

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

Date the 26th June, 1993

No. 740-45/LD/Leg/93. The following Act of the Assembly received the assent of the president on 16th June, 1993 is hereby published for general information:-

(ACT XXVI of 1993)

AN

ACT

to establish a small Industries Corporation in Azad Jammu and Kashmir.

WHEREAS it is expedient to make provisions for the establishment of a Corporation to provisions for and promote the development of small and Cottage Industries in Azad\ Jammu and Kashmir;

It is hereby enacted as follows:-

1. Short title and Commencement.- (1) This Act may be called the Azad Kashmir Small Industries.Corporation Act, 1993.

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.

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

(a) "Board".mean the Board of Members of the Corporation;

(b) "Borrower" means any person or persons or body of person whether incorporated or not, to whom a loan is given by the Corporation or by a scheduled Bank and financial Institute on the guarantee of the Corporation under this Act and includes the successors and assignees of such person or persons or body of person;

(c) 'Corporation' means the Azad Kashmir Small Industries Corporation established under this Act;

(d) 'Cottage Industry' means an Industry which is carried on wholly or primarily with the help of the members of the family as a whole time or part time occupation;

(e) "Managing Director" means the Managing Director of Corporation.

VOLUME IX: 1989-1993

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

(g) "Member" means Member of the Board and includes its Chairman;

(h) "Other Industry" means any industry, other than cottage or small industry, approved by the Government and set up or established in a small Industries estate;

(i) "Prescribed" means prescribed by the rules ;

G) "Regulation" means rules made under this act;

(k) "Rules" means prescribed by the rules;

() "Scheduled Bank" means a bank for the time being

included in the list of Banks maintained under sub-section (1) of section 37 of the State Bank of Pakistan Act, 1956;

(m) "Small Industry" means an industry engaged in the handicrafts or manufacture of producer goods, the value of the total fixed assets whereof (excluding land) does not exceed rupees fifty lacs;

(n) "Small Industry Estate" means an estate established and or managed by the corporation to provide land and facilities for the establishment and development of small cottage and other industries;

(o) "Specified" means specified by regulation; and

(p) "State Bank" means the State Bank of Pakistan.

Constitution of the Corporation.- (1) As soon as may be, after the Commencement of this Act, there shall be established a

corporation to be known as "Azad Kashmir Small Industries Corporation".

(2) The Corporation shall be a Body corporate, shall have the power to; acquire and hold property both movable and immovable, subject to the provisions of this Act and shall have perpetual succession and a common seal and shall by the said names sue and be sued.

(3) The Head office of the Corporation shall be in Muzaffarabad and it may establish branch offices at such places as it may decide.

Management.- (1) The administration and management of the Corporation and its affairs shall vest in the Board which may

exercise power and do all acts and things that may be exercised or done by the Corporation in accordance with the provisions of this Act.

(2) The Board in discharging its function shall act on commercial and national considerations and shall be guided by such directions as the Government may give to it from time to time.

(3) Government may suspend the execution of any such resolution or order of the Board as, in the opinion of Government contravenes the directions mentioned in subsection (2) or prohibit the doing of any act which is to be done or is being done in pursuance of the said resolution or order, or if the act has been accomplished order its rectification in such manner as may be directed.

5. Board.- (1) Subject to the provisions of sub-section (2) the Board shall consist of,-

1. '[Minister Incharge, Small Industries Chairman Corporation, Azad Government of the State of Jammu and Kashmir.]

2. Additional Chief Secretary, Planning & Member Development Department; Azad Govt. of the state of Jammu & Kashmir.

3. Secretary Industries, Commerce Labour and Member. Mineral Development Deptt., Azad Govt..of the state of Jammu & Kashmir.

4. Secretary, Finance Department, Azad Govt., Member of the state of Jammu & Kashmir.

5. Managing Director, Azad Kashmir small | Member. Industries Corporation.

6. Three non-official members to be Member nominated by the Government, one of whom at least shall be a Banker or a Chartered Accountant or a Management Consultant.

'Subs.by the Azad Kashmir Small Industries Corporation (Amdt.) Act, 1996 (Act IV of 1996) dt. 24.03.1996. The extract of cl. (1) sub-section (1) of Section 5 Act XXVI of 1993 dt. 26-6-1993 is as under:-

"Minister for Industries, Commerce, Labour and Mineral Development, Azad Govt., of the State of Jammu & Kashmir"

(2) Government shall have the power to alter the membership of the Board as and when considered necessary.

Managing Director.- (1) Government shall appoint Managing Director of the Corporation who shall be its Chief Executive.

(2) The Managing Director shall:

(a) be a whole time officer of the Corporation;

(b) perform such duties as may be specified or as the Board may assign to him;

(c) subject to the provisions of Section 8,9 and 10, hold office as Managing Director for a term of three years; and subject as aforesaid:-

(i) shall remain in office as Managing Director thereafter until his successor in that office is appointed; and

(ii) May be appointed to hold that office for such further term as Government may, in appointing thereto, determine;

(d) receive such salary and allowance as Government may determine; and

(e) divest himself of any directorship of, or other interest held by him in, any other Corporation, company or concern:

Provided that nothing in this clause shall prevent the Managing Director from holding shares in any public company acquired by him before his appointment as Managing Director, or acquiring during his term of office as Managing Director shares in any public company which is not a borrower;

Provided further that Government, may, in exceptional circumstances, where it considers necessary to do so in the public interest, exempt by a special order, any person who has been appointed or is about to be appointed as Managing Director from the application of this clause.

Term of office of nominated members.- Subject to the provisions of Section 8, 9 and 10, a nominated Member shall hold office for such terms, not exceeding three years, as may be determined by Government and may be nominated thereafter for a further term or term of such duration as Government may, in nominating him thereto, determine.

VOLUME IX: 1989-1993

Disqualification of Managing Director and nominated Members.- No person shall be appointed as Managing Director

or nominated as Member, or as the case may be, shall continued to be a Managing Director or Member, who:-

- (a) is, or at any time has been, convicted of any offence involving moral turpitude;
- (b) is, or at any time has been, adjudged insolvent;
- (c) is found a lunatic or becomes of unsound mind;
- (d) is, or at any time has been, disqualified for appointment in or dismissed from the service of Azad Kashmir/Pakistan;
- (e) is not a State Subject or a citizen of Pakistan.

Removal of Managing Director _or_ nominated members.- Government may, by order in writing, remove the: Managing

Director or a nominated member, as the case may be, if he: -

- (a) refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities under this Act;
- (b) has, in the opinion of Government abused his position as Managing Director or nominated member;
- (c) has knowingly acquired or continued to hold, without the permission»in writing of Government, directly or indirectly, or through a partner, any share or interest in any contract or employment with, by or on behalf of the Corporation, or in any property, which in his knowledge, is likely to benefit or has benefitted as a result of the operation of the Corporation;
- (d) has, in the opinion of Government, violated the declaration of fidelity and secrecy provided under Section 12; or
- (e) has, absented himself from three consecutive meetings of the Board without the leave of the Board;

Resignation by or removal of the Managing Director or a nominated Member.- Notwithstanding anything contained in

this Act, the Managing Director or a nominated member may, at any time before the expiry of his term, upon three months notice,

resign his office, or upon similar notice, be removed from office
by Government without assigning any reason:

11.

12.

13.

14.

VOLUME IX: 1989-1993

Provided that Government may, in case of managing Director, upon payment of three months' salary and allowances in lieu of the notice, remove him immediately without assigning any reason.

Appointment of Officers etc.- (1) The Corporation may, subject to such general or special orders, as Government may give to it

from time to time, appoint such officers, advisors and employees, as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit.

(2) The Corporation shall appoint such officers, experts, advisors, consultants and other persons as may be transferred to it by Government on such terms and condition as may be determined by the Government.

Declaration of Fidelity and secrecy.- (1) Every member, advisor, officer and other employee of the Corporation shall,

before entering upon his office, make such declaration of fidelity and secrecy as may be specified.

(2) Any advisor, officer or other employee of the Corporation who, in the opinion of Government or a person authorised by Government in this behalf, has violated the declaration of fidelity and secrecy made by him under sub-section (1) shall be liable, after being given a reasonable opportunity of showing cause against the action proposed to be taken, with respect to him be forthwith removed from his office or post.

Financial Technical and advisory committees.- The Board may constitute such financial technical and advisory committees

as may be deemed necessary for carrying out the purposes of this Act,

Immunity of the Corporation and its Employees.-

(1) Every Member, advisor, officer and employee of the

Corporation shall be indemnified by the Corporation against all losses and expenses sustained or incurred by him in the discharge of his duties, save such losses and expenses as are

sustained and incurred as a result of his own wilful act or default.

(2) The Managing Director shall not be personally responsible for the acts of any other member, advisor, officer or employee of the Corporation which he could not have reasonably prevented by the due exercise of his powers and functions under this Act and the rules and regulations made thereunder or for any loss or expense resulting to the Corporation by reason of the

15.

16.

VOLUME IX: 1989-1993

insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, by the wrongful act of any person under a liability to the Corporation or anything done by him in good faith in execution of the duties of his office.

Delegation of Powers.- The Board may by general or special order delegate to the manager Director a Member, Officer or employee of the Corporation any of its powers or functions under this Act, the rules and regulations, subject to such conditions as it may deem fit to impose,-

Meeting of the Board.- (1) The Meeting of the Board shall be held at such times and places as may be specified;

Provided that at least one meeting shall be held, during each quarter of the year.

Provided further that until regulations are made in this behalf such meetings shall be held at such times and places as may be determined by the Chairman.

(2) The quorum required for transacting business at a meeting of the Board shall be four.

(3) Each member, including the Chairman, shall have one vote but in the event of equality of votes the Chairman shall have a casting vote.

(4) The meetings of the Board shall be presided over by the Chairman and in his absence by the senior most ex-officio member present at the meeting.

(5) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Board.

(6) The Minutes of every meeting, stating among other things, the names of the members present, shall be drawn up and recorded in a book to be kept for the purpose and shall be signed by the person presiding over the meeting and such book shall, at all reasonable times and without payment of any fee, be open for inspection by any Member.

(7) If Government so directs in any case, the Managing Director shall forward to it copies of all papers laid before the Board for consideration at a meeting.

(8) Government may require the Managing Director to

furnish to it:-

333

17.

18.

19.

VOLUME IX: 1989-1993

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Corporation;

(b) a report on any such matter; or

(c) a copy of any document in his charge, and the Managing Director shall comply with any such requisition without any delay.

Powers of Board to associate other persons.- (1) The Board may associate with itself, in such manner, on such terms and for

such period as it may deem fit, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated under sub-section (1) for any purpose shall have a right to take part in the discussion relating to such purpose in the Board's meeting but shall not have a right to vote, and shall not be deemed to be a member for that or any other purpose.

Functions of the Corporation.- (1) In accordance with the provisions of this Act, the Corporation shall take such measures

as it deems fit to render assistance in the establishment and development of small, cottage and other industries.

(2) In particular and without prejudice to the generality of the foregoing function, the Corporation may, in order to promote and carry out the purpose of this Act:-

(a) give loans in cash, or in kind or in the form of buildings, developed plots of lands in the small industries estates or machinery and equipment on lease or on hire purchase basis, to borrowers for the purpose of small, cottage and other Industries: and

(b) furnish guarantees to the Scheduled Banks and financial institute for the repayment of loans to borrowers for the development of industries and to share losses on account of bad debts in accordance with the agreements executed or made in this behalf between the Corporation and such Banks; Institutes.

(3) The Loans given under clause (a) or guaranteed under

clause (b) of sub-section (2) shall be repayable within a period not exceeding twenty years.

Security of Loans.- No loan shall be given by Corporation until is secured by pledge, mortgage, hypothecation or assignment of

20.

21.

22.

23.

24.

VOLUME IX: 1989-1993

such property, movable or immovable and of such value in proportion to the loan, as the Corporation may deem fit;

Provided that when the loan is given to an individual and does not exceed five thousand rupees in the aggregate, it may be secured by bond with at least two solvent sureties.

Mark up on Loans etc.- The rate of mark up chargeable on loan given by the Corporation shall be determined and notified by Government from time to time.

Limit on loans etc.- (1) The Corporation shall not give loan, make subscription or furnish guarantee to small or cottage industries in excess of the following aggregate limit namely:-

(a) When made to an individual rupees one lac; and

(b) When made to any borrower other than individual, rupees ten lacs.

(2) The Corporation shall not give loans or furnish guarantees in excess of such limits as may be notified by Government from time to time.

Relaxation.- Government may, from time to time, on the recommendations of the Corporation, relax the aggregate limits of loans subscriptions, or guarantees, provided under Section 21.

Power to impose conditions.- At the time of settlement of any transaction, the Corporation may attach such conditions as it may deem necessary or expedient for protecting its own interest and for securing that the loan, under writing or other aid shall be put to the best use.

Power to demand payment of entire sum.-

(1) Notwithstanding anything to the contrary contained in any

agreement of law for the time being in force if:-

(a) it is found that the loan was obtained by information supplied by the borrower which was false or misleading in any material particular;

(b) the borrower is found to have committed the breach of any term of his agreement with the Corporation relating to the loan;

(c) the loan or any part of it is found to have been utilised for a purpose other than for which it was given;

(d) there is reasonable apprehension that the borrower will be unable to pay his debt or may go into liquidation;

VOLUME IX: 1989-1993

(e) the property pledge, mortgaged, hypothicated or assigned to the Corporation as security for the loan is not maintained in proper condition by the borrower or the property has depreciated in value by more than the prescribed percentage and the borrower is unable to furnish additional security to the satisfaction of the Corporation;

(f) without the permission of the Corporation, machinery of other equipment is removed from the premises of the borrower's industrial establishment without being adequately replaced;

(g) without the permission of the Corporation, the building, land or other property mortgaged as security for the loan is in any way disposed off or charged by the borrower, or for any other reason, it is necessary, in the opinion of the Board, to do so in order to protect the-interest of the Corporation, or

any officer authorised generally\or specially in this behalf the Board may, by notice, call upon the borrower to pay up the entire sum then remaining unpaid by the borrower in respect of the loan and the markup payable thereon or any lesser sum as the case may be or require the borrower to surrender the building, machinery and equipment and other material given to him by way of loan or require him to comply with such directions as the Board may\consider necessary to give in order to safeguard the interest of the Corporation.

(2) The notice referred to in sub-section (1) shall indicate the time within which the borrower is required to make the payment .or to surrender the factory building, machinery and equipment and other material or to carry out the directions given and shall also contain a warning that if the borrower fails to pay the amount demanded or to surrender factory, building, machinery and equipment and other material or carry out the directions given as the case a certificate declaring the borrower to be a defaulter and certifying the sum due from the borrower to be recoverable as arrears of land revenue.

Certification of sum _recoverable.- (1) If the borrower fails to pay the amount demanded or to carry out the directions given in the notice within the time indicated therein the Board may issue a certificate in the prescribed form and manner declaring the borrower to be a defaulter and certifying the aggregate sum, including mark up due to the Corporation from the borrower

VOLUME IX: 1989-1993

upto the date of issuance of the certificate and mentioning the rate of which future mark up shall be paid thereon.

(2) Subject to the provision of sub-section (3) a certificate issued under sub-section (1) shall be conclusive evidence that the sums certified in the certificate together with future mark up to be determined at the rate mentioned therein are recoverable by the Corporation from the borrower.

(3) The borrower may, within fifteen days of the issuance of a certificate under sub-section (1), appeal to Government and thereupon Government may cancel or modify certificate.

(4) Notwithstanding anything to the contrary contained in the agreement or in any law for the time being in force:-

(a) the Corporation shall have the option to recover the amount due from a borrower either from him or from his security and a certificate issued under sub-section (1) shall also be acceptable against the surety as if he himself were the borrower;

(b) any transfer of property, 'pledged, mortgaged, hypothecated or assigned by the borrower as security for the repayment of the loan, 'so long as the loan or the mark up thereon or any part thereof remains unpaid to the Corporation shall be liable to attachment and sale as if no such transfer has taken place;

(c) where a loan has been advanced in the form of building or machinery and equipment on hire-purchase basis and the borrower has committed a breach of the terms and condition of the agreement or otherwise violated any provision of this Act, or failed to comply with a notice issued under sub-section (1), the Corporation shall be entitled to take possession of the building machinery and equipment as the case may be; and

(d) all sums due to the Corporation from the borrower or any other person shall be recoverable as arrears of land revenue.

Loan in foreign Currency.- (1) The Corporation may, with the previous approval of Government of Azad Jammu and Kashmir and the Government of Pakistan and on such terms and conditions as may be approved by Government borrow in foreign currency from the International Bank for reconstruction and Development or other agencies, moneys required for the development of small cottage and other industries. In the case of

VOLUME IX: 1989-1993

loan secured for the purpose of Section 18, the Corporation may pledge, mortgage hypothecate or assign to the said International Bank or other agency, as the case may be, all or any part of security taken by the Corporation for the loan obtained in foreign currency.

(2) All loans obtained in foreign currency shall be repayable:-

(a) in the currency in which they are obtained;

(b) in any other currency which is agreed upon by the loan-

giving agency, Government and Government of Pakistan; or

(c) in Pakistan at the rate of exchange prevailing at the date of repayment.

Other functions of the Corporation.- The corporation shall also be responsible for:-

(a) preparing the submitting schemes. to Government for the development of Cottage, small and other industries including schemes for research..and mechanization of such industries;

(b) giving affect to approved schemes;

(c) sponsoring industries to set up in the small industries estates and outside the estates;

(d) taking over, implementing running schemes, projects and training institutions, as may be transferred to the Corporation by the Government;

(e) organising co-operative societies infurtherance of the purposes of this Act;

(f) taking appropriate measures for integration of small

industries with medium and large industries;

(g) undertaking census and survey of cottage, small and other industries;

(h) organising trade associations and _ taking other appropriate measures for promoting and marketing the products of cottage and small industries;

(i) organising fairs, parilions, sales and display of products of cottage and small industries;

G) establishing service centres and common facility centres for specific industries or group of industries;

28.

29.

(k)

@

(m)

(n)

(o)

(p)

(q)

(x)

(t)

(u)

(vy)

VOLUME IX: 1989-1993

establishing in special cases and with the prior approval of Government small and cottage industries in less developed areas;

establishing small industries estates;

establishing artisan colonies, design centres, workshops and institutes for promotion and development of handicrafts;

procuring and distributing raw material machinery and spare part to cottage and small industries;

establishing institutes for promotion and development of cottage, small and other industries.

maintaining and running depots for the supply of raw material and for the purchase and sale of finished goods from cottage and small industries and projects run by it;

introducing better means of production and new designs including proto-types;

formulating and implementing. schemes for training to artisans and small industries;

arranging for gradation and standardization of products of small and cottage industries;

working out entitlement to raw material of cottage small and other industries;

sanctioning, balancing modernizing etc, of cottage small and other industrial units in accordance with the instructions of Government or in exercise of powers that maybe delegated in this behalf by Government; and

undertaking such other functions measures or steps as may be directions by Government.

Corporation to be deemed _a Bank.- The Corporation shall be deemed to be a Bank for the purposes of the Banker's Books

Evidence Act, 1891.

Corporation funds.- (1) There shall be a fund to be known as the Corporation fund vested in the Corporation, which shall be utilized by the Corporation to meet charges in connection with its functions under this Act including salaries and other remunerations of the Managing Director, officers and other employees of the Corporation.

(2)

The Corporation fund shall consist of:-

30.

31.

33,

34.

VOLUME IX: 1989-1993

(a) investment made by the Government or Government of Pakistan;

(b) grants made by the Government or Government of Pakistan;

(c) revolving funds placed by the Government at the disposal of the Corporation for preparing feasibility studies for the schemes;

(d) loans obtained from the Government or Government of Pakistan;

(e) grants made by the Government;

(f) sale proceeds of raw material and finished good;

(g) loans obtained from the scheduled Banks/Financial Institutions;

(h) Foreign loans obtained by the Corporation;

(i) Charges for the plots of land-and other facilities provided in the small industries estates;

Gj) All other sums received by the Corporation.

Corporation _to_be deemed_a.local Body.- The Corporation shall be deem to be a local,Body under the local Authorities

loans Act, 1914 for the purpose of borrowing money under the said Act and the making and execution of any scheme under this Act shall be deemed to be work which authority is legally authorised to carry out.

Custody and. investment_of Corporation Funds.- (1) All moneys at\the credit of the Corporation shall be kept in such manner.as.may be prescribed.

(2) Nothinging sub-section (1) shall be deemed to preclude the Corporation from investing any such moneys which are not required for immediate expenditure in any of the securities described in Section 20 of the Trusts Act, 1882, in fixed deposit with a bank approved by Government or in such other manner as may be approved by Government.

Auditors.- The Corporation shall be audited in such manner as may be directed by the Government from time to time.

Reports to be furnished to Government:- (1) The Corporation shall furnish to Government, as far as possible, within four

months of the close of each financial year an audited statement in the prescribed form of its assets and liability of commercial undertakings and transaction as they stand at the close of that

35.

36.

37.

VOLUME IX: 1989-1993

years together with a profit and loss account for the year and full report on the working of the Corporation during the year and copies of the said statements, account and report shall be published in the official Gazette.

(2) The Corporation shall submit to the Government its proposals for the ensuing financial year at such time and in such manner as may be prescribed.

Winding up.- No provision of law relating to the winding of companies and Corporation shall apply to the Corporation and the Corporation shall not be wound up except an order of Government and in such manner as it may direct.

Quarterly report _by Managing Director.- The Managing Director shall regularly submit a quarterly report to the Board on the working of the Corporation.

Power to make rules.- (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for:-

(a) the manner and form of keeping the accounts of the Corporation;

(b) recruitment of officers, advisors and other employees of the Corporation;

(c) terms and conditions of service of the officers, advisors and other employees of the Corporation;

(d) functions. of the advisors;

(e) borrowings by the corporation;

(f) the date on which and the from in which the annual budget statement of the Corporation is to be submitted

each year;

(g) procedure for appropriation and re-appropriation of moneys at the credit of the Corporation;

(h) manner and form in which and the authorities to whom

returns, reports or statement shall be submitted;

(i) investment of Corporation Funds and surplus moneys;

G) sale or transfer of industrial units and other immovable
property of the Corporation ; and

(k) such other matters relating to the administration and
other affairs of the Corporation as Government think fit
to regulate by rules.

38.

39.

VOLUME IX: 1989-1993

Power to make Regulations.- (1) The Board may, with the previous approval of Government make regulations for all

matters not provided for in the rules for which provision is necessary or expedient for carrying out the purposes of this Act and the rules.

(2)

In particular and without prejudice to the generality of

the fore-going provisions, such regulations may specify for:-

(a)

(b)

meeting of the Board;

constitution, power and terms and conditions of the committees;

building bye-laws, agreements and loans deeds pertaining small industries estates;

conditions subject to which the Corporation may grant loans; and

manner and from of determining the sufficiency of security taken for loans or for granting loans.

Repeal.- The Azad Kashmir small Industries Corporation Ordinance, 1993 (Ordinance XXIV of 1993) is hereby repealed.

Sd/-

(Syed Shakir Shah)

Deputy Secretary Law