

. 2 ry

S

y

—

Moy

THE GAZETTE OF AZAD JAMMU & KASHMIR

EXTRA ORDINARY GAZETTE

PUBLISHED BY AUTHORITY

VOL.LXX | Muzaffarabad Dated 08 January, 2024 | No. 03

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR

Law, Justice, Parliamentary Affairs and Human Rights Department

toe

“MUZAFFARABAD’

Dated: 03.01.2024

No. LD/Legis.-Act/01-13/2024. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 13% day of December, 2023 and received the assent of the President on the 29th day of December, 2023, is hereby published for general information.

[Act I of 2024]

An

Act

further to amend the Azad Jammu and Kashmir Local Government Act, 1990

WHEREAS, it is expedient further to amend the Azad Jammu and Kashmir Local Government Act, 1990 (Act VII of 1990), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

L. Short title and Commencement.- (1) This Act may be called the Azad Jammu and Kashmir Local Government (Amendment) Act, 2023.

(2) It shall come into force at once.

2. Amendments in Section 2, Act VII of 1990.- In the Azad Jammu and Kashmir Local Government. Act, 1990 (Act VII of 1990), hereinafter referred to as the said Act, in Section 2, following amendments shall be made:-

“(i) After clause (viii), a following new clause (viii-a) shall be added,-

“(viii-a) “Code” means, the Code of Criminal Procedure, 1898 (Act V of 1898)”;

(ii) The existing clause (x-a) shall be renumbered as clause (x-aa) and before that, a following new clause (x-a) shall be added:-

“(x-a) “Court” means, Municipal Magistrate designated under Section 85 of the Act”;

(iii) After clause (xxv), a following new clause (xxv-a) shall be added:-

“(xxv-a) “Inspector” means, Octroi Inspector, Tax Inspector, Encroachment Inspector, Adda Inspector, Sanitary Inspector, Food Inspector, or any other officer or official of a Local Council as notified by the Board or Government, as the case may be, to be an Inspector for the purposes of this Act.”

3) Substitution of Section 83, Act VII of 1990.- In the said Act, Section 83 shall be substituted as under:-

“83. Punishments and cognizance of offences.- (1)
The offences specified in the Ninth Schedule

shall be liable to punishment by way of imprisonment, fine, . seizure, forfeiture, confiscation, impounding and such _ other penalties as are provided in the Act.

(2) If a person commits an offence specified

in,-

(a)

(b)

Part-I. of Ninth Schedule, such person shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to five hundred thousand rupees or with both and where an accused was directed by the Inspector for immediate discontinuance of the offence, the Court may impose a further fine which may extend to fifty thousand rupees for every day for the period the accused has persisted in the offence from the date of its commission;

Part-II of Ninth Schedule, subject to sub-section (3), such person shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one hundred thousand rupees or with both and where an accused was directed by the Inspector for immediate discontinuance of the offence, the Court may impose a further fine which may extend to ten thousand rupees for every day for the period the accused has persisted in the offence from the date of its commission;

(c) Part-II of Ninth Schedule, such person shall be punishable with imprisonment which may extend to six months or fine which may extend to twenty-five thousand rupees or with both and where an accused was directed by the Inspector for immediate discontinuance of the offence, the Court may impose a further fine which may extend to five hundred rupees for every day for the period the accused persisted in the offence from the date of its commission; and

(d) Part-IV of Ninth Schedule, such person shall, in the first instance, be liable to fine by issuing a ticket specified in third column and where an accused repeats the offence within a period of three months for which the accused was subjected to fine, he shall be liable to the same punishment as provided in clause (c).

(3) If an offence of illegal dumping of solid waste and garbage under Part-II of the Ninth Schedule is committed by a person for the first time, he shall be administered a warning; and, in case, he repeats the offence within one year from earlier commission, he shall be punished with imprisonment which may extend to three years but which shall not be less than seven days, and with fine which may extend to one hundred thousand rupees but which shall not

be less than twenty thousand rupees; and, where an accused was directed in writing by the Inspector for Immediate discontinuance of the offence, the Court may impose, a further fine which may extend to ten thousand rupees for every day for the period the accused has persisted in the offence from the date of its commission.

(4) The offences specified in clauses (a) and (b) of sub-section (2) shall be cognizable and information in this regard shall be forwarded to the officer in-charge of a police station by the Inspector after prior approval of the Chief Officer for registration of a case against the accused in accordance with the provisions of Section 154 of the Code.

(5) The Court shall take cognizance of the offences specified in clause (c) of sub-section (2) on a complaint made in writing by the Inspector after prior approval of the Chief Officer in accordance with the provisions of Section 200 of the Code.

(6) The offences specified in Part-II and IV of Ninth Schedule shall be tried in a summary manner in accordance with the provisions of Section 260 to 265 of the Code, but the limit of punishment mentioned in sub-section (2) of Section 262 of the Code shall not be applicable.

(7) The fines imposed by a Court, for an offence specified in Part-IV of Ninth' Schedule, shall on collection be deposited in such manner, as may be prescribed, in the Public Account of the concerned Local Council.

(8) The Government may, by notification in the official Gazette, entrust to a Local Council the enforcement of any other law within its prescribed limits.”

4. Substitution of Section 85, Act VII of 1990.- In the said Act, Section 85 shall be substituted as under:-

85-A.

Appointment of Municipal Magistrates.- (1)

The Government shall, in consultation with the High Court, designate one or more Special Judicial Magistrates, under Section 14 of the Code, to be called Municipal Magistrates, for cognizance of offences under the Act.

(2) The Municipal Magistrates designated under sub-section (1) shall take cognizance of the offences specified in Part-I, II and III of Ninth Schedule in a manner as prescribed under Section 83 of the Act.

(3) The offences specified in Part-IV of Ninth Schedule shall be tried by the existing Municipal Magistrates in a manner as provided under Section 83 of the Act.

Appointment and supervision of Inspectors.-

(1) The Inspector shall be appointed by an

appropriate -authority in a manner as may be Prescribed. ,

(2). Where the Inspector is not appointed, the Mayor or the Chairman shall, with the approval of the Local Council, authorize a suitable official of the concerned Local .Council to act as an Inspector for the purposes of the Act.

(3) A Prescribed officer shall be the controlling authority and administrative head of an Inspector and the Inspector shall report to the

85-B.

85-C.

officer for the enforcement of provisions of Section 83.

Imposition of fine through ticketing.- (1)

Notwithstanding anything contained in Sections 81 to 84, where any person, in the opinion of an Inspector, is contravening any provision of the law relating to the offences specified in Part-IV of the Ninth Schedule, the Inspector shall charge the accused by issuing a ticket in the Prescribed form for payment of fine specified in the Part-IV of the Ninth Schedule.

(2) The ticket referred to in sub-section (1), shall be issued in quadruplicate by delivering three copies to the accused after obtaining his signatures or thumb impression on the fourth copy to be retained by the Inspector for record.

(3) The fine may be deposited in a bank account of the Local Council within ten days from the date of imposition of fine for credit in the Public Account of such Local Council.

(4) The person to whom a ticket has been issued under this Section may either contest the imposition of fine in the Court designated under Section 85 (3), within ten days from the date of issuance of the ticket or deposit the fine within that period and provide a copy of payment receipt to the office of the Local Council.

Court proceedings for default in deposit of fine.- (1) A designated officer shall, on daily basis, provide a scroll of all unpaid tickets to the Court.

(2) The Court receiving the scroll shall issue summons to the accused forthwith stating the

date of hearing for summary trial in accordance with the provisions of Section 260 to 265 of the Code but the limit of punishment mentioned in sub-section (2) of Section 262 of the Code shall not be applicable.

(3) Where on the first date of hearing, the accused appears before the Court designated under Section 85 (3), and produces the proof of deposit of fine, or unconditionally admitting his failure, deposits the fine forthwith along with the penalty which shall not be less than ten percent and not more than twenty five percent of the amount of fine determined by the Court in accordance with the procedure provided in sub-section (2) of Section 388 of the Code, further proceedings against the accused may be dropped and no conviction shall be recorded against him.

(4) Upon the failure of the accused to appear before the Court in response to the summons issued by it, the Court shall forthwith issue warrants for arrest of the accused and upon issuance of such warrants, the accused shall be liable to punishment under clause (c) of sub-section (2) of Section 83.

85-D. General powers of Inspectors.- (1) In case of any serious threat to the public health, safety or welfare or danger to life and property, or where 'violation of any rule or bye-law is being committed, the Inspector may, in his area of jurisdiction, in addition to imposition of fine. or initiating prosecution under the Act,-

(a) suspend any work;

(b) seize the goods;

85-E.

85-F.

- (c) seal the premises;
- (d) demolish or remove the work; or

(e) issue directions for taking corrective measures within the specified time.

(2) An Inspector shall not enter into any dwelling unit without permission of the occupier or the Court, as the case may be.

(3) An Inspector may, in relation to the offences specified in Ninth Schedule,-

(a) issue notices in writing on behalf of a Local Council;

(b) initiate legal proceedings in the Court; and

(c) assist in defending legal proceeding initiated against a Local Council.

Punishment for non-payment of tax, etc.- A

person against whom a tax, fee, rate, rent, toll or other charge, imposed upon him under the Act, has become final and in case he does not pay the same despite demand of the Chief Officer or an officer authorized by him in this behalf, he shall be guilty of an offence punishable with imprisonment for a term not exceeding six months or a fine not exceeding five hundred thousand rupees, or with both.

Cognizance of offences relating to 'non-

payment of tax, etc..- (1) All offences. under Section 85-E of the Act shall be

non-cognizable within the meaning of clause (1) of Section 2 of the Code.

(2) No Court shall take cognizance of an

offence under Section 85-E of the Act, except upon a complaint in writing of the respective Chief Officer or a person authorized by him in this behalf.”

Substitution of Ninth Schedule, Act VII of 1990.- In the said Act, Ninth Schedule shall be substituted as under:-

“NINTH SCHEDULE
OFFENCES REQUIRING TRIAL BY A COURT

PART-I

Failure of industrial or commercial concerns to provide adequate and safe disposal of affluent or prevention of their mixing up with the water supply or sewerage system; or discharging any dangerous chemical, inflammable, hazardous or offensive article in any drain, or sewer, public water course or public land vested in or managed, maintained or controlled by the Local Council in such manner as causes or is likely to cause danger to persons passing by or living or working in neighborhood, or risk or injury to property.

Development of a private housing scheme: without approval of a Local Council; or on a non-conforming use.

Supplying or marketing milk, liquid or powdered and food items for human consumption in any form, which are adulterated or contaminated or suspected to be dangerous to public health, or its use has been prohibited by Local Council or Government on the ground of being unsafe for human consumption, or whose quality and suitability for human consumption has not been ascertained and certified by a laboratory authorized by the Government.

Supplying or marketing drinking water for human consumption in any form, from any source which is contaminated or suspected to be dangerous to public health, or its use has been prohibited by Local Council or Government on the ground of being unsafe for human consumption, or whose quality and suitability for human consumption has not been ascertained and certified by a laboratory authorized by the Government.

PART-II

Overcharging or illegally charging any tax, fee, fine, charge or rate by an employee of a Local Council or a contractor or his staff without the authority of a Local Council.

Preparing or using counterfeit or prescribed Forms of the Local Council.

Willfully obstructing any officer or servant of a Local Council or any person authorized to exercise power conferred under the Act.

Failure to deliver back possession of property to the Local Council on cancellation and expiration of lease.

Doing an act without license or permission when the doing of such act requires a license or permission under any of the provisions of the Act or the rules or bye-laws.

Evasion of payment of tax or other impost lawfully levied by a Local Council.

Cultivation of agriculture produce or crop, for supply or sale to public using such manure, or irrigating it with sewer water or any such liquid as may be injurious to public health or offensive to the neighborhood.

10.

11.

12.

13.

14.

15.

16.

17.

Violation of the prohibitions provided in the Master Plan, the sanctioned Site Development Schemes under the Act or any other law for the time being in force including the plans and schemes sanctioned under the repealed enactments.

Immovable encroachment in or on or under any property or any open space or land vested in or managed, maintained or controlled by a Local Council.

Erection or re-erection of building over set back area or parking area or building line area required to be left open under the rules for using such space for any purpose which is not approved.

Changing or converting into any other use any portion of a commercial building or area specified or earmarked for public parking.

Failure to demolish or otherwise secure a building declared by the Local Council to be dangerous building. ;

Establishing any parking stand on any property or on any open space and public park or land vested in or managed, maintained or controlled by a Local Council on or under a street, road, graveyard or a drain without the sanction of the concerned Local Council.

Quarrying, blasting, cutting timber or carrying building operations in such manner as causes or is likely to cause danger to persons passing by or living or working in the neighborhood:

Erection or re-erection of a building without the sanction required under the Act or using a building for a purpose which may endanger the security of people.

18.

19.

20.

21

22.

23.

24.

25.

26.

Dyeing or tanning skins within such distance of any commercial or residential areas as may be specified by the Local Council.

Dumping of solid waste and refuse by any person or entity on a place other than landfill or dumping site, notified or designated by the concerned Local Council.

Contravention of the prohibition or attempt or abetment of any of the offences in this Part

PART-III

Establishing any cattle market without permission of the Local Council.

Establishing any bus, wagon, taxi or other commercial motorized or non-motorized vehicle stand, for purposes of plying them on different routes, on any road, street, footpath, public place or any other property vested or managed or controlled or maintained by a Local Council without its permission.

Establishing or running any restaurant or vending stalls for eatables on any road, street, footpath, public place, over a drain, or any other property vesting in or managed or controlled or maintained by a Local Council without its permission.

Establishing a brick kiln and lime kiln within such distance of a residential area as may be specified by the Local Council.

Cutting down of any tree, or erection or demolition of any building or part of a building where such action is declared under the Act to be a cause of danger or annoyance to the public.

Contravention of the prohibition or attempt or abetment of any of the offences in this Part.

13/21

PART-IV

Offences where ticket can be issued

Offence Amount of fine

Fixing of wooden khokhas, and temporary shops or extension

thereof on footpaths or beyond the Rs.4,000 street line.

Plying of handcarts for the sale of me G0

goods without permission.

Failure by the owner or occupier of any land to clear away and remove any vegetation declared by a Local Council to be injurious to health or offensive to neighborhoods.

Slaughtering of animals for the sale of meat at a place other than the place set apart for the purpose.

Without the permission of the Local Council, causing or

Rs.4,000

Rs. 10,000 in case

knowingly or negligently allowing of industrial the contents of any sink, sewer or | concerns, Rs.5,000 cesspool or any other offensive in case of matter to flow, or drain or to be commercial put upon any street, or public concerns and place, or into irrigation channel or Rs.2,000 for

any sewer or drain not set apart others.

for the purpose.

Keeping or maintaining any cattle 'in any part of the prohibited zone 'or failure to remove the cattle from the prohibited zone within the

specified time when an order to this effect has been made.

Keeping ferocious dogs or other animals in residential areas or taking such animals to public places or the areas specified by the Local Council, without leash or chain and without being muzzled or to set at large any animal or dog infected with rabies or any other infectious disease.

Rs. 10,000

Obstructing or tampering with any road, street, drain or pavement. Obstructing or tampering with any main pipe, meter or any apparatus or appliance for the supply of water or sewerage system.

Without the previous sanction of the Local Council:

“1. laying out a drain or , altering any drain in a street or road;

RS.5,000

Rs.5,000

2. connecting any house drain with a drain in a ° public street; and

3. drawing off, diverting or taking any water except with the permission

required under the Act.

Without prior permission of the Local Council, excavation of earth, stone or any other material within such distance of the residential

Rs.5,000

area as specified by the Local Council. ,

Burying or burning a dead body at a place which is not a public or registered burial or burning place, , except with the sanction of the Local Council.

Failure to furnish, on requisition, information in respect of any matter which a Local Council is authorized to call for under any of the provisions of the Act, rules or bye-laws or furnishing wrong information.

Rs.5,000 |

Rs.5,000

Obstructing lawful seizure of animals liable to be impounded on the ground of violations of rules or by-laws governing the picketing, tethering, keeping, milching or slaughter of animals or their trespass of private or public property.

Rs.5,000

Picketing, parking animals or collecting carts or vehicles on any street, using any street as a halting place for vehicle or animals or as a place encampment without the permission of the Local Council.

Rs. 1,000

Causing or permitting animals to stray or keeping, tethering, Stalling, feeding or gazing any cattle on any. road, street or thoroughfare or in any public

Rs. 1,000

place or damaging or causing or permitting to be damaged any road, street or thoroughfare by allowing cattle to move thereon.

Disposal of carcasses of animals within prohibited distance.

Failure to dispose of offal, fat or any organ or part of a dead animal in a place set apart for the purpose by the Local Council.

Rs.3,000

Rs. 1,000

Rs. 1,000

Rs.2,000

Rs.2,000

17/21

Throwing or placing any refuse, litter or garbage on any street, or in any place, not provided or appointed for the purpose by a Local Council.

Failure to provide for disposal of litter or garbage inside or outside a shop by its owner or occupier.

Failure to maintain clean premises of the area in front of a shop, office or factory up to the public street or road serving this facility.

Watering cattle or animals, or bathing or washing at or near a well or other 'source of drinking water for the public.

Steeping hemp, jute or any other plant in or near a pond or any other excavation: within such distance of the residential area as may be specified by a _ Local Council.

24. Failure to provide, close, remove,

Rs.5,000 in case of

lands of the plastic bags and other
non-perishable materials.

alter, repair, clean, disinfect or put industrial

in proper order any latrine, urinal concerns,
drain, cesspool or other receptacle | Rs.3,000 in case of
for filth, sullage, water or refuse commercial

by an owner or occupier of a concerns and
house, shop, office, industry or Rs.2,000 for
premises. others.

Failure to clean the premises,

houses, shops and_ cultivated Rs. 1,000

Damaging or polluting physical
environment, inside or outside
private or public, in a manner to
endanger public health.

Failure by the owner or occupier of
any land to cut or trim the hedges
growing thereon which overhang
any well, tank or other source
from which water is derived for
public use.

Rs.4,000 for public
premises and
Rs.1,000 for

private premises

Failure by the owner or occupier of
'any land or building to clean,
repair, cover, fill up or drain off
'any private well, tank or other
source of water supply, which is
'declared under the Act to be
injurious to health or offensive to
the neighborhood.

—+

Rs.2,000

Failure to stop leakages of water |

Rs.2,000

pipes, faucets and sanitary fittings
resulting in dirty water pools
affecting physical environments
and breeding of mosquitoes.

Failure of an owner or occupier of
any building or land to put up and
keep in good condition troughs
and pipes for receiving or carrying
water or sullage water.

Defacing or disturbing, without
due authorization, any direction-
post, lamp post or lamp
extinguishing or any light
arranged by a Local Council.

Fixing any bill, notice, play card,
poster or other paper or means of
advertisement against or upon any
private or public building or place
other than the places fixed for the
purpose by a Local Council.

Rs. 10,000

Exhibiting any obscene
advertisement.

Rs.20,000

Loud playing of music or radio,
beating of drum or tom-tom,
blowing a horn or beating or
sounding any brass or other
instruments or utensils in
contravention of any general or
special. prohibition issued by a
Local Council or in and around a
hospital or an_ educational

Rs.5,000

institution.

Loud shouting in abusive language causing distress to the inhabitants of a neighborhood or Village or any other public place.

Using or allowing the use for human habitation of a building declared by a Local Council to be unfit for human habitation.

Failure to lime-wash or repair a building, if so required by Local Council.

Begging importunately for alms by exposing any deformity or disease or any offensive sore or wound to solicit charity.

Causing or permitting to be caused by any owner or keeper of an animal which, through neglect or otherwise, damages any land or crop or produce of land, or any public road.

Selling cattle and animals in contravention of any law, rule or by-laws of a Local Council.

Digging of public land without the permission in writing of Local Council.

Contravention of any prohibition or direction of the Local Council

Same as for the

Attempt or abetment of any of the

offence specified in
the Schedule

offence in this Schedule

-Sd-

(Kh. Hashim Shaheen)
Section Officer (Legislation)

No. 201-300 /P&S/2024 Dated: 08.01.2024

Printed and Published by Controller Printing Press,
Azad Government of the State of Jammu & Kashmir,
Muzaffarabad.

21/21