

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 9th February, 2016

No. LD/Legis-Act/188-201/2016. The following Act of Assembly received the assent of the President on the 8th day of February 2016, is hereby published for general information.

(Act XVI of 2016)

An

Act

to provide a law for the purpose to regulate and facilitate the cross LoC travel and trade

WHEREAS it is expedient to establish an independent authority which shall have mandate to regulate and facilitate the cross LoC travel and trade in a functional manner and the authority so established shall be assigned and to undertake functions in connection with cross LoC travel and trade in the manner here-in-after appearing;

AND WHEREAS, it is appropriate that the Authority so established shall be assigned and to undertake functions in connection with Cross LoC travel and trade;

It is hereby enacted as follow:-

1. Short title and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Cross LoC Travel and Trade Authority Act, 2016.

(2) It shall come into force at once and shall be deemed to have taken effect from 13.01.2014.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context, following expressions shall have the meanings as hereby respectively assigned to them:-

(i) 'Authority' means the Azad Jammu and Kashmir cross LoC travel and trade Authority constituted under Section 3 of the Ordinance;

(ii) 'Board' means the board constituted under the sub-section (2) of Section 9 of the Ordinance;

(iii) 'Chairman' means the Chairman of the Authority;

(iv) "Cross" denoting interaction or passing through LoC the persons and goods from Azad Jammu and Kashmir to

Indian occupied Kashmir and Vice Versa for the purposes of the Ordinance;

(v) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(vi) 'Quarantine procedure' means and includes regulating a procedure at LoC to avoid communicable disease or its spread into AJ&K;

(vii) | 'LoC' means Line of Control between Azad Jammu and Kashmir and Indian occupied part of the State of Jammu and Kashmir;

(viii) 'Act' means the Azad Jammu and Kashmir Cross LoC Travel and Trade Authority Act, 2016;

(ix) 'Prescribed' means as may be prescribed by regulations; and

(x) 'Regulation' means the regulation made by the Board under Section 27.

CHAPTER-I PRELIMINARY

AUTHORITY

Composition of the Authority.- (1) There shall be an Authority to be called the Azad Jammu and Kashmir Cross LoC Travel and

Trade Authority to be notified in the official gazette.

(2) The Authority shall comprise of Chairman and suitable number of officers and employees to be selected on the basis of their expertise having relevance to objectives of travel and trade across LoC.

(3) The Authority shall have the exclusive right to use emblem, motto, logo, decorations, descriptive or designating marks in the name "Azad Jammu and Kashmir cross LoC Travel and Trade Authority" or any similar grammatical variation thereof for carrying out its objectives. The authority shall be competent to acquire land for public purposes including establishment of its warehouses and other office buildings. It shall sue and be sued.

Regional Offices of Authority.- The Authority may, with prior approval of the Government, establish its offices at such places in Azad Jammu and Kashmir as it considers necessary.

Chairman.- (1) The Chief Secretary Govt. of AJ&K shall be ex-officio Chairman of the Authority.

(2) The Chairman shall together with other officers, be responsible for the management of all affairs of the Authority and achievement of desired objectives. Subject to the regulations made by the Authority, the Chairman shall be assisted by other subordinate officers and servants in carrying out the functions of the Authority. The Chairman shall report to the Government on all matters including those delegated by him to the subordinate officers in the Authority.

Director General.- (1) There shall be a Director General of the Authority who is or has been civil servant of AJ&K in grade 20 or above or is a retired personnel from Pakistan Armed Forces of equivalent rank, to be appointed, on recommendations of Selection Committee, by the Board.

(2) The Director General shall Principle Accounting Officer responsible to report to the Chairman. He shall, together with other officers nominated by the Chairman, be responsible for the day to day implementation of the approved plans diligently, timely and effectively. Subject to the regulations made thereunder, Director General shall be assisted by other subordinate officers and servants in carrying out the functions of the Authority.

(3) The Director General shall provide all secretarial services to the Authority.

Human Resource of the Authority.- (1) The human resource of the Authority shall comprise the following, namely:-

(a) Employees to be appointed on contract basis from amongst State Subjects of the State of Jammu and Kashmir; and

(b) AJK civil servants appointed on deputation basis to be paid from funds of the Authority.

(2) The salaries, allowances and other perks and privileges as declared admissible to the officers and officials shall be paid out of the fund of the Authority.

(3) The terms and conditions of service of any person referred to in sub-clause (2) shall not be varied by the Authority to his disadvantage.

(4) The Authority may, from time to time, employ persons to be employees of the Authority who may be paid remuneration

and allowances in accordance with procedure approved by the Board of the Authority. These employees shall hold office during the pleasure of the Authority and shall be liable to disciplinary action in accordance with the regulations made by the board.

Authority to furnish information.-The Authority shall furnish

to the Government, such information with respect to implementation of any policy which it is pursuing or proposes to pursue in the performance of any of its functions under this Ordinance or as the Government may, from time to time, require.

CHAPTER-II BOARD

Management.- (1) The general direction and administration of the Authority and its affairs shall vest in the Board.

(2) Board shall consist of the following members, namely:-

- (a) Chief Secretary GoAJK Chairman
- (b) Additional Chief Secretary (Gen.) Vice-Chairman
- (c) Senior Member Board of Revenue Member
- (d) Inspector General Police Member
- (e) Secretary, Industries Department Member
- (f) Secretary, Finance Department Member
- (g) Secretary Law Member
- (h) Secretary Transport Member
- (i) | Commissioners MZD/Poonch Member
Division
- G) — President AJK Chamber of Member

Commerce and Industries or persons
having relevant experience and
knowledge

(k) Director General Member/Secretary

(3) Any other member may be co-opted with the approval of the Chairman.

(4) The Board may constitute Executive Committees to carry out any particular mandate and formulate policy or recommendation on any point of reference assigned to it.

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CHAPTER-III

POWERS AND FUNCTIONS

Powers and functions of the Board.- (1) The Board shall be the decision making body of the Authority having the power to supervise, control, direct and regulate the affairs of the Authority and shall have the following other functions, namely:-

(a) to devise strategies and improve the procedures for facilitation of travel of AJK State Subjects across LoC;

(b) to establish short, medium and long term and to undertake critical success factors and key performance indicators of Trade;

(c) to review performance of the Authority annually including pre-agreed critical success factors and key performance indicators;

(d) to advise suitable measures and procedures;

(e) to consider and approve regulations proposed to be made by the Authority;

(f) to consider and approve budget for each financial year

and approve expenditure therefrom;

(g) to express its opinion in writing on any policy matter referred to it by the Government or the Authority;

(h) to exercise all such powers and perform all such functions as are conferred or assigned to it under this ordinance; and

(i) to create posts and positions required to perform the activities and functions of the authority.

(2) All policy decisions, including any change in policy, in respect of all and any matter within the jurisdiction of the Authority, shall be made by the Board. The Board may also adopt policy recommendations with or without modifications as the Board may deem fit in its sole discretion.

(3) The Board shall have the authority to delegate any of its powers to Chairman or any other officer of the Authority.

Powers and functions of the Authority.- (1) The Authority

shall have all such powers as may be necessary to perform its duties and functions under the Ordinance.

(2) The Authority may, having regard to its functions and to exercise its powers, organize itself into administrative units as may consider expedient, with the approval of the Board.

(3) The Authority may, having regard to its functions and to pursue the purposes of this Ordinance, appoint and notify committees, bodies, form entities etc. consisting of employees, persons of the private sector or the Government.

(4) The Authority may, from time to time, identify matters suggesting to the Board to make policy decisions and may also make recommendations regarding policy to the Board for its consideration provided that any matter referred to the Board by the Authority shall require prior approval of the Chairman.

(5) Without prejudice to the generality of the foregoing provisions of this Section, the Authority shall perform the following functions, namely:-

A- Cross LoC Travel.-

i to regulate, facilitate, supervise and manage cross LoC travel of state subjects of the State of Jammu and Kashmir, through appointment of designated officers in appropriate number and for one or more crossing points, in accordance with the terms and conditions mutually agreed and executed between the Government of Pakistan and India appended and modified or improved from time to time;

ii. to pursue policies and instructions, from time to time, issued by the Board and shall ensure smooth handling of travel related functions in the most feasible manner;

iii. to coordinate with Ministries of Interior and Foreign Affairs and other institutions of Government of Pakistan in connection with the functions and objectives of cross LoC travel;

iv. to provide travel assistance to outgoing or incoming travelers and businessmen in co-ordination with the Ministries of Foreign Affairs, Interior and other related institutions of Government of Pakistan;

Vv. to maintain travel archive of the Authority;

vi. to secure custody and preservation of all documents relating to travel submitted to and emanating from the Authority;

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to receive, process, and store, efficiently and quickly, the documents lodged with and the information given to it, regarding travel and trade across LoC;

to acquire land for construction of terminals; and

to consider and suggest reforms of the laws, rules, regulations and policies relating to travel and trades across LoC.

B- Cross LoC Trade.-

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to pursue, execute, manage and exercise control over cross LoC trade in accordance with modalities as agreed between the Government of Pakistan and India as may be prescribed as well as methods and procedures from time to time approved by the Governments of Pakistan and India to be reflected in a strategy and plan within the policy frame work approved by the Board;

to plan, organize exhibitions, delegations to and from Azad Jammu and Kashmir;

to implement directives of the Government and the Board relating to trade development and promotion;

to develop a consistent, sustainable and result oriented, holistic trade development plan, outlining vision, objectives, strategies and plans as approved by the Board;

to achieve synergy in development of trade by forgoing effective liaison with private and public stakeholders;

to encourage and promote research in cross LoC travel and trade and policy related studies that may facilitate in formulating an effective policy and plans;

to plan and organize travel and trade promotion cross LoC through advertising in local and international print, electronic and other appropriate media;

to encourage and reward leading traders through recognition and rewards, initiatives and incentives etc. including making recommendations to the Government for trade awards including civil awards;

to promote trade in different sectors where separate sectoral boards / bodies currently exist or will be formed in the future;

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to examine supply chains of strategic trade sectors and develop plans and initiatives for strengthening supply base including traders' capabilities and capacities;

to monitor progress against these plans for information of the Board;

to provide travel assistance to outgoing or incoming businessmen, in co-ordination with the Ministry of Foreign Affairs and other institutions of Government of Pakistan;

to encourage, establish and manage where appropriate trade development centers, business support units, display centers and facilities, and information centers, etc.;

to promote traders and stakeholders' education and training of intermediaries of trade related supply chain;

to facilitate the availability of finance to traders, small and medium scale enterprises, risk management of traders and buyers, energy and infrastructure needs of traders and related industrial areas and zones, quality management, social, environmental and security needs

and generally all aspects of trade facilitation etc.;

to encourage and promote human resource development in the trade sectors;

to pursue with respective stakeholders the development of policies, regulations and standards for the travel, trade of goods;

to provide advisory support to stakeholders;

to prepare and seek Board's approval of the annual budget;

to manage funds available to the Authority in accordance with regulations approved by the Board;

to have the administrative control of warehouses and other trade development entities owned by the Authority in Azad Jammu and Kashmir;

to maintain trade archives of the Authority;

to secure custody and preservation of all documents submitted to and issued by the Authority;

to set up sectoral trade committees;

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xxv. to implement directives of the Government and the Board relating to trade development and promotion;

xxvi. to prepare Annual Report of the Authority;

xxvii. to inculcate a quality assured ethics in traders while encouraging value addition of trades;

xxviii. to take initiatives for maintaining facilities etc. to improve the performance of traders in the interest of generating economic activity, reducing cost of doing business and enhancing supply chain efficiency;

xxix. to maintain the confidence of travelers and traders by appropriate communications;

XXx. to improve existing methods and devise new options for the expeditious settlement of claims and disputes between traders and their buyers; and

Xxxi. to promote awareness among traders and buyers and all relevant stakeholders with respect to the benefits of trades and general policies of the Government.

Supplementary provisions.- (1) All guidelines, decisions and directives whether of the Board or the Authority shall be made in

writing expressed by resolutions, orders or in such other form as may be appropriate in the circumstances and shall be authenticated in the manner prescribed by the regulations.

(2) All policy decisions and directives of the Board and the Authority respectively shall be published and the Board and the Authority shall make such publications available to the public.

(3) The Authority shall, in adjudicating upon the rights of any person whose application on any matter it is required to consider in the exercise of any power or function under this Ordinance, give the reasons for its decision after giving the person right of hearing.

CHAPTER-IV

LOC TRAVEL AND TRADE POINTS

LoC Crossing Points.-Following are the crossing points at LoC, however, such points can be changed or increased according to mutual agreements between Governments of Pakistan and India:-

(a) Rawalakot-Poonch

- (b) Chakothi-Uri
- (c) Chaliana-Tithwal

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(d) Tatta Pani-Mendher

(e) Haji Peer-Silli Kot.

Travel across LoC.- (1) Travel across the LoC shall be possible through all the crossing points as mentioned in Section 13, through standards operating procedures (SOPs) and also in accordance with specific procedure as may be, from time to time, notified by the Authority.

(2) The State subjects of Azad Jammu and Kashmir shall be eligible to apply for travel permit to cross LoC in the Application Form as may be prescribed.

(3) The Application Form duly filled in shall be submitted to the Authority along with attested copy of computerized National Identity Card and State Subject Certificate.

(4) The application received under sub-section (3) shall be processed by the Authority as per procedure specifically laid down and made applicable in this behalf, by the Board.

Trade _ across LoC.- (1) The trade across LoC shall be made through following trade points which may be increased, modified and included from time to time:-

(a) Chakothi--- Salamabad

(b) Rawalakot (Titrinote) ---Poonch (Chakkan- da-Bagh).

(2) The trade shall be limited to be the items prescribed in the Modalities of the cross LoC Trade as may be prescribed.

(3) The trader shall have to obtain Single Entry Permit for the driver in Form as may be prescribed.

(4) On obtaining Single Entry Permit, the trader shall obtain Plant Health Certificate strictly in accordance with standard Quarantine procedures, from the Authority if any agricultural good is to be traded as may be prescribed.

(5) The product to be traded shall be properly scanned and inspected by the Authority and there after Cargo Manifest shall be issued by the Authority as may be prescribed.

(6) The truck loaded with goods driven by driver in whose favour the Single Entry Permit is issued shall be permitted to cross LoC from specific trade point on the schedule time and day fixed by the Authority from time to time.

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CHAPTER-V

FINANCE

Fund.- (1) For the purposes of the Ordinance, a non-lapsable Fund shall be established to be administered and controlled by the Authority.

(2) The Fund shall consists of.-

(a) such sums as the Government of Pakistan, AJ&K Council, and the Government may, from time to time grant through non-lapsable regular budget:

Provided that Rs. 50.00 million already provided by government of Pakistan to carry out the said purposes shall be taken as seed money into the fund and expenditure so far incurred out of the said amount shall be deemed to have been incurred and utilized under the Ordinance.

(b) fees, fare, penalties or other charges levied or collected by the Authority; and

(c) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to the exercise of its functions and powers.

(3) All expenditure shall be incurred in accordance with financial and administrative regulations, approved by the Board.

(4) The Authority may open and operate one or more accounts in LoC, or in foreign currency, in any scheduled bank or the Bank of Azad Jammu and Kashmir.

Budget.-The Authority shall, in respect of each financial year, prepare its own budget and submit it after obtaining approval from the Board to the Government, three months, before the commencement of every financial year.

Expenditure to be charged on the Fund.-(1) The Fund shall be spent for the purposes including:-

(a) for payment of any expenditure lawfully incurred by the Authority including but not limited to, the remuneration of its employees appointed and employed by the Authority and legal fees, expenses and costs;

(b) for payment of any other expenses, costs or expenditure properly incurred or accepted by the Authority in the

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performance of its functions or the exercise of its powers under the Ordinance;

(c) for purchasing or hiring equipment, hiring of premises, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other work and undertakings in the performance of its functions or the exercise of its powers under this Ordinance; and

(d) generally, paying any expenses for carrying into effect the provisions of this Ordinance.

(2) The Authority shall prepare and submit to the Board for its approval, budget for the period up to and including the end of the current financial year and thereafter it shall, not later than thirty days before the expiry of each financial year, submit to the Board for approval a budget for the next financial year.

(3) Subject to sub-section (4), no expenditure shall be made for the provision, which has not been specifically outlined in the approved budget except if made from any previously approved funds, unless further approval is sought and obtained from the Board.

(4) The Authority may transfer funds, with approval of the Board, from one head of account to other but the total expenditure shall not exceed the total approved Budget. In exceptional cases, a maximum of ten percent of total budgeted expenditure may be exceeded with the prior approval of the Board.

(5) The Authority shall act as the secretariat of the Board and provide all the necessary facilities to enable the Board to exercise its powers and perform its functions under this Ordinance and the necessary and proper expenses in that connection shall form part of the budget of the Authority.

Accounts and audit.- (1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts in such form as per financial rules and regulations of the Government.

(2) The Authority shall also maintain its balance sheet, statement of income and expenditures account and statement of sources and application of funds with explanatory notes to the accounts, in accordance with accounting standards and other standards as notified by the Government for this purpose.

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(3) The Authority shall cause to be carried out audit of its accounts by the Auditor General of Azad Jammu and Kashmir.

(4) Notwithstanding the audit provided in sub-section (3), the Auditor-General of Azad Jammu and Kashmir shall be authorized by the Government to audit or cause to be audited the accounts of the Authority.

(5) The Authority shall cause proper accounts to be kept and shall as soon as practicable after the end of each financial year, cause to be prepared for that financial year a statement of accounts of the Authority which shall include a balance sheet and an account of income and expenditure.

(6) The auditors shall make a report to the Authority, upon the annual balance sheet and accounts, and in any such report they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the affairs of the Authority and in case they have called for any explanation or information from the Authority, whether it has been given and whether it is satisfactory.

(7) The Authority shall, within one hundred and twenty days of the close of each financial year, submit to the Board for approval an Annual Report of the Authority along with the report of Auditor General.

Power to receive grants.- The Authority may accept with the approval of the Government grants, aids, loans etc. from entities.

Investment.- (1) Subject to sub-section (2), the Authority may, in so far its money are not required to be expended under the Ordinance, invest in such manner as the Authority considers appropriate.

(2) The Authority may invest its money in listed securities or any derivative thereof subject to approval of the Board.

Bank _ accounts.- The Authority may open and maintain its accounts in rupees or in any foreign currency at such scheduled banks or the Bank of Azad Jammu and Kashmir as it may from time to time determine.

CHAPTER-VI

GENERAL

Common seal.- The Authority shall have a common seal and such seal shall be kept in the custody of the Chairman or such other person as may be authorized by the Authority. The

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documents required or permitted to be executed under seal shall be specified in and authenticated in such manner as shall be authorized by the Authority with approval of the Board.

Public servants.- The members, employees and other persons authorized to perform or exercise any function or power for the purpose of Authority or rendering services to Authority as consultant or adviser shall be deemed to be employees of the Authority and their terms of employment shall be strictly governed by regulations or instructions made by the Authority and shall be deemed to be public servants within the meaning of Section 21 of the Azad Penal Code (Act XLV of 1860).

Power of the Government to issue directives.- The Government may, as and when necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority, and if question arises as to whether any matter is a matter of policy, the decision of the Government shall be final.

Departments to Act in aid to the Authority.- All departments and other statutory bodies of the government including and in particular the departments of Industries & Commerce, Transport Authority, Revenue and Home shall act in aid to the Authority.

Power to make regulations.- The Board may, with the approval of the Government, by notification in the official Gazette, make regulations, not inconsistent with the provisions, for carrying out the purposes of this Ordinance.

Removal of difficulties.- If any difficulty arise in giving effect to any provision of this Ordinance, the Government may make such order, not inconsistent with the provisions of this Ordinance, as may be necessary to remove such difficulty.

Savings.- Notwithstanding any judgment of Supreme Court or High Court, all actions taken, decisions made, orders passed, notifications issued, proceedings initiated, powers exercised, powers conferred etc. which have been visualized by this Act, shall be deemed to have been validly taken, made, passed, issued, initiated, exercised and conferred under this Act.

Sd/-
(Ch. Muhammad Nawaz)
Section Officer (Legislation)