

AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.

Dated the September 17, 1974.

No. 2311/SL/74. The following Act of the Legislative Assembly received the assent of the President on the 31st of August, 1974, and is hereby published for general information:-

(ACT X OF 1974)

AN ACT to provide for privileges of the Azad Jammu and Kashmir Legislative Assembly, its Members and Committees,

Preamble.- Whereas it is expedient to provide for the privileges of the Azad Jammu and Kashmir Legislative Assembly, its Member and Committees, and of the persons entitled to speak and otherwise take part in the proceedings of the Assembly, and to provide for matters incidental and supplemental thereto;

it is hereby enacted as follows:—

1. Short title and commencement.- (1) This Act may be called the Azad Jammu and Kashmir Legislative Assembly Privileges Act, 1974.

(2) It shall come into force at once.

2. Definition.- (1) In this Act unless there is anything repugnant in the subject or context.-

(a) 'Assembly' means the Azad Jammu and Kashmir Legislative Assembly;

(b) 'Assembly Secretariat' means the Secretariat of the Assembly;

(c) 'Committee' means a committee appointed by the

Assembly, and includes a Standing Committee and a Select Committee of the Assembly;

(d) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(e) 'Member' means a member of the Assembly and includes the Speaker, a Deputy Speaker and a Minister;

(f) 'President' means the President of the Azad Government

of the State of Jammu and Kashmir;

(g) 'Precincts of the Assembly' means the Assembly Chamber's building courtyard and gardens appurtenant thereto, and includes the hall, members' Lobbies, galleries, rooms of the Speaker, Deputy Speaker, Minister and other officers of the Government located in the Assembly building, committee rooms; and the offices of the Assembly Secretariat;

(h) 'Rules of Procedure' means the rules regulating the procedure of the Assembly for the time being in force;

(i) 'Speaker' means the Speaker of the Assembly;

Gg) 'Deputy Speaker' means the Deputy Speaker of the Assembly;

(2) Save as otherwise 'provided' in this Act or where the context otherwise requires, all expressions used in this Act shall bear the same meanings as they bear in the Azad Jammu and Kashmir Government Act 1970.

Members not liable to civil or criminal action.- Subject to the provisions of the Azad Jammu & Kashmir Government Act, 1970 and the Rules of procedure no civil or criminal proceedings shall lie against any member by reason of any matter or thing which he may have brought up or given notice of intention to bring up before the Assembly or any Committee thereof by bill, resolution, motion, question or otherwise, and notwithstanding such resolution, motion, question or other thing being disallowed or not having been admitted by the Speaker.

Freedom from detention.- (1) No Member shall be detained under any law relating to preventive detention or be required to appear in person in any civil or Revenue Court, or before any commission or Election Tribunal during a session of the Assembly and for a period of fourteen days before and fourteen days after the session of the Assembly, and no member of the committee shall be so detained or required to appear before such court, commission or Tribunal during a sitting of the Committee and for a period of three days before and three days after the meeting of the Committee.

(2) Nothing in subsection (1) shall be construed as

(a) applying to any Member detained under and such law as is referred to therein immediately before the

commencement of this Act, or at any time during the period commencing on the fifteenth day next after the conclusion of a session of the Assembly and ending on the fifteenth day before the commencement of the next session; or

(b) Precluding a Member from being detained under any such law during any time that the Assembly is not in session and for a period of fifteen days before and fifteen days after the session for any act against such law committed by him during the period that the Assembly is in session or during the period of fifteen days before and fifteen days the session or at any other time.

Freedom from appearance in civil cases, etc.- (1)

Notwithstanding anything to the contrary contained in any law for the time being in force, no civil or Revenue Court and no Commission or Election Tribunal shall proceed during a session of the Assembly and for a period of fourteen days before and fourteen days after the session, with any matter before it in which a Member is a party, unless the privilege conferred by section 4 is waived, by application made in writing to the Court, Commission or Tribunal, as the case may be, by the Member concerned with the matter, and where more Members than one are to concerned, by all of them.

(2) The provisions of sub-section (1) shall apply to all matters pending immediately before the commencement of this Act, in any civil or Revenue Court, or before any Commission- or Election Tribunal, in which a Member is a party, and to such Court, Commission or Tribunal shall proceed further with such matter unless the privileges referred therein are waived in accordance with the provisions thereof, or the period specified therein has elapsed.

Attendance of a Member detained or arrested on a criminal charge.- If a Member is arrested or detained on any criminal charge and the Court before which any case relating to such charge is pending against such member, is duly informed by the Member that he has been summoned to attend any session of the Assembly or a meeting of any Committee thereof, such Court shall, if the charge against such Member relates to a bailable offence, release such Member on his personal recognizance in sufficient time to enable him to attend the session of the Assembly or a meeting of any Committee thereof, as the case may be;

Provided that the provisions of this section shall not be construed as exempting any such Member from attending such Court all the day or days which the Court may in usual course fix the trial of the case against such Member.

No process to be served in the Assembly.- No process, civil or criminal, shall be served upon a Member within the precincts of the Assembly, building except with the leave of the Speaker.

No attachment of salaries, and allowances.- Salaries and allowances paid or payable to the Members under any law for the time being in force shall not be liable to attachment in execution of a decree under the provisions of the Code of Civil Procedure, 1908.

Non-liability for removing persons infringing rules.- No action, civil or criminal, shall lie against any person for removing or excluding by order or authority of the Speaker of the Assembly, any person infringing the Rules of Procedure or otherwise behaving in a disorderly manner within the precincts of the Assembly.

Summoning of witnesses.- (1) Subject to the provision contained in sub-section (7), the Assembly or any Committee there of may direct any person to appear before the Assembly or the Committee, as the case may be, and to produce or cause to be produced any paper, book, record or document in the possession or under the control of such person.

(2) Any order made under sub-section (1) shall be notified to person required to attend or to produce any paper, book, record or document, under the hand of the Secretary, by order of the Speaker or the Chairman of a Committee, as the case may be, and in every such order there shall be stated the date, the time and the place where the person summoned is required to attend or produce the paper or other document.

(3) Such order shall be served by the delivery thereof to, or leaving at the usual or the last known place of residence of the person concerned, through the District Magistrate within whose jurisdiction the said residence, lies, who shall get it served by any person authorised by him in this behalf.

(4) Any person so summoned shall be entitled to receive, from the Secretary, such traveling and daily allowances as may be admissible under rules framed by Government in this behalf.

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(5) The Assembly or any Committee thereof may require any witness appearing before it to make an oath, and it shall be lawful thereupon for the Secretary or any person authorised by the Speaker or the Chairman of the Committee, as the case may be, to administer oath to such witness.

(6) Subject to the provisions contained in sub-section (7), if any person summoned to appear refuses or fails, without a reasonable cause, to appear or to produce or cause to be produced on requisition any paper, book, record or document, as the case may be, in his possession or power or under his control, he shall be punished with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees.

(7) When Government is of opinion that in the interest of security of the State or the maintenance of Public order or generally in the public interest or on account of any other sufficient reason, any particular record summoned from any office or authority under Government or setup or established by Government, should not be furnished to the Assembly or any Committee thereof, or a person in the service of the State should not be summoned or compelled to give evidence, the Government may claim privilege for that record or exemption for the public servant, as the case may be;

Provided that in such case the Assembly or the Committee thereof, as the case may be, may obtain orders of the President whether the privilege or exemption, as the case may be, is properly claimed, and the orders of the President in this behalf shall be final and conclusive on such point, and shall not be questioned in any Court.

Penalty for causing disturbance in the precincts of Assembly.- Whoever, not being a Member, creates any disturbance with in the precincts of the Assembly, whereby the proceedings of the Assembly, or of a Committee thereof are or are likely to be interrupted or obstructed, shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

No prosecution except on complaint under order of the Speaker.- No prosecution shall lie under the provisions of this Act save on the complaint in writing of the Secretary, made under the orders of the Speaker and with the concurrence of the minister for parliamentary affairs.

Withdrawal of proceedings.- Notwithstanding any thing to the contrary contained in the Code of Criminal procedure, 1898, the Speaker may, in pursuance of a resolution of the Assembly, request the Court in which any proceedings are pending in respect of a complaint made under section 12, to drop further proceedings, and on receipt of such request, the Court shall drop all further proceedings in regard to the complaint, and the complaint shall be deemed to have been withdrawn.

Cognizance of offences.- No Court other than the Court of a First Class Magistrate shall take cognizance of or shall try any offence punishable under the provisions of this Act.

Members to be V.I Ps.- The Members shall be V.I.Ps.

Accommodation in rest houses etc.- A Member shall, on previous intimation to the authority concerned and subject to the availability of accommodation, be entitled to accommodation in every rest house and dak bungalow maintained by Government or any local body under the control of Government on payment of such amount as is charged from touring officer, while on duty for accommodation in such rest house or Dak bungalow, as the case may be.

Visit to Hospitals etc. by Members.- (1) A member shall be entitled to visit hospitals, dispensaries, health centers, social welfare officers, educational Institutions for boy police stations, Forest check posts and buses, trucks of Azad Kashmir running either within the area of Azad Kashmir or in Pakistan.

(2) After such visit the Member may submit his report to the Minister-in-Charge.

Inspection of Jails by Members.- Every Member of the Azad Jammu and Kashmir Legislative Assembly shall be authorised to inspect the jails within office hours.

Indemnity.- No Suit, prosecution or other legal proceedings, shall, lie against: any person for anything in good faith done or intended to be done under this Act.

(Sardar Mohammad Sharif Khan)
Secretary
Law & Parliamentary Affairs Secretariat,