

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 9th February, 2016

No. LD/Legis-Act/40-5 1/2016. The following Act of Assembly received the assent of the President on the 8th day of February 2016, is hereby published for general information.

(ACT IV OF 2016)

An

Act

to provide for effective security arrangements of Vulnerable Establishments

WHEREAS it is expedient to make arrangements for the security of Vulnerable Establishments inter alia to prevent acts of terrorism and other crimes, to obtain evidence by use of modern devices for investigation and prosecution of offences and to provide for summary trial for offences under this law and to deal with ancillary matters;

It is hereby enacted as follows:

1. Short title, Extent and Commencement.— (1) This Act may be called the Azad Jammu and Kashmir Vulnerable Establishments (Management and Security) Act, 2016.

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

(3) It shall come into force at once.

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

(a) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(b) "Committee" means the Security Advisory Committee constituted under Section 3 of the Act;

(c) "Deputy Commissioner" means the Deputy Commissioner of the District;

(d) "District Intelligence Committee" means District Intelligence Committee notified by the Government under Section 12 of this Act.

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

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“Head of District Police” means the Superintendent of Police or Senior Superintendent of Police as the case may be;

“Manager” means the owner or occupant of a Vulnerable Establishment and includes a person who is employed or authorized by the owner or occupant for the management of the Vulnerable Establishment;

“Prescribed” means Prescribed by the rules made under the Act;

“Security arrangements” mean effective physical and technical Security arrangements including installation and proper functioning of closed circuit television cameras, bio-metric system, walkthrough gates, security alarm and other modern gadgets; and

“Vulnerable Establishment” means a place of worship or any other religious place, sensitive office of the Government, non-governmental organization or foreign project, hospital, bank, money changer, financial institution, office of firm or company, industrial unit, educational institution, public park, private clinic, wedding hall, petrol or CNG station, jewelry shop, hotel, amusement or entertainment center, public transport terminal, special bazar, commercial street, shop or shopping arcade notified under this Act.

Security Advisory Committee— (1) A Security Advisory

Committee shall be constituted by the concerned Deputy Commissioner in each sub-division, comprising of the Assistant Superintendent of Police as the Chairperson and the following

members:

(a) an officer from the district administration in BS-16 or above;

(b) an officer from Special Branch of the Police in BS-16 or above;

(c) an officer from Counter Terrorism Department in BS-16 or above; and

(d) three representatives of the traders and _ other stakeholders.

(2) A member of the Committee, other than an ex officio

member, shall hold office for a term of one year but the Deputy Commissioner may again nominate him for the like term.

(3) A member of the Committee, other than an ex officio member, may submit his resignation to the Deputy Commissioner and the Deputy Commissioner may nominate another member in his place for the residuary term.

(4) An act or proceedings of the Committee shall not be invalid merely for reason of any vacancy or defect in the constitution of the Committee.

(5) The Committee shall meet at least once in a month at such time and place as may be determined by the Chairperson.

(6) The Committee shall observe such procedure with regard to transaction of business at its meetings or otherwise as may be Prescribed and until so Prescribed as the Chairperson determines.

Functions of the Committee.— (1) The Committee shall,-

(a) identify and recommend any establishment to be notified as Vulnerable Establishments;

(b) inspect a Vulnerable Establishment on quarterly basis;

(c) issue advice, in writing, to the manager of a Vulnerable

Establishment for such Security arrangements as may be necessary on the basis of threat perception, resources at the disposal of the establishment and other related factors; and

(d) send report to the Head of District Police in case of non-compliance of any advice.

(2) The Committee may constitute a sub-committee and assign the function of quarterly inspection of Vulnerable Establishments to such sub-committee.

Vulnerable Establishments.—(1) The Committee shall identify and recommend to the Deputy Commissioner an establishment for notification as a Vulnerable Establishment.

(2) The Deputy Commissioner may, by notification, declare any Establishment as a Vulnerable Establishment and shall maintain a list of the Vulnerable Establishments and shall issue updated list on annual basis.

(3) The Deputy Commissioner may, by notification on the recommendation of the Committee or otherwise, exclude a Vulnerable Establishment from the list of Vulnerable Establishments.

(4) The Deputy Commissioner shall provide a copy of the list and the revised list of Vulnerable Establishments to the Government, the Head of District Police and all assistant commissioners of the District.

Advice _by the Committee (1) The Committee shall issue advice for Security arrangement to the Manager of Vulnerable Establishment and it shall be the responsibility of the Manager to make necessary Security arrangements as per advice of the Committee within such reasonable time as the Committee determines.

(2) Subject to sub-section (3), the Committee shall review its advice on annual basis and may, if necessary, issue revised advice to the Manager of a Vulnerable Establishment and the Manager shall implement the revised advice within such time as the Committee determines.

(3) where the circumstances so warrant, the Committee may issue revised advice to the Manager of a Vulnerable Establishment even before the completion of a year and the Manager shall implement the advice in its true spirit and within such time as the Committee determines.

Security of Vulnerable Establishments. The Manager of a Vulnerable Establishment shall make appropriate and sufficient Security arrangements for the protection of the Vulnerable Establishment and shall comply with the advice of the Committee within the time specified in the advice.

Security of public places— The local government or any other local authority shall ensure clearance of roads, streets from debris or construction material, managing of filth depots on daily basis, covering manholes and removing broken water supply pipes so that no explosive materials may be concealed at any such place.

Inspection by Station House Officer.— The station house officer may, at any time, inspect any Vulnerable Establishment and

submit his report to the Chairperson of the Committee under intimation to the Head of District Police.

Warning— (1) If the Committee is satisfied on the basis of information received from any source or from the inspection report of the sub-committee or the station house officer that the Security arrangements as per advice of the Committee have not been carried out at a Vulnerable establishment, the Committee

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may issue a written warning to the Manager of the Vulnerable establishment specifying specific violation of its advice.

(2) The Manager of the Vulnerable Establishment shall, within such time as is mentioned in the letter of warning, implement the advice of the Committee.

Sealing of the Vulnerable Establishment— (1) If the Manager of a Vulnerable Establishment fails to implement the advice of

the Committee within the stipulated time, the Committee may direct complete or partial sealing of the Vulnerable Establishment or suspension of its operations till the time the advice is fully implemented and satisfactory Security arrangements are made or the Manager undertakes in writing to do so within such further time as the Committee may allow.

(2) The station house officer shall implement the direction of the Committee under this Section and, for the purpose, use such force as may be necessary.

Appeal.— (1) The Manager of a Vulnerable Establishment may, within three days from the receipt of advice, warning or direction of sealing or suspension of operations of the Vulnerable Establishment, prefer an appeal against the advice, warning or direction of sealing or suspension of operations to the district intelligence committee as may be notified by the Government.

(2) The District Intelligence Committee shall, after affording opportunity of personal hearing to the appellant and the representative of the Committee, pass such order as is deemed necessary and such order shall be final.

(3) The District Intelligence Committee shall dispose of the appeal as soon as may be possible, but not later than seven days and shall immediately communicate the decision to the appellant and the Committee.

(4) The Manager of a Vulnerable Establishment shall implement the advice of the Committee in the light of the order of the District Intelligence Committee within such time as is allowed by the District Intelligence Committee.

Manager to provide evidence The Manager of a Vulnerable Establishment shall provide such evidence of offence as is

obtained through Security arrangements of the Vulnerable Establishment to the police or any other investigation agency.

Penalty.— If a person knowingly contravenes the provision of Section 10, or fails to implement the direction issued under

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Section 11 and Section 12, or fails to abide by his undertaking given under Section 11 or fails to furnish evidence to the investigation agency under Section 13, he shall be liable to punishment of imprisonment which may extend to six months and fine which shall not be less than fifty thousand rupees but shall not exceed one hundred thousand rupees.

Cognizance and Summary trial.— (1) An offence under this Act shall be cognizable and non-bailable.

(2) A Magistrate of the first class shall conduct the trial of an offence under this Act in accordance with the provisions of Chapter XXII of the Code relating to the summary trials.

Compounding of offence. (1) Subject to sub-section (2), the Government or an officer of the Government specially authorized in this behalf may, at any stage, compound an offence under this Act subject to the deposit of administrative penalty which shall not be less than fifty thousand rupees.

(2) The offence under this Act shall not be compoundable if the accused had been previously convicted under this Act or his previous offence had been compounded by the Government or the officer authorized in this behalf.

Bar_of jurisdiction— No court shall entertain any suit or application against any proceedings taken, direction or order made under this Act.

In addition to other laws.— The provisions of this Act shall be in addition to and not in derogation of any other law.

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

Savings and _Validation.- Notwithstanding any judgment of Supreme Court or High Court, all actions taken, decisions made, orders passed, proceedings initiated, powers exercised, powers

conferred etc. which have been visualized by this Act, shall be deemed to have been validly taken, made, passed, issued, initiated, exercised and conferred under this Act.

Repeal.- The Azad Jammu and Kashmir Security of Vulnerable Establishments (Management and Security) Ordinance, 2015 (Ordinance XXVI of 2015) is hereby repealed.

Sd/-
(Ch. Muhammad Nawaz)
Section Officer (Legislation)