

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE AND PARLTAMENTARY AFFAIRS DEPARTMENT,
MUZAFFARABAD

Dated: 27.06.2008

No./LD/Legis./437-51/2008. The following Act of Assembly received the assent of the President on 18th day of June, 2008 is hereby published for general information.

(ACT I OF 2008)

AN

ACT

to provide for the establishment of a Disaster Management System for Azad Jammu & Kashmir

WHEREAS it is expedient to provide for an effective disaster management system and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:

1. Short title, extent and _commencement.-(1) This Act may be called the Azad Jammu and Kashmir Disaster Management Act, 2008.

(2) It extends to the whole of Azad Jammu & Kashmir

(3) it shall come into force at once.

2. Definitions.-In this Act, unless the context otherwise requires,-

(a) "affected area" means an area or part of the Azad Jammu & Kashmir affected by a disaster;

(b) "disaster" means a catastrophe, or a calamity in an affected area arising from natural or man-made causes, or by accident which results in a substantial loss of life or human suffering or damage to, and destruction of, property;

(c) "disaster management" means managing the complete disaster spectrum including-

(i) Preparedness;

(ii) Response;

(iii) Recovery and rehabilitation; and

(iv) Reconstruction

(d) "District Authority" means the District Disaster

Management Authority established under Section 13;

(e) "District Plan" means a Disaster Management Plan prepared for a particular district under Section 16;

(f) "Government" Means the Azad Government of the State of Jammu & Kashmir;

(g) "Authority"? means the Azad Jammu & Kashmir Disaster Management Authority established under Section 8;

(h) "Plan" means the plan for disaster management for the whole of the territory of Azad Jammu & Kashmir prepared under section10;

(i) "Commission" means the Disaster Management Commission established under Section3;

Gg) "Director General" means Director General of the Authority appointed under Section 8(3) of this Act; and

(ky) "Prescribed" means prescribed by rules made under this Act;

CHAPTER II

THE DISASTER MANAGEMENT COMMISSION

Establishment of Disaster Management Commission.-As may be after the commencement of this Act the Azad Government of the State of Jammu & Kashmir may, by a notification in the Official Gazette, establish a Commission to be known as the Disaster Management Commission.

(2) The Commission shall consist of:-

(a) The Prime Minister of Azad Jammu &. Kashmir who shall be the Chairperson, ex officio;

(b) Leader of Opposition in the Legislative Assembly;

(c) Senior Minister;

(d) Minister for Communication, Works, reconstruction & Rehabilitation;

(e) Minister of Health;

(f) Minister of Relief & Rehabilitation;

(g) Minister of Social Welfare;

(h) Minister for Forest;

(i) Minister for Civil Defence;

G) Minister for Planning and Development;

(ky) Chief Secretary, Azad Govt. of the State of Jammu & Kashmir.

(1) Senior Member Board of Revenue, Azad Govt. of the State of Jammu & Kashmir

(m) Inspector General Police, Azad Govt. of the State of Jammu Kashmir;

(n) Secretary Finance, Azad Govt. of the State of Jammu & Kashmir

(0) Representatives of civil society or any other person appointed by the Prime Minister.

(p) Such other member or members as may be appointed by the Prime Minister in consultation with the Leader of opposition

(3) The Director General, appointed under sub-section (3) of section 8 shall act as ex officio Secretary of the Commission.

Meetings of the Commission.- (1) The commission shall meet as and when necessary and at such time and place as the Chairperson of the Commission may think fit.

(2) The Chairperson of the Commission shall preside over the meetings of the Commission;

Appointment of officer_and_ other employees of the Commission.-The Government shall provide the Commission

with such officer, consultants and employees, as it considers necessary for carrying out its function.

Powers and Functions of Commission.- (1) Subject to the provisions of this Act, the Commission shall have the responsibility for laying down the policies, plans and guidelines for disaster management.

(2) without prejudice to generality of the provisions in sub-section (1), the Commission may-

(a) lay down policies on disaster management;

(b) Approve the plan for territory of Azad Jammu and Kashmir.

(c) Approve plans prepared by the Department, Divisions & District;

(d) Lay down guidelines to be followed by the Government;

(e) Arrange for, and oversee, the provision of funds for the purpose of mitigation measures, preparedness and response; and

(f) Take such other measures for the prevention of disaster, or the mitigation, or for preparedness and capacity building for dealing with disaster situation as it may consider necessary.

(3) The Chairperson of the Commission shall, in the case of emergency, have power to exercise all or any of the power of the Commission but exercise of such powers shall be subject to ex post facto ratification by the Commission.

Constitution of Advisory Committees by The Commission.-
The Commission may constitute an advisory committee of committees as required, of experts in the field of disaster management.

(2) The members of the advisory committees shall be paid such allowances as may be prescribed by the Government.

Establishment, of the Azad Jammu & Kashmir Disaster Management Authority.-(1) The Government _ shall, immediately after issue of notification under sub-section (1) of section 3, establish an Authority to be known as Disaster Management Authority (hereinafter referred to as the Authority) for carrying out the purposes of this Act.

(2) The Authority shall consist of such number of Members as may be prescribed and shall include the Chairperson and the Director General.

(3) There shall be a Director General of the Authority, to be appointed by the Government, on such terms and conditions, as maybe prescribed.

Powers and_ functions of the Disaster Management Authority.-The Authority shall-

(a) act as the implementing, coordinating and monitoring body for disaster management;

(b) prepare the Plan to be approved by the Commission;

(c) implement coordinate and monitor the implementation of the policy;

(d) lay down guidelines for preparing disaster management

plans by different Ministries or Departments.

(e) provide necessary technical assistance to the Governments Districts Management Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the Commission;

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(f) coordinate response in the event of any threatening disaster situation or disaster;

(g) lay down guidelines for, or give directions to the concerned Ministries or Departments and District Management Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;

(h) for any specific purpose or for general assistance requisition the services of any person and such person shall be a co-opted member and exercise such power as conferred upon him by the Authority in writing;

(i) promote general education and awareness in relation to disaster management; and

G) Perform such other functions as the Commission may require it to perform.

Plan.-(1) There shall be drawn up a plan for disaster management for the whole of the territory of Azad Jammu & Kashmir.

(2) The Plan shall be prepared by the Authority having regard to the policy and in consultation with the expert bodies or organizations in the field of disaster management, and approved by the Commission.

(3) The Plan shall include-

(a) measures to be taken for the prevention of disasters or the mitigation of their effects;

(b) measures to be taken for the integration of mitigation measures in the development plans;

(c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster; and

(d) roles and responsibilities of different Ministers or Departments of the Government in respect of measures specified in clauses (a), (b) and (c).

(4) The plan shall be reviewed and updated annually.

(5) The Government shall make appropriate provisions for financing the measures to be carried out under the plan.

Guidelines for minimum standards _of_ relief.-Subject to directions the Commission, the Authority shall lay down

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guidelines for the minimum standards of relief to be provided to persons affected by disaster which shall include,-

- (a) the minimum requirements to be provided in the relief camps and affectees in relation to shelter, tents, food, drinking water, medical cover and sanitation;
- (b) the special provisions to be made for vulnerable groups;
- (c) ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood; and
- (d) such other relief as may be necessary.

Relief_in loan repayment, etc.-subject to such directions as the Commission may give, the Authority may, in cases of disasters of severe magnitude give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

CHAPTER III

DISTRICT DISASTER MANAGEMENT AUTHORITY

Constitution of District Disaster Management Authority.-

(1)The Government shall, as soon as may be after issue of notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a District Disaster Management Authority for every district.

(2) The District Authority shall consist of such members, as may be prescribed by the Government, and unless the rules otherwise provide, it shall consist of the following members, namely:-

- (a) Deputy Commissioner of the District who shall be Chairperson, ex officio;
- (b) SSP/SP of the District, member, ex officio
- (c) the District Health Officer, member, ex-officio;
- (d) the Assistant Director Civil Defence member, ex-officio; and
- (e) such other district level officers, to be appointed by the Government; and

(f) Member of Legislative Assembly of Azad Jammu and Kashmir from the respective affected area.

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Powers of Chairperson of District Authority.--(1) The Chairperson the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority, but the exercise of such powers shall be subject to ex post facto approval of the District Authority.

Powers and functions of District Authority.--(1) The District Authority shall be the district planning, coordinating and

implementing body for disaster management and take all measures for the purposes of disaster management in the district in accordance with the guidelines laid down by the Authority.

(2) Without prejudice to the generality of the foregoing provisions, the District Authority may-

- a. Prepare a disaster management plan including district response plan for the district;
- b. coordinate and monitor the implementation of the Policy, and Plan;
- c. ensure that the areas in the district vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the Government at the district level as well as by the local authorities;
- d. ensure that the guidelines for prevention, mitigation, preparedness and response measures as laid down by the Authority are followed by all departments of the Government at the district level and the local authorities in the district;
- e. give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;
- f. lay down guidelines for preparation of disaster management plans by the departments of the Government at the districts level and local authorities in the district;
- g. monitor the implementation of disaster management plans prepared by the Departments of the government at the district level;
- h. lay down guidelines to be followed by the

Departments of the Government at the district level;

organize and coordinate specialized training programmes for different levels of officers, employees and voluntary rescue workers in the district;

facilitate community training and awareness programmes for prevention of disaster or mitigation with the support of local authorities, governmental and non-governmental organization.;

set up, maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to public;

prepare, review and update district level response plan and guidelines;

coordinate with, and give guidelines to, local authorities in the district to ensure that pre-disaster and post-disaster management activities in the district are carried out promptly and effectively;

review development plans prepared by the Departments of the Government at the district level, statutory authorities or local authorities with a view to make necessary provisions therein for prevention of disaster or mitigation

identify buildings and places which could, in the event of disaster situation be used as relief centers or camps

and make arrangements for water supply and sanitation in such buildings or places;

establish stockpiles of relief and rescue materials or ensure preparedness to make such materials available at a short notice;

provide information to the Authority relating to different aspects of disaster management;

encourage the involvement of non-governmental organizations and voluntary social-welfare institutions working at the grassroots level in the district for disaster management;

ensure communication systems are in order, and disaster management drills are carried out periodically; and

perform such other functions as the Government may assign to it or as it deems necessary for disaster management in the district.

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District plan.-(1) There shall be a plan for disaster management for every district of Azad Jammu and Kashmir

(2) The District Plan shall be prepared by the District Authority having regard to the Plan as prescribed in Section 10.

(3) The District plan shall be reviewed and updated annually.

Additional Powers of District Authority.-For the purpose of

assisting, protecting or providing relief to the community, in response to any disaster, the District Authority may-

(a) give directions for the release and use of resources available with any department of the Government and the local authority in the district;

(b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;

(c) control and restrict the entry of any person into his movement within and departure from, a vulnerable or affected area;

(d) Remove debris, conduct search and carry out rescue;

(e) provide shelter, tent, food, drinking water and essential provisions, healthcare and services;

(f) establish emergency communication systems in the affected area

(g) make arrangements for the disposal of the unclaimed dead bodies;

(h) direct any Department of the Government or any

authority or body under that Government at the district level to take such measures as are necessary in its opinion;

(i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;

G) procure exclusive or preferential use of amenities from any authority or person;

(ky) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to

public or aggravate the effects of the disaster;

(0)) ensure that the non-governmental organizations out their

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activities in an equitable and non-discriminatory manner;

(m) take such other steps as may be required or warranted to be taken in such a situation.

CHAPTER IV

MEASURES BY THE GOVERNMENT FOR DISASTER ANAGEMENT

Government to take measure.-(1) Subject to the provisions of this Act, the Government may take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the foregoing provisions, the measures which the Government may take shall include measures with respect to all or any of the following matters, namely:

(a) Coordination of actions of the Ministries and departments of the Government, Authority, governmental and non- governmental organizations in relation to disaster management;

(b) cooperation and assistance to Governments, as requested by them or otherwise deemed appropriate by it;

(c) requisition and deployment of armed forces, civil armed forces or any other civilian personnel or foreign contingents required for the purposes of this Act;

(d) coordination and mobilization with the United Nations agencies, international organizations and governments of foreign countries specially in disaster prone areas, for the purposes of this Act;

(e) establish institution for research, training, and developmental programmes in the field of disaster management; and

(f) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Government may extend such support to other countries affected by major disaster as it may deem appropriate

CHAPTER V

LOCAL AUTHORITIES

Functions of the local authority.- (1) Subject to the directions of the District Authority, a local authority shall-

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- (a) ensure that its officers and employees are trained for disaster management;
 - (b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster;
 - (c) ensure that all construction projects under it or within its jurisdiction conform to the standards and specification laid down for prevention of disasters and mitigation by the Authority and the District Authority; and
 - (d) carry out relief, rehabilitation and _ reconstruction activities in the affected area in accordance with the plan and the district plan.
- (2) The local authority may take such other measures as may be necessary for the disaster management.

CHAPTER VI

STATE INSTITUTE OF DISASTER MANAGEMENT

State Institute of Disaster Management - (1) With effect from such date as the Government may, by notification in the Official Gazette appoint in this behalf, there shall be established an institute to be called the State Institute of Disaster Management.

(2) Subject to the provisions of this Act, the State Institute of Disaster Management shall be responsible for planning and promoting training and research and developing core competencies in the area of disaster management, documentation and development of national level information base relating to disaster management policies, prevention mechanisms and mitigation measures.

(3) Without prejudice to the generality of the foregoing provisions the State Institute, for the discharge of its functions, may-

- a. develop training modules, undertake research and documentation in disaster management and organize training programmes;
- b. formulate and implement a comprehensive human resource development plan covering all aspects of disaster management;
- c. provide assistance in state level policy formulation;
- d. provide required assistance to the training and research

institutes for development of training and research

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programmes for stakeholders including Government functionaries;

e. provide assistance to the Governments in the formulation of State level policies, strategies, disaster management framework and any other assistance as may be required by the Governments for capacity-building of stakeholders, Government including its functionaries, civil society members, corporate sector and people's elected representatives;

f. develop educational materials for disaster management including academic and professional courses;

g. promote awareness among stakeholders including college or school teachers and students, technical personnel and others associated with multi-hazard mitigation, preparedness and response measures;

h. do all such other lawful things as are conducive or incidental to the attainment of the above objects; and

i undertake any other function as may be assigned to it by the Government.

CHAPTER VII

STATE DISASTER RESPONSE FORCE

Establishment _of State Disaster Response Force.-(1) There shall be established a State Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

(2) Subject to the provisions of this Act, the force shall be constituted in such manner and the conditions of service of the members of the Force shall be such as may be prescribed.

Control, direction, etc.-The general superintendence, direction and control of the State Disaster Response Force shall vest in, and exercisable by, the Authority.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT

State_ Fund _ for Disaster Management.-(1) The Government may, by notification in the Official Gazette, constitute a Fund to

be called the State Disaster Management Fund for meeting any

threatening disaster situation or disaster.

(2) The State Disaster Management Fund shall be financed

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from the following sources, namely:-

(a) grants made by the Federal Government;

(b) grants made by the government;

(c) loans, aid and donations from the national or international agencies; and

(d) donation received from any other source.

(3) On commencement of this Act, the following Funds shall become part of the State Disaster Management Fund, namely:-

(a) Prime Minister's Disaster Relief Fund;

(b) any other Fund relating to natural calamities established at State level as the Government may determine.

(4) The State Disaster Management Fund shall be kept in one or more accounts maintained by the Authority, in local or foreign currency, in any scheduled bank '[or bank of Azad Jammu and Kashmir] and shall be operated in accordance with the directions of the Authority.

(5) The State Disaster Management Fund shall be administered by the Authority towards meeting the expenses for emergency preparedness response, mitigation, relief and construction.

Allocation of funds by the Governments.-The Government, in their annual budgets, make provisions for funds for the purposes

of carrying out the activities and programmes set out in its disaster management plan.

Emergency procurement _and_accounting.- (1) Where by reason of any impending disaster situation or disaster, the Authority or District Authority is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief it may authorize the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders shall be deemed to be waived.

(2) A certificate about utilization of provisions or materials by the controlling officer authorized by the Authority or District

Inserted by the AJ&K Disaster Management (Amdt.) Act, 2019 (Act X of 2019) dt. 07.05.2019.

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Authority, as the case may be, shall be deemed to be a valid document or voucher for the purpose of account in emergency procurement of such provisions or materials.

CHAPTER IX OFFENCES AND PENALTIES

Punishment for obstruction, etc.- Whoever, without reasonable

Cause,

(a) obstructs any officer or employee of the Government or a person authorized by the Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on

behalf of the Government under this Act;

shall be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with such directions results in loss of life or imminent danger thereto, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment_for_false_claim.- Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief or assistance for repair, reconstruction or other benefits consequent to disaster from any officer of the Government, the Authority or District Authority, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Punishment for false warning.-Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude leading to panic shall be punishable with imprisonment which may extend to one year or with fine.

Failure of officer_in duty or his connivance at_the

contravention of the provisions of this Act.-Any officer, on whom any duty has been imposed by or under this Act and who

refuses to perform or withdraws himself from the duties for his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

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CHAPTER X MISCELLANEOUS

Prohibition _against__discrimination.-While _ providing compensation and relief to the victims of disaster, there shall be

no discrimination on the ground of sex, caste, community, descent or religion.

Power of requisition of resources, provisions, vehicles, etc for rescue operations, etc.-If it appears to the Authority, District

Authority or any officer as may be authorized by it in this behalf that-

(a) any resources with any authority or person are needed for the purpose of prompt response;

(b) any premises are needed or likely to be needed for the purpose of rescue operations; or

(c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction —

such authority may, by order in writing, requisition such resources or premises or vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection.

Payment__of _compensation.- Whenever any authority requisitions any premises there shall be paid to its owner

compensation the amount of which shall be determined by taking into consideration the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality:

Provided that any owner premises by the amount of compensation so determined may within thirty days make an application to the Government.

Provided further that where there is any dispute as to the

title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to the Government.

Direction to media for communication of warnings, etc.-The Authority or a District Authority may give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to

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carry and warnings or advisories regarding any impending disaster situation or disaster, and such authority or person shall comply with such direction.

Annual report.-(1) The Authority shall prepare once every year, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Government which shall lay it before the Azad Jammu & Kashmir legislative Assembly .

(2) The District Authority shall prepare once every year, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Authority .

Bar of jurisdiction.-No court or tribunal shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Government, Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.

Indemnity.-Officers and employees of the Government, Authority or District Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.

Action taken in good faith.-No suit or prosecution or other proceeding shall lie in any court against the Government or the Authority or the District Authority or local authority or any officer or employee of the Government or the Authority or the District Authority or Local Authority in respect of any work done or purported to have been done or intended to be, in good faith, done by such authority or Government or such officer or employee or such person under the provisions of this Act or the rules made thereunder.

Delegation of powers to the Authority.-The Commission may,

for effective implementation of the policy on disaster management, by general or special order delegate to the Authority any of its powers or function under this Act subject to such conditions it may think fit to impose

Act not to derogate from other laws.- The provisions of this

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Act shall in addition to, and not derogation of any other law for the time being enforce.

Power to make rules.- the Government may by notification in the Official Gazette, make ruler for carrying out the purposes of this Act.

Removal of difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification in the Official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

Repeal.-The Azad Jammu and Kashmir Disaster Management Ordinance, 2008 (Ordinance V of 2008) is hereby repealed.

Sd/-Raja Zulqarnain Khan)
President

Azad Jammu & Kashmir

Sd/-Raja Muhammad Abbas Khan

Draftsman Law