

LEGISLATIVE ASSEMBLY OF AZAD JAMMU AND KASHMIR

Muzaffarabad,
dated the July, 11, 1973.

No. 1814/LA/73. The following Act of the Legislative Assembly received the assent of the President and is hereby published for general information:-

THE AZAD JAMMU AND KASHMIR PROHIBITION OF THE
USE OF INTOXICANTS (KHAMAR) ACT, 1973

An Act to prohibit the use of intoxicants (khamar) and to bring the laws in conformity with the basic tenets of Islam;

Whereas it is expedient to prohibit the use of intoxicants (khamar) and bring the law in conformity with the basic tenants of Islam as provided in Azad Jammu and Kashmir Government (Amendment) Act, 1971;

It is hereby enacted as follows: -

1. Short title, extent and commencement:- (1) This Act may be called the Azad Jammu and Kashmir Prohibition of the use of Intoxicants (Khamar) Act, 1973.

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

(a) all Muslims so far as Section 5 is concerned ; and

(b) all Muslims and Non-Muslims so far as Section 6 is concerned.

(3) It shall come into force at once.

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

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

(2) 'intoxicating drugs' means:-

(i) the leaves, small stalks and flowering or fruiting of the hemp

plant including all forms known as bhang, siddhi or ganja;

(ii) charas, that is, the resin obtained from the hemp plant which has been submitted to any manipulations other than those necessary for packing and transport;

(iii) any mixture, with or without natural materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the Government may, by notification, declare to be an intoxicating drug.

(3) 'liquor' means intoxicating liquor, and includes all liquid consisting of or containing alcohol; also any substance which the Government may, by notification, declare to be liquor for the purpose of this Act.

(4) 'intoxicants' includes intoxicating drugs and liquor.

Use of intoxicants:- Notwithstanding anything contained in any law for the time being in force, no Muslim shall use any quantity

of intoxicant.

Explanation:- Subject to the exceptions given below, a person is said to use the intoxicants -

(i) if he drinks, takes by mouth or smokes or otherwise uses the intoxicants; or

(ii) if his breath, smells of intoxicant; or

(iii) if he himself confesses to having used the intoxicant; or

(iv) if he is found in a state of intoxication.

The use of intoxicant mentioned in, (i), (ii), and (iv) above must be proved by the testimony of not less than two male Muslim witnesses.

Explanation:- A duly registered Medical practitioner

administering the intoxicants for medical purposes, will not be liable under the provisions of this Act.

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Import, export, transport, manufacture, possession and sale:-

No one shall import, export, transport, manufacture, possess or sell any quantity of intoxicants.

Penalty for using liquor:- Notwithstanding anything contained in any other law for the time being in force, whosoever uses liquor shall be punished with whipping, ranging from 40 to 80 stripes.

Penalty for using intoxicating drug or for contravention of Section 4:- Notwithstanding anything contained in any other law for the time being in force, whoever, uses intoxicating drug or contravenes the provisions of Section 4 of this Act, shall be punished with simple or rigorous imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees or with both.

Abetment of offence punishable under this Act:- Whoever, abets any offence punishable under this Act, shall be liable to punishment provided for the offence.

Jurisdiction to try offence:- No Magistrate shall try an offence under this Act unless he is a Magistrate as First Class empowered under Section 30 of Criminal Procedure Code or a Magistrate or Qazi specially empowered by the Government.

Procedure:- Notwithstanding anything contained to the contrary in the Criminal Procedure Code or any other law for the time being in force all offences under this Act shall be cognizable and non-bailable.

Power to make rules:- The Government may make rules for carrying out the purposes of this Act.

Repeal:- The Alcoholic Drinks Prohibition Act of 1948 is hereby repealed.

Sd/-

Ashfaq Ahmed Khan

Secretary,

Legislative Assembly of Azad J&K.