

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

Dated: 15th March, 2017

No. LD/Legis-Act/117-127/2017. The following Act of Assembly received the assent of the President on the 7th day of March 2017, is hereby published for general information.

(ACT VII OF 2017)

An

Act

to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of National Program for Family Planning and Primary Health Care Azad Jammu and Kashmir;

WHEREAS it is required to provide preventive, curative, rehabilitative and promote health care services to the population in the Azad Jammu and Kashmir;

AND WHEREAS the Government of Pakistan has been supporting the interventions related to Primary Health Care and Community Health through the National Program for Family Planning and Primary Health Care mainly comprising the female health workers embedded with the local communities in the country, including Azad Jammu and Kashmir;

AND WHEREAS, the Azad Jammu and Kashmir 'National Program for Family Planning and Primary Health Care' has been devolved to the Azad Government of the State of Jammu and Kashmir in the aftermath of the 18th Constitutional Amendment in the Constitution of Islamic Republic of Pakistan 1973;

AND WHEREAS, the community based workers of the Program have a special nature of job, for the execution of which they have to remain continuously embedded with their local catchment population;

AND WHEREAS, it is obligatory to maintain the original concept and design of the Program to keep the program community based and its workers embedded with the community to ensure effective service delivery;

AND WHEREAS, the special nature of job and duties to be

performed by the community embedded employees and design of the Program cannot be regulated through existing laws;

AND WHEREAS, it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of

persons in, and regularize the service of employees of "National Program

for Family Planning and Primary Health Care Azad Jammu and Kashmir", and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

CHAPTER-I
PRELIMINARY

1. Short title, Application _and_Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Family Planning

and Primary Health Care Program Employees (Regularization and Standardization) Act, 2017.

(2) It shall come into force at once.

(3) It shall apply to all persons employed in the Family Planning and Primary Health Care Program of Azad Jammu and Kashmir.

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

(a) "AJ&K" means the Azad Jammu and Kashmir;

(b) "Civil Servant" means a servant who holds a post in connection with the affairs of Azad Jammu and Kashmir as defined in AJ&K Civil Servants Act, 1976 (Act VI of 1976);

(c) "Catchment Population" means the defined local population for which the Community Embedded Staff of the Program is appointed, or posted, and resides within;

(d) "Community Embedded Staff" means the program employees residing and working within their defined local catchment population for which they were employed or posted; and include Lady Health Workers, Lady Health Supervisors and Drivers for Lady Health Supervisor's vehicle;

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

(f) "Family Planning and Primary Health Care Program" means the Lady Health Workers Program, which was also previously called Prime Minister's Program for Family Planning and Primary Health Care;

(g) "Non-Resident" means a Community Embedded Employee who is not regularly residing within the local

catchment population defined for her / him;

(h) "Program" means the Family Planning and Primary Health Care Program;

@ "Program Employee" means the employee of the Family Planning and Primary Health Care of Program;

() "Prescribed" means prescribed by rules;

(k) "Rules" mean rules made under this Act.

CHAPTER- II REGULARIZATION OF THE PROGRAM EMPLOYEES

Status of Program.- (1) On commencement of this Act, the Family Planning and Primary Health Care Program, shall be deemed to be a program of the Government to be known as the Lady Health Workers Program of AJ&K.

(2) The purpose of the Program shall be to provide preventive, curative, rehabilitative, and promotions of health care services to the Catchment Population in the AJ&K.

(3) The Program shall continue for such a period as the Government may determine.

Regularization.- (1) After coming in to force of this Act, the Government may appoint persons to various posts in the Program as it may consider necessary for carrying out the purposes of the Program in accordance with the criteria, on such term and conditions and in such manner as may be Prescribed.

(2) All the Program Employees, which include the Lady Health Supervisors, Lady Health Workers, Accounts Supervisors, Drivers and program management unit (PMU) staff, who were appointed in the Program by the Government of Pakistan after fulfilling all codal formalities before 1st July, 2012 and are entitled to be regularized in view of judgment of Supreme Court of Pakistan may be confirmed by concerned selection board or selection committee, as the case may be.

CHAPTER-III TERMS & CONDITIONS OF SERVICE OF THE PROGRAM EMPLOYEES

Terms and Conditions.- (1) The Program Employees regularize under this Act shall be dealt in accordance with the provisions of this Act and the rules made thereunder.

(2) Subject to the provisions contained in sub-section (3), the matters relating to the seniority, promotion, retirement, pay and conduct of employees, leave, and disciplinary action etc., shall be dealt with in the manner as may be prescribed.

(3) Notwithstanding any other provisions of this Act, the terms and conditions provided in Notification No. S.H/II(204) 13/2013, dated 16-04-2013 shall mutatis mutandis apply to Program Employees subject to any modification in the said Notification.

Posting and Transfer_of Community Embedded_Staff.-
Notwithstanding any other provisions of this Act, the Program

Employee, except the Community Embedded Staff, may be transferred to perform his duty anywhere in the AJ&K in the Prescribed manner.

(2) The Community Embedded Staff shall perform his/her duties within the Catchment Population of his residence:

Provided further that the post of Lady Health Worker in rural areas may be transferred along with incumbent due to marriage in another rural area of the same district only, if required uncovered population is available in that area where she has been shifted.

Termination and Reinstatement_of Community Embedded Staff.- (1) The services of a Community Embedded Staff, whose

services are regularized under this Act, shall be liable to termination, if the employee,-

(i) has unlawfully ceased to be a regular resident within or has become a Non-Resident for his Catchment Population; or

(ii) is involved in any other engagement or a practice which is not in accordance with the approved policies of the Program; or

(iii) has ceased to be efficient in the performance of official duties; or

(iv) has proved guilty of gross misconduct.

(2) Services of a Community Embedded Staff, whether regularized through this Act or otherwise, shall not be terminated without fulfilling the requirements of the procedure prescribed for the purpose.

(3) Subject to procedure and conditions laid down for this

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purpose, the Community Embedded Staff terminated under clause (i) and / or (ii) of sub-section (1), may be reinstated into service in the manner as may be Prescribed:

Provided that this opportunity of reinstatement shall not be given more than once throughout the tenure of a Community Embedded Staff service:

Provided further that,-

(i) no salary or allowances shall be paid to the reinstated employee for the period spent under termination; and

(ii) payment made, if any, to the terminated employee being re-instated, which was not allowed during or for the period spent under termination, shall be recovered from the employee.

Application of Government Rules.- The Program Employees shall be dealt in accordance with the provisions of this Act and

Rules:

Provided that if no specific Rules are available on any matter, the Government rules shall be applicable to such Program Employees.

Public Servants.-All Program Employees shall be deemed to be public servants within the meaning of Section 21 of the Azad Penal Code, 1860 (Act XLV of 1860).

CHAPTER- IV MISCELLANEOUS

Power to make Rules.- The Government may make such rules as appear to it to be necessary for carrying out the purposes of this Act.

Saving.- (1) Any rules, orders or instructions in respect of any terms and conditions of service of Program Employees duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules, orders or instructions made under this Act.

(2) Nothing in this Act or in any rule shall be construed to limit or abridge the power of the Government to deal with the case of any Program Employee in such manner as may appear to

it to be just and equitable:

Provided that, where this Act or any rule is applicable to

the case of Program Employee, the case shall not be dealt with in any manner less favourable to him than that provided by this Act or such rule.

Removal of difficulties.- If any difficulty arises in giving effect to any of the provisions of this Act, the Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing such difficulty:

Provided that no such power shall be exercised after the expiry of one year from the date of commencement of this Act.

Sd/-
(Mehr-un-Nisa Qadri)
Section Officer (Legislation)