

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/1-13/2016. The following Act of Assembly received the assent of the President on the 9th day of February 2016, is hereby published for general information.

(ACT I OF 2016)

AN

ACT

further to amend the Chief Election Commissioner (Terms and Conditions) Act, 1992

WHEREAS it is expedient further to amend the Chief Election Commissioner (Terms and Conditions) Act, 1992 (Act II of 1992), in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, Extent and Commencement.- (1) This Act may be called the Chief Election Commissioner (Terms and Conditions) (Amendment) Act, 2016.

(2) It shall come into force at once.

2. Amendment of Section 2, Act II of 1992.- In the Chief Election Commissioner (Terms and Conditions) Act, 1992 (Act II of 1992) hereinafter referred to as the said Act, in Section 2, following amendments shall be made:-

(i) The existing clause (a) shall be renumbered as clause (aa) and before the clause (aa) as renumbered, a new clause (a) shall be added as under:-

“(a) “Act” means the Chief Election Commissioner (Terms and Conditions) Act, 1992.”

(ii) After clause (aa), following new clause shall be added,-

“(aaa) “Chief Justice” means Chief Justice of Azad Jammu and Kashmir.”

(iii) After existing clause (b), following new clauses (bb) shall be added,-

“(bb) “Council” means Azad Jammu and Kashmir council;”

Amendment of Section 3, Act II of 1992.-In the said Act, in

Section 3,-

(i)

(ai)

(iii)

the subsection (1) shall be substituted as under:-

“(1) There shall be Chief Election Commissioner of Azad Jammu and Kashmir to be appointed by the President on advice of the Council”.

Subsection (3), shall be substituted as under:-

“(3) No person shall be appointed as Chief Election Commissioner unless he has been Judge of Supreme Court or High Court.”

After subsection (3), as substituted above, following new subsection (4) shall be added:-

“(4) — The Chief Election Commissioner shall exercise powers and perform such functions as may be prescribed by law.”

Amendment of Section 5, Act II of 1992.-In the said Act, in Section 5,-

(i)

(ai)

In subsection (1), for the word “five”, the word “three” shall be substituted.

Existing sub-section (2), shall be substituted as under:-

“(2) | The Chief Election Commissioner shall not be removed from office except in the manner provided in Section 42-E of the Constitution for the removal of office of a Judge of High Court or a Judge of Supreme Court, as the case may be, and in the application of the said Section, for the purposes of this Section, any reference in that Section, to a Judge shall be construed as a reference to the Chief Election Commissioner.”

Amendment of Section 6, Act II of 1992.- In the said Act, the existing Section 6, shall be substituted as under:-

“6.

Chief Election Commissioner not to hold office of profit.- (1) The Chief Election Commissioner shall not,-

(a) hold any office of profit in the service of Azad Jammu and Kashmir; or

(b) occupy any other position carrying the right to remuneration for the rendering of services.

(2) A person who has held office as Chief Election Commissioner shall not hold any office of profit in the service of Azad Jammu and Kashmir before the expiration of two years after he has ceased to hold that office.”

Addition of New Sections 6-A to 6-D, Act II of 1992.- In the said Act, after Section 6, as substituted above, following new Sections shall be added namely.-

“6-A. Oath of Office.- Before entering upon office, the Chief Election Commissioner shall make, before the Chief Justice, oath in the form set out in the Schedule to the Act.

6-B. Rules.- The Government may by notification in the official gazette make rules, if required, for the carrying out the purposes of the Act.

6-C. Act to override other laws.- The provisions of the Act shall have effect notwithstanding anything contained in any other law for the time being in force.

6-D. Removal of difficulties- If any difficulty arises in giving effect to any provision of the Act, the Government may make such orders, not inconsistent with the provisions of the Act, as may appear to it to be necessary for the purpose of removing the difficulty.”

Addition of Schedule to Act II of 1992.- In the said Act, at the end, following Schedule shall be added as under:-

“Schedule

(See Section 6-A)

In the name of Allah the most Beneficent the most Merciful

1, ,
do solemnly swear that as Chief Election Commissioner, I will discharge my duties and perform my functions Honestly, to the best of my ability, faithfully in accordance with the Azad Jammu and Kashmir Interim Constitution Act, 1974 and the Law and without fear or favour, affection or ill-will and that I will not allow my personal interest to influence my official conduct or my decisions.

May Allah Almighty help and guide me (Ameen).”

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Repeal.- The Chief Elections Commissioner (Terms and Conditions) (Amendment) Ordinance, 2015 (Ordinance XIX of 2015) is hereby repealed.

Sd/-

(Ch. Muhammad Nawaz)

Section Officer (Legislation)