

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND
KASHMIR LAW AND PARLTAMENTARY AFFAIRS
DEPARTMENT, MUZAFFARABAD.**

Dated the 27th November, 1985.

No. 2284/LD/Leg/85. The following Act of the Assembly received the assent of the President on 25th day of November, 1985, is hereby published for general information:-

(ACT XXVI OF 1985)

AN

ACT

to provide for law relating to profession of Notaries in Azad Jammu and Kashmir;

WHEREAS it is expedient to provide for law relating to the Profession of Notaries in Azad Jammu and Kashmir, in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and Commencement.**- (1) This Act may be called the Notaries Act, 1985.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once and shall be deemed to have taken effect on and from 4th day of November, 1985.
2. **Definitions.**- In this Act unless the context otherwise requires,-
 - (a) “instrument” includes every document by which any right or liability is, or purports to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded;
 - (b) “Legal practitioner” means any advocate or attorney of the Supreme Court or any advocate of the High Court or any pleader authorised under any law for the time being in force to practice in any court of law;
 - (c) “notary” means a person appointed as such under this Act;
 - (d) “Prescribed” means prescribed by rules made under this Act;
 - (e) “Register” means a Register of Notaries to be nominated under section 4,

3. **Power to appoint notaries.-**¹[(1)] The Government, for the whole or any part of Azad Jammu and Kashmir, may appoint as notaries any legal practitioners;

²[(2) There shall be twenty notaries at Headquarter, fifteen at Divisional Headquarter, twelve at District Headquarter and six in each Sub-Divisional Headquarter.]
4. **Registers.-** (1) The Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by the Government and entitled to practice as such under this Act.

(2) Every such Register shall include the following particulars about the notary whose name is entered therein, namely:-
 - (a) his full name, date of birth, residential and professional address;
 - (b) the date on which his name is entered in the Register;
 - (c) his qualification; and
 - (d) any other particulars which may be prescribed.
5. **Entry of names in the Register and issue or renewal of certificates of practice.-** (1) Every notary who intends to practice as such shall on payment to the Government of the prescribed fee, if any, be entitled,-
 - (a) to have his name entered in the Register maintained by the Government under section 4; and
 - (b) to a certificate of practice for a period of three years

1 Re-numbered as sub-section (1) by the Notaries (Amendment) Act, 1992 (IV of 1992) dt. 29-06-1992.

2 This subsection has been substituted for 3 times

(a) Original proviso to Section 3 is reproduced as under

“Provided that not more than six notaries shall be appointed in each District Head Quarter and three in each Tehsil Head Quarter.”

(b) Proviso substituted by subsection (2) by the Notaries (Amendment) Act, 1992 (IV of 1992) dt. 29-06-1992 is as under

“(2) There shall be twelve Notaries at Capital Headquarter, ten Notaries at Divisional Headquarter, six at District Headquarter and four in such Tehsil Headquarter,”

(c) Subsection (2) substituted by the Notaries (Amendment) Act, 1994 (XL of 1994) dt. 16-03-1994 is as under.

“(2) There shall be fifteen notaries at Capital Headquarter, twelve at Divisional Headquarter, ten at District Headquarter and six in each sub-Divisional Headquarter.”

(d) Substituted by the Notaries (Amendment) Act, 2011 (IV of 2011) dt. 08-04-2011.

from the date on which certificate is issued to him.

(2) Every such notary who wished to continue to practice after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government and payment of the prescribed fee, if any, be entitled to have the certificate of practice renewed for three years at a time.

6. **Annual publication of lists of notaries.**- The Government shall, not less than the end of January each year, publish in the official Gazette, a list of notaries appointed by the Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.
7. **Seal of Notaries.**- Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.
8. **Functions of notaries.**- (1) A notary may do all or any of the following acts by virtue of his office, namely:-
 - (a) verify, authenticate, certify or attest the execution of any instrument;
 - (b) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security;
 - (c) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;
 - (d) note and draw up ship's pretest, boat's or protest relating to demurrage and other commercial matters;
 - (e) administer oath to, or take affidavit from, any person;
 - (f) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;
 - (g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Azad Jammu and Kashmir in such form and language as may conform to the law of the place where such deed is intended to operate;
 - (h) translate, and verify the translation of, any document from one language into another;
 - (i) any other act which may be prescribed.
- (2) No act specified in sub-section (1) shall be deemed to be

a notarial act except when it is done by a notary under his signature and official seal.

9. **Bar of practice without certificate.**- Subject to the provisions of this section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

10. **Removal of names from Register.**- The Government may, by order, remove from the Register maintained by it under section 4 the name of the notary if he,-

- (a) makes a request to that effect; or
- (b) has not paid the prescribed fee required to be paid by him, or
- (c) is an un-discharged insolvent; or
- (d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of Government, renders him unfit to practice as a notary.

11. **Construction of references to notaries public in other laws.**- Subject to the provisions of section 16, any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Act.

12. **Penalty for falsely representing to be notary, etc.**- Any person who,-

- (a) falsely represents that he is a notary without being appointed as such; or
- (b) practices as a notary or does any notarial act in contravention of section 9, shall be punished with imprisonment of r a term which may extend to three months, or with fine or with both.

13. **Cognizance of offences.**- (1) No Court shall take cognizance of any offence committed by a notary in the exercise or purported to exercise of his functions under this Act save upon complaint in writing made by an office authorised by the Government by general or special order in this behalf.

- (2) No Magistrate other than a Magistrate of the first class

shall try an offence punishable under this Act.

14. **Reciprocal arrangements for recognition of notarial acts done by foreign notaries.**- If the Government is satisfied by the law or practice of any country or place outside Azad Jammu and Kashmir, the notarial acts done by notaries within Azad Jammu and Kashmir are recognized for all or any limited purposes in that country or place, the Government may, by notification in the Official Gazette, declare that the notarial acts lawful done by notaries within such country or place shall be recognized within Azad Jammu and Kashmir for all purposes or as the case may be, for such limited purposes as may be specified in the notification.
15. **Power to make rule.**- (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.
 - (2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all any of the following matters, namely:-
 - (a) the qualifications of a notary, the form and manner in which application for appointments as a notary may be made and the disposal of such applications;
 - (b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;
 - (c) the fees payable for appointment as a notary and for the issued renewal of a certificate of practice, and exemption, whether wholly or in part, from such fees in specified classes of cases;
 - (d) the fees payable to a notary for doing any notarial act;
 - (e) the form of Registers and the particulars to be entered therein;
 - (f) the form and design of the seal of notary;
 - (g) the manner in which inquiries into allegations or professional or other misconduct of notaries into allegations or professional or other misconduct of notaries may be made;
 - (h) the act which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions.

16. **Validation of Act XXVI of 1881.**- Nothing in this Act affects the provision of the Negotiable Instruments Act 1881 (XXVI of 1881), or any appointment made in pursuance of section 138 Act or the powers of any person so appointed.
17. **Savings.**- Notwithstanding any judgment, decree or order of any court including High Court, everything done, all action taken, notifications issued, orders, or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of the Noatries Ordinance, 1980 (Ordinance XLIII of 1980) or its succeeding Ordinance issued from time to time shall be deemed to have been validly done, taken, issued, made, initiated or exercised under this Act.

Sd/- (Syed Shakir Shah)

Section Officer Legislation