

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD
Dated the 16th March, 1993.

No. 342-46/LD/Leg/93. The following Act of the Assembly, received the assent of the President on 13th March, 1993, is hereby published for general information:-

(ACT XV of 1993)

AN
ACT

to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970

WHEREAS it is necessary to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir legislative Assembly (Elections) (Amendment) Act, 1993.

(2) It shall come into force at once.

2. Amendment of Section 2, Ordinance X of 1970.- In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), hereinafter referred to as the said Ordinance, in Section 2, for clause (iii) the following shall be substituted:-

"ii) | "Commissioner" means the Chief — Election Commissioner appointed under the Azad Jammu and Kashmir Interim Constitution Act, 1974."

3. Substitution of Section 4, Ordinance X of 1970.- In the said Ordinance for Section 4, the following shall be substituted, namely:

"4, (1) All authorities of the Government shall render such assistance to the Commissioner in the discharge of his functions as may be required of them by the Commissioner.

(2) Notwithstanding anything contained in any other law or order for the time being in force, the Commissioner may, for reasons to be recorded in writing, suspend any such person in the service of Government, corporation

control by the Government or local authority if he refuses to perform such functions or render such assistance and shall refer the matter to the appropriate authority for taking disciplinary action against such person."

Addition of Section 4-A, Ordinance X of 1970.- In the said Ordinance after Section 4, a new Section 4-A shall be added, namely:-

"4-A,

Power to requisition property.- The Government or an officer authorised by it in this behalf may, upon a request made in this behalf by the Commissioner, by order in writing requisition any such vehicle or animal as is needed or is likely to be needed for the purpose of transporting to and from any polling station ballot boxes or other election material or any officer or other person engaged for the performance of any officer in connection with the election:

Provided that no vehicle or animal which is being used by a candidate or his election agent for any purpose connected with the election of such candidate shall be requisitioned.

(2) Any person authorised in this behalf by the Government may take possession of any vehicle or animal requisitioned under sub-section (1) and may for that purpose "use such force, including police force, as may be reasonably necessary.

(3) Where any vehicle or animal is requisitioned under sub-section (1), there shall be paid to the owner thereof compensation the amount of which shall be determined by the Government or the Officer requisitioning the vehicle or animal on the basis of the fares and rates prevailing in the locality for its hire:

Provided that, where the owner of the vehicle or animal, being aggrieved by the amount of compensation so determined, makes an application to the Government within a period of thirty days from the date the amount has been determined for the matter being referred to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator, appointed in this behalf by the Government may determine.

Amendment of Section 5, Ordinance X of 1970.- In the said Ordinance, in Section 5, in sub-section (2),-

(a)

(b)

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for clause (iv) the following shall be substituted
namely:-

“(iv) he holds any office of profit in the service of
Azad Jammu and Kashmir or in the service of
Pakistan other than an office which is not a
whole time office remunerated either by salary
or by fee, or other than an office of
parliamentary Secretary, Advisor to
Government, Special Assistant to the Prime
Minister or to the President or Chairman District
Council or Municipal Committee or Chairman
District or Tehsil Zakat Committee or as
specified in the second schedule or Interim
Constitution Act, 1974; and

for clause (ix) the following shall be substituted,
namely:-

“(ix) he has been in the Service of the Azad Jammu
and Kashmir or Pakistan or of any statutory
body or any body which is owned or controlled
by the Government or the Government of
Pakistan, or in which any of the Government has
a controlling share or interest, other than an
office exempted in clause (IV), unless a period
of two years has elapsed since he ceased to be in
such service: or”

Amendment of Section 6, Ordinance X of 1970.- In the said
Ordinance in Section 6,-

(a)

(1)

(b)

“(4A).

for\sub-section (1) the following shall be substituted,
namely:-

The Commissioner shall appoint District Returning
Officer for each District within Azad Jammu and
Kashmir territory and a Returning Officer for each
Constituency for the purpose of holding elections:

Provided that a person may be appointed as

Returning Officer for two or more constituencies.

After sub-section (4) a new sub-section (4-A) shall be added, namely:-

Subject to the superintendence, direction and control of the Commissioner the District Returning Officer shall co-ordinate and supervise all work in the district in connection with the conduct of election and shall also

(c)

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perform such other duties and functions as may be entrusted to him by the Commissioner."

after sub-section (4-A) the following shall be added:-

"(5) Notwithstanding anything contained in any other law or order for the time being inforce, the Commissioner may, at any time, for reasons to be recorded in writing, suspend any officer performing any duty in connection with an election or any other public functionary, or any member of police force or any other law enforcing agency, who obstructs or prevents or attempts to obstruct or prevents the conduct of fair and impartial Poll or interferes or attempts to interfere with an elector when he records his vote, or influences in any manner. the Polling Staff or an elector or does ,any other act calculated to influence the result-of election and make such arrangements 'as he may consider necessary for the performance of the functions of the Officer so suspended.

(6) Where the Commissioner suspends any officer under sub-section (5), the Commissioner shall refer the matter to the appropriate authority for taking disciplinary action against such officer."

Amendment of Section 7, Ordinance X of 1970.- Inthe said Ordinance in Section'7, for sub-section (1) and (2) the following shall be substituted, namely:-

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(2)

The Returning Officer shall, before such time as the Commissioner may fix, submit to the Commissioner or as the case may be to the District Returing Officer the list of polling stations he proposes to provide in a constituency for the purpose of election of a member for that constituency.

The Commissioner or as the case may be, the District Returning Officer may make such alterations in the list of polling stations submitted under sub-section (1) as he may consider necessary and shall, at least fifteen days before the polling day, publish in the Official Gazette, the final list of the polling stations specifying the area and electors whereof will be entitled to vote at each polling station."

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Amendment of Section 8, Ordinance X of 1970.- In the said Ordinance in Section 8, after sub-section (1) the following new sub-section (1-A) shall be inserted, namely:-

"(1-A) A list of such Presiding Officer, Polling Officers and polling Assistants shall be submitted to the Commissioner or as the case may be to the District Returning Officer at least fifteen days before the Polling day for its approval and no change in the personnel shall be made except with the approval of the Commissioner."

Amendment of Section 12, Ordinance X of 1970.- In the said Ordinance in Section 12, in clause (a) of sub-section (1), for the words "five hundred" the words "two thousand" shall be substituted.

Addition of Section 15-A, Ordinance X of 1970.- In the said Ordinance after Section 15, the following new Section 15-A Shall be added, namely:-

"15-A. Retirement from election, etc.-\n(1) A contesting candidate may retire from the contest by a notice in writing signed by him and delivered to the Returning Officer on any day not later than two days before the polling day either by such candidate in person or by an agent authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of retirement under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall upon receiving a notice of retirement under sub-section (1) cause a copy thereof to be affixed at some conspicuous place in his office and also to be published in such manner as he may think fit.

(4) A person in respect of whom a notice of retirement has been published under sub-section (3) shall be deemed to have withdrawn his candidate under Section 15."

Amendment of Section 18, Ordinance X of 1970.- In the said Ordinance in Section 18, in sub-section (1), between the words "Section 15" and "there" the words and comma "retirement under Section 15-A," shall be inserted.

Amendment of Section 45, Ordinance X of 1970.- In the said Ordinance, in Section 45, in sub-section (3) for the words "fifteen thousand" the words "two hundred thousand" shall be

substituted.

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Substitution of Section 47 -A, Ordinance X of 1970.- In the said Ordinance for Section 47-A, the following, shall be substituted and shall be deemed always to have been so substituted, namely:-

"47-A. Notwithstanding anything contained in the Ordinance or any other law for the time, being inforce, the provisions of sections 44 to 47 shall not apply to the members elected in the general elections of 1985, 1990 and 1991."

Amendment of Section 90, Ordinance X of 1970.-In the said Ordinance in Section 90, after sub-section (2), the following new sub-section (3) shall be added:-

"(3) In respect of an offence specified in sub-section (1), Section 494 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall have effect as if after word and comma, "may," there-in, the words "if so directed by the Chief Election Commissioner and" were inserted.

Insertion of new Section 92 -B, Ordinance. X of 1970.- In the said Ordinance, after Section 92-A, the following new Section 92-B shall be inserted, namely:-

"92-B Power of Commissioner to\punish for contempt.- The Commissioner shall have the same power as the High Court has

to punish any person for contempt of Court and the Contempt of Court Act, 1926 (X11 of 1926), shall have effect accordingly as if reference therein. to'.a "Court" and to a "Judge" were a reference to the "Commissioner".

Repeal.- The Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Ordinance, 1993 (Ordinance XI of 1993) is hereby repealed.

Sd/-

(Syed Shakir Shah)
Deputy Secretary Law