

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

MUZAFFARBAD.

Dated the 9th March, 1986.

No. 401-5/LD/Leg (A)/86. The following Act of the Assembly received the assent of the President on 6th day of March, 1986, is hereby published for general information:-

AN
ACT

(ACT XVII OF 1986)

to provide for Azad Jammu and Kashmir Public Service Commission

WHEREAS it is expedient to provide for Azad and Kashmir Public Service Commission and for matters ancillary thereto 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 Public Service Commission Act, 1986.

(2) It shall come into force at once.

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

(a) 'Commission' means the Azad Jammu and Kashmir Public Service Commission.

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

(c) 'Member' means a member of the Commission and includes the Chairman thereof;

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

(e) "Service of Azad Jammu and Kashmir means the service

of Azad Jammu and Kashmir as defined in the Azad Jammu and Kashmir Interim Consultation Act, 1974.

?[3.Composition of Commission, etc.- (1) There shall be Azad Jammu and Kashmir Public Service

Inserted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act,

1991 (VIII of 1991) dt. 19-01-1991.

This sub-section has been amended four times. Original is reproduced as under:

Commission consisting of ten members including the chairman:

Provided that the Administrative Secretary incharge of the department to which the post for recruitment belongs, shall be ex-officio member of the Commission.]

1[(1-A) The person appointed as Chairman and other member of the Commission immediately before the commencement of this Act shall be deemed to have been appointed under this Act.

(2) The Chairman and other members of the Commission shall be appointed by the President.

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31(3) (i) four Member of the Commission shall be

(a) "3. Composition of commission, etc.- (1) There shall be an Azad Jammu and Kashmir Public Service Commission consist of following Four member.
i) one Chairman;

(
(ii) an honorary Member;
(iii) an ex-officio Member; and
(iv) Director Amoor-i-Deenia Member."

(b) Substituted by the Azad Jammu and Kashmir Public Service Commission (Amendment)

Act, 1991 (VIII of 1991) dt. 19-01-1991. Previous subsection is reproduced as under:

"(1) There shall be an Azad Jammu and Kashmir Public Service Commission

consisting of five members including the Chairman:

Provided that the President may, by notification in the official gazette, increase the number of Members for such period as he may determine and may appoint one or more persons in the service of Azad Jammu and Kashmir to be member ex-officio for the discharge of such functions as he may determine;"

(c) after the first proviso following new proviso added by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 1996 (VIII of 1996) dt. 04-06-1996.

"Provided further that Administrative Secretary incharge of Department, to which the post for recruitment belongs, shall be ex-officio member of the commission'.

(d) in Section 3,for the word "five", the word "seven" Substituted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2003 (XVIII of 2003) dt. 07-10-2003.

(e) Substituted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014.

Inserted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 1991 (VIII of 1991) dt. 19-01-1991.

Both provisos to sub-section 2 omitted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014.

Note. Provisos to subsection (2) were added by the Azad Jammu and Kashmir Public Service Commission (Amendment) Ordinance, 2001 (XLIV of 2001) dt. 12.07.2001. At the time of amendment vide Act XXIV of 2014, these provisos were not in existence therefore clause (ii) of Section 2 of Act XXIV of 2014 has been inserted mistakenly. Said provisos are as under:

“Provided that the President may assign the additional charge of the Chairman to any official who is otherwise eligible to be appointed as such:

Provided further that the present in combent of the post shall be deemed to have been appointed under this Ordinance.”

Substituted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014. Original is reproduced as under:

“(3) Two members of Commission shall be persons who have held office in service of Azad Jammu and Kashmir for not less than twenty years.”

appointed from amongst the retired officers who have held office in the service of Azad Jammu and Kashmir in basic pay scale 20 or above.

(ii) Two Members of the Commission shall be educationist to be appointed from amongst the retired officers, who have held office as a head of a an institution or educational department,-

(a) in the Service of Azad Jammu and Kashmir belonging to teaching or administration cadre of Education Department in basic pay scale 20 (substantive) or above; or

(b) in any recognized University or educational institution of Azad Jammu and Kashmir in basic pay scale 20 or above:

(iii) | Four Member of the Commission shall be as under: -

(a) a retired judge of superior judiciary or a retired District and Sessions Judge in basic pay scale 21: Provided that a judge so appointed shall get pay and allowances etc., equivalent to other Members of the Commission.

(b) a women possessing PhD or master degree and fifteen years relevant experience in public or private sector; and

(c) one professional with not less than twenty years experience in the field of engineering, agriculture, medicine, environment, applied sciences, law, psychiatry or any other professional field;

(d) one retired officer from amongst the State Subjects of Azad Jammu and Kashmir not below the rank of lieutenant colonel or equivalent from Armed Forced of Pakistan.]

(4) The pay and other conditions of service members shall be such as may be determine by the President:

Provided that the salary, allowance and privileges of a member of the commission shall not be varied to his disadvantage during his term of office.

(5) No proceeding or act of the commission shall be invalid merely on the ground of the existence of a vacancy in or a defect

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in the constitution of the commission.]

4. Term of office of members, etc.- [(1) The term of office of a member shall be three years:

Provided that in the case of a person who was in the service of Azad Jammu and Kashmir immediately before his appointment, as member the term of office shall be three years or till he retires from service of Azad Jammu and Kashmir.

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(2) A member may resign his office by writing under his hand addressed the President.

3[4-A Oath of Office.- Before entering upon his office, Chairman and Member shall take oath in the form set out in the Schedule to this Act, before the President, in case of Chairman and before the Chairman in case of a Member.]

5. Ineligibility for further employment.- (1) On ceasing to hold office, a member except in the case of an ex-officio member,

shall not be eligible for further employment, in the service of Azad Jammu and Kashmir.

[(2) In case a Member or Chairman is unable to perform his functions or is removed from his office, the term of a fresh appointee shall not exceed unexpired period of his term as member or Chairman.]

1 Substituted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 1991 (VIII of 1991) dt. 19-01-1991. Original is reproduced as under:

“(1) The President may determine the term of office of the Chairman and other members which shall not exceed three years:

Provided that the President may extend the term of office of the Chairman or any other member for such period not exceeding two years, as he may deem fit.”

2 Second proviso omitted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014. Omitted proviso is reproduced as under:
“Provided further that the President may,-

(i) extend the term of office of a member for such period as he may determine; and
(ii) for the reasons to be recorded in writing terminate the appointment of a member before the expiration of his term of office.”

3 Added by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014.

4 This section has been amended two times. Original is reproduced as under:

“(2) Nothing in sub-section (1) shall be deemed to prevent a member other than the

chairman from being appointed as Chairman."

(a) in subsection (2), the full stop at the end omitted and thereafter the words "or a Chairman from being appointed as Chairman, Zakat Council or of the Council of Islamic Ideology," added by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 1993 (XII of 1993) dt. 16-03-1993.

(b) Substituted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014.

Removal from Office.- (1) A Member shall not be removed from office during the terms of his office except in the manner hereinafter provided:

(a) If the President is of the opinion that a Member,-

- (i) may have been guilty of misconduct; or
- (ii) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity.

(b) The President shall appoint a Judge of the High Court to enquire into the said matter.

(2) If the Judge, after inquiring into the matter, reports to the President that he is of the opinion that the Member has been guilty of misconduct or is incapable of performing the duties of his office, the President shall remove the Member from his office.]

Functions of the Commission.- The functions of Commission shall be-

(a) to conduct tests and examinations for recruitment to the civil services of Azad Jammu and such posts in connection with the affairs of the Government as may be prescribed by rules made under Section 11;

(b) to advise the President on matters relating to qualifications for, and method of recruitment to, the services and posts referred to in clause (a); and

(c) any other matter which the President may refer to Commission.

Explanation.- In this Section, 'recruitment' means_ initial appointment otherwise than by promotion or transfer.

Conduct of Business of Commission etc.- The Chairman of the Commission may, with the approval of the Government, make rules for regulating the conduct of the business of the Commission, and such rules may provide for any of the functions of the Commission specified by it being performed by a Committee, composed of two or more members, constituted by the Chairman for the purpose.]

This section has been amended two times. Original is reproduced as under:

"6. Removal from office.- A member shall not be removed from office except in the manner to be prescribed by rules made under Section II."

(a) Section 6 omitted by the Azad Jammu and Kashmir Public Service Commission

(Amendment) Act, 1991 (VIII of 1991) dt. 19-01-1991.

(b) Deleted section 6 restored by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014.

Inserted by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act,

1991 (VIII of 1991) dt. 19-01-1991.

8. Commission to be informed when its advice not accepted.-

Where the President does not accept the advice of the Commission, he shall inform the Commission accordingly.

9. Previous appointments.- Notwithstanding anything contained in Section 7, or any law for the time being in force or an appointment order,-

(a) all persons recruited without reference to the Commission to the posts prescribed under Section 7, at any time between twenty-fourth day of August, 1974, and coming into force of the Public Service Commission (Functions) Rules, 1978, shall be referred to the Commission for assessing their suitability and if in the opinion of the Commission, a person recruited to any such post, is not fit to hold that post, he may be discharged from service;

(b) all recruitment other than those mentioned in clause (a) to the posts prescribed under Section 7, at any time between twenty fourth day of August, 1974 and coming into force of the public service commission (Functions) Rules, 1978, shall be referred to the Commission to review these cases and if in the opinion of the Commission, a person recruited to any such post, is not fit to hold that post, he may be discharged from service; and

(c) all appointments made by promotion to posts in grade 16 and 17 at any time between twenty-fourth day of August, 1974, and eighth day of May, 1977 shall be referred to the Commission and if in the opinion of the Commission a person so appointed, is not fit to hold that post, he may be reverted to the post previously held by him;

(d) All appointments made by initial recruitment or by promotion as envisaged in clauses (a), (b) and (c) of this Section shall, notwithstanding anything contained in Azad Jammu and Kashmir Civil Servants Act, 1976 or rules framed thereunder or any other Law for the time being in force shall be deemed to be adhoc appointments till the suitability is assessed by the Public Service Commission and the action there on take by the Government. Such posts shall not be advertised and only suitability of the incumbents shall be assessed by the Public Service Commission.

10. Report of Commission. (1) It shall be the duty of the Commission to present to the President annually a report on the work done by the Commission, and the President shall cause a

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copy of the report to be laid before the Legislative Assembly of Azad Jammu and Kashmir.

(2) The report referred to in sub-section (1) shall be accompanied by a memorandum setting out so far as is known to the Commission.

(a) the cases, if any, in which the advice of the Commission was not accepted and the reasons, thereof; and

(b) the matters, if any, on which the Commission ought to have been consulted but was not consulted and the reasons thereof.

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

Rules_to have _ retrospective _effect.- The Public Service Commission (Functional) Rules framed under Section 11,

immediately after the promulgation of Ordinance, the Azad Jammu and Kashmir Political Parties (Amendment) Act, 1991¹¹¹ of 1978, shall be deemed to have taken effect on the twenty fourth days of August 1974.

Savings.- Notwithstanding any judgment, decree or order of any court including High Court, every thing done, all actions taken, notifications issued, orders or appointments made, proceedings initiated, jurisdiction or powers exercised made the provisions of the Azad Jammu and Kashmir Public Service Commission Ordinance, 1978 (Ordinance III of 1978) or its succeeding Ordinances issued from time to time shall be deemed to have been validly done, taken issued, made, initiated or exercised under this Act.

Repeal.- The Azad Jammu and Kashmir, Public Service Commission Ordinance, 1986 (Ordinance XXV of 1986) is hereby repealed.

Sd/-

(Syed Atta Mohy-ud-Din Qadri)
Deputy Secretary Law.

'ISCHEDULE

(See Section 4-A)

I, do hereby solemnly swear that

I will bear true faith and allegiance to the State of Azad Jammu and

Kashmir.

That, as a Chairman/Member of the Azad Jammu and Kashmir Public Service Commission, I will discharge duties and perform my functions honestly and diligently to the best of my ability and faithfully in pursuance of Azad Jammu and Kashmir Public Service Commission Act, 1986 and rules made thereunder. I shall always safeguard the national interest, solidarity, integrity, well-being and prosperity of the

State.

That, I shall not allow my personal interest to influence to my official conduct or decisions in making selection of person for recruitment in the service of Azad Jammu and Kashmir. In the performance of my official duties and obligations, I shall act without fear or favour, affection or ill will and shall always uphold and abide by the

principals of impartiality, merit and integrity.]

May Allah Almighty help and guide me (A'meen)]

1 Schedule added by the Azad Jammu and Kashmir Public Service Commission (Amendment) Act, 2014 (XXIV of 2014) dt. 20-06-2014.