

No. 20-30/LD/2001. The following Act of the Assembly received the assent of the President on the 13th day of January 2001, is hereby published for general information:-

(ACT I of 2001)

AN

ACT

to provide for the setting up of an Ehtesab Bureau in the State of Azad Jammu and Kashmir so as to eradicate corruption and corrupt practices and hold accountable all those persons accused of such practices and matters ancillary thereto;

WHEREAS it is expedient and necessary to provide for effective measures for the detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt practices, misuse/abuse of power, misappropriation of property, kickbacks, commissions and for matters connected and ancillary or incidental thereto;

AND WHEREAS there is an emergent need for the recovery of outstanding amounts from those persons who have committed default in the repayment of amounts to banks, financial institutions, government and other agencies;

AND WHEREAS there is grave and urgent need for the recovery of state money and other assets from those persons who have misappropriated or removed such money and assets through corruption, corrupt practices and misuse of power and/or authority;

AND WHEREAS it is necessary that an Ehtesab Bureau be set up so as to achieve the above aims;

It is hereby enacted as follows: -

1. Title:-This Act may be called the Azad Jammu and Kashmir Ehtesab Bureau Act, 2001.
(2) It shall come into force at once.

2. Commission:-(1) This Act shall come into force at once.
(2) The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

(3) The offences committed after 1st January 1985 shall be triable under this Act:

Provided that notwithstanding anything contained in this Act or any other law, the punishment for the offence committed prior to enforcement of the Ehtesab Bureau Ordinance,

(Ordinance XXIII of 2000), shall not be awarded greater than, or of any kind, different from, the penalty prescribed by law for that offence at the time offence was committed.

Application.Jt extends to the whole of Azad Jammu and Kashmir and shall apply to the following persons wherever they may be;:-

- a)
- b)
- c)
- d)

all persons in Azad Jammu and Kashmir;
holders of public offices;

all persons who are suspected to have abetted
commission of an offence triable under this Act; and

all persons who are associates as defined in section 4.

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

- a)
- b)
- c)

“Accused” shall include a person in respect of whom there are reasonable grounds to believe that he is, or has been, involved in the commission of any offence triable under this Act and/or is subject to an investigation/inquiry by the Ehtesab Bureau or a concerned agency;

“Assets” means and property owned, controlled by or belong to any accused, whether directly or indirectly, or held benami in the name of his spouse or relatives or associates, whether within or outside the State of Azad Jammu and Kashmir, for which they cannot reasonably account, or for which they cannot prove, payment of full and lawful consideration;

“Associates” means:-

- i) any individual who is, or has been, managing the affairs for or keeping accounts of the accused or who enjoys, or has enjoyed, any benefit from the assets referred to above;

ii) any association of persons, body of individual, partnership firms or private limited companies within the meaning of the Companies Ordinance, 1984, of which such a person is, or has been, a member, partner or director, or which have been promoted, floated, established or run by the same group of persons;

iii) any trustee of a private trust; and

- iv) any person who ostensibly holds or is in possession or custody of any property of an accused on his behalf for the benefit and enjoyment of the accused.
- d) "Assembly" means the Azad Jammu and Kashmir Legislative Assembly; and
- e) "Chairman" means the Chairman of the Ehtesab Bureau appointed under this Act;
- f) "Code" means the Code of Criminal Procedure, 1898; xxx]
- h) "Court" means the Ehtesab Court which shall consists of a judge who shall be appointed by the President of Azad Jammu and Kashmir after consultation with the Chief Justice of the High Court of Azad Jammu and Kashmir through a notification in the official Gazette and a judge, other than a serving District & Session Judge shall hold office for a period of two years unless removed earlier by the President, for misconduct.

*["(hh) "Director Legal" means a person appointed as such, under this Act.""]

- i) "Freezing" includes attachment, sealing, prohibition, holding, controlling and/or managing any property either through a receiver or otherwise as may be directed by the Court or Chairman, and in the case it is deemed necessary the disposal thereof, after public notice, by sale through auction or negotiation subject to confirmation by the Court or by the Chairman, as the case may be;

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Omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020. The original extract of cl. g) of Sec. 4 is reproduces as under:-

"g) "Conciliation Committee" means the Conciliation Committee constituted under Section 29"

Added by the AJ&K Ehtesab Bureau (2nd Amdt.) Act, 2005 (Act IX of 2005) dt. 22.09.2005.

Omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of

2020) dt. 19.02.2020. The original extract of cl. j) of Sec. 4 is reproduces

as under:-

"3) "Government" includes in relation to any person serving in connection with the affairs of the State of Jammu and Kashmir,

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

1) "Government Property" means both moveable and immoveable properties belonging to the Government and includes gifts, donations, financial assistance, grants, aid received or collected in whatever name or for whatever purpose by an official of the State during his tenure of office;

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n) "Holder of Public Office" means a person who;

(i) has been the President;

(ii) is or has been the Prime Minister of Azad Government of the state of Jammu and Kashmir, Speaker of the Legislative Assembly, Deputy Speaker of the Legislative Assembly, Minister, Advisor to the President/Prime Minister/ Council, Special Assistant or consultant to the Prime Minister, Parliamentary Secretary, Member of Legislative Assembly or the Council, Political Secretary, Advocate General including Additional /Assistant Advocate General, Public, Prosecutor and Additional Public Prosecutor, Chairman of a Development Authority Chairman of a District Council, Chairman of a Zakat Council Zakat Committee and members therein, and anyone who holds, or has held, a post or office with the rank or status of a Minister;

(iii) is holding, or has held, an office or post in the service of Azad Jammu and Kashmir, or any post or service in connection with the affairs of the State, or of a local council constituted under any State law relating to the constitution of local

including any person employed by a corporation, body, financial institution, bank, authority, undertaking or any other organization setup, controlled or administered by under the authority of, the Azad Government of the State of Jammu and Kashmir and Council;"

1 Omitted by Ibid. The original extract of cl. (m) of Sec. 4 is reproduced as

under:-

"m) "Judge" means a person who has been a Judge of the High Court, is, or has been, a District and Sessions Judge or any lawyer who is qualified to be a judge of the High Court;"

(iv)

(vi)

Volume XI (2001-2010)

councils, or in the management of corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization established, controlled — or administered by or under the council and the Azad Government of the State of Jammu and Kashmir, other than a person who is a member of any of the armed forces of Pakistan, or for the time being is subject to any law relating to any of the said forces, except a person who is, or has been a member of the said forces, and is holding, or has held, a post or office in any public corporation, bank _ financial institution, undertaking or other organization established, controlled or administered by or under the Azad Government of the State of Jammu and Kashmir; or any Board, team, Task force, authority or any such other body known by any name setup by the President, the Government or the council, including any post in any Development Authority or a _ Transport Authority.

is holding or has held an office in a corporation and any other body constituted by a law.

(v)(a) is, or has been, the Chairman or Vice Chairman of a zila council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any State law relating to local councils;

(b) for the purpose of sub-clause (iv) (a) the expressions "Chairman" and "Vice Chairman" shall include "Mayor, Deputy Mayor, Administrator and Deputy Administrator " as the case may be, and the respective councilors therein;

has served, or has retired or resigned, from or has been discharged or dismissed from the Armed Forces of Pakistan;

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Volume XI (2001-2010)

“Offence” means the offences of corruption and corrupt practices punishable under this Act.”]

“Person” unless the context otherwise so requires, includes in the case of a corporate body, the sponsors, chairman, chief executive, managing director, elected directors, by whatever name called, and guarantor of the company or any one exercising direction or control of the affairs of such corporate body, and in the case of any firm, partnership or sole proprietorship, the partner, the proprietor or any person having interest in the said firm, partnership or proprietorship concern or direction or control thereof;

“Property” includes any or all movable and immovable properties situated within or outside the State;

° “[“(qq) “Prescribed” means prescribed by rules made under this

“President” means the President of Azad Jammu and

“State” means the State of Azad Jammu and Kashmir;

“Service” means the Service of Azad Jammu and Kashmir as defined in the Interim Constitution Act,

Act;”]

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Kashmir;

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Subs. by I

bid. The original context of cl. (0) Sec. 4 is reproduced as under:-

“o) “Offence” means the offences of corruption and corrupt practices punishable under schedule I, or under any of the laws mentioned in schedule II of this Act.”

Added by the AJ&K Ehtesab Bureau (3rd Amdt.) Act, 2010 (Act V of

2010) dt.

Omitted b

2020) dt.

as under:-

7.06.2010.

ry the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 9.02.2020. The original extract of cl.(u) of Sec. 4 is reproduced

"u) "Willful Default" a person is said to commit an offence of willful default under this Act if he does not pay or continues not to pay or return or repay the amount to any bank, financial institution, cooperative society, cooperative bank, or a government department or a statutory body or an authority established or controlled by the Government on the date that it became due as per agreement containing the obligation to pay, return or repay or according to the laws, rules, regulations, instructions, issued or notified by the State Bank of Pakistan, or a bank, financial institution, cooperative society,

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rnment department, statutory body or an authority established or

Ehtesab Bureau.- There shall be constituted an Ehtesab Bureau for the whole of Azad Jammu and Kashmir.

(2) Powers exercisable by the Ehtesab Bureau shall vest in the Chairman who may delegate any of his powers by a special or general order.

(3) The funds of the Bureau shall be provided by the Azad Government of the State of Jammu and Kashmir.

(4) The expenditure of the Bureau within the authorized appropriation shall be controlled by the Bureau:

Provided that no re-appropriation shall be made from salary head.

(5) Annual statement of accounts of the Bureau shall be submitted to the Government within two months of the closing of the financial year.

(6) The accounts of the Bureau shall be audited once a year by the Government Auditors appointed by the Accountant General of Azad Jammu and Kashmir:

Provided that Public Account Committee shall be competent to scrutinize the expenditures of the Ehtesab Bureau.

(7) The observations of the Government Auditors shall be presented to the Chairman;

(8) No expenditure shall be made from funds of the Bureau unless a bill for its payment has been passed by the accounts Officer whose services would be placed at the disposal of the Bureau by the Accountant General of Azad Jammu and Kashmir.

'T6. Chairman of The Ehtesab Bureau.- (1) There shall be

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controlled by the Government, as the case may be, and a period of thirty days has expired thereafter;

Provided that it is not willful default under this Ordinance if the borrower was unable to pay, return or repay the amount as aforesaid on account of any willful breach of agreement or obligation or failure to perform statutory duty on the part of any bank, financial institution, cooperative society or a government department or a statutory body or an authority established or controlled by the Government"

Sec. 6 amended/subs. three times.the original extract of sec. 6 of Act I of 2001 is reproduced as under:-

"6. Chairman of the Ehtesab Bureau.- (1) There shall be a Chairman of

the Ehtesab Bureau to be appointed by the President after
consultation with the Chairman of the Azad Jammu Kashmir Council.

a Chairman of the Ehtesab Bureau to be appointed by the President on the advice of the Prime Minister on such terms and conditions as may be prescribed.

(2) No person shall be appointed as Chairman Ehtesab Bureau unless he:-

(i) has been or is qualified to be appointed as Judge of the Supreme Court or High Court; or

(ii) is or has been civil servant of Azad Jammu and Kashmir in BPS-21 and above.”]

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(2) The term of the office of a Chairman shall be three years and his other conditions, statutes and privileges shall be as determined by the President.

(3) The Chairman may resign his office by writing under his hand addressed to the President, or he may be removed for misconduct by the President after consultation with the Chairman of the Azad Jammu and Kashmir council.

The full stop at end of subsection (1) of Sec. 6 subs. by a colon and

thereafter following proviso added by the AJ&K Ehtesab Bureau

(2nd Amdt.) Act, 2005 (Act IX of 2005) dt. 22.09.2005.

“Provided that a person shall not be appointed as Chairman Ehtesab Bureau unless he:-

(i) _ is or has been or is qualified to be appointed as Judge of the Supreme Court or High Court; or

(ii) is a retired officer of the Armed Forces of Pakistan equivalent to the rank of a Major General; or

iii) has been a member of a service of Azad Jammu and Kashmir in BPS-21 or above.”

Sec. 6 subs. by the AJ&K Ehtesab Bureau (3rd Amdt.) Act, 2010 (Act V of 2010) dt. 17.06.2010 as under:-

“6. Chairman of the Ehtesab Bureau.- (1) There may be a Chairman of the Ehtesab Bureau to be appointed by the President on such terms and conditions as may be prescribed.

(2) No person shall be appointed as a Chairman Ehtesab Bureau

unless :-

(i) is or has been or is qualified to be appointed as Judge of the Supreme Court or High Court; or

(ii) is or has been a civil servant of Azad Jammu and Kashmir in BPS-21 or above.”

. subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of

2020) dt. 19.02.2020.

Sec. 7 was amended/subs. 3 times. The original extract of Sec. 7 of Act I

of 2001 is reproduced as under:-

"8. Acting Chairman of the Ehtesab Bureau.- As and when the Chairman is absent or is unable to perform the function of his office due to any reason, whatsoever, or office of the Chairman

"7, Deputy Chairman of the Ehtesab Bureau.— (1) There shall be a Deputy Chairman appointed by the President in consultation with the Chairman of the Azad Jammu and Kashmir Council:

(2) The Deputy Chairman may be removed by the President after consultation with the Chairman of the Azad Jammu and Kashmir Council."

A. the full stop at the end of subsection (1) of Sec. 7 was subs. by a colon and thereafter following proviso added by the AJ&K Ehtesab Bureau (2nd Amendment) Act, 2005 (Act IX of 2005) dt. 22.09.2005.

"Provided that a person shall not be appointed as a Deputy Chairman

Ehtesab Bureau unless he:-

i) is or has been a member of the service of Azad Jammu and Kashmir in BPS-20 or above; or

ii) is an officer of the Armed Forces of Pakistan equivalent to the rank of a Brigadier."

B. Sec. 7 Subs. by the AJ&K Ehtesab Bureau (3rd Amdt.) Act, 2010 (Act V of 2010) dt. 17.06.2010 as under:-

"7, Deputy Chairman of the Ehtesab Bureau— (1) There shall be a

Deputy Chairman to be appointed by the President on such terms and conditions as may be prescribed.

(2) No person shall be appointed as Deputy Chairman Ehtesab Bureau unless he:-

i) _ is eligible to be appointed as Judge High Court; or

ii) _ is or has been a Civil Servant of Azad Jammu and Kashmir in BPS-20 or above.

C. Sec. 7 was omitted by the AJ&K Ehtesab Bureau (Fifth Amendment) Act, 2018 (Act VIII of 2018) dt. 11.10.2018.

1 Sec. 8 was subs./ amended two times. The original extract of Sec. 8 of Act 1 of 2001 is reproduced as under:-

"8. Acting Chairman of the Ehtesab Bureau.-As and when the Chairman is absent or unable to perform the function of his office due to any reason whatsoever, the Deputy Chairman will act as a Chairman, and in case the Deputy Chairman is absent or unable to perform the functions of the office, any other person duly authorized by the President."

A. Subs. by the AJ&K Ehtesab Bureau (Fifth Amendment) Act, 2018 (Act VII of 2018) dt. 11.10.2018 as under:-

"8. Acting Chairman of the Ehtesab Bureau.-At any time when the office of the Chairman is vacant or the Chairman is absent or unable to perform the function of his office due to any other reason, the President in consultation with the Prime Minister may appoint / authorized any person, having the qualification provided for the Chairman, to act and perform the function of the Chairman."

B. Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

is vacant, the President, on the advice of the Prime Minister, may appoint any other person duly qualified, to act as Chairman for a period not exceeding six months.”]

Chief Prosecutor, Ehtesab.-'[“(1) The President, on the advice of the Prime Minister, may appoint a person being a person qualified to be appointed as Judge of High Court, as Chief Prosecutor Ehtesab Bureau.

(1-a). The terms and conditions of the Ehtesab Bureau shall be determined by the Government in consultation with the Chairman:

Provided that the Chief Prosecutor appointed before the commencement of this Act shall be deemed to have been appointed under this Section for remaining period of his term.”]

(2) The Chief Prosecutor shall give advice to the Chairman upon such legal matters and perform such other duties of a legal character as may be referred or assigned to him by the Chairman and in the performance of his duties he shall have the right of audience and appearance in all courts established under this Act and all other courts and Tribunals in the State, or engage a Council whenever required.

(3) The Chief Prosecutor Ehtesab Bureau, in consultation with the Law Department, may, with prior approval of the Chairman, appoint Deputy Chief Prosecutors to conduct prosecution of specific cases under this Act, before any Ehtesab Courts or any other Court or Tribunal.

°2[“9-A. Director Legal.- [(1) The Chairman shall with prior approval

of the Government, appoint a suitable officer from the Law

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Subs. by Ibid. The original extract of subsection (1) of sec. 9 is reproduced

as under:-

“(1) The Chairman may appoint any person, to act as the Chief Prosecutor, Ehtesab notwithstanding any other appointment or office the latter may concurrently hold, upon such terms and conditions as may be determined by the Chairman.”

Sec. 9-A added by the AJ&K Ehtesab Bureau (2nd Amendment) Act, 2005

(Act IX of 2005) dt. 22.09.2005

B. Sec. 9-A subsection (1) subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020. The original extract of subsection (1) of Sec. 9-A (Act IX of 2005) dt. 22.09.2005 is reproduced as under:-

“(1) The Chairman shall, in consultation with the Chief Justice of High Court appoint a Director Legal from amongst serving or retired District and Session Judges on such terms and conditions to be determined under Sec. 32 of this Act.”

Department, as Director Legal, on deputation basis."]

(2) The Director Legal shall scrutinize the investigation and references referred to him by the Chairman and give expert legal opinion upon such references before proceedings further in to the matter. He shall also perform such other duties, which from time to time, assign to him by the Chairman."]

Corruption and Corrupt Practices.- (1) A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices:-

(a) if he accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in Section 161 of the Azad Penal Code (Act XLV of 1860) for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavor to any person, or for rendering or attempting to render any service or disservice to any person; or

(b) if he accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use, of any other person, any property entrusted to him, or under his control, or willfully allows any other person so to do; or

(d) if he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse and/or dependents or any other person, any property, valuable thing, or pecuniary advantage; or

(e) if he or any of his dependents or benamidars owns, possesses, or has acquired right or title in any movable or immovable property or pecuniary resources disproportionate to his known sources of income, which he cannot reasonably account for; or

(f) misuses his authority in any manner so as to gain any benefit or favour for himself or any other person, or to

render or attempt to do so or willfully fails to exercise his authority to prevent the grant or rendition of any undue benefit or favour which he could have prevented by exercising his authority; or

(g) if he has issued any directive, policy, or any Statutory Regulatory Order (SRO) or any other order which grants or enables any undue concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar or any other person; and

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2[(2) All offences under this Act shall be non-bailable and only the court shall have jurisdiction to grant bail under Section 497 and 498 of the code to any person accused of any offence.

(2-a) |The High Court shall have also powers to grant the re-arrest bail under section 498 of the Code to an accused of an offence under this Act.”]

(3) Where the Chairman, decides to release from custody or detention a holder of a public office or any other person accused of an offence under this Act, he shall do so after considering the gravity of the Charge against such person and the accruing quantum of loss involved in the offence alleged to have been committed and may impose any reasonable conditions for such release:

Provided that the Chairman may impose other conditions for release from custody or detention.

Omitted by by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020. The original extract of cl. (h) of subsection (1) of sec. 10 (Act I of 2001) dt. 15.01.2001 is reproduced as under:-

“(h) If the commits an offence of wilful default.”

Subsection (2) of Sec. 10 is amended /subs. two times. The original extract of subsection (2) of Sec. 10 is reproduced as under:-

“(2) All offences under this Act shall be non-bailable and, notwithstanding anything contained in Sections 426, 497 and 498 or any other provision of the Code, or any other law for the time being in force, no court, including the High Court, shall have jurisdiction to grant bail to any person accused of any offence under this Act.”

In subsection (2) of Sec. 10 after the words “grant bail” for the words “under Section 496/498 of the Code” has been added by the AJ&K Ehtesab Bureau (2nd Amdt.) Act, 2005 (Act IX of 2005) dt. 22.09.2005.

Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of

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Volume XI (2001-2010)

(4) The amount deposited by the accused with the Ehtesab Bureau shall be transferred to the concerned bank or financial institution etc. within one month of the date of such deposit.

Punishment for Corruption and Corrupt Practices. - (1) A person [who has committed] the offence of corruption and corrupt practices shall be punishable with imprisonment for a term which may extend to 14 years, or with fine, or with both, and such of the assets and property of such person which is found to be disproportionate to the known sources of his income or which is acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be liable to be forfeited to the government.

(2) Any person giving illegal gratification, or abetting, assisting or aiding a holder of a public office, or receiving or holding any property obtained or acquired by a holder of public office, through corruption or corrupt practices, or being a beneficiary of any asset, property or gain obtained through corruption or corrupt practices shall fall within the scope of this section and shall be liable to the same or a lesser punishment that may be awarded to a holder of a public office as may be deemed fit by the Court.

Imposition of Fine. - Where a person found guilty of an offence is sentenced to pay a fine, irrespective of whether or not a sentence a of imprisonment is imposed, the amount of the fine shall in no case be less than the gain derived by the accused or any relative or associate or any other person which may be set off against the forfeited or frozen assets and property.

Power to Freeze Property. - (1) The [xxx] Court trying a person for any offence as specified under this Act, may, at any time, if there appears reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, movable or immovable, or part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf.

(2) If the property ordered to be frozen under sub-section (1) is a debt or other movable property, the freezing may be made:-

In subsection (1) of Sec. 11 for the words "who commits", the words "who has committed" has been subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

The words “Chairman or the” has been omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

- (a) by seizure; or
- (b) by appointment of receiver; or
- (c) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or
- (d) by all or any of such or other methods as the Court or the Chairman, as the case may be, deem fit,

(3) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases.

- (a) by taking possession; or
- (b) by appointment of receiver, or
- (c) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or
- (d) by all or any of such methods as the [xxx] the Court may deem fit.

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Provided further that an order of [xxx] the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated, and dispatch at the last known address of the accused either by registered post AD or Courier service or any other mode of electronic or print media, as the court may deem proper having regard to the facts and circumstances of the case.

4[(4) If the property ordered to be frozen consists of livestock

The words "Chairman or" has been omitted by Ibid. The first proviso of cl. (d) subsection (3) of Sec. 13 has been omitted by Ibid. The original extract of the proviso is reproduced as under:-

"Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman, shall remain in force for a period not exceeding 30 days unless confirmed by the Court, where the reference under this Act shall be sent by Ehtesab Bureau."

The words "the Ehtesab Bureau or" has been omitted by Ibid.

Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020. The original extract of subsection (4) of Sec. 13 is reproduced as under:-

"(4) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman, or the Court may, if it deems proper

expedient, order the immediate sale thereof and the proceeds of the sale

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Volume XI (2001-2010)

or is of a perishable nature, the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited either with the Court or, as the Court may direct.”]

(5) The powers, duties, and liabilities of a Receiver, if any, appointed under this section shall be the same as those of a Receiver appointed under Order-XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(6) The order of freezing etc. mentioned in Sub-sections (1) to (5) shall, as the case may be, remain operative until final disposal by the Court or the Appellate Forum, notwithstanding filing of or pendency of an appeal under this Act.

Claim or Objection against Freezing.- (1) Notwithstanding the provisions of any law for the time being in force, the Court shall

have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under Section 13 above. Such claims or objections shall be made before the Court within 14 days from the date of the order freezing such property:

Provided that the Court may for sufficient cause extend the time for filing such claims or objections for a period not exceeding additional 14 days.

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Presumption against Accused accepting Illegal Gratification.-- (1) Where in any trial of ?[xxx] offence punishable under this Act, if it is proved that an accused person has accepted or obtained, for has agreed to accept or attempted to obtain, for himself or for any other person any gratification, other than legal remuneration, or any valuable thing, or any pecuniary or other advantage from a person or any agent of a person, for any favour shown or promised to be shown by the accused, it shall be presumed, unless the contrary is proved, that he accepted or obtained, that gratification or that valuable thing or pecuniary or other advantage for himself or some other person, as the case may be, as a motive or a reward such as is specified in section 161 to 163 of the Azad Penal Code (Act

may be deposited with the Chairman or the Court, or as either may direct as appropriate.”

Omitted by Ibid. The original extract of subsection (2) of Sec. 14 is reproduced as under:-

"(2) No appeal shall lie against an order made under Sec. 13 of this Act."

The words "a scheduled offence or any other" omitted by Ibid.

XLV of 1860), or as the case may be, without consideration, or for a consideration which he believed to be inadequate.

(2) Where in any trial of an offence punishable under section 165A of the Azad Penal Code (Act XLV of 1860) if it is proved that any gratification other than legal remuneration or any valuable thing has been given, or offered to be given, or attempted to be given, by any accused person, it shall be presumed, unless the contrary is proved, that he gave, or offered to give, or attempted to give, that gratification, or that valuable thing, as the case may be, as a motive or a reward such as is specified in Section 161 to 163 of the said Code, or, as the case may be, without consideration or for a consideration which he believed to be inadequate.

(3) In any trial of an offence punishable under this Act, the fact that the accused person or any other person on his behalf, is in possession, for which the accused person cannot be satisfactorily account, of property or pecuniary resources disproportionate to his known sources of income, or that such person has, at or about the time of the commission of the offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot be satisfactorily account, the Court shall presume, unless the contrary is proved, that the accused person is guilty of the offence of corruption and/or corrupt practices.

(4) The burden of proof shall lie on prosecution ![xxx].

7116. Disqualification to contest Elections or to hold Public Office.-

1 The words “except cases covered by Anti-corruption laws” omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

2 Sec. 16 was amended /subs. two times. The original extract of Sec. 16 of Act I of 2001 is reproduced as under:-

“16. Disqualification to contest Elections or to hold Public Office.-(1) Where an accused person is convicted for the offence of corruption or corrupt practices as specified in the Schedule I or II or under Section 11 of this Act, he shall stand disqualified for 21 years for seeking, or from being elected, chosen, appointed or nominated as a member or representative of any public office, or any statutory or local authority of the Government: Provided that the accused person who has availed the benefit of Section 28 of this Act shall also be deemed to have been convicted for an offence under this Act, and shall stand disqualified for 21 years as above. (2) Any person convicted of an offence of corruption and /or corrupt practices as described at serial No. 1 of the Schedule I shall not be allowed to apply for or be granted or allowed any financial facilities in the form of any loan or advances or other financial accommodation by any bank or

Where an accused person is convicted for the offence of corruption or corrupt practices under this Act, he shall stand disqualified for a period of five years for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public office, or any statutory or local authority of the Government."

Trial of Offences.-(1) Notwithstanding anything contained in any other law for the time being in force, any person accused of an offence punishable under this Act, shall be prosecuted for such offence by the Court and the case shall be disposed of within 60 days, out of which twenty days may be reserved for defense.

(2) The Court shall sit at Muzaffarabad.

(3) The Court shall have jurisdiction to try such cases as referred to it by the Chairman or an officer authorized in this behalf by him, under subsection (7) of Section 21 of this Act.]

financial institution in the public sector, for a period of 10 years from the date of conviction."

A. In subsection (1) of Sec. 16 the words "21 years" wherever occurring was subs. by the words "10 years" by the AJ&K Ehtesab Bureau (Third Amdt.) Act, 2010 (Act V of 2010) dt. 17.06.2010.

B. Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

1 Subs. by Ibid. The original extract of Sec. 17 is reproduced as under:-

"17.

Trial of Offences.-(1) Notwithstanding anything contained in any other law for the time being in force, all persons accused of a scheduled offence, or an offence punishable under Section 11 shall be prosecuted for such offence by Courts established pursuant to this Act exclusively as constituted under Section 4 (h) and the case shall be heard from day to day and disposed of within 60 days out of which twenty days may be reserved for defense.

(1-A) In respect of the offences triable under this Act, the procedure of investigation and forum of trial incorporated in the laws mentioned in Schedule II shall not be applicable.

(2) The Court shall sit at such place, or places, as the Government may, be order, specify in this behalf.

(3) Where more than one court has been established for an area, the Chief Justice of the High Court of AJ&K shall, keeping in view the

seniority and status of the Judges of various Courts, designate a Judge of any such Court to be an Administrative Judge.

(4) Notwithstanding anything contained in this Section, if in respect of any case relating to an offence triable under this Act, the Chairman having regard to the facts and circumstances of the case may file a reference before any Court established anywhere in the State, and such Court shall have the jurisdiction to try the same."

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Volume XI (2001-2010)

Contempt of Court.-- The court shall have the power to punish for contempt of court with imprisonment for a term which may extend to six months and with fine which may extend to one million rupees any person who:-

(a) abuses, interferes with or obstructs the process of the court in any way or disobeys any order or direction of the court;

(b) scandalizes the court or otherwise does anything which

tends to bring the court into hatred, ridicule or contempt;

(c) does anything which tends to prejudice the determination of a matter pending or most likely to come up before the court; or

(d) does anything which by any other law constitutes contempt of court.

Transfer_of_Cases.-(1) Notwithstanding anything contained in any other law for the time being in force, the Chairman may apply to any court of law or tribunal that any case involving a [lxxx] offence under this Act pending before such court or tribunal shall be transferred to a court established under this Act, then such other court or tribunal shall transfer the said case to any court established under this Act and it shall not be necessary for the court to recall any witness or again to record any evidence that may have been recorded.

(2) In respect of any case pending before a court established under this Act, the Chairman having regard to the facts and circumstances of the case and in the interest of justice and for the protection and safety of witnesses considers it necessary that such case is transferred for trial may direct the Chief Prosecutor, to Apply for the transfer of the case from any such in one place to a court in another:

Provided that in case the transfer is intended from a court in one place to a court in another place apply to the Chief justice of the High Court and if the Chief Justice of the High Court considers it expedient in the interest of justice so to do, he may transfer the case from one court to another court and case so transferred shall be tried under this Act without recalling any witness whose evidence may have been recorded.

Provision of the Code to Apply.-(1) Notwithstanding anything

The word “scheduled” omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.)
Act, 2020 (Act XI of 2020) dt. 19.02.2020.

contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act; the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, Mutatis mutandis, apply to the proceedings under this Act.

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[“21. Cognizance_of Offences.- (1) The Court shall not take

1 Omitted by Ibid. The original extract of subsection (2) of Sec. 20 is reproduced as under:-

“(2) When a person is accused of more offences than one of the same kind he may be charged with and tried for any number of them.”

2 Sec. 21 was amended /subs. three times. The original extract of Sec 21 of Act I of 2001 is reproduced as under:-

“21.Cognizance of Offences.--(1) The Court shall not take cognizance of any offence under this Act except on a reference made by the Chairman or an officer of the Ehtesab Bureau duly authorized by him.

(2) A reference under this Act shall be initiated by the Ehtesab Bureau, on,-

(a) a reference received from the government; or
(b) receipt of a complaint; or
(c) its own accord.

(3) Where the Chairman or an officer of the Ehtesab Bureau duly authorized by him is of the opinion that it is , Or may be, necessary and appropriate to initiate proceedings against any person, he shall refer the matter for inquiry or investigation,

(4) The responsibility for inquiry into and investigation of an offence alleged to have been committed under this Act shall rest on the Ehtesab Bureau to the exclusion of any other agency or authority, unless, any such agency or authority is required to do so by the Chairman.;

(5) The Chairman and such members, officers and/or servants of the Ehtesab Bureau shall have and exercise, for the purposes of an inquiry and /or investigation, the power to arrest any person, and all the powers of an officer-in-charge of a Police Station under the Code, and for that purpose may cause the attendance of any person, and when and if the assistance of any agency, Police Officer or any other official or agency, as the case may be, is sought by the Ehtesab Bureau such official or agency shall render such assistance:

Provided that no person shall be arrested without the permission of

the Chairman or any officer duly authorized by him.

(6) Any inquiry or investigation under this Act shall be completed expeditiously as may be practical and feasible

(7) The Chairman ,or by an officer duly authorized by him, shall appraise the material and the evidence placed before him during the inquiry and the investigation, and if he decides that it would be proper and just to proceed further, he shall refer the matter to an Ehtesab Court.

(8) If a complaint is inquired into and investigated by the Ehtesab Bureau and it is concluded that the complaint received was *prima facie* frivolous or

cognizance of any offence under this Act, except on a reference made by the Chairman or an officer of the Ehtesab Bureau duly authorized by him.

(2) A reference shall be processed by the Ehtesab Bureau under this Act on,-

(a) a reference received from the Government; or

(b) receipt of a complaint duly supported by an affidavit along with a copy of CNIC of the complainant:

Provided that the accused shall be provided an opportunity of hearing prior to any further action:

Provided further that a preliminary fact finding inquiry in respect of an application or complaint, as the case may be, shall be conducted under the order of the Chairman and in case it is found that such application is frivolous, the Chairman shall initiate proceedings against such complainant under subsection (9).

(3) Where the Chairman is satisfied that it is necessary and

has been filed with intent to malign or defame any person, the Chairman or the authorized officer may refer the matter to the Court, and if the complainant is found guilty he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both."

(i)CL. (c) of subsection (2) of Sec. 21 omitted by the AJ&K Ehtesab Bureau (Third Amendment) Act, 2010. (Act V of 2010) dt. 17.06.2010.

(ii) Subsection (6) Subs. by Ibid as under:-

"(6) Any inquiry or investigation under this Act shall be completed as expeditiously as possible

Provided that if any inquiry or investigation initiated by Ehtesab Bureau under cl. (a) and (b) of sub-section (2) respectively, has not been completed within one year from the date of receipt of the complaint or taking action, as the case may be, shall be deemed to have been abated and such case shall, without any further action, be consigned to the record;

Provided further that the delay, if any, caused any act of the accused shall not be accounted towards the period of one year."

Subs. by the AJ&K Ehtesab Bureau (Forth Amdt.) Act, 2017. (Act XXV of 2017) dt. 15.05.2017 as under:-

"(6) Any inquiry or investigation under this Act shall be completed expeditiously within a period of one year:

Provided that the Government may extend the said period of inquiry

or investigation up to such extent as it may deem necessary:

Provided further that the Government may order to conduct a fresh inquiry or investigation in a case which has already been consigned to record due to lapse of one year time."

Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

appropriate to initiate proceedings on the basis of a fact finding inquiry in pursuant to a complaint, or on a reference received from the Government which *prima facie* establishing the commission of an offence, he shall refer the matter for investigation, which shall be completed expediently and reference to this extent shall be submitted in the Court within the period as stipulated in sub-section (6).

(4) The responsibility for inquiry or an investigation of an offence alleged to have been committed under this Act shall rest on the Ehtesab Bureau to the exclusion of any other agency or authority, unless any such agency or authority is required to do so by the Chairman.

(5) The Chairman shall, in case the accused person does not voluntarily or on summoning by Ehtesab Bureau avoids or refuses to appear or co-operate or furnish the requisite record or information required to complete the inquiry or investigation, as the case may be, make a request to the Court for issuance of a warrant to cause arrest of the accused person in order to fulfill the purpose of expeditious completion of inquiry or investigation.

(6) Any inquiry or investigation under this Act shall be completed expeditiously within a period of one year:

Provided that the delay, if any, occurred due to an act of the accused, that period shall be excluded in computing the period of one year.

(7) The Chairman or an officer duly authorized by him, shall appraise the material and the evidence furnished through reference or in pursuant to a complaint, placed before him during the inquiry and the investigation, and if he decides that it is proper and just to proceed further, he shall file reference before the Court.

(8) If a complaint inquired into and investigated by the Ehtesab Bureau has been found frivolous or malicious or malafide, such complaint shall be rejected and the complainant shall be proceeded against under sub-section (9).

(9) If the complaint is found to be of frivolous nature or is filed with malafide intention just to defame the reputation of other person, the complainant shall be liable to punishment with imprisonment for a term up to one year, or with fine not exceeding five hundred thousand rupees, but shall not be less than two hundred thousand rupees, or with both.

(10) The concerned department shall prepare the reference after proper scrutiny, containing relevant record/documents, which

prima-facie associates the accused for the commission of an Offence and shall submit to the Government for approval.

(11) The Ehtesab Bureau during the course of inquiry, investigation, trial, or at any stage, shall not make or issue a press release or statement against an accused causing disrespect to him or his family.]

Power to call for Information.- [(1)]The Chairman or any authorized officer, may during the course of an inquiry or investigation in connection with contravention of any provision

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or

(b) require any person to produce or deliver any document or thing useful or relevant to the inquiry or investigation;

(c) examine any person acquainted with the facts and circumstances of the case; and

(d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person

?[“Provided that in case of official documents or information, the Chairman may ask the concerned Administrative Secretary for provision of such documents or information, as the case may be.”

“(2) Notwithstanding anything contained in this Act, the Ehtesab Bureau shall not have any jurisdiction in respect of terms and conditions of civil servants, including appointments, transfers and promotions

The existing Sec. 22 has been re-numbered as subsection (1) by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

Added by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of

22.

of this Act:

order made thereunder;

whosoever,

thereof.”

3[xxx]

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2020) dt. 19.02.2020.

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Omitted by Ibid. The original extract of Sec. 23 is reproduced as under:-

"23. Reporting of Suspicious Financial Transactions.-

(1) Notwithstanding anything contained in any law for the time being in

force, it shall be the duty of all banks and financial institutions to take

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25.

Volume XI (2001-2010)

Cooperation with Government of Pakistan-Request_ for Mutual Legal Assistance.--The Chairman or any officer

authorized by the State Government may request the Government of Pakistan to do the following acts in accordance with the law of Pakistan:-

(a) have evidence taken, or documents or other articles produced;

(b) obtain and execute search warrants or other lawful

instruments authorizing search for things relevant to investigation or proceedings in the State, believed to be located in Pakistan, and if found, seize them.

(c) freeze assets, by whatever processes are lawfully available in Pakistan, to the extent to which the assets are believed on reasonable grounds to be situated in Pakistan:

(d) confiscate articles and forfeit assets to the extent to which the articles or assets, as the case may be, are believed to be located in Pakistan;

(e) to the State any such evidence, documents, things, articles, assets or proceeds realized from the disposal of such articles or assets; and

(f) transfer in custody to the State a person detained in Pakistan who consents to assist the State in the relevant investigation or proceedings.

Jurisdiction.-- (1)The Chairman may inquire into and

prompt and immediate notice of all unusual or large transactions with context to the account, which have no apparently genuine economic or lawful purpose and upon bona fide professional judgment or the bank suspicion that such transactions could constitute or be related to illegal or illicit activities, corruption or corrupt practices, the manager or director of such financial institution shall report all such transactions to the Chairman forthwith by the quickest possible mode of communication to be confirmed in writing.

(2) Whoever fails to supply the information in accordance with Sub-Section (1) shall be punishable with rigorous imprisonment which may extend to 5 years, or with fine, or with both.

(3) Where there are reasonable grounds to believe that the asset of a person or any part thereof were acquired through corruption or corrupt practices,

and there was no other likely source of acquiring such assets or part thereof, it shall be presumed, unless proved to the contrary by the accused person, that such assets or part thereof were acquired, generated or obtained through corruption and corrupt practices."

investigate any suspected offence which appears to him on reasonable grounds to involve serious offence as given in the Schedule I or II to this Act, and has been referred to him! [xxx].

(2) The Chairman may, if he thinks fit, conduct any such investigation in conjunction with any other agency or any other person which/who is, in the opinion of the Chairman, a proper agency or person to be concerned in it.

26. Transfer_of Property Void.- (1) Notwithstanding anything contained in any other law for the time being in force after the Chairman has initiated investigation into the offences under this Act, alleged to have been committed by an accused person, such person or any relative or associate of such person or any other person on his behalf, shall not transfer by any means whatsoever, create a charge on any movable or immovable property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the Ehtesab Bureau or the Court; and any transfer of any right, title or interest or creation of a charge on such property shall be void.

(2) Any person who transfers, or creates a charge on property in contravention sub-section(1) shall be punishable with rigorous Imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

2[“27. Power to Arrest, etc.- (1) The Chairman or any officer

1 The comma and words “, or of his own accord” has been omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

2. Subs. by Ibid. The original extract of Sec. 27 is reproduced as under:-

“27. Power to Arrest.- (1) The Chairman shall have the power, at any stage of the investigation under this Act, to direct that the accused, if not already arrested, shall be arrested.

(2) If the Chairman or an officer duly authorized by him decides to refer the case to a court, such reference shall contain the substance of the offence alleged to have been committed by the accused and a copy of such reference shall be forwarded to the Court to which the case has been sent to try the accused, and another copy shall be delivered to the accused.

(3) The provisions of sub-Section (1) shall also apply to cases, which have already been referred to the Court.

(4) Notwithstanding anything contained in the Code, where the holder of the public office or any other person accused of an offence is arrested by the Ehtesab Bureau under this Act, the Ehtesab Bureau shall, [forthwith] information him of the grounds and substance on

the basis of which he has been arrested and produce him before the court established under this Act within a period of twenty four hours

authorized in this behalf, may at any stage of the investigation under this Act, request the Court for issuance of a warrant of arrest of an accused and the Court may issue such warrant of arrest.

(2) If the Chairman or an officer duly authorized by him decides to refer the case to a Court, such reference shall contain the substance of the offence alleged to have been committed by the accused and a copy of such reference shall be forwarded to the Court to which the case has been sent to try the accused, and another copy shall be delivered to the accused.

(3) The provisions of sub-section (1) shall also apply to cases, which have already been referred to the Court.

(4) Notwithstanding anything contained in the Code, where the holder of a public office or any other person accused of an offence is arrested by the Ehtesab Bureau under sub-section (1) or under this Act, the Ehtesab Bureau shall forthwith inform him of the grounds in writing and substance on the basis of which he has been arrested and produce him before the Court established under this Act within a period of twenty four hours of arrest excluding the time necessary for the journey from the place of arrest to the Court and such person shall, having regard to the facts and circumstances of the case, be liable to be detained in the custody of the Ehtesab Bureau for the purpose of inquiry and investigation for a period not exceeding fourteen days:

Provided that, if further remand of an accused is required on the basis of sufficient reasons and grounds, the Ehtesab Bureau may request the Court for a further period of custody not exceeding seven days:

of arrest excluding the time necessary for the journey from the place of arrest to the court and such person shall, having regard to the facts and circumstances of the case, be liable to be detained in the custody of the Ehtesab Bureau for the purpose of inquiry and investigation for a period not exceeding thirty days-.

Provided that no accused arrested under this Act shall be released without the written order of the Chairman or the order of the Court.

(5) All persons presently in custody shall immediately upon coming into force of this Act, unless previously produced before the Court, be

produced before such court as provided in sub-section (4) and the order authorizing retention of custody by the Ehtesab Bureau shall be deemed to relate to the date of arrest.

(6) The Chairman Ehtesab Bureau may declare and notify any place as a police station or a sub-jail at his discretion."

Provided further that the accused arrested under this Act shall not be released without a written order of the Court.

(5) The Chairman Ehtesab Bureau may declare and notify any place as a Police Station or a Sub-Jail at his discretion.

(6) An accused person, if arrested under this Act, shall not be handcuffed."

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Sec. 28 was amended / subs. two times. The original extract of Sec. 28 of Act I of 2001 is reproduced as under:-

"28 Voluntary Return (Plea Bargaining).- (1) Where at any time whether before or after the commencement of trial the holder of a public office or any other person accused of any offence under this Act, returns to the Ehtesab Bureau the assets or gains acquired through corruption or corrupt practices;

(a) if the trial has not commenced, the Chairman Ehtesab Bureau may release the accused; and

(b) if the court has taken cognizance of the offence or the trial has commenced, the chairman may, with the approval of court, release the accused."

(2) The amount deposited by the accused with the Ehtesab Bureau shall be transferred to the Government or the concerned bank or financial institution, etc, within one month from the date of such deposit.

(3) Notwithstanding anything contained in Section 16 or in any other law for the time being enforce where a holder of public office or any other person voluntarily comes forward to return the illegal gain made by him or loss caused by him to the state exchequer through corruption and corrupt practices the chairman may accept the offer and after determination of the amount of illegal gain or loss caused, as the case may be, and its deposit with Ehtesab bureau, discharge such person of all his liabilities relating to the matter or transaction in issue:

Provided that the matter is not under inquiry or investigation or sub-judice in any court of law.

Subsection (1) of Sec. 28 subs. by the AJ&K Ehtesab Bureau (Third Amdt.) Act, 2010 (Act V of 2010) dt. 17.06.2010 as under:-

"(1) Where at any time, whether before or after the commencement of trial, if accused voluntarily office to return to the government such assets are gain which have been acquired through corruption or corrupt practices, the Chairman Ehtesab Bureau shall after determining the amount of the assets or gains in consultation with the department or agency concerned, refer the case to the Ehtesab Court for its satisfaction over voluntarily return person by the accused which shall pass suitable order for acceptance of such offer of plea bargain to be followed by release of Accused."

Omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act IV of 2020) dt. 19.02.2020.

Omitted bylbid. The original extract of Sec. 29 of Act I of 2001 is reproduced as under:-

"29. Payment of Loans, etc.--(1) Where a person has been arrested or is in the custody of Ehtesab Bureau on the charge that he is guilty of committing the offence of willful default on account of non-payment of dues to a bank or financial institution or cooperative society, he may apply to the Chairman for the reconciliation of his liability through the Conciliation Committee and the Chairman may refer the matter to a Conciliation Committee.

(2) The Conciliation Committee shall consist of a nominee of the Chairman who shall be the Chairman of the Committee, a nominee of the Chief Prosecutor, an officer of the Banking Cell Ehtesab Bureau nominated by the Chairman, nominee of the Governor of the State Bank of Pakistan being a senior officer of the State Bank well qualified in the profession of banking, & Chartered Accountant or a representative appointed by the State Bank of Pakistan, a Chartered Accountant or a representative appointed by the accused who will represent him and a Chartered Accountant appointed by the lender:

Provided that in the cases of scheduled banks of Pakistan the Governor State Bank of Pakistan or his nominee shall be the Chairman of Conciliation Committee.

Explanation: Where the lender is a consortium or group of banks or financial institutions, the lender means the lending bank or financial institution.

(3) The conciliation committee after examining of the record of the lending bank or financial institution and the borrower and after hearing the parties through their Chartered Accountant shall determine the amount outstanding against the borrower calculated in accordance with law, rules, regulations and circulars of the State Bank of Pakistan and further determine the manner and the schedule of repayment having regard to the facts of each case. The borrower, if he so desires, shall be head at commencement and before the conclusion of proceedings:

Provided that the borrower shall have the right to have access, and instruct, the chartered Accountant representing him before the conciliation committee even if the borrow is in the custody, during the proceedings of the Conciliation Committee.

(4) The Conciliation committee shall conclude the reference within thirty days and its recommendations shall be recorded by its chairman and shall contain the views of all members of the Committee. The recommendation of the conciliation committee shall be submitted to the Chairman, Ehtesab Bureau.

(5) The Chairman, Ehtesab Bureau shall consider the recommendations submitted to him under sub-section (4) the Chairman may accept the recommendations or may, for reasons to be recorded, pass such appropriate order including rejecting or modifying the same as he may deem fit.

(6) Where the borrower undertakes to repay the amounts determined by the Conciliation Committee or the Chairman as the case may be, the Chairman

Tender of Pardon to Accomplice' [xxx]-

qd) Notwithstanding anything contained in the Code, at any stage of investigation or inquiry, the Chairman may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to any offence, tender a full or conditional pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the said offence including the names of the persons involved therein whether as principals or abettors or otherwise.

(2) Every person accepting a tender of pardon under sub-section (1) shall be examined by a judge as a witness in the subsequent trial.

(3) Subject to sub-section (4), the person to whom pardon has been granted under this Section shall not:-

(a) In the case of a full pardon be tried for the offence in respect of which the pardon was granted; and

(b) in the case of a conditional pardon be awarded a punishment or penalty higher or other than that specified in the grant of pardon notwithstanding the punishment or penalty authorized by law.

(4) Where the Chairman certifies that in his opinion, any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence through willful or reckless miss-statement, not complied with the condition on which the tender was made , such a person may be tried for the offence in respect of which the pardon was so

may release the accused for the purpose of repayment of such amount.

(7)Notwithstanding anything contained in this Act or any other law for the time being in force, if the Chairman is satisfied that any agreement entered into between a bank or a financial institution, a cooperative society and a lender is vitiated by the provisions of Section 23 or any other provision of the Contract Act, 1872 (IX of 1872), or any other law or the same is collusive or is against public interest, he may refuse to take such agreement into consideration for the purposes of Conciliation Committee or the conclusion drawn by them.

(8) In the event of failure either of the conciliation committee to conclude the reference within thirty days of the commencement of the conciliation proceedings or the failure of the borrower to accept and implement the decision of the Chairman regarding the payment and matters relating thereto, the case shall be proceeded with and referred to the Court."

In the heading of Sec. 30, the expression and words "/Plea-Barganing" has

been omitted by *Ibid.*

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132.

Volume XI (2001-2010)

tendered, or for any other offence of which he appears to have been guilty in connection with the said matter including the offence of giving false evidence, which he knows or ought to know is false.

(5) Any statement made before the Magistrate by a person who has accepted a tender of pardon may be given in evidence against him at the trial.

Power to Seek Assistance.- The Chairman or an officer of the Ehtesab Bureau duly authorized by him shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or proceeding pending before the Ehtesab Bureau, from any Department of the State Government, Local Authority, Bank, Financial Institution, person or any authority and institution or department in the public sector, or the private sector, as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the decision of the Chairman shall be final.

[Provided that where assistance is required from a department or statutory body, the Chairman may ask the concerned Administrative Secretary for such assistance.]

Appointment of Officers and Staff in Ehtesab Bureau.-

Added by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020.

Sec. 32 was amended /subs. two times. The original context of Sec. 32 of Act I of 2001 is reproduced as under:-

“32. Appointment of Officers and Staff in the Ehtesab Bureau.--

(1) The Chairman or an officer duly authorized by him, may appoint such officer and staff as he may consider necessary for the efficient performance of his functions and exercise of powers under this Act.

(2) The officers and members of staff shall be entitled to such salary, allowances and other terms and conditions of services as the Chairman with the approval of the State Government, may determine.

(3) Subject to sub-section (4) the Provisions of the Civil Servants Act, 1976, shall not apply to the persons appointed in the Ehtesab Bureau.

(4) Nothing contained in sub-section (4) shall apply to a person who is a civil servant within the meaning of the law relating to appointments as civil

servant of the State and is deputed to or posted in the Ehtesab Bureau.

(5) The Chairman or any authorized officer may engage any department, agency, official, technical expert or any other person which he thinks proper for inquiry or investigation under this outside of Azad Kashmir."

Section 32 subs. by the AJ&K Ehtesab Bureau (Third Amdt.) Act, 2010
(Act V of 2010) dt. 17.06.2010 as under:-

qd) Appointment to the posts of the officers and staff in Ehtesab Bureau shall be made in the prescribed manners.

(2) The officers and members of staff shall be entitled to such salary, allowances and other terms and conditions of service as may be prescribed.

(3) The provisions of Azad Jammu and Kashmir Civil Servant Act, 1976 (Act VI of 1976) and Rules made thereunder shall apply mutatis and mutandis to the employees of the Ehtesab Bureau.

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(5) The Chairman or any authorized officer, with the approval of the [Government], may engage any department, agency, official, technical expert or any other person which he thinks proper for inquiry or investigation under this Act inside or outside of Azad Jammu and Kashmir."

Accused to be Competent Witness.-Any person charged with an offence punishable under this Act shall be a competent witness for the defense and may give evidence on oath in disproof of the charges made against him:

Provided that the accused shall not be compelled to be a witness against himself:

Provided further that, where an accused person appears

"32. Appointment of Officers and Staff in Ehtesab Bureau.-(1)

Appointment to the posts of the officers and staff in Ehtesab Bureau shall be made in the prescribed manners.

(2) The officers and members of staff shall be entitled to such salary, allowances and other terms and conditions of service as may be prescribed.

(3) The Provisions of Azad Jammu and Kashmir Civil Servants Act, 1976, shall not apply to the persons appointed in Ehtesab Bureau.

(4) The terms and conditions of civil servants deputed to Ehtesab Bureau shall be regulated by Azad Jammu and Kashmir Civil Servants Act, 1976, and other laws applicable to civil servants.

(5) The Chairman or any authorized officer, with the approval of the

[Government], may engage any department, agency, official, technical expert or any other person which he thinks proper for inquiry or investigation under this Act inside or outside of Azad Jammu and Kashmir."

following amendments in Sec. 32 made by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act IV of 2020) dt. 19.02.2020.

- (i) Subsection (3) of Sec. 32 subs.
- (ii) Subsection (4) of Sec. 32 omitted.
- (iii) In subsection (5) of Sec. 32 for the word "President" the word "Government" has been subs.

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35.

Volume XI (2001-2010)

as a witness of his own choice and refuses to answer any question, the Court may draw such adverse inference from such refusal as it may think proper.

False Evidence etc.-(1) Notwithstanding anything contained in the proceeding provisions or any other law already in force, on pronouncement of judgment, the Court shall have the jurisdiction and power to take cognizance of an offence committed in the course of the investigation or trial of a case by any officer, any witness, including an expert who has tendered false evidence in the case, whether he deposed in court or not, or any other person, under sections 176 to 182 of chapter X, or sections 191 to 204, or 211 to 223, or 225-A of chapter XI, of the Azad Penal Code (Act XLV of 1860), or under any other law relating to false evidence and offences against public justice, and to summarily try him and award punishment provided for the offence under the law.

(2) For the purpose of trial under sub-section (1), the Court may, as nearly as may be, follow the procedure specified in Chapter XXII of the Code.

(3) The proceeding under sub-section (1) may be initiated by the Court on its own accord at any time after the decision of the case or, in the event that there is an appeal, after the decision thereof, or on an application made by the Deputy Chief Prosecutor or the person accused of an offence tried by the Court, within thirty days.

Prohibition to Hamper Investigation.-["(1) Notwithstanding anything contained in any other law for the time being in force,

if any person, when required to do so, does not consciously render assistance or information to the Ehtesab Bureau or if any person concerned with the inquiry and investigation and prosecution of a case consciously and deliberately and with

Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020. The original extract of subsection (1) of Sec.35 is reproduced as under:-

"(1) Notwithstanding anything contained in any other law for the time being in force, if any person when required to do so does not consciously render full and complete assistance or information to the Bureau or if any person concerned with the inquiry and investigation and prosecution of a case consciously and deliberately and with malice aforethought compromises, hampers, misleads, jeopardizes or defeats an investigation of a case under process before the Ehtesab Bureau or any concerned agency or authority or any Court or an Ehtesab Court, he shall be deemed to have

committed the scheduled offence of corrupt practice and/or corruption."

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Volume XI (2001-2010)

malice aforethought compromises, hampers, misleads, jeopardizes or defeats an investigation of a case under process before the Ehtesab Bureau or any concerned agency or authority or Court, he shall be punished with an imprisonment which may extend to three years."

(2) No person will be proceeded with under this section except with the sanction of a Committee composing the Chairman and the Chief Prosecutor Ehtesab.

Absconding to Avoid Service of Warrants.-Whoever absconds in order to avoid being served with any process issued by any Court or any other authority or officer under this Act or in any manner prevents, avoids or evades the service on himself of such process or conceals himself to screen himself from the proceedings or punishment under this Act shall be guilty of an offence punishable with imprisonment which may extend to three years notwithstanding the provisions of Section 87 and 88 of Code of Criminal Procedure, 1898, or any other law for the time being in force.

Withdrawal from Prosecution.- Where at any stage of the proceedings, the Chairman is of the opinion that the ends of justice so require, he may direct the Chief Prosecutor to withdraw from prosecution of any person, completely or in respect of any one or more of the offences for which he is tried, with the consent of the Court, and upon such withdrawal,-

(i) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences; and

(ii) if it is made after a charge has been framed, he shall be acquitted in respect of such offence or offences."]

Cognizance of a Financial Offence with Prior Approval of the State Bank of Pakistan.- No Court established under

this Act shall take cognizance of an offence against an officer or an employee of a bank or financial institution for writing off, waiving, restructuring or refinancing any financial facility, interest or markup without prior approval of the State Bank of Pakistan

Subs. by Ibid. The original extract of Sec. 37 is reproduced as under:-

"37. Withdrawal from Prosecution.-- Where at any stage of the

proceedings, the Chairman is of the opinion that the ends of justice so requires he may direct the Chief Prosecutor to withdraw from prosecution of any person under this Act and upon such withdrawal the accused shall be released if not required in any other case under this Act."

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Volume XI (2001-2010)

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Appeal.- 7["(1) Any order or final judgment of the Court shall be appealable in High Court with in a period as may be prescribed in the code."]

(2) All appeals against the final judgment filed before the High Court will be heard by a bench of not less than two judges constituted by the Chief Justice of the High Court and shall be finally disposed of within thirty days of the filing of the appeal.

3[xxx]

Transfer _of Pending Proceedings.- Any and all proceedings pending before a court under the Ehtesab Act, 1997 (VI of 1997), shall stand transferred to the Ehtesab Court as soon as it is constituted under this Act, and it shall not be necessary to recall any witness or again to record any evidence that may have been recorded.

Omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act XI of 2020) dt. 19.02.2020. The original extract of Sec. 39 is reproduced as under:-

"39. Inquiry, Investigation or proceeding in respect _of imprudent bank loans, etc.-Notwithstanding anything contained in this Act or any other law for the time being in force, no inquiry, investigation or proceeding in respect of imprudent loans, defaulted loans or rescheduled loans except loans falling under the Azad Jammu and Kashmir Cooperative Bank (Repayment & Recovery of Loans) Act, 1987 or a loan obtained from a cooperative Bank or cooperative society shall be initiated or conducted by the Ehtesab Bureau against any person, company or financial institution without reference from Governor, State Bank of Pakistan."

Subs. by the AJ&K Ehtesab Bureau (Third Amendment) Act, 2010 (Act V of 2010) dt. 17.06.2010. The original extract of subsection (1) of Sec. 40 of Act I of 2001 is reproduced as under:-

"(1) Any person convicted, or the Chief/Deputy Prosecutor, if so directed by the Ehtesab Bureau, aggrieved by the final Judgment or order of the Court under this Act may, within ten days of the final judgment and order of the Court prefer an appeal to the High Court."

Omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act IV of 2020) dt. 19.02.2020. The original extract of subsection (3) and (4) of Sec. 40 of Act I 2001 as under:-

"(3)Notwithstanding any other law for the time being in force or under this Act, no appeal against any interlocutory order of the Court during the

proceedings pending before it under this Act, shall lie and an appeal shall lie only against the final judgment of the Court.

(4)No stay of proceedings before the Court shall be granted by any Court on any ground whatsoever, nor proceedings thereof be suspended or stayed by any Court on any ground whatsoever."

[*42. Power to make Rules and Regulations.- (1) The Government

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may make rules for carrying out the purposes of this Act, except for the matters enumerated in sub-section (2):

Provided that the departmental service rules, in force at the time of commencement of this Act, shall continue to be in force, as far as they are not inconsistent with the Civil Servant Act or Rules made thereunder, and be deemed to have been made under this Act, unless altered, amended, modified or repealed.

(2) The Ehtesab Bureau, with the prior permission of the Government, may make regulations for the following purposes:-

(i) Procedure to conduct inquiry, investigation and filing of reference before the Court under this Act; and

(ii) Standard Operating Procedures (SOPs)."]

Transfer_of Posts, Budget _and_Properties.-- On the Commencement of this Act all the posts, assets and properties

along with budget of Ehtesab Commission and Ehtesab Cell shall stand transferred to the Ehtesab Bureau.

Repeal.- (1) The Ehtesab Act 1997 (Act VI of 1997) shall stand repealed from the date of promulgation of this Act, provided that notwithstanding the repeal of the said Act, any proceedings pending under the Ehtesab Act, 1997 before any Court established under the said Act, shall, continue under this Act as transferred under section 41 to an Ehtesab Court and any investigation or inquiry initiated under the said Act shall be continued and concluded as if this Act has not been repealed.

(2) Any case or proceeding pending under the aforesaid Act of 1997 immediately before the commencement of this Act and transferred to any court established under this Act shall be

Sec. 42 was amended / subs. two times. The original extract of Sec. 42 of Act I 2001 is reproduced as under:-

"42. Powers to Make Rules.-- The President, in consultation with the Chief Justice of the High Court, may make Rules for carrying out the purposes of this Act."

Subs. by the AJ&K Ehtesab Bureau (Third Amdt.) Act, 2010 (Act V of 2010) dt. 17.06.2010 as under:-

"42. Powers to Make Rules.-- The Government may make Rules for carrying out the purposes of this Act."

Subst. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act IV of 2020) dt. 19.02.2020.

proceeded with and all subsequent proceedings shall be completed in accordance with, and under the provisions of, this Act.

[45. Indemnity.- No suit, prosecution or any other proceeding shall

lie against the Government or Chairman Ehtesab Bureau on exercising of any powers or performing any function or any act or thing which has been done or intended to be done in good faith under this Act or Rules made thereunder.”]

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3[“46-A. Annual Report.- The Chairman shall present to the

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President, annual report on the work done by the Ehtesab Bureau.”]

Special Institution.- For the purposes of this Act and the Rules of Business, 1985, the Ehtesab Bureau shall be a special institution of the Law, Justice & Parliamentary Affairs Department.

Repeal of Ordinance (XLVI).- The Azad Jammu and Kashmir Ehtesab Bureau Ordinance, (Ordinance XLVI of

2000) is hereby repealed.

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Subs. by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act IV of 2020) dt. 19.02.2020. The original extract of Sec. 45 of Act I of 2001 is reproduced as under:-

“45. Indemnity.-- No suit, prosecution, or any other proceedings shall lie against the State Government, Chairman/Deputy Chairman, Ehtesab Bureau, or any other member of the Ehtesab Bureau, or any person exercising any power or performing any function under this Act or the Rules made hereunder for any act or thing which has been done in good faith or intended to be done under this Act or the Rules thereof.”

Omitted by Ibid. The original extract of Sec. 46 of Act I of 2001 is reproduced as under:-

“46. Removal of Difficulties order.—The President may for the purpose of removing any difficulties in the enforcement of this Act make modifications, additions or omissions as may be deemed necessary or expedient for the interest of the State.”

Added by the AJ&K Ehtesab Bureau (2nd Amdt.) Act, 2005 (Act IX of 2005) dt. 22.09.2005.

Schedule one and two of the Act 1 of 2001 amended /omitted two times. The original extract of schedule I and II of Act 1 of 2001 is reproduced

as under:-

SCHEDULE (1)

S.NO

OFFENCES

Corruption and Corrupt Practices.

(a) Wilful default in repayment of outstanding dues to bank or a financial institution, a cooperative society a government department or an authority established or controlled by the government shall be an offence or deemed to be an offence of corruption and/or corrupt practices.

(b) Any person who aids, abets or through any willful act or omission is instrumental in the commission of the offence specified at Serial 1 (a) above of this schedule or with wrongful intent for illegal gratification by misuse of power, authority, influence, nepotism, favoritism writes off, waives, restructures or refinances illegally, improperly or without sufficient justification the principal amount of loan on any financial facility , interest or mark-up on any loan of financial facility provided to any person by any bank or financial institution, a cooperative society, a government department or an authority established or controlled by the Government shall have committed or be deemed to have committed the offence of corruption and/or corrupt practices.

Criminal conspiracy/attempt to commit any scheduled offence. Knowingly furnished false information to any member of the Ehtesab Bureau or to any agency investigating any alleged Offence.

REMARKS

Up to 14 years
alongwith fine.
Up to 7 years
alongwith fine

Up to 7 years
alongwith fine
amounting to
the loss
incurred

Up to 10 years

Up to 10 years

To be read
with Sections
175-177 APC

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Refuses to answer questions, or to provide information to the Ehtesab Bureau or any other agency when required to do so.

Giving or fabricating false evidence during inquiry, investigation of an offence by the Ehtesab Bureau or any agency.

When given by a complainant/witness/accused.

When given by any inquiry officer, investigator of the Ehtesab Bureau or concerned agency.

Offence under Sec. 409 APC
Misuse of authority/power in committing any offence above, by any person holding a public office including any offence under Sections 161 to 165 A of the Azad Penal Code.

Fraud that is to say deceitfully, fraudulently and dishonestly causing loss to a bank, a financial institution, a cooperative society, a government department, a statutory body or an authority established or controlled by the Government,

Acquisition, retention and possession of assets derived from corrupt practices by corrupt or/and illegal means in abuse of power and/or authority.

Offence under Section 35 of this Act.

Up to 5 years

Up to 5 years

Up to 10 years

Up to 14 years

Up to 14 years

Up to 14 years

up to 14 years
along with fine
and
confiscation of
property

up to 3 years

SCHEDULE-II

Section 4cl. (m)

Offences punishable under Sections 403, 404, 406 to 408, 417 to 419,
423, 465 to 468 , 471 to 477-A of Azad Penal Code (XLV of 1860)
and as attempts, abetments and conspiracies in relation thereto or

connected therewith

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180-182 APC

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202, 203,

Volume

XI (2001-2010)

Sd/-(SYED ATTA MOHY-UD-DIN QADIR)

DRAFTSMAN
LAW, JUSTICE AND
PARLIAMENTARY AFFAIRS
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Offences

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Act, 1989 (Act II of 1989).

punishable under

punishable under official Secret Act, 1923 (XIX of 1923).

punishable under the Forest Regulations, 1930 (II of 1930).

punishable under the prevention of corruption Act, 1950.

punishable under the public offices (Misconduct) Ordinance, 1965 (X of 1965).

punishable under Mirpur Development Authority Ordinance, inance IV of 1974).

the Muzaffarabad Development Authority

Offences punishable under the Local Government Act, 1990.

Offences punishable under the Kotli Development Authority Act, 1992 (Act XIX of 1992).

Offences punishable under the Peer Development Authority Act, 1993 (Act XIV of 1993).

Offences punishable under the Bagh Development Authority Act, 1995.

Offences punishable under the Criminal Law (Amendment) Act, 1956.

Offences punishable under the Anti Corruption Establishment Act,

1993,

Offences punishable under the cooperative Bank (Repayment and Recovery of loans) Act, 1987 and Cooperative Society Act, 1925.

Offences punishable under the official Misdemeanour Act, 1948.

Offences punishable under the Ehtesab Act, 1997 and proceeding Ehtesab Ordinance.

Offences punishable under the Income Tax Ordinance, 1979.

Offences punishable under Waqf Properties Act, 1960.

Offences punishable under the Zakat and Usher Act, 1985.

Offences punishable under the Legislative Assembly Election Ordinance, 1970.

Offences punishable under the Public Office Misconduct Ordinance, 1965.

Offences punishable under the Drugs Act, 1976.

Cl. 22 of schedule II Omitted by the AJ&K Ehtesab Bureau (Amendment) Act, 2002 (Act III of 2002) dt.

13.04.2002.

B. Schedule I and II has been omitted by the AJ&K Ehtesab Bureau (Sixth Amdt.) Act, 2020 (Act IV of 2020) dt. 19.02.2020.