

THE AZAD JAMMU AND KASHMIR GOVERNMENT ACT, 1970
(Act I of 1970)

(Passed under Government Order No. Admin\15132-78\SS\70,
dated 5th September, 1970)

WHEREAS the future status of the State of Jammu and Kashmir is yet to be determined in accordance with the freely expressed will of the people of the State through the democratic method of free and fair plebiscite under the auspices of the United Nations as envisaged in the UNCIP Resolutions adopted from time to time ;

AND WHEREAS a part of the territories of the State of Jammu and Kashmir already liberated by the people are known for the time being as Azad Jammu and Kashmir ;

AND WHEREAS it is necessary to provide for the better Government and administration of Azad Jammu and Kashmir until such time as the status of Jammu and Kashmir is determined as aforesaid;

It is hereby enacted as follows ;

1. Short title and commencement:- (1) This Act may be called the Azad Jammu and Kashmir Government Act, 1970;

(2) It shall come into force at once.

2. Definitions:- In this Act, unless there is anything repugnant in the subject or context:-

(a) "Azad Jammu and Kashmir" means the territories of the State of Jammu and Kashmir which have been liberated by the people of that State and are for the time being under the administration of Government;

(b) "Government" means the Azad Government of the State of Jammu and Kashmir;

(c) "Prescribed" means prescribed by rules made under this Act.

(d) "State Subject" means a person who is a "State subject" as

defined in the late Government of the State of Jammu and Kashmir Notification No. I-L/84, dated the 20th April, 1927.

President:- (1) There shall be a President of Azad Jammu and Kashmir, hereinafter called the President, who shall be elected directly on the basis of adult franchise in such manner as may be prescribed.

(2) The election to the office of the President shall be conducted under the control and supervision of the Election Commissioner.

(3) The election of the President under sub-section (2) shall not be called in question in any court or before any tribunal or any authority.

(4) No person shall be qualified for election as President unless:-

(a) he is a Muslim;

(b) he has attained the age of thirty-five years ; and

(c) his name appears on the electoral roll prepared for the election of the members of the legislative Assembly.

(5) Subject to the provisions of this Act, the President shall hold office for a period of four years from the date on which he enters upon his office and shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Removal of President:- (1) If one-third of the total number of members of the Legislative Assembly give a notice in writing to the Speaker of the Assembly of their intention to move a resolution of no confidence against the President, the Speaker shall convene a meeting of the Assembly not later than two weeks from the date of receipt of the notice.

(2) The President shall have the right to appear before the Legislative Assembly among the consideration of the resolution under sub-section (1) and to make a statement if he so desires.

(3) If the resolution under sub-section (1) is passed by the Legislative Assembly by the votes of not less than two-third of the total number of members of the Assembly, the President shall forthwith cease to hold office.

Acting President:- At any time when the President is absent or is unable to perform the functions of his office due to illness or

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any other cause, the Chief Justice of the High Court of Azad Jammu and Kashmir shall act as President until the President resumes his office.

Casual vacancy of the office of President:- Where the office of President falls vacant due to death, resignation or any other cause, the Chief Justice of the High Court of Azad Jammu and Kashmir shall:

(a) Perform the functions of the President till such time as a new President is elected ; and

(b) cause an election to the office of President to be held within a period of three months from the date on which the office falls vacant.

Adviser:- There shall be an Adviser to the Government who shall be appointed by the President with the approval of the Government of Pakistan.

Plebiscite Adviser:- The President may, after consultation with the Adviser, appoint a Plebiscite Adviser to advise Government in relation to the holding of a plebiscite in the State, of Jammu and Kashmir in terms of the UNCIP Resolutions.

Council of Ministers:- (1) There shall be a President's Council of Ministers to be known as the Council of Ministers consisting of three members to be appointed by the President in such manner as may be prescribed:

Provided that, when a Plebiscite Adviser is appointed, he shall be an additional member of the Council of Ministers.

(2) If a member of the Legislative Assembly is appointed as a member of the Council of Ministers, he shall cease to be a member of the Assembly on the day he assumes office as Minister.

General Powers and duties of the President:- (1) The superintendence, direction and control of the Government shall be vested in the President, acting with the aid and advice of his Council of Ministers.

(2) All orders of the Government shall be expressed to be made by the President.

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(3) The President may issue general instructions for the convenient transaction of business by the Council of Ministers and the government and every order made or act done in accordance with such instructions shall be treated as the order or act of the President,

Extent of executive authority:- The executive authority of the Government shall extend to all matters with respect to which the Legislative Assembly has power to make laws.

Meeting of the Council of Ministers:- (1) The Council of the Ministers shall meet at such times and at such places as the President may appoint.

(2) The Council of Ministers may function notwithstanding the, absence or any vacancy in the office, of any one of its members.

(3) The meetings of the Council of Ministers shall be conducted, and decisions thereat shall be taken, in such manner as may be prescribed.

Restrictions on the exercise of powers of the President:- (1) The powers of the President shall be so exercised as not to impede or prejudice :

(a) the responsibilities of the Government of Pakistan under the UNCIP Resolutions; and

(b) the responsibilities of Pakistan for the defence and security of Azad Jammu and Kashmir.

(2) The President shall maintain liaison through the Adviser with the Government of Pakistan with respect to all matters mentioned in sub-section (1).

Legislative Assembly:- (1) The legislature of Azad Jammu and Kashmir shall consist of the President and a Legislative Assembly consisting of twenty-five members of whom :-

(a) twenty-four shall be elected directly, on the basis of adult franchise; and

(b) one, who shall be a woman, shall be elected, by the directly elected members.

(2) The manner of election of the members of the Legislative Assembly, their qualifications and disqualifications for being such members, the number of members required to constitute the quorum and the manner of filling casual vacancies shall be such as may be prescribed.

(3) Every Legislative Assembly, unless sooner dissolved, shall continue for four years from the date appointed for their first meeting and no longer, and the expiration of the said period of four years shall operate as a dissolution of the Assembly.

Right of Ministers to take part in Assembly proceedings:- A member of the Council of Ministers shall have the right to speak in, and otherwise take part in, the proceedings of, the Legislative Assembly or of any of its committees but shall not be entitled to vote.

Meeting of the Legislative Assembly:- (1) The Legislative Assembly shall assemble at such times and at such places as the President may appoint and the President may prorogue a session of the Assembly.

(2) Any meeting of the Legislative Assembly may be adjourned by the Speaker of the Assembly or other person presiding thereat.

Dissolution of Legislative Assembly:- (1) If at any time the President is satisfied that a situation has arisen in which the administration cannot be carried on in accordance with the provisions of this Act, he may, after consultation with the adviser, dissolve the Assembly.

(2) Where the Legislative Assembly is dissolved under subsection (1), the President shall cause fresh election to the Legislative Assembly to be held within a period of four months from the date of the dissolution.

Speaker of the Legislative Assembly:- (1) The members of the Legislative Assembly shall, at its first meeting or as soon thereafter as may be, elect from amongst their number of Speaker of the Assembly.

(2) All proceedings of the Legislative Assembly shall be conducted in accordance with Rules of Procedure made by the Assembly and approved by the President.

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(3) The Speaker of the Legislative Assembly shall preside at its meetings and, in the absence of the Speaker from any meeting, such member of the Assembly present as may be determined by the Rules of Procedure shall preside thereat.

Legislative Powers:- (1) Subject to the provisions of sub-section (3), the Legislative Assembly has power to make laws :

- (a) for the territories of Azad Jammu and Kashmir;
- (b) for all State Subjects wherever they may be;
- (c) for all officers of the Government wherever they may be ;

(d) for repealing or altering any laws which at the commencement of this Act, are in force in Azad Jammu and Kashmir.

(2) No tax shall be levied for the purposes of the territories of Azad Jammu and Kashmir except by or under the authority of an Act of the Legislative Assembly.

(3) The Legislative Assembly shall not have the power to. make any law concerning:

(a) the responsibilities of the Government of Pakistan under the UNCIP Resolution;

(b) the defence, and security of Azad Jammu and Kashmir; or

(c) the current coin or the issue of any bills, notes or other paper currency.

(4) The provisions this Act, except sections 13, 19 and 28, may be amended by an Act of the Legislative Assembly :

Provided that a Bill to amend this Act shall not be presented to the President unless it has been passed by the votes of not less than two-thirds of the total number of members of the Legislative Assembly.

President's assent to Bills:- (1) When a Bill has been passed by the Assembly it shall be presented to the President, who shall, within thirty days:

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(a) assent to the Bill; or

(b) declare that he withholds assent therefrom; or

(c) return the Bill to the Assembly with a message requesting that the Bill, or any specified provision thereof, be reconsidered, and that any amendments specified by him in the message be considered.

(2) When the President has declared that he withholds assent from a Bill or has returned a Bill to the Assembly, the Assembly shall reconsider the Bill, and if it is again passed, with or without amendment by the Assembly, by the votes of not less than two-thirds of the number of members present and voting, it shall be again presented to the President, and the President shall assent thereto.

Budget:- (1) The President shall, in respect of every financial year, cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure for that year, to be called the Annual Budget.

(2) The Annual Budget shall be submitted to the Legislative Assembly in the form of demands for grants and the Assembly shall have power to assent to, or to refuse to assent to any demand, or to assent any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

(4) The Annual Budget as passed by the Legislative Assembly shall be placed before the President who shall, by his signature, authenticate it.

(5) The President may, if necessary, also cause Supplementary Budget to be laid before the Legislative Assembly in respect of any financial year and the provisions of this action shall apply to a Supplementary Budget as they apply to the Annual Budget.

Special Powers of the President Pending Budget:- (1) Where the Legislative Assembly fails to pass the Annual Budget for any financial year laid before it under sub-section (1) before the commencement of that year, with or without any reduction of the amount specified therein, the President may, by his signature,

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authenticate the Annual Budget as laid before the Assembly.

(2) Where the Annual Budget for any financial year cannot be passed by the Legislative Assembly by reason of its having been earlier dissolved the President shall cause to be prepared an Annual Budget for that year and, by his signature, authenticate the Budget.

(3) The Annual Budget for any financial year authenticated by the President under sub-section (1) or sub-section (2) shall, for the purposes of this Act, be deemed to have been passed by the Legislative Assembly.

Restriction on expenditure:- (1) No expenditure shall be incurred by the Government except as authorised by the Annual or Supplementary Budget as passed by the Legislative Assembly.

(2) No expenditure on such major development activities as may be specified by the Adviser shall be incurred except with the approval of the Adviser.

Power to make Ordinance:- The President may, in the case of emergency, make and promulgate Ordinances for the peace and good government of Azad Jammu and Kashmir and an Ordinance so made shall for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Legislative Assembly but the power of making an Ordinance under this section is subject to the like restrictions as the power of the Legislative Assembly to make laws ; and any Ordinance made under this section may be controlled or superseded by an Act of the Legislative Assembly.

High Court:- (1) There shall be a High Court for Azad Jammu and Kashmir hereinafter called the High Court which shall consist of a Chief Justice and such number of other Judges as may be prescribed by an Act of the Legislative Assembly.

(2) Until otherwise provided by an Act of the Legislative Assembly, the High Court functioning immediately before the commencement of this Act shall be the High Court of Azad Jammu and Kashmir.

(3) The person holding office as Chief Justice or other Judge of the High Court immediately before the commencement of this

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Act shall be deemed to be the Chief Justice or other Judge, as the case may be, appointed under this Act.

Public Service Commission:- (1) There shall be a Public Service Commission for Azad Jammu and Kashmir which shall consist of such number of members including a Chairman, and perform such functions as may be prescribed.

(2) The Public Service Commission existing immediately before the commencement of this Act and the persons holding office as Chairman and other members of that Commission immediately before such commencement shall be deemed to have been constituted and appointed under this Act.

Election Commissioner:- (1) There shall be an Election Commissioner appointed by the President on such terms and conditions as may be prescribed.

(2) The person appointed as Election Commissioner under the Azad Jammu and Kashmir Electoral Rolls Ordinance, 1970, and functioning as such immediately before the commencement of this Act shall be deemed to have been appointed as Election Commissioner under sub-section (1) on the same terms and conditions of service as were applicable to him immediately before such commencement.

Act not to derogate from the responsibilities of Pakistan:- Nothing in this Act shall derogate from the responsibilities of the Government of Pakistan in relation to the State of Jammu and Kashmir under the UNCIP Resolutions or prevent the Government of Pakistan from taking such action as it may consider necessary or expedient for the effective discharge of those responsibilities.

Continuance of Existing laws:- Subject to the provisions of this Act, all laws which immediately before the commencement of this Act, were in force in Azad Jammu and Kashmir shall continue in force until altered, repealed or amended by an Act of the Legislative Assembly or other appropriate authority.

Power to make rules:- The President may make rules for

carrying out the purposes of this Act.

Repeal and Savings:- (1) The Azad Jammu and Kashmir
Government Act, 1968 hereinafter referred to as the said Act,

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together with the Acts amending it, and the rules made thereunder are hereby repealed.

(2) Notwithstanding the repeal of the said Act under sub-section

(1):

(a) the provisions of the said Act relating to election of the members of the State Council shall apply for the purposes of the first election of the Legislative Assembly provided for in this Act, reference in those provisions to State Council being construed as reference to Legislative Assembly; and

(b)

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the person, who, immediately before the commencement of this Act, was holding the office of President of Azad Jammu and Kashmir, and the State Council, which, immediately before such commencement, was functioning as the State Council of Azad Kashmir, shall, until the President is elected and the Legislative Assembly is constituted in accordance with the provisions of this Act, exercise the powers and perform the functions under this Act respectively of the President and the Legislative Assembly.