

AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,  
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,  
MUZAFFARABAD.

Dated the 6th July, 1976.

The following Act of Azad Jammu and Kashmir received the assent of the President on the 4th July, 1976, and is hereby published for general information:-

(Act No. VIII 1976)

AN ACT further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974.

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short Title and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (Third Amendment) Act, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the seventh day of November, 1975

2. Amendment of Section 2, Act VIII of 1974.- In the Azad Jammu and Kashmir interim Constitution Act, 1974 (Act VIII of 1974), in Section 2, after sub-section (2), the following subsection shall be added, namely:-

"(3) A person who does not believe in the absolute and unqualified finality of the prophet hood of Muhammad (peace be upon him) the last of the prophets or claims to be a prophet, in any sense of the world or of any description whatsoever, after Muhammad (peace be upon him), or recognizes such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of this Act or law,"

3. Amendment of Section 42, Act VIII of 1974.- In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), in section 42:-

(a) for sub-section (3), the following shall be substituted, namely:-

"(3) | The Supreme Court shall consist of a Chief Justice, to be known as Chief Justice of Azad



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Jammu and Kashmir, and one other Judge," ;  
and

(b) after sub-section (12) the following new sub-section shall be added, namely:-

(13)

(14)

(15)

If there is a difference of opinion between the two Judges of the Supreme Court, the judgment, decree, order or sentence of the High Court appealed from shall be deemed to be the judgment decree, order or sentence, as the case may be, of the Supreme Court.

Provided that if such difference of opinion is only in respect of the nature, quantum or extent of the relief liability, penalty or punishment to be granted or imposed, the decision of the Supreme Court shall be expressed in terms of opinion of the senior of the two judges.

The person holding office as Chief Justice of the State of Azad Jammu and Kashmir immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (First Amendment) Act, 1975, shall as from such commencement hold office as Chief Justice of Supreme Court under this Act on the same terms and conditions of service as were applicable to him immediately before such commencement.

All Legal proceedings pending in the Judicial Board, immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (First Amendment) Act, 1975, shall, on such commencement, stand transferred to, and be deemed to be pending before the Supreme Court for determination and any judgment or order of the Judicial Board delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the Supreme Court.

Insertion of New Sections 42-A and 42-B.- In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (Act VIII of 1974), hereinafter referred to as the said Act, alter section 42, the following new sections shall be inserted, namely :-

"42-A. Issue and Execution of processes of Supreme Court.-

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dd) The Supreme Court shall have power to issue such directions, orders or decrees as may be necessary for doing complete justice in any case or matter pending before it including an order for the purpose of securing the attendance of any person or the discovery or production of any document.

(2) Any such direction, order or decree shall be enforceable throughout Azad Jammu and Kashmir as if it has been issued by the High Court.

(3) All executive and Judicial authorities throughout Azad Jammu and Kashmir shall act in aid of the Supreme Court.

(4) Subject to this Act and law, the Supreme Court may, in consultation with the Council, make rules regulating the practice and procedure of the Court.

Provided that till the new rules are framed, the rules framed by the Judicial Board shall, so far as they are not inconsistent with this Act and any other law, be deemed to have been made by the Supreme Court until altered or amended and references to the Judicial Board in these rules shall be construed to be referred to the Supreme Court.

42B. Decisions of Supreme Court Binding on other Courts.- Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other Courts in Azad Jammu and Kashmir."

Insertion of new Sections 44-A and 44-B.- In the said Act, after section 44, the following new sections shall be inserted, namely :-

"44-A, Rules of Procedure.- Subject to this Act and law, the High Court may, in consultation with the Government, make rules regulating the practice and procedure of the Court or of any Court subordinate to it."

"44-B. Decision of High Court binding on subordinate of Courts.- Subject to section 42 B, any decision of the High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it."

Sd/-  
(Syed Mohammad Akram Shah)  
Deputy Secretary Law.

