

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

Dated the 23rd January, 1997.

No. 27-36/LD/Leg/97. The following Act of the Assembly received the assent of the President on 21st January, 1997 is hereby published for general information:-

(ACT I OF 1997)

AN

ACT

to provide for the control of pollution and preservation of living environment

WHEREAS it is expedient to provide for the control of pollution and preservation of living environment and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be

called the Azad Jammu and Kashmir Environmental Protection

Act, 1997.

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

its territorial water, exclusive Economic Zone and historic waters.

(3) It shall come into force at once.

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

(a) "Agency" means the Azad Jammu and Kashmir Environmental Protection Agency established under Section 5;

(b) "Air Pollutant" means any substance that causes alteration

in chemical, physical, biological or radiological integrity of air and includes soot, smoke particulate, combustion exhaust gasses, obnoxious gases and_ radioactive

substances;

(c) "Council" means the Azad Jammu and Kashmir Environmental Protection Council established under Section 3;

(d) "Discharge" means spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(e) "Effluent" includes any material in solid, slurry,

suspension, liquid, vapor, fumes or gaseous from coming out as or from any industrial activity or any other source;

(f) "Effluent standards" means the permissible limits

prescribed by the Agency regarding the quality and quantity of effluent and wastes;

(g) "Emission standards" means the permissible standards for emission of air pollutants prescribed by the agency;

(h)

@

G)

(k)

cy

(m)

(n)

(0)

9)

(q)

(r)

(s)

(t)

(u)

(v)

(w)

“Exclusive Economic Zone” shall have the same meaning as defined in the Territorial Waters and Maritime Zones Act, 1976 (LXXXII of 1976) of Pakistan;

“Government Agency” includes a division, department, bureau, section, commission, board, office or unit of the Azad Government of the State of Jammu and Kashmir;
“Government” means Azad Government of the State of Jammu and Kashmir;

“Historic Waters” means such limits of the water adjacent to the land territory of Azad Jammu and Kashmir as are for the time being specified by the Government;

“Industrial activity” means any process for manufacturing, making, altering, repairing, ornamenting, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport, sewage or for generating, transforming or transmitting power;

“Industrial waste” means waste resulting from an industrial activity;

“Local authority” includes any agency set up or designated by the Government to be a local authority for the purposes of this Ordinance;

“Local Council” means a local council constituted or established under a law relating to local Government;

“Municipal Waste” includes sewage, refuse sludge and human excreta and the like;

“Pollution” means any matter which, on being discharged into the air, soil or public waters, alters unfavorably the chemical, physical, biological or radiological integrity of the air, soil or public waters or, by itself or in combination with other discharges, is likely to make the air, soil or public waters unclean, noxious or impure or injurious or disagreeable or detrimental to the health, safety, welfare or property of persons or harmful to aquatic life, animals, birds, fish, plants or other forms or life;

“Prescribed” means prescribed by rules or regulations;

“Public waters” means water areas in public use and includes streams, nullahs, canals, seepage drains, natural or artificial water courses, rivers, wells, ponds, ditches, lake reservoirs, underground or artesian water, territorial waters, the Exclusive Economic Zone and historic waters;

“Regulations” means regulations made under this Act;

“Rules” means rules made under this Act;

“Sewage” means liquid wastes from sanitary conveniences, ketches, laundries, washing and the like;

“Standards” means effluent standards and emission

standards;

(x) "Treatment works" means the various processes and devices used in the treatment of wastes; and

(y) "Wastes" includes liquid wastes, solid wastes, industrial

wastes, municipal wastes, wastes from mining processes and wastes from farm and agricultural activities such as poultry, Cattle, Animal Husbandry abattoirs and the use of fertilizers and pesticides.

Establishment of the Council.-- (1) The Government shall, by notification in the Official Gazette, establish a Council to be Known as the Azad Kashmir Environmental Protection Council and consisting of;

i) The President of Azad Jammu Kashmir. — Chairman

ii) The Minister in-charge of the Vice Environment. Chairman

iii) Minister, Law, Justice and Parliamentary Member Affairs.

iv) Addl. Chief Secretary (Development). Member

v) Two other persons as the Government Member may appoint.

vi) The Secretary to the Government dealing with the subject;

(2) The members of the Council, other than ex-officio

members, shall hold office for a term of three years.

(3) The Council shall frame its own rules of procedure.

(4) The Council shall hold meetings as and when necessary; Provided that not less than two meetings shall be held in a year.

(5) The Council may, by general or special order and subject

to such conditions as it may consider fit, delegate any of its functions under this Act to a Committee or any members of the Council.

Functions of the Council.- (1) The functions of the Council shall be to-

(a) ensure enforcement of this Act;

(b) establish comprehensive National Environmental Policy;

(c) give appropriate direction to conserve the renewable and expendable resources;

(d) ensure that Environmental consideration are interweaved into National Development Plans and Policies;

(e) ensure enforcement of the National Environment Quality

Standards; and

(f) give directions to any Government agency, a body or a person requiring it or him to take measures to control pollution being caused by such agency, body or person or to refrain from carrying out any particular activity prejudicial to public interest or the purposes of this Act.

(2) The Council may, or if so required by the Government or

any Government agency shall, direct the agency to prepare, submit

and promote projects for the prevention of environmental pollution or to undertake research in any specified aspect of environment.

Establishment _of the Agency.- (1) The Government shall, by

notification in the official Gazette, establish an agency to be called

the Azad Jammu and Kashmir Environmental Protection Agency to exercise the powers and perform the functions assigned to it under the provision of this Act or the rules and regulations.

(2) The Agency shall be located in the Planning and

Development Department and headed by a Director General.

(3) The powers and functions of the Agency shall be exercised

and performed by a Director General to be appointed by the Government.

(4) The agency shall have such administrative, technical and

legal staff as the Government may appoint.

(5) To assist him in the discharge of his functions, the

Director General may establish such Advisory Committees as he

may deem fit and appoint as members thereof eminent

representatives of universities, research institutes, the business community and other professions and fields of knowledge.

Functions of the Agency.- (1) The Agency shall,-

(a) administer this Act and the rules and regulations;

(b) prepare national environmental policy for approval of the Council;

(c) publish an annual report on the state of environment;

(d) establish an National Environmental Quality Standards with the approval of the Council;

(e) _ revise the National Environmental Quality Standards as and when deemed necessary;

(f) coordinate environmental policies and programs nationally and internationally;

(g) establish system for surveys, surveillance, monitoring, measurement, examination and inspection to combat environmental pollution;

(h) take measures to promote the development of science and technology which will contribute to the prevention of environmental pollution, such as the consolidation of survey and research system, the promotion of research and development, the dissemination of the results of such

(i)

G)

(2)

research work and development work, and the education and training of research experts and other Governmental functionaries;

provide information and education to the public on environmental matters and to recommend to the Council the introduction of environmental information in the syllabi of educational institutions; and

coordinate and consolidate implementation of measures to control pollution with Government agencies.

The Agency may:-

- (a) request any Government agency to furnish any information or data relevant to the function of the Agency;
- (b) with the approval of the Government, initiate requests for foreign assistance in support of the objectives of this Act and enter into arrangements with foreign agencies or organizations for the exchange of material or information and participate in international seminars or meetings;
- (c) establish and maintain laboratories to conduct research in various aspects of environment and provide grants to institutions for specific projects;
- (d) delegate any of its powers under this Act and the regulations to any Government agency;
- (e) identify the needs for legislation in the environmental field;
- (f) at the request of the Government or any Government agency, provide advice and assistance in environmental matters; and
- (g) perform any other function which the Council may assign to it.

Powers of the Agency subject to the provisions of this Act, the

Agency may:-

- (a) lease, purchase, acquire, own, hold, improve, use or otherwise deal in and with any property, both movable and immovable;
- (b) sell, convey, mortgage, pledge, exchange or otherwise dispose of its property and assets;
- (c) execute instruments, incur liabilities and do all acts or things necessary for proper management and conduct of its business; and
- (d) appoint such advisers and consultants as it considers

necessary for efficient performance of its function on such terms and conditions as may be prescribed by regulations.

Environmental impact statement, etc; to be submitted to the
Agency.- (1) The Provisions of this section shall apply to such:-

10.

(a) persons or class of persons; or

(b) industrial activity or class of industrial activity; or

(c) category, type or volume of discharges of air pollutants or wastes; or

(d) area or class of areas; or

(e) classes of public waters. as may be prescribed by regulations.

(2) Every proponent of a project the construction or

completion of which is likely to adversely affect the environment shall file with the agency, at the time of planning the project, a detailed environmental impact statement including information on:-

(a) the impact on the environment of the proposed industrial activity;

(b) the treatment works of the proposed project;

(c) the unavoidable adverse environmental effects of the

proposed project; and

(d) the steps proposed to be taken by the project proponent to minimize adverse environmental effects.

(3) The agency may prescribe guidelines for the preparation of environmental impact statement and, where such guidelines have been prescribed, the proponents of projects shall prepare environmental impact statements according to the said guidelines.

(4) The Agency may itself or through the appropriate Government agency review the environmental impact statement and, where it deems appropriate, it may also involve public participation in the assessment of the environmental impact statement.

(5) After the review under sub-section (4), the agency may either approve the environmental impact assessment or recommend to the Government that the project be modified or rejected in the interest of environmental objectives.

Agency to assist local councils, etc, in disposal of wastes.-- The agency shall assist the local councils, local authorities or other Government agencies and persons to implement schemes for the proper disposal of wastes in line with the standards and procedures prescribed by the Agency.

Funds of the Agency.- The funds of the Agency shall be derived from the following sources, namely:-

(a) grants made and loans advanced by the Government or the Federal Government;

(b) grants, loans advances and other moneys received from local or international agencies;

(c) fees, rates and charges received by the Agency under the

provisions of this Act; and

iG)

11.

12.

13.

14,

15.

16.

17.

18.

all other sums received by the Agency.

Audit and accounts.- (1) The Agency shall submit its annual budget estimates for approval of the Government through the Council.

(2) The Agency shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed by rules.

(3) The accounts of the Agency shall be audited in such manner as may be directed by the Government.

Penalty.- (1) Whoever contravenes or fails to comply with any provision of this Act or of any rule or regulation or any direction issued by the Agency thereunder, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one hundred thousand rupees, or with both, and in the case of a continuing contravention or failure, with an additional fine which may extend to ten thousand rupees for every day after the first during which such contravention or failure continues.

(2) The Director General or an officer generally or specially authorized by him in his behalf may compound any offence under this Act.

Indemnity.- No suit, prosecution or other legal proceeding shall lie against the Council, the Agency, the Director General or the members, officer, employees, experts or consultants of the Agency for anything in good faith done or intended to be done under this Act or any rule or regulation.

Bar _of Jurisdiction.- No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing made by the Agency.

Dues of Agency recoverable as an arrear of land revenue.- Any dues recoverable by the agency under the provisions of this Act or any rules or regulations shall be recoverable as an arrear of land

revenue.

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

Power to make regulations.- (1) The Agency may, by notification in the official Gazette, with the approval of the Government, make regulations, not inconsistent with the provisions of this Act or the rules, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the levy of fees, rates and charges in respect of services rendered, actions taken and schemes implemented by the Agency.

Repeal.- The Azad Jammu and Kashmir Environmental Protection

Ordinance, 1996 (Ordinance XLI of 1996) is hereby repealed.

Sd/-(Arshad Ahmed Qureshi)
Section Officer Law.