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~ ISLAMABAD, TUESDAY, DECEMBER 31, 2019 |»

PART I

GILGIT-BALTISTAN ASSEMBLY SECRETARIAT -

Gilgit, the 9th December, 2019

GILGIT BALTISTAN MINIMUM WAGES BILL; 2019

‘Act No. XII oF 2019
AN

Act

“Acts, Ordinances, President’s Orders and Regulations — -

‘to provide for the regulation of minimum rates of wages and various
allowances for different categories of workers ‘employed in certain

industrial and commercial undertakings and establishments.

No. ALA-1(1)/2019-GBA.—Preamble: WHEREAS it is expedient to
-provide for regulation of minimum rates of wages and various allowances for
different categories of workers employed in certain industrial and commercial _
undertakings and establishments and for matters connected therewith and ancillary

thereto;

It is hereby enacted as follows:

1. Short title, extent and commencement:—

(1). This Actmay be called the Gilgit-Baltistan Minimum Wages Act,2019. =

a (811)

j “Price : Rs. 20.00

| [2078(2019)/Ex.Gaz.]

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THE GAZETTE OF PAKISTAN, EXTRA., DEC. 31;2019 Parr]

It extends to the whole of Gilgit Baltistan.

It Shall: apply: to all industrial: establishment and commercial
establishment shops in pict aan : :

It shall come into force at once.

Definitions: — “if this Bill, unless there i is anything repugnant in the
subject or context— . zx

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- Gilgit-Baltistan Industrial Relations Act and includes a plantation

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“adult” has the same meaning as in diate (6) of section 2 of the

i ow Factories Act, 1934 (XXV of 1934);

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QB).

“Board” means a Minimum ‘Wages ee established under section 3 3%

“Employer”? means any person whi employs bither directly or through
another person, whether on behalf of himself or any other person, any.
person for whom a minimum rate of wages.may be declared under
‘this Act, and includes: —

(a) in relation toa factory, a managing agent or other person who -
has ultimate control over the affairs of the factory; and .

(b) — in other cases, any person responsible to the owner for supervision
and control of such worker or for Payment of his wages;

“Factory” means a factory, as defined in ‘clause (ji) of section 2 of the Factories Act, 1934 (XXV of 1934), and includes any place deemed to be a factory under sub- section Oe of section. 5 thereof;

“Industry” with its ; grammatical variations and spanate expressions, at ‘means an industry as defined in 2[Clause (xiv) of section 2. of the ~

as defined in clause (iii) of section 2 of the Payment of Wages Act, 1936.(IV of 1936) ;

“Juvenile Worker” means a worker who is not adult;

“Wages” means all remuneration capable of being sxprecsed' in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but:

. does not include— -

(a) any contribution paid by the, employer in rdspect of such person 2

under any scheme of social insurance or to.a pension fund: or:
“provident fund;

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- 7 (b) any) tr aveling allowance or the value of any traveling concession,

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(d) anys sum paid as anvil poo, Ores

Inspector.

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-(c) -anysum paid: to such person to defray speril expenses incurred

“by him:t in respect of his employment; °

(e) any gt atuity payable on discharge.

“Worker” means any person including an ‘apprentice employed i in any industry to do any skilled or un-skilled, intellectual, technical, , °

-ølerical, manual or other work, including domestic work for-hire or

reward but does not includes: —

(i) ape sons employed by! the Government of Git Baltistan;

(iy: persons sipldyed i in sgvioutur _

Authority ineans Labour Magistae Gilgit Batistan.

“A ppellate Authority” means peed eu Labour Gilgit-Baltistan.

“Court” means Chief Court Gilgit Baltietan.

pence Inspector” means ‘Ditector Labour.

“Deputy Chief Inspector® tr means Deputy: Director /Assistarit, Director Eaboue “ts

“Inspector” means. an official of. the Directorate. of Labour duly notified, as an spe for the purpose of. Hs Act by the Chief.

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“Government” means the Government of Gilgit-Baltistan. -

Establishment of Minimum ‘Wagés Boards,—

As soon as may be after commencement of this Act, the Government

~ shall establish a Minimum Wages Board for the: Gilgit-Baltistan
‘consisting of the following. eight members to be: ‘appointed by: ‘it,
* namely:— =:

sh ee ‘the Chainnan of the Board, means Secretary Labour; nee

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THE GAZETTE OF ACTON, EXTRA, DEC. 31,2019. Wart

ii, . the Vise Chairman of the Bost, means Director Labélne

ii, one Independent member;

iv. one member to represent the employer of the Gilgit-Baltistan;

V. 'che member to represent the workers of the Gilgit-Baltistan: eS

vi. - One representative from Law Department,

vii. One representative from Finance Department;

Vii. ~ One Tepresentative from S&GAD:

Provided that for the Burpee of ae ene the function'
of aBoard specified in section 5, the following two more members :
appointed by the Government of Gilgit Balisenl shall be added, *
i namely— po

i. . one member to represent the ie employers; and

ii one member to represent the trade unions.

The indepéhident 'mémber shall be aponied: from persons with —
adequate knowledge of industrial, labour and economic conditions of
the Gilgit-Baltistan who is not connected with any industry or associated :
with any employers' or workers' organization.

The member to represent the employers of the Gilgit-Baltistan and'

» the member to represent the workers of the Gilgit-Baltistan under
sub-section (1) shall be appointed after considering nominations, if .

any, of such organizations as the Government considers to be °

representative organizations of auch employers and workers

Tespoctively.

The members referred to in the proviso to sub-section (1) to represent
the employers connected with and the workers en gaged in the industry
_ concerned shall be appointed after considering nominations, if any, of
; such organizations as the Government considers to be representative

'organizations of such employers and workers respectively.

The term of office of the members of the Board, the procedure for filling:

the casual vacancies therein, the appointment of its committees, if any,

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committees and all matters connected therewith, including the fees =
and: allowances to be paid for attending such meetings, and 'other
expenses, including expenses for the services of experts and advisers
obtained by thé Board, shall be such as may 'be prescribed by tules

"made under section 26.

~workers.

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Recomidcntation of Minimum Wages for unskilled and juvenile _

'A Board shall, upon a reference made to it by. the: Government,

recommend to such Government, after such enquiry as the Board ~

thinks fit, the minimum rates of wages for adult unskilled workers and .-.

"juvenile workers employed i in industrial undertakings in the Gilgit-
Baltistan: :

~Inits recommendations eee sub-section (1), the Board shall indicate,

whether the minimum rates of wages should be adopted uniformly:

throughout the Gilgit- Baltistan or with such local variations for such

localities as.aré specified therein.

; Resbmmendddtion of minimum fats of | wages for workers with

respect to particular industries. —_—

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Where in respect of any particular industry i in atte Gilgit-Baltistan for ra
which no adequate machinery exists for effective regulation of:-wages, —_ -

'the Government is of the opinion that, having regard tothe wages of . ____

_ the workers employed i in the undertakings engaged in such industry, it —

is expedient to fix the minimum rates of wages of:such workers, it?
may direct the Board to recommend, after such enquiry as the Board

thinks fit, the minimum rates of wages either for all such workers or —
for such of them as are specified in | the direction.

In pursuance of a direction under sub-section (1), the Board may » 3
recommend minimum rates of wages for all classes of Wotktsi in any
prade and in such recommendation, may specify;— .

‘(a) the minimum rates of wages for:— ~

Oe time work;

ee (ii) “piece work:

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Gi), “overtime work; and

(iv) “work on the c weekly day of rest and for paid holidays;

(b) ‘thes minimum time rates for workers employed on piece work go as to guarantee minimum. Lwages on atime: basis for such workers,

The tiie rates odemimended bya the Board may be’ on y hourly daily

, wey or monthly t basis:

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The rates “eeomniended under. this section for overtime work and work on paid holidays shall not be less than the minimum rates fixed for such work. under. any’ other law for the time being:in force.

Power to .declare minimum rates of wages,—

Upon receipt of a cosonmendntion of the Board under section 4or section ay the Government may;— s ee

(a) by notification in-the official Gazette declare that the minimum rates of wages recommended by the Board for-the various -
- workers shall, subject to such exceptions as may be specified in the notification, be the minimum rates of wages for such workers;or

(b) if it eotisiders that the recommendation is not, in any respect,

equitable to the employers or the workers within thirty days of :

such receipt, refer it back to the Board, for reconsider; ation with.

such comments thereon and giving such information relating thereto, as the Government. may think fit to make or give.

‘Where s recommendation is referred back t6 the Board under clause (b) of sub-section (1), the Board shall reconsider it after taking into’ account the comments: made and information given by the .. Government and, if necessary, shall hold further’ pnquity and submit

to the Government;- —

(a) a revised recommendation, or

(b) > if it considers that no revision or change in the Recommendation
' is called for, make report to that effect stating reasons therefore,

Upon receipt of the recommendation of the Board under sub-section (1) or

~ (2), the Government may, by notification in the official Gazette, declare

~ that the minimum rates of wages recommended under that sub-section:

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PartII

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“by the Board for various workers shall, subject to such modifications and exceptions as may be specified in the notification, be the minimum

. “rates of wages for such workers.

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Unless any date is specified for the purpose in the notification under sub-section (1) or sub-section (3), the declaration thereunder shall

. take effect of the date of publication of such HGtincaHOrr.

Where after the publication of a notification: under sub- section (1) or sub-section (3), ‘or after the minimum’ rates. of. wages declared thereunder have taken effect, it comes to the notice of the Government that there is-a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the workers, it —

-may refer the matter to the Board and any such reference. shall be : deemed to be 4 reference under sub-section @). : ' ;

“the minimum rates of wages declar. ed inder this section shall be final. and shall not in any. manner rbe questioned by any person in any court or before any authority.

Periodical pee of minimum rates of wages.—.

(1) The Board: shall review its recorriemendalious if. any changes in the

economic conditions.and cost of living and other relevant factors so.

_ ‘demand, and recomrnend to the Government, any amendinenin mpcdihicarion

_ or revision of the minimum rates of wages under section 6:

“Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless. the special

, circumstances of a case so require, and later than three years from: _such date, eg

2) Review and recommendation uider this section shall be iceinad to

be an enquiry and recommendation under section 4 or, as the case .

may be, under section 5, and, so far as may be, the provisions of this.

Act shall, to such review and recommendation, apply accordingly.”
oT.

Prohibition to pay wages at a rate below the minimum 1% rate of wages.—

mo) Subject only to such deductions as may be authorized under this Act

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-or under any other law for the time being in force, no employer shall
“pay any worker wages at a rate lower than the rate declared under
this Act to be the minimum rate, or wages for such worker,

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(2) Nothing in sub-section (1) shall be deemed:

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Gat i ar to 1 he rate of wage

(a) | Torequire or authorize an employer to reduce th ages

of any worker; or

(b) to affect, in any way, the right of a worker ie ae : ; seolte
- wages at a rate higher than the minimum ra e ' un er

"this Act if, under any agreement, contract or award, or as a
'customary differential, or otherwise, he is entitled to receive
wages at such higher.rate, or to continue to enjoy such amenities and
other advantages as are customary for such worker to enjoy; or

(c) to affect the provisions of the Payment of Wages Act, 1936.

'. CV of 1936). :

Any employer who contravenes the provisions .of this section shall be
punishable with imprisonment for a term which may extend to six

months or with fine which may extend to twenty thousand rupees or |

with both, and if the court trying such contravention by order so directs,

'shall also pay to the worker concerned such sum as may be specified —

in the order to represent the difference between the amount actually
paid to'such worker and the amount which would have been paid to

him had there been no such contravention.

(a) The Government may, by notification in the official Gazette,

appoint any person to be Authority for any area, specified in the
notification, to hear and decide all claims arising out of non-

payment, or delay in the payment of wages to workers in that area whose minimum rates of wages have been declared under the provisions of this Act. oes .

(b) Where contrary to the provisions of this Act, wages of any worker have been withheld or delayed, such worker himself or » through any other person authorized by him in this behalf, may,

Within six months from the day on which such payment was to ;

be made, apply to the Authority appointed under sub-section (1)

having jurisdiction, for an order directing the payment to him of such wages: - ; sec : : eee

_____. Provided that any such application may be admitted after the said period of four months but not later than six months from the date on which the payment was to be made, if the applicant satisfies the Authority that he had sufficient cause for not making

= 'the application within such period! soa. ae ome

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“ _ been withheld or delayed or give them an opportunity of being © - 3

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When any application under sub-section (2) is ‘entertained: the”

person responsible for the payment of wages, alleged to have

heard and after such further inquiry, if any, as may be necessary

“may, without, prejudice to any other penalty to which such

- employer or other person may be liable under section 8 or any
_ other law for the time being in force direct the employer or such

other person, to make payment to the applicant of the wages
which have been withheld or delayed, together, with such penalty,
not exceeding one thousand rupees, as the authority may fix:

‘Provided that no direction for the payment of a penalty

. ., Shall be made in the case of delayed wages, if the Lert is
satisfied that the delay: was due to:—

() ‘A hone fi ge error or : Bond fide. siege as to the amount :

payable to the employee; or

(il) The occurrence of any emergency or the aeistencé of such
: ‘exceptional circumstances that the person responsible for.”

the payment of wages was unable to make prompt payment;
and

(iii) ~The fault of the worker.

(d):

Any amount d irected to be paid under this section may be recovered:— _ :

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If the Authority hearing any application under this section is

satisfied that no amount to be paid as wages is due from the employer or other person responsible for the payment of wages to the applicant, 'it shall reject the application; .and if the application, in the opinion. of the Authority, is malicious or

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3 the Authority i isa Magistrate: by the Authority, as if it were. a fine imposed by him as a Magistr: ate. And ;

if that: 'Authority isnota Magistrate, by any: Magistiat eto wim See:

the Authority makes application in this behalf, as Si it were.a fine.

o al sponse by such Nasistrate.,

: Authority shall hear the applicant and the employer or-other. »

- vexatious, the Authority when rejecting it, may direct the applicant oe to pay a penalty not exceeding ten thousand rupees to the ~
_ employer or other person responsible for the payment.of wages.

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An anieal against a' direction made or order ndeeded undef
sub-section (3) or sub-section. (4) may be. preferred to the Appellate
Authority within. thirty days of the date on which the direction was

anade. or order. was passed:—

(i) by the onnloner: or other person responsible for the payment of —
wages, if the'amount directed to be paid as wages or as Wages
and. penalty exceeds one hundred rupees -

. (i) — by a worker, if thie total amount of Walses claimed to have been — ;

withheld from him exceeds rupees ten thousand; or

(ii) : by the person citeciet det pub seen (4) to pay a penalty

If there i is no speak the direction or order of the Authority made
under sub-section (3) or sub-section (4) and where there is an appeal
as provided in sub-section.(6), 'the decision in appeal, shall be final

~ and shall not in any manner be questioned by any person in any court

or before any authority: Manner be questioned by any person in any
court or 'before any anon,

'An Atithotty appoitited under clause (i) of sub-section (4) of section 8

shall, for the purposes of determining any matter referred to -
in sub-section (3) and (4) of section 8:—

v () . have all the see of a Civil Court under the Code of Civil

_ Procedure, 1908 (V of 1908), for-the purposes of enforcing the
attendance of witnesses, compelling the € production of documents,
and taking of evidence ; and

Gi) be deemed to bea Civil Court for all the purposes of section 195
and Chapter XXXV of the Code of Criminal Procedures 1898

“(V-of 1 898)

Cognizance of offences;—No court inferior to that of a Labour

Magistrate shall take cognizance of an offence punishable under this Act or the rules made thereunder, and cognizance shall not be so taken except upon a complaint

“10.

~ in writing made by the Government or by any person authorized in this behalf by the Government :

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Protection of the Writings of a Board.— No Act or proceeding

of a Board shall be invalid or questioned merely on the ground of existence of any —

vacancy therein or of any defect in the constitution or in the appointment or

qualification of any member thereof.

Part I] — THE GAZETTE OF PAKISTAN, EXTRA., DEC. 31, 2019° 821.

11. "Power of Boards, etc, to collect information: a a Any Board

- "or 'the Chairman of a Board may, for the purpose of an enquiry under this Act or the * rules made thereunder, direct any employer to furnish such records, documents or information and do such 'other acts as the Board or the Chairman, as the case may * be, may, require, and every such employer shall comply: with such direction.]

by The Chairmen of the Board and such members, officers and servants

-thereof as are authorized in this behalf 'by the Chairman may, for the discharge of : any functions under, this Act or the rules made hereunder,— °

@ enter, at all if reasonable times, any factory' .

(b): inspect any books register and other documents relating to such factory ; and

(c) record statements of persons connected with the working of such : factory: Bee

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Provided that no one shall be required under this clause to answer any question tending to criminate himself.

(3). _ Any person who contravenes the provisions of sub- section (1), and any person who willfully obstructs anyone in the exercise of any power under sub-section (2), or fails to produce on demand thereunder any books, registers or

other documents, shall be punishable with fine which may extend to five hundred ; Rupees * :

12. Certain powers of Court to Boards.— The Boards. shall, while holding an enquiry under this Act or the rules made thereunder, be deemed to be Civil Courts and shall have the same powers as are vested in such Courts under the

Code of Civil Procedure, 1908: (Act No 208), in respect of the following matters, ; namely: — * :

pan

(a) ° enforcing the attendance of any person and examining 'him on oath; and

(b) supervising the production of documents and material and

(c) issuing commissions for the examination of witnesses.

13.° Chairman, etc: deemed 'to be public servants.— The Chairman of the Boards and the members, officers and servants thereof, shall all be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code COE VCh 1sc) Ce Ch ee thle a

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4 14. -Bar to legal proceedings.—No suit, prosecution or other legal

_ proceeding shall lie against any person for anything which is in'good faith done Or, :
intended to be done under this Act or the rules made thereunder.

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ei Rules relating to Boards.—

qd) Subject to the provisions of section 26, the Government of Gilgit

- Baltistan may, by notification in the Official Gazette, make rules for
carrying out the purposes of this Act. :

(2) Without prejudice to the generality of the foregoing power, such rules
may provide for:— Bee

_ (a) _ the matters specified in sub-section (5) of section 3;

(b) .. the giving of opportunities to persons likely to be affected by the
minimum rates of wages to offer comments and make
suggestions; - ; ae Rae

{c) fixing normal hours of work for the purpose of determining time

(d) giving adequate publicity to the minimum rates of wages declared
“*. under this Act; Bae a

(e) © the maintenance of wages books, wage slips, registers and other
* records and prescribe their forms and particulars to be entered
therein and the manner of authenticating such entries;

“(f) . the preparation and submission of reports and returns:

(g) Such other matters. for which rules are considered necessary
., for effectively carrying out the provisions of this Act.

‘.(3) . Rules made under this section may provide that any contravention
there. of shall be punishable.with fine not exceeding five hundred
rupees, “al cn “ee

_ 16. Appointment of Inspectors. The Government may appoint
ae Inspectors fi rom the officials of the Directorate of Labour for the purpose of securing _
_ compliance with the provisions of this Act and any Inspector so appointed shall be
‘deemed to bea public servant within the meaning of the Pakistan Penal Code:

'Part I]:

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es Inter ference in Duty. "aay Whoever interferes in sa: of Chief

Ingpector, Deputy Chief Inspector or Labour Inspe

~ thereunder or while performing duties/functions in fulfilment of of the mandate given :

'to the department, is committing a non-bailable offence.

30): On conviction th

_ fifty thousand rupees or imprisonment w

than 4 months or both.

nich may extend to six month but not less

'18. Limitations of Prosecutions. CNG court shall take cognizance of

any offence banshee under this Act or any rule made thereunder:

19. Lodging of complaints. All complaints about minimum wages.

offences are to 'be lodged in the: prescribed manners: °

20. Competent Court —All complaints and suits about the minimum wages

offences. are-to be instituted in the Court of Labor Magistrate.

ae Summary Trial. —All cases relating to this act shall be fast enough

summary trials in accordance with the Provisions of the Code of Criminal Procedure,
1898 AEN. of 1898). :

22. Courts Competent to take Cognizance. AN offence cases

'punishable under this Act and rules. made thereunder shall be adjudicated and trials
shall be conducted exclusively by a Labour Magistrate. a

Bp - 23. Magisterial Powers. to Officers. Government may empower

Se ae Labour Department Officer not below the rank of a Deputy Chief Inspector to
perform functions and powers of a Labour Magistrate under this os .

- 24. Duties of other. Government Departments and Functionaries. mee

Other Government Departments and Functionaries of Government including Police, —
Administration and Revenue Departments shall assist the Labour Department in
implementation and enforcement of this Act or rules made thereunder and any

policies, orders, notifications and measures mea

nt for achieving mai

Labour Department. g Manan of va

25; Obligation 'of other Government Departments 'and?

a Functionaries of Government as ment

ioned in Section 24 to provide an
when asked for r bys a Labour: Deparment : Y Ne

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ctor, under this act or rules made

e offender is iable toa fine hich may extend to 3 oe

- Functionaries.—(1) It is-the obligation of all Government Departments and =

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zo) The: Police Departinddt Administration and ae jaw enforcing a

agencies as the case may be, of the concerned: district i is bound to abide by and ae

_ comply the orders of Labour Magistrate i in the proceedings-and disposal of minimum wages offence cases sand i in implementation of this Act. .

(6) In case sof non- -compliance or non- -cooperation, the Deputy Chief oes

Inspector shall report the matter to the high-ups of the concerned officials for ee

initiation of sisciplinaty proceedings against such defaulting offi icers,

D6): Bower to make Rules The Government may, by hotification in the Off ficial Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

FIDA MUHAMMAD NASHAD,
Speaker:
Cle Bee Assenibly

RAJA JALAL MAQPOON,.
Governer :
Gilgit-Baltistan..