steps to provide due protection under the law to such person against harassment, victimization, retribution, reprisals or retaliation.

27. **Mohtasib and staff to be public servants.**- The Mohtasib, the employees, officers and all other staff of the Office shall be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code (Act XLV of 1860).
28. **Annual and other reports.**- (1) Within three months of the conclusion of the calendar year to which the report pertains, the Mohtasib shall submit an Annual Report to the President.
- (2) The Mohtasib may, from time to time, lay before the President such other reports relating to his functions as he may think proper or as may be desired by the President.
- (3) Simultaneously, such reports shall be released by the Mohtasib for publication and copies thereof shall be provided to the public at reasonable cost.
- (4) The Mohtasib may also, from time to time, make public any of his studies, research, conclusions, recommendations, ideas or suggestions in respect of any matters being dealt with by the Office.
- (5) The report and other documents mentioned in this Section shall be placed before the Legislative Assembly.
29. **Bar of Jurisdiction.**- No Court or other authority shall have jurisdiction-

- (1) to question the validity of any action taken, or intended to be taken, or order made, or anything done or purporting to have been taken, made or done under this Act; or
- (2) to grant an injunction or stay or to make any interim order in relation to any proceedings before, or anything done or intended to be done purporting to have been done by, or under the orders or at the instance of the Mohtasib.
30. **Immunity.**- No suit, prosecution or other legal proceeding shall lie against the Mohtasib, his staff, Inspection Team, nominees, member of a standing or advisory committee or any person authorized by the Mohtasib for anything which is in good faith done or intended to be done under this Act.
31. **Reference by the President.**- (1) The President may refer any matter, report or complaint for investigation and independent recommendations by the Mohtasib.
- (2) The Mohtasib shall promptly investigate any such matter, report or complaint and submit his findings or opinion within a reasonable time.
- (3) The President may, by notification in the official Gazette, exclude specified matters, public functionaries or Agencies from the operation and purview of all or any of the provisions of this Act.
32. **Representation to President.**- Any person <sup>1</sup>[or agency] aggrieved by a decision or order of the Mohtasib may, within thirty days of the decision or order, make a representation to the President, who may pass such order thereon as he may deem fit.
33. **Informal resolution of disputes.**- (1) Notwithstanding anything contained in this Act, the Mohtasib and a

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1 In Section 32, between the words "person" and "aggrieved", the words "or agency" inserted by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997.

member of the Staff shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.

(2) The Mohtasib may appoint for purposes of liaison counselors, whether honorary or otherwise, at local levels on such terms and conditions as the Mohtasib may deem proper.

34. **Service of process.**- (1) For the purposes of this Act, a written process or communication from the Office shall be deemed to have been duly served upon a respondent or any other person by, *inter alia*, any one or more of the following methods, namely:-

- (i) by service in person through any employee of the Office or by any special process-server appointed in the name of the Mohtasib by any authorized staff of the Officer, or any other person authorized in this behalf;
- (ii) by depositing in any mail box or posting any Post Office a postage prepaid copy of the process, or any other document under certificate of posting or by registered post acknowledgement due to the last known address of the respondent or person concerned in the record of the Office, in which case service shall be deemed to have been effected ten days after the aforesaid mailing;
- (iii) by a police officer or any employee or nominee of the Office leaving the process or document at the last known address, abode, or place of business of the respondent or person concerned and, if no one is available at the afore-mentioned address, premises or place, by affixing a copy of the process or other document to the main entrance of such address; and
- (iv) by publishing the process or document through any newspaper and sending a copy thereof to the

respondent or the person concerned through ordinary mail, in which case service shall be deemed to have been effected on the day of the publication of the newspaper.

(2) In all matters involving service the burden of proof shall be upon a respondent to credibly demonstrate by assigning sufficient cause that he, in facts, had absolutely no knowledge of the process, and that he actually acted in good faith.

(3) Whenever a document or process from the Office is mailed, the envelope or the package shall clearly bear the legend that it is from the Office.

35. **Expenditure to be charged on Azad Jammu and Kashmir Consolidated Fund.**- The remuneration payable to the Mohtasib and the administrative expenses of the Office, including the remuneration payable to staff, nominees and grantees, shall be an expenditure charged upon the Azad Jammu and Kashmir Consolidated Fund.

36. <sup>1</sup>[xxx]

37. **Removal of difficulties.**- If any difficulty arises in giving effect to any provision of this Act, the President may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing such difficulty.

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1 Section 36 is omitted by the Establishment of Office of Mohtasib (Ombudsman) in AJ&K (Amendment) Act, 1997 (XV of 1997) dt. 29.10.1997. the extract of Section 36 of XIV of 1992 dt.29-6-1992 is reproduced as under:-

**“36. Act to override other laws.**- The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.”

38. **Rules.**- The Mohtasib may, with the approval of the President, make rules for carrying out the purposes of this Act.
39. **Repeal.**- The Establishment of the office of Mohtasib (Ombudsman) Ordinance, 1992 (Ordinance XXXVI of 1992) is hereby repealed.

Sd/-

(Syed Shakir Shah)

Deputy Secretary Law.

## **THE FIRST SCHEDULE**

(See Section 3 (2))

I. \_\_\_\_\_ do solemnly swear that I will bear true faith and allegiance to Azad Jammu and Kashmir;

That as Mohtasib, I will discharge my duties and perform my functions honestly, to the best of my ability, faithfully in accordance with the laws of Azad Jammu and Kashmir, and without fear or favour, affection or ill-will;

That I will not allow my personal interest to influence my official conduct or my official decision;

That I shall do my best to promote the best interest of Azad Jammu and Kashmir.

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me, as Mohtasib, except as may be required for the due discharge of my duties as Mohtasib.

May Allah Almighty help and guide me (Amen)

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## **THE SECOND SCHEDULE**

(See Section 8 (4))

I. \_\_\_\_\_ do solemnly swear that I will bear true faith and allegiance to Azad Jammu and Kashmir;

That as employee of the office of the Mohtasib, I will discharge my duties and perform my functions honestly, to the best of my ability, faithfully in accordance with the laws of the Azad Jammu and Kashmir, and without fear or favour, affection, or ill-will;

That I will not allow my personal interest to influence my official conduct or my official decision;

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration, or shall become known to me, as an employee of the office of the Mohtasib.

May Allah Almighty help and guide me (Amen)