

RULES UNDER THE AZAD JAMMU AND KASHMIR
GOVERNMENT ACT, 1964

In exercise of the powers conferred by section 15 of the Azad Jammu and Kashmir Government Act, 1964 read with sections 8 and 14 thereof, the Chief Adviser is pleased to make the following rules:-

CHAPTER I

1. Duration and dissolution of the State Council:- Every State Council shall continue for a period of five years from the date of its first sitting after its constitution :

Provided that the President may, in consultation with the Chief Adviser:

(a) at any time "dissolve the State Council' before the expiry of its term ; or

(b) extend the term of the State Council if in special circumstances he thinks fit.

2. Legislative power of President:- If at a time when the State Councils not in session or stands dissolved or in case of an emergency or in cases where the State Council does not have the powers of legislation, the President is satisfied that circumstances exist which render such legislation necessary, he may, with the concurrence of the Chief Adviser, make such Ordinances as the circumstances appear to him to require ; and any Ordinance so made shall be as effective as a law made by the State Council.

3. Powers of Chief Adviser to give directions for elections:- The Chief Adviser may, notwithstanding anything herein contained, from time to time, make such orders and give such directions as he may consider necessary with regard to the holding of elections to the State Council, delimitation and number of constituencies, appointment of an Election Commissioner and other officers and servants and with regard to other matters connected with such elections.

4. Procedure for election of members of State Council:- The members of the State Council shall be elected in accordance with the provisions of Chapter II of these rules.

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Oath of office of Chairman and members:- Every person nominated, selected or declared as Chairman or as a member of the State Council shall, before entering upon the duties of his office, make and subscribe an oath before such authority as may be specified, in the following form :

"I _____, having been nominated/elected/declared to be the Chairman (member of the Azad Jammu and Kashmir State Council, do hereby solemnly affirm in the name of Allah/God that I shall remain loyal to the country and to the accession of the State of Jammu and Kashmir to Pakistan ;

That I will perform my functions as Chairman member of the State Council honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Chairman member of the State Council and whose disclosure is against the interest of the State;

So help me God.

Bar of Jurisdiction:- Notwithstanding anything contained to the contrary in the Azad Jammu and Kashmir Basic Democracies Act, 1960, or in the Azad Jammu and Kashmir Basic Democracies Election Rules, 1960, or in any other law or rule for the time being in force, the Validity of the nomination of a Chairman or election of a member of the State Council or any other action taken in pursuance of the provisions of the Azad Jammu and Kashmir Government Act, 1964, or the rules made thereunder, shall not be called in question in any Court or before any Tribunal or other authority by way of a suit or other petition including an election petition.

Persons to cease as members and removal of members of State Council:- (1) A person shall cease to be member of the

State Council before the expiry of his term:

(a) if he ceases to be a national of the Jammu and Kashmir State;

(b) if he is an undischarged insolvent;

(c) if he has been ordered to execute a bond under section 110 of the Code of Criminal procedure or has been on conviction

for an offence involving moral turpitude, sentenced to imprisonment;

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if he has joined salaried Government service or service under a public statutory body or under any local authority or local body in Azad Kashmir or in Pakistan or in any other country;

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if he is debarred or disqualified for membership of a basic democracy or any other elective body under any law for the time being in force;

(f) if he without reasonable excuse absents himself from three consecutive meetings of the State Council and is removed by the Chairman for the same.

(2) If the Chairman is of the opinion that the continuance of a person as a member of the State Council is undesirable or inexpedient on the ground of misconduct or for reasons of State, he may, with the consent of the Chief Adviser, remove such person from the membership of the State Council. The person so removed shall stand disqualified for being a member or a candidate for membership of the State Council or of a basic democracy for a period of six years from the date of such removal.

CHAPTER II

ELECTION OF MEMBERS OF STATE COUNCIL AND OTHER

MATTERS CONNECTED THEREWITH

Constituencies:- The eight members of the State Council to be elected under section 3 of the Azad Jammu and Kashmir Government Act, 1964, shall be elected from amongst the electors of basic democracies by the elected members of the Union Councils, Town Committees and Union Committees constituted under the Azad Jammu and Kashmir Basic Democracies Act, 1960, and there shall be the following constituencies with the number of seats allotted to them:-

- (i) Muzaffarabad district 2 seats.
- (ii) Poonch district 3 seats,
- (iii) Mirpur district 3 seats.

Qualifications and disqualifications of candidates:- The qualifications of the candidates, and the disqualifications to which the candidates for election to the State Council shall be

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subject, shall be the same as those of candidates for membership of basic democracies under the Azad Jammu and Kashmir Basic Democracies Act, 1960, and the rules made thereunder.

Appointment of Returning officers:- (1) A Returning officers shall be appointed by the Election Commissioner for each Constituency.

(2) The Election Commissioner shall take all such steps as may be necessary to give effect to the provisions of rule 8 of these rules.

Procedure for election and deposit of Security:- Subject to these rules, the provisions of the Azad Jammu and Kashmir Basic Democracies Election Rules, 1960, shall, as far as may be and with the necessary modifications, be followed for the conduct of elections of members of the State Council in each constituency as in the case of election of members of a basic democracy in a ward, subject to the following conditions:-

(a) The list of elected members of basic democracies of each district shall be the electoral roll for the constituency of that district;

(b) The Presiding officers and other polling Staff required for election shall be appointed by each Returning officer subject to the general control of the Election Commissioner;

(c) Each Returning officer will issue a general programme for the holding of elections for his constituency specifying dates for different stages of the election on the lines of the Azad Jammu and Kashmir Basic Democracies Election Rules, 1960 ;

(d) (i) On the day fixed for nomination a sum of two hundred and fifty rupees shall be deposited in cash by or on behalf of each candidate with the Returning officer along with the nomination paper;

(ii) If the nomination paper is not accompanied, by such deposit, it shall be rejected ;

(iii) If the candidate fails to obtain ten per cent of the actual number of votes polled, the deposit shall be forfeited;

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(iv) The deposit made under this rule shall be refunded within 30 days of the declaration of final result to the candidate concerned:

- (1) if his nomination paper is rejected; or
- (2) if he withdraws his candidature ; or
- (3) if he is elected; or

(4) if he is not elected but the votes secured by him are not less than ten per cent of the total votes polled.

(v) If a candidate before obtaining the refund to which he is entitled under this rule, the deposit shall be refunded to his legal representatives.

By-election:- The provisions of the Azad Jammu and Kashmir Basic Democracies Election Rules, 1960, relating to by-elections shall also apply to a by-election in case of occurrence of a vacancy in the office of an elected member of the State Council.

Declaration:- The results of the poll shall be declared in accordance with the provisions of rule 48 of the Azad Jammu and Kashmir Basic Democracies Election Rules, 1960.