

THE AZAD KASHMIR DISTRICT BOARDS ACT 1955.

(Passed under Council Order No. 243/55 dated 27-10-1955)

Whereas it is expedient to provide for the Establishment of District Boards in Azad Kashmir Territory, it is hereby enacted as follows:

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Azad Kashmir District Boards Act, 1955.

(2) It shall extend throughout the Azad Kashmir Territory and shall come into force at once.

2. In this Act unless there is any thing repugnant in the subject or context :-

(1) 'Government' shall mean the Azad Kashmir Government.

(2) 'The Act' shall mean the Azad Kashmir District Boards , Act, of 1955.

(3) 'The Rules' shall mean the Azad Kashmir District Boards Election Rules, 1955.

(4) 'Land' means Land assessed to the Land revenue, and includes land whereof the land-revenue has been wholly or in part, released, compounded for, redeemed or assigned.

(5) 'Land revenue' includes tirini or grazing dues levied for grazing on Khalsa lands.

(6) 'Land holder' means any person responsible for the payment of the Land-revenue, if any, assessed on land. It also includes the proprietor of land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned.

(7) 'Annual value' means :-

(a) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not ; or

(b) where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment composition or redemption would have been leviable ; or

(c) where no land-revenue has been assessed, double the amount which would have been assessed if the average village rate had been applied :

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value ;

(8) 'final year' means the year commencing on the first day of April.

(9) 'Prescribed Day' means such day as the Government, may, from time to time prescribe.

(10) 'Notification' means a notification published in the official gazette,

(11) 'Notified' means notified in the official Gazette.

(12) 'Deputy Commissioner' means the Deputy Commissioner of a District, and includes any officer specially appointed by the Government to perform the functions of a Deputy Commissioner under this Act.

(13) 'Gazetted Officer' means a Gazetted Officer appointed by the Government.

(14) 'Town area' shall mean a town area as defined in Jammu and Kashmir Town Area Act where a town area committee actually exists.

CHAPTER I

The Local rate on land

(1) Except as hereinafter provided, all land shall be subject to the payment of a rate, to be called the local rate, at such amount

per rupee of its annual value, as may be determined by the Government from time to time.

(2) The Government may, by notification :-

(a) exempt any land or any class of land from the levy of the local rate ; or

(b) in respect of the whole or any part of the area subject to the authority of District, abolish or reduce, or on the recommendation of the District Board, increase the local rate.

From such date as may be notified in respect of each district by the Government, all authorised rates and cesses for the maintenance of roads, schools and the district post, shall merge in and become part of the local rate and no rate or cess other than the local rate shall be thereafter leviable for those purposes.

The land-holder shall be liable for the payment of local rate subject to the following provisions, namely :-

(1) Where the land-holder pays the land revenue in kind to any assignee of revenue or any village headman shall be liable for the payment of the local rate instead of the land-holder, and no demand shall be made by any such assignee of the payment of the rate ; and

(2) Where the Government has, under any lease current at the time when this Act comes into force, paid the local rate on tiri, it shall continue to pay the rate during the currency of the lease.

Power to recover a share if the rate from occupancy tenant:-
When a local rate is payable by a land-holder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, the land-holder may realize from the tenant a share of the rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

Appropriation of proceeds of local rates:- The proceeds of the local rate levied in each district shall, except as provided in section 73 be allotted to the district board established for that district under this Act :

Provided that the Government may direct that the whole or

any portion of the net proceeds of the local rate levied within the limits of any municipality, town area or military cantonment after deducting the expenses of collection, shall be carried to the credit of the municipal or town fund, or made available for the purpose of public improvement in the cantonment.

CHAPTER - III

A - Constitution of District Boards

Establishment of District Boards:- (1) The Government shall, by notification, establish a District Board for each District.

(2) A District Board shall have authority throughout the district for which it is established, provided that a Board shall not have authority over any portion of a district which is for the time being included in a Military Cantonment or a municipality.

Number, appointment or election of members:- (1) A District Board shall consist of such number of members, not less than ten, as the Government may fix in this behalf.

(2) The Government shall from time to time, by notification delimit the territorial boundaries of the Constituencies in a district. From every such constituency there shall be elected one or two members as shall be specified in the said notification.

(3) Whole time salaried servants of the Government may be appointed by the Government by official designation. Private persons who are not whole time salaried servants of the Government, cannot be appointed but can only be elected in accordance with the rules made by the Government under this Act:

Provided that not more than one-fourth or five members whichever is less, shall be the appointed members.

(4) When any seats on a Board are required to be filled by election, and a sufficient number of members is not elected, the Government may fill those seats by appointment.

(5) (i) The Government may declare that any officer by virtue of his office shall be associate-member of the District Board or Boards.

(ii) All such associate-members shall have the same privileges as the members of the District Boards provided that they shall

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of vote for or against a measure during the deliberations of the District Board of which they have been declared associate members.

Oath of allegiance:- Every person who is elected or appointed to be a member of the District Board shall, before taking his seat take or make, at a meeting of the Board, an oath or affirmation of his allegiance to the state as laid down in the rules made under this Act, provided that :-

(a) if any such person omits or refuses to take or make such oath or affirmation, his election or appointment, as the case may

be, shall be deemed to be invalid;

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in the case of such invalid election the person, if any, who obtained the next largest numbers of votes from amongst those who failed to secure election, shall be deemed to have been duly elected, or if the election was uncontested a fresh election shall be held, or in the case of such invalid appointment the Government shall appoint another person in the manner prescribed in sub-section (3) of section 9;

(c) no person whose election or appointment has been deemed to be invalid under this section shall be eligible for election or appointment to any District Board for a period of three years from the date of which he ought to have taken or made such oath or affirmation.

Terms of office of members:- (1) A member of a district board when appointed by virtue of an office, shall, unless and until the Government otherwise directs, continue to be a member of the board while he continues to hold that office.

(2) The term of office of all other members of a district board shall be fixed by the Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years,

(3) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

(4) Notwithstanding anything contained in sub-section(2) or any

rules made by the Government thereunder, an outgoing member shall, unless the Government otherwise directs, continue in office until the election of his successor is notified.

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Resignation of members:- A member of a district board may resign by notifying in writing his intention to do so to the Government, through the commissioner and on the acceptance by the Government of such resignation, the member shall be deemed to have vacated his office.

Powers of the Government as to removal of members:- The Government may remove any member of a district board :-

(a) if he refuses to act, or becomes incapable of acting or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Government, a defect of character which unfits him to be a member ;

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In the case of a Public Servant if he has been declared by notification to be disqualified for employment in the public service ;

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if he, being a member of the district board, without an excuse sufficient in the opinion of the Government neglects to be present at any six consecutive meetings of that board;

(d) when he is a salaried officer of Government if his continuance in office is, in the opinion of the Government, unnecessary or undesirable.

Filling of casual vacancies:- (1) When the place of an elected member of a district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Government under this Act, to fill the place : Provided that the Government may direct in any such case that the vacancy shall be left unfilled, for a period of not more than one year.

(2) Appointed members shall be ex-officio members by virtue of their office, by designation.

(3) A person chosen or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

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Corporation & district boards:- Every District Board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immovable, and subject to any rules made by the Government, under this act to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution and may sue and be sued in its corporate name.

The several district board constituted under this Act shall come into existence at such time as the Government may, by notification, fix in this behalf.

Chairman:- The Deputy Commissioner of the District in which a District Board is set up shall be appointed to be chairman of the board by virtue of his office and shall continue to be the chairman so long as he holds the office of Deputy Commissioner.

Vice-Chairman:- (1) A district board may elect one or two of its members not being whole time salaried servants of Government to be vice-chairman, or vice-chairmen, and when two vice-chairmen are elected on the same date, shall declare which of them shall be the senior.

(2) A vice-chairman so elected shall hold office for a period of one year.

Power to delegate:- Notwithstanding anything contained in the Act, every district Board may, with the previous sanction of the Government by resolution, delegate to the chairmen, vice-chairmen, secretary, District Health Officer or any officer of the department of Education all or any of the powers conferred upon the board under sections 23 and 27.

Extraordinary Powers of Chairman and Vice chairman in cases of emergency:- In cases of emergency the Government or the chairman may direct the execution of any work or the doing of any act which the district board is empowered to execute or

do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the district fund :

Provided that every direction given under this section shall

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be reported to the next following meeting of the board.

(2) The chairman or, in his absence or during the vacancy of his office, a vice-chairman may prohibit until the matter has been considered by the board, the doing of any act which is in his opinion undesirable in the public interest provided that the act is one which the board has power to prohibit.

(3) If the chairman omits to take action under sub-section (1) or sub section (2), the commissioner may by written notice require him to do so, and if he refuses or fails to take such action, the commissioner may exercise the powers described and limited in sub-section (1) and (2).

(4) If the expense of executing the work or of doing the act as described in the sub-section (1) is not paid as directed, the chairman or the commissioner as the case may be, may make an order directing the person having the custody of the balance of the district fund to pay the expense or so much thereof as is, from time to time, possible from that balance in priority to all other charges against the same.

(5) No direction given under this section shall be questioned in any court on the ground that the case was not one of emergency.

Every officer or servant employed by a district board whether for the whole or part of his time and drawing remuneration of not less than twenty rupees per mensem, and every member of a board shall be deemed to be a public servant within the meaning of section 21 of the A.K. Penal Code.

B - Duties for District Boards

Duties of District Boards:- (1) The following matters shall, subject to such exceptions and conditions as the Government may make and impose, be under the control and administration of each district board within the area subject to its authority :

(a) the management of all property vested in the district board ;
(b) the construction, repair and maintenance of public roads and

other means of communication so declared to be under the District Board by the Government;

(c) the establishment, management, maintenance and visiting of

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public hospitals, dispensaries, serais and schools, and the construction and repair of all buildings connected with these institutions;

- (d) the training of teachers and the establishment of scholarships;
- (e) the supply, storage and preservation from pollution of water for drinking, cooking and bathing purposes ; and
- (f) the planting and preservation of the trees.

(2) The Government may direct that any of the following matters shall, subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority :-

- (a) the management of any property vested in the Government;
- (b) the establishment, maintenance, visiting and management of markets, rest-houses, encamping grounds and other public institutions, and the construction and repair of all buildings connected with these institutions ;
- (c) the construction and repair of embankment, and the supply, storage and control of water for agricultural purposes ;
- (d) the preservation and reclamation of soil, and the drainage and reclamation of swamps ;
- (e) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Government ;
- (f) the registration of births, marriages and deaths;
- (g) fairs and agricultural shows and industrial exhibitions ;
- (h) the establishment and management of pounds ;
- (i) the management of such public ferries as may be entrusted to the charge of the Boards by the Government;

Gj) any other local works or measures likely to promote the health, comfort convenience and interest of the public or the agricultural or industrial prosperity of the country ;

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Execution of such village Aid Programme as the Government may consider fit for handing over to the District Boards;

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any other matters which the Government may declare to be fit and proper matter to be taken under the control and administration of the board.

(3) the Government may direct that any of the following institutions which are for the time being under the administrative control of the Government may from a date to be specified by the Government, subject to such exceptions and conditions as it may make or impose, be placed under the control and administration of District Boards and subject to its authority.

(i) Rural Dispensaries; (ii) First Aid Posts ;
 (ii) Primary Schools; (iv) Veterinary Dispensaries;
 (v) Cottage Industries ; and (vi) Agriculture ;

Provided that the Government shall place at the disposal of the District Board funds necessary for the administration of such institutions under such conditions as it may impose on the boards in this behalf, (as for example that such institutions would be under the over all control of the heads of such departments).

(4) The Government may entrust the execution of an approved, Education Uplift Scheme in a local area to a District Board named by it, provided that funds necessary for the execution of such education uplift schemes are placed at the disposal of the District Boards.

Note:- The Government may impose such conditions as it deems necessary for the proper utilisation of all such grants.

(5) The Government may direct that a sanctioned Development Project shall be executed by the District Board subject to such conditions as the Government may impose : Provided that funds necessary for the purpose shall be placed at the disposal of the District Board on such conditions as the Government may deem fit for the proper utilization of funds.

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(6) The Government may cancel or modify any direction by it under sub-section (2).

(7) A district board shall, so far as the funds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

Power to delegate to village panchayat:- Subject to such terms as may be agreed upon beforehand the district board may :

(a) Delegate any of the following duties to a panchayat duly established under section 4 of the A.K. Village Panchayat Act, 1949.

(i) any matters under the direct administrative control of the board ;

(ii) the construction, maintenance or improvement of any property under the control or management of the board, other than property covered by clause (i) ;

(iii) the control and management of cattle ponds :

(iv) delegate any or all the powers vesting in D.B ;

(b) appoint a village panchayat duly appointed under the said, Act to be a school attendance committee.

(c) Joint Committees.

A district board may concur with any other district board, or with any municipal committee, or with any cantonment authority, or with more than one such board, committee or authority, in appointing, out of their respective bodies, a Joint committee, for any purpose in which they are jointly interested and for delegating to any such joint committee any power which might be exercised by either or any of the boards, committees or authorities concerned, and in framing or modifying regulations as to the proceeding of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Record and Publication of proceedings:- Minutes of the proceedings at each meeting of a district board shall be drawn up and recorded in a book to be kept for the purpose, and shall be

signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in such manner as the Government may, from time to time direct, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the district, who pays any rate or tax under this Act.

(2) A copy of every resolution passed by a local board at a meeting shall, within three days from the day of the meeting, be forwarded to the Deputy Commissioner.

Power to make rules as to business and affairs:- Every district board may make rules as to:

- (a) The time and place of its meetings and the manner in which notice of meetings shall give ;
- (b) The conduct of proceedings at meetings and the adjournment of meetings ;

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the custody of the common seal and the purposes for which it shall be used ;

- (d) the division of duties amongst its members ;
- (e) the powers to be exercised by sub-committees or members to whom particular duties have been assigned ;
- (ee) the powers conferred under section 23 & 28 that may be delegated to the chairman, vice-chairman, secretary, civil surgeon, medical officer of health or any officer of the department of public Instructions;
- (f) the persons by whom receipts shall be granted for money received under that Act;

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the duties, appointment, leave, suspension and removal of the officers and servants of the board ;

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the term for which the vice-chairman shall hold office; and

(i) other similar matters ; provided that every rule made under this must be consistent with this Act and with any rules made by the Government under this Act, and shall be published in such manner as the Government may direct :

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Employment of Officers and servants:- (1) Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it :

Provided that if, at any time, in the opinion of the Government.

(a) the number of persons employed by a board under this sec., or the remuneration, assigned by the board to those persons,

or to any of them, is excessive; or

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any such person is unfit for his employment, the board shall, on the requirements of the Government reduce the number, or remuneration of those persons, or, as the case may be, dismiss the unfit person ;

(c) the appointment of a secretary and other Gazetted officers to the board shall be subject to the approval of Government:

Provided that the Government shall before taking any decision under this section obtain the advice of Azad

Kashmir public Service Commission.

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Gazetted Officers shall, however, be appointed by the Government and shall be liable to transfer to any other District board by the orders of the Government.

(2) All employees and other officers of the District Board shall have the right to appeal to the Public Service Commission against all orders of dismissal, suspension and other disciplinary action by the District Board.

Pension of Government Officials serving in boards:- In the case of a Government official, a district board may, after

obtaining the advice of A.K. Public Service Commission :-

(1) if his services are wholly lent to it, contribute to his pension or gratuity and leave allowances in accordance with the rules for the time being governing his conditions of service ; and

(2) if he devotes only a part of his time to the performance of duties on behalf of the board, contribute to his pension or

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gratuity and leave allowances in such proportion as may be determined by the Government under which he is serving.

Pension of servants of boards:- In the case of an officer or servant, not being a person in the service of the Government, referred to in section 29, a district board may after consulting the Azad Kashmir Public Service Commission :-

(1) grant him leave allowances, or if his monthly pay is less than twenty rupees, a gratuity; and

(2) if empowered in this behalf by the Government :-

(a) subscribe in his behalf for pension or gratuity and leave allowances under the rules for the time being governing his conditions of service ; or

(b) purchase for him an annuity on his retirement :

Provided that no pension, gratuity, leave allowance or annuity shall exceed the sum to which, under the rule for the time being governing his conditions of service, the servant would be entitled if the service had been in service under the Government.

(3) Not being in this section or contained in section 38 shall be deemed to prohibit the establishment of a Provident Fund by officers or servants of a district board, not being persons in the service of the Government, or to debar a district board, if otherwise expressly authorised by the Government in this behalf, from contributing from the district fund towards such provident fund at such rates and under such conditions as the district board may, by rules to be confirmed by the Government, fix and apportion for such purpose.

A district board may, with the previous sanction of the Government, impose any tax which the Government has power to impose:

Provided that :-

(a) the Government may empower any District Board to impose

without such sanction one or more of such taxes subject to such limitations as it may prescribe ;

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(b) no tax imposed under this section shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes:- (1) A district board may resolve, at a meeting convened and constituted in such manner as the Government may prescribe, to propose, the imposition of any tax under section 31.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, send his objection in writing to the board, and the board shall, at a meeting convened and constituted as aforesaid, take his objection into consideration.

(4) If no objection is sent within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the board may submit its proposals to the Government, with the objections (if any) which have been sent in and with its decision thereon.

(5) The Government, on receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the proposals of a district board in respect of a tax have been sanctioned by the Government, then :-

The Government shall notify the imposition of the tax in accordance with the proposals, and shall in the notification specify a date not less than three months from the date of notification on which the tax shall come into force :

(7) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with law.

The Government may, by notification, and the district board may, with the sanction of the Government by a resolution passed at a meeting convened and constituted as the Government may

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prescribe, abolish or reduce any tax imposed under section 31 and 32.

Levy of fees:- With the previous sanction of the Government, or of such officer as the Government may authorise in this behalf, a district board or local board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 23 (1) (c) and (e), (2), (b), (c) and (d), fees for the registration of marriages and fees at fairs, agricultural shows and industrial exhibitions held under its authority.

Additional fund allotted by Government:- When the control and administration of any matter is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from.

Government revenues, the Government shall, from time to time, allot to the district board such funds, or place at the disposal of the board such sources of income, as may, in the opinion of the Government and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

District fund:- There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof:

(a) the balance (if any) of the allotments made for the district by the Government and of the road and school cesses which may be available for expenditure in the district on the day on which the district board comes into existence ;

(b) all proceeds of rates allotted to the district board under section 7 ;

(c) the proceeds of all taxes imposed in the district under section 31 and 32;

(d) the amount of all fees levied by the district board or by local boards in the district under section 34 ;

(e) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 35 ;

(f) all rents and profits accruing from property vested in the

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district board or managed by the district board or a local board in the district ;

(g) all sums contributed to the fund by the Government or by any committee, board or private person ;

(h) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this act ; and

(i) the proceeds of all sources of income which the Government may order to be placed at the disposal of the district board :

Provided that the Government may revoke any order made under clause (i).

Vesting custody and investment of district fund:- (1) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury or sub-treasury or in the bank to which the Government treasury business has been made over, unless the Government in any cases otherwise permits.

(2) Subject to such rules as the Government may make in this behalf, the district board may, from time to time, with previous sanction of the Government, invest any portion of the district fund in securities of the Government or invest it in such other securities or place it in such other manner as the Government may approve in this behalf, and may vary such investment or placement for another or others of like nature. The income resulting from such securities or placements and the proceeds of the sale of the same shall be credited to the district fund.

Application of District fund:- (1) The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board, the expenses incurred in auditing the accounts of the district boards and such 'portion' of the cost of the Government Departments for education, sanitation, vaccination, medical relief and public works and may be held by the Government to be equitably debitible to the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), and to

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such rules as the Government may make with respect to the priority to be given to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental :-

- (a) to the matters specified in sections 23, 28, 29 and 30 ;
- (b) to grants in-aid to educational and medical institutions

within the area subject to the authority of the district board;
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subject to the sanction and control of the Government to any charges and expenses incurred outside that area when such application of the funds is in the opinion of the board for the benefit of the inhabitants of that area.

Works or undertakings benefiting several districts:- In case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Government may determine what proportion of the expenses of the work or undertaking shall be borne by each of the district funds of the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards:- (1) Every district board shall appoint a finance committee consisting of not less than three of its members.

(2) Every district board shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure of the board for the next financial year, in such form as the Government may, by a rule made under this Act, prescribe.

(3) The Board shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Commissioner.

(5) The Commissioner, shall, on or before a prescribed day, signify in writing to the board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the

nature of his objection. The Board shall then consider the matter,

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and either modify the estimate, so as to remove the objection, or refer it through to the Government. If the Government concurs in the objection, it shall make such modification in the estimate as may, in its judgment, be necessary to remove the objection, whole or in part. If the Government does not concur in the objection, it shall pass the estimate, and its order shall be final and binding on the board.

(6) When the Government has signified its approval of an estimate or the board has modified in estimate so as to remove the Government's objections, or when the Government has passed orders as provided for it. the estimate as approved or modified, shall be incurred during the year to which the estimate relates, without the previous sanction of the Government.

Accounts of district Boards:- Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such forms as the Government prescribes, and shall be examined and audited as soon as may be after they are so made up by such persons as the Government appoints in this behalf.

Inspection of estimates & accounts:- Every district board shall cause a copy of every annual estimate provisionally or finally approved under section 40 and of every account made up under Section 41, to be kept at its office; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee.

Publication of abstract of accounts:- A statement of the accounts of a district board for each financial year, showing the income of the district fund under each head receipt, the charges for establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the funds remaining unspent at the end of the year, shall be prepared by the board in such form as the Government prescribes ; and an abstract of the same shall be published in the official Gazette, or in such other manner as the Government may direct.

G - Control

Control of Commissioner over boards and joint committees:-

The Commissioner may :-

(a) enter on and inspect, or cause to be entered on and inspected,

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any immoveable property within the limits of the district, occupied by any district board or joint committee, or any, work in progress within those limits under the direction of any such board or committee ;

(b) by order in writing call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits ;

(c) by order in writing require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceeding or duties of the board or committee as he may think fit to call for ; and

(d) record in writing, for the consideration of any such board or committee, any observations, he may think proper in regard to the proceedings or duties of the board or committee.

Power to suspend section:- The Commissioner, by order in writing may suspend, within the division or district, respectively, the execution of any resolution or order of a district board, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, as likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Power to provide for performance of duties in case of default of board:- (1) When the Commissioner, after due enquiry, is satisfied that a district board has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty, and if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid within such time as he may fix, by the board to that person.

(2) If the expense is not so paid, the Commissioner may make an order directing the persons having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges against the same.

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Power to invest officers with power of control:- When the control and administration of any public work is, by or under this Act, transferred to district board, and at the time of the transfer the cost of that control and administration is defrayed from the Government revenues, the Government may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 46, or section 21.

The Government may (if it considers expedient for the efficient performance any of the functions of a District Board) direct that the District Board shall obtain the services of a technical Officer from the regular Azad Kashmir, Service on such conditions as the Government may impose and for such period as the Government may specify in this behalf provided that the officer or officers thus employed shall continue to be under the administrative control of the Government and shall be governed by departmental rules of parent service.

Report of action under proceeding sections:- When the Commissioner makes any order under section 45 or section 46, he shall forthwith forward to the Government and when the Deputy Commissioner makes any order under section 45 or section 21 or section 46, he shall forthwith forward to the Commissioner, for submission to the Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Government may thereupon confirm, modify or rescind the order.

Powers of Government & its officers over boards:- (1) It shall be the duty of the Government and of the Commissioner and Deputy Commissioners acting under its orders to require that the proceedings of district boards shall be in conformity with law and with the rules in force thereunder.

(2) The Government may exercise all powers necessary for the purpose of sub-section (1), and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(3) The Commissioner may, within his jurisdiction, for the same purpose, exercise such powers as may be conferred upon him by rules made in this behalf by the Government.

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Power of Govt. to supersede, in case of incompetency, persistent default of, or abuse of powers:- If a district board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Government may by notification, in which the reasons for so doing shall be stated, declare the board to be superseded.

Consequences of Super Session:- When a district board is superseded under section 51, the following consequences shall ensue:-

- (a) All members of the board shall from the date of the notification vacate their offices as such members ;
- (b) All powers and duties of the board may, until the board is reconstituted, be exercised and performed by such person as the Government appoints in that behalf ;
- (c) Where a district board is superseded, all property vested in it shall, until it is reconstituted, vest in the Government.

Constitution of new board:- When a district board is superseded, all property shall, as soon as in its judgment conveniently may be, constitute another district board, in its place.

Disputes:- (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment authority and any such board, the matter shall be referred to the Government through the commissioner.

(2) The decision of the authority to which any dispute is referred under this section shall be final :

Provided that if one of the parties to a dispute referred to the Government is a cantonment authority, the decision of the Government shall not have effect until it is concurred in by the Military G.H.Q.

(3) "Local authority" in this section means a district board,

municipal committee, or cantonment authority or town area committee.

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Power of the Government to make Rules:- So far as may be consistent with the provisions of this Act :-

(1) The Government may, by notification for any district under rules :

(a) prescribing the manner in which the oath or affirmation of allegiance under section 10 shall be administered ;

(b) regulating the powers of district boards to make, vary and dispose of investments ;

(c) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualification and disqualifications of such members, and the qualifications and disqualifications of voters, and generally for regulating all Sections under this Act ;

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regulating the powers of boards to transfer property ;

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regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts ;

(f) determining the intermediate offices, if any, through which correspondence between boards or members of boards and the Government or its officers shall pass ;

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determining the language in which business shall be transacted ;

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the employment, payment, suspension and removal of officer and servants under section 28 ;

(i) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district ;

Gj) the application of district funds, and the management and regulation of provident funds established under sub-section

(3) of section 30.

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the form of estimates of income and expenditure under section 40 ;

- (1) the form of accounts and the manner of periodical audit under section 41 ;
- (m) the publication of abstracts of accounts under section 43;
- (n) the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned ;
- (o) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 49 ;
- (p) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman ;
- (q) the appointment and payment of auditors of the accounts of boards ;
- (r) the guidance of district boards when suits or other proceedings are intended to be or have been instituted by or against them in civil Courts ; and
- (s) generally determining the relations between district boards and Government Officers in all matters connected with the carrying out of the provisions of this Act.

(2) Rules under clause (e) of sub-section (1) may among other matters provide :

- (i) for the definition of the practices at elections held under the provisions of this act which are to be deemed to be corrupt;
- (ii) for the investigation of allegations of corrupt practices ;
- (iii) for making void the election of any person proved to the satisfaction of the Government to have been guilty of a corrupt practice or to have connived at or abetted the commission of a corrupt practice or whose agent has been so proved guilty or the result of whose election has been materially affected by the breach of any law or rule for the time being in force ;
- (iv) for rendering incapable of district board office either per

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manently or for a term of years any person who may have been proved guilty as aforesaid of a corrupt practice or of conniving at or abetting the same ;

(v) for prescribing the authority by which questions relating to the matters referred to in clause (c) of sub-section (1) shall be determined ; and

(vi) for authorising courts to take cognizance of the breach of any such rules on the complaint of the Deputy Commissioner or some person authorised in writing by the Deputy Commissioner.

Powers of the High Court appoint election commissioner:-

The High Court of Judicature, Azad Jammu and Kashmir may invest any person or persons authorised by it to hold an inquiry into the conduct of an election or into allegations of corrupt practices or intimidation at an election any may prescribe the procedure to be followed and provide for the execution of any order as to costs passed by such person or persons in such

inquiry.

H - REGULATION

(1) Every district board or local board empowered in this behalf by the Government may make regulations for carrying out all or any of the purposes of this Act.

(2) A regulation made under this section shall not have effect until it has been confirmed by the Government and published in such manner and for such time as the Government may direct.

Penalty for infringement of regulations:- (1) In making any regulation under section 57, and board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

(2) In default of payment of any fine imposed under this section the defaulter shall be liable to simple imprisonment for a term which may extend to eight days.

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Prosecutions:- (1) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorised by name or office by the board in this behalf.

(2) A Judge or Magistrate shall not be deemed to be within the meaning of section 555 of the Code of Criminal procedure a party to, or personally interested in, any case under this section merely because he is a member of the board.

Penalty for obstructions:- Any person wilfully obstructing the board, or any officer or servant of the board, or any person authorised by the board, in the exercise of the powers conferred by this Act, shall be punishable with a fine which may extend to fifty rupees.

Recovery of moneys claimable by the board:- (1) Save as provided, in section 75 all moneys claimable by a district board under this Act may be recovered on application to a Magistrate having jurisdiction in the district, or in any other place where the person from whom the money is claimable may for the time being be resident by the distress and sale of any moveable property within the limits of his jurisdiction belonging to such person. The cost of such proceedings shall be recoverable in same manner as the said moneys.

(2) An application made under sub-section (1) shall be in writing and shall be signed by the chairman or the secretary of the board but it shall not be necessary to present it in person.

Payment of compensation:- The district board may make compensation out of the district fund to any person sustaining damage by reason of the exercise of any of the powers vested in the board, its officers and servants, under this Act, and shall make such compensation when the damage was caused by the negligence of the board, its officers or servants and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

Powers to compound offences:- (1) The district board or with the authorisation of the board its chairman, vice-chairman or secretary may accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or regulation made there under, a

sum of money by way of composition for such offence.

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(2) On payment of such sum of money the suspected person if in custody shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of composition under this section shall be credited to the district fund.

(4) Authorisation under sub-section (1) to accept composition for alleged offences may be given by the board either generally in regard to all offences against this Act or the rule made thereunder or particularly only in regard to a specified offence or offences of a specified class and may be at any time withdrawn by the board,

Liability of members of boards:- Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board, if such loss, waste or mis-application is a direct consequence of neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him in such Court as the Government directs, by the district board with the sanction of the Government.

Procedure for making rules and regulations:- (1) The Government, before making any rules under section 55 or section 72, and a district or local board, before making any regulations under section 57, shall publish, in such manner as the Government may deem sufficient for giving information to persons interested a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration ; and shall, before making the rules or regulations; receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(2) Every such rule or regulation shall be published in the official Gazette, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

Acquisition of land:- Where any land is required for the purposes of this Act, the Government may, at the request of a district board, proceed to acquire it under the provision of the Land Acquisition Act, and, on the payment by the board of the

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compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Penalty on member, officer or servant, being interested in contracts made with a board or joint committee:- (1) If any member, officer or servant of a district board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that board or joint committee, he shall be deemed to have committed an offence under the Azad Penal Code.

(2) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a board or committee; but he shall not take part in any proceedings of the board or committee relating to any such contract.

General powers of Government and commissioners:- In all matters connected with this Act, the Government shall have and exercise over the Commissioner and Deputy Commissioners and the Commissioner shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

Power of Government to except local area from operation of Act:- (1) If the circumstances of any district or part of a district are, in the opinion of the Government, such that all or any of the provisions of this chapter are unsuited thereto, the Government may, by notification in the official Gazette, exempt the district or part from the operation of those provisions ; and thereupon those provisions shall not apply to the exempted district or part until again applied thereto by a like notification.

(2) While any notification under this section is in force, the Government may make rules to provide for any matter dealt with by, the provisions to which the notification applied.

Committee to be constituted for district wholly exempt from Act:- When a district is exempted, under section 69, from all the provisions of this Chapter, a committee shall, except where the

Government for special reasons otherwise directs, be constituted

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for the control and administration in that district of the matters mentioned in section or of such of them as the Government may, from time to time, determine the manner in which the members of the Committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Government thinks fit.

(a) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of any allotments made for the district and of the road and school cesses, which may be available for expenditure in the district at that time ;

(b) all proceeds of rates which, but for the district being excepted, would be allotted to the district board under section 7 of this Act ; and

(c) such other sources of income mentioned in section 36 of this, Act as the Government thinks fit.

Provided that not less than one-half of the members of the Committee shall be persons who own landed property or reside or carry on trade or business in the district and are not servants of the Government.

CHAPTER - IV Supplemental Provision as to Taxation

Recovery of rates:- All rates and taxes imposed under this Act, and all arrears of such rates and taxes, may be recovered as if they were arrears of land revenue.

Local rate of tax how to be assessed and collected:- (1) The Government may, by notification, determine the person by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(2) The provisions of section 65 shall apply to all rules made under this section.

Appeals:- (1) In matters connected with the assessment and collection of any rate or tax leviable under this Act, an appeal shall lie from the order of any person authorised under this Act

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to make assessments or collections to such person as the Government appoints ;

Provided that the appeal shall be presented within thirty days from the date of the order.

(2) The order passed on an appeal under this section shall be final.

Installments of rates and taxes:- (1) The Government may, by notification, prescribe by what installments and at what times any rate of tax leviable under this Act shall be payable :

Provided that every installment of the local rate leviable under section 5 shall be payable with an installment of the land-revenue.

(2) In any local area subject to the authority of a district board the Government may, by notification, delegate to the board, subject to such conditions as it thinks fit, its powers under this section.

Powers of Govt. to exempt from taxation:- The Government may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of person, or any description of property, wholly or in any part from liability to any such rate or tax, and cancel any such remission reduction or exemption.

Power to direct measurements:- When measurement are necessary for the assessment of the local rate or any tax imposed under this Act, the Government may, by notification, direct such measurements to be made.

Suits relating to rates & taxes under this Act cognizable by courts having cognizance of suits for rent:- Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Government otherwise directs, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Confirmation and recovery of existing rates:- All rates for the maintenance of roads, schools, or the district-post, for the

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payment of which provision has been made in any settlement record previous to the passing of this Act, or which have been habitually levied by Government, shall be deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.