

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

Dated the 21st June, 1997.

No. 260-273/LD/Leg/97. The following Act of the Assembly received the assent of the President on 20th June, 1997 is hereby published for general information:-

(ACT VI OF 1997)

AN
ACT

to eradicate corruption and corrupt practices from public offices
WHEREAS it is expedient to provide for eradication of corruption and corrupt practices from the public offices and to provide effective measures for prosecution and speedy disposal of cases involving corruption and corrupt practices and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

1. Short title, application and commencement.- (1) This Act shall

be called the Ehtesab Act, 1997.

(2) It shall apply to the holders of public offices since the 31st

day of December, 1985.

(3) It shall come into force at once.

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

(a) "Accused" shall include a person in respect of whom information under sub-section (2) of Section 17 shall be deemed to have been recorded;

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

(c) "Court" means a Bench of one or more judges of the High Court or Shariat Court nominated by the Chief Justice of High Court or Shariat Court;

(d) "Council" means the Azad Jammu and Kashmir Council;

(e) "Chief Ehtesab Commissioner" means the Chief Ehtesab Commissioner appointed under Section 13 and includes the person for the time being acting as Chief Ehtesab

Commissioner;

(f) "Ehtesab Cell" means a cell set up by the Government for

the purpose of investigation and enquiry of offence under this Act;

(g) "Director General" Director General shall means Director General of Ehtesab Cell.

(h) "Freezing" includes attachment, sealing, prohibition,

transfer, conversion, disposal, holding, controlling or managing any property, either through a receiver or

0)

otherwise and in the case of property being livestock or perishable goods, disposal thereof;

“Government” means the Azad Government of the State of Jammu and Kashmir;

“Holder of public offices” means a person who-

TO

(ii)

(iii)

has been the President, Prime Minister, Minister or Adviser;

is or has held an office or Post of Special Assistant or Consultant to the Prime Minister, Speaker, Deputy Speaker, Parliamentary Secretary, Member of the Legislative Assembly or of the Council, Advocate General including Additional or Assistant Advocate General, Public Prosecutors, Additional Public Prosecutors, Chairman of Development Authorities, Mayor or Deputy Mayor of a Municipal Corporation, Chairman or Vice Chairman of District Council or Municipal Committee, Zakat Council, Political Secretary or holder of Post or office with rank or status of a Minister;”]

is or has held an office or post in the service of Azad Jammu and Kashmir or any service in connection with the affairs of the Azad Jammu and Kashmir or Development Authorities, autonomous

' Subs. by the Ehtesab (Amdt.) Act, 1998 (Act VII of 1998) dt. 20.11.1998. The original extract of sub-clause (i) and (ii) of cl. (j) Sec. 2 are reproduced as under;-

“(i) the President;
has been, the Prime Minister, Minister, Advisor to the Prime Minister/President/Council, Special Assistants or Consultants to the Prime Minister, Speaker, Deputy Speaker, Parliamentary Secretary, Member of the Legislative Assembly or of the Council, Advocate General including Additional/Assistant Advocate General, Public prosecutors and Additional Public prosecutors, Chairman of Development Authorities, Chairman District Councils, Chairman Zakat Council, Political Secretary or holder of a post or office with rank or status of a Minister;
Explanation.--For the purpose of this sub-clause, the expressions Chairman shall also include a Mayor or Deputy Mayor of a Municipal Corporation and Chairman or Vice-Chairman of District Councils and Municipal Committees.”

(i)

(k)

0)

(m)

()

bodies or semi autonomous bodies or corporations, banks, financial institutions, firms, Kashmir Libration Cell, concerns, undertakings, or any other institution or organization established, controlled or administered by or under the Government, other than an officer who is a member of Armed Forces, or for the time being is subject to any law relating to any of those forces except an officer of armed forces, who is holding or has held an equivalent post or office in any public corporation, bank, financial institution, undertaking or other organization established, controlled or administered by or under the Government;

“Offence” means the offence of corruption and corrupt

practices punishable under this Act or under any of the

laws mentioned in the Schedule;

“Property” includes any or all movable and immovable

properties, situated within or outside the Azad Jammu and

Kashmir;

“Schedule Offences” means offences specified in the

Schedule.

“Supreme Court” means the Supreme Court of Azad

Jammu and Kashmir.

Corruption and corrupt practices.-(1) A holder of public office

or any other person is said to commit the offence of corruption and corrupt practices:-

(a)

(b)

if he accepts or obtains from any person any gratification other than legal remuneration as a motive or rewards such as is specified in Section 161 of the Azad Penal Code (Act XLV of 1860), or for doing or for bearing to do any

official act or for showing or for bearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, misuse of power and office, favoritism, nepotism etc; damaging the public property and causing loss to public exchequer;

if he accepts or obtains any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his official functions, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use for the use of any other person any property entrusted to him or under his control as a holder of public office or willfully allows any other person so to do; or

(d) if he by corrupt, dishonest, improper or illegal means obtains or seeks for himself or for any other person any property, valuable thing, pecuniary advantage or undue favor; or

(e) if he or any of his dependents or benamidars are in possession of any movable or immovable property or pecuniary resources, disproportionate to his known sources of income which he cannot reasonably account for;

Explanation:- For the purposes of this Section reference to property acquired by improper means shall be construed as a reference to property acquired by means which are contrary to law, rule, usage or instruction having the force of law or by abuse of official position or by coercion, undue influence, fraud or misrepresentation within the meaning of the Contract Act, 1872 (IX of 1872).

(2) All offences under this Act shall be non bailable and

notwithstanding anything contained in Section 497, 498 and 561-A

or any other provision of the Code or any other law for the time

being in force, no Court other than the Court constituted under this act shall have jurisdiction to grant bail.

1") A holder of public office accused of an offence under this

Act shall not be released on bail by the Court if there appear

reasonable grounds for believing that he has been guilty of such an

offence."

(4) Where a holder of public office accused of an offence under this Act is released on bail, the amount of bail shall be fixed having regard to the gravity of the charge against such person and where the charge specifies any amount in respect of which the offence is alleged to have been committed, shall not be less than

' Subs. by Ibid. The original extract of subsection (3) of Sec. 3 is reproduced as under:-

“(3) A holder of public office accused of an offence under this Act shall not be released on bail by the Court if there appear reasonable grounds for believing that he has been guilty for such an offence, nor shall an accused person be so released unless the Chief Ehtesab Commissioner has been given notice of the bail application.”

twice the said amount:

Provide that the Court may direct that the amount be deposited in Court.

(5) No Court shall release an accused person on bail unless the Chief Ehtesab Commissioner and the Special Prosecutor have been given notice of the bail application and been given an opportunity of being heard.

Punishment for corruption and corrupt practices.-(1) A person who commits the offence of corruption and corrupt practices shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both and such of the moveable or immovable property of such person whether in his name or in the name of his dependent or benamidar obtained through such offence during the tenure of his office, shall be liable to be forfeited to the Government:

Provided that, where any person is convicted for an offence under clause (e) of Section 3, the property including bank deposits, found to be disproportionate to the known sources of his income shall be forfeited to the Government.

(2) A person giving illegal gratification or abetting, assisting or aiding a holder of public office or a beneficiary of any asset, property or gain through corruption or corrupt practices shall be within the meaning of this Section and shall be liable to same punishment as is awarded to a holder of public office.

Imposition of fine.-Where a person found guilty of an offence is sentenced to fine, notwithstanding anything contained in any other law and irrespective of whether or not a sentence of imprisonment is imposed, the amount of fine shall in no case be less than the gain derived by the accused:

Provided that accused shall remain in custody till the payment of the fine.

Power of the Court to freeze property.-(1) The Court trying a holder of public office for an offence under this Act may, at any time, if there appear reasonable grounds for believing that the accused has committed such offence, order the freezing of his property, movable or immovable, or both, whether in his possession or in the possession of any person on his behalf.

(2) If the property ordered to be frozen under sub-section (1) is a debt or other movable property, the freezing may be made:-

(a) by seizure; or

(b) by appointment of a receiver; or

(c) by prohibiting the delivery of such property to the

accused or to anyone on his behalf; or

(d) by all or any of such methods as the Court may think fit.

(3) If the property ordered to be frozen is immovable, the freezing shall in the case of land paying revenue, be made through the Collector of the District in which the land is situate, and in all other cases:-

(a) by taking possession; or

(b) by appointment of a receiver; or

(c) by prohibiting the payment of rent or delivery of

property to the accused or to anyone on his behalf;

or

(d) by all or any of such methods as the Court may deem fit.

(4) If the property ordered to be frozen consists of livestock or

is of perishable nature, the Court may, if it thinks expedient, order immediate sale thereof and in such case the proceeds of the sale may be invested in such Government securities or Government sponsored saving schemes as the Court may direct.

(5) The powers, duties and liabilities of a receiver appointed under this Section shall be the same those of a receiver appointed under Order XL of the Code of Civil Procedure, 1908 (Act V of 1908).

Claim or objection against freezing.-(1) All claims or objections against the freezing of any property under Section 6 shall be made within thirty days from the date of the order of freezing such property:

Provided that, where a person satisfies the Court that he had sufficient cause for not making the claim or objection within such period, the Court may admit such claim or objection, as the case may be after that period;

Provided further that any claim or objection made within the period allowed under this sub-section may, in the event of the death of a claimant or objector, be continued by his legal representatives.

(2) The Court may, after such enquiry as it may deem fit, allow or disallow any claim or objection in whole or in part.

(3) Where the Court allows any claim or objection in whole or

in part, it shall make an order releasing the property or any part thereof, as the case may be from freezing.

Presumption against _holder_ of public office accepting illegal gratification.-(1) Where in any trial of an offence punishable under sections 161 to 165 of the Azad Penal Code (Act XLV of 1860), it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person any gratification, other than legal remuneration, or any valuable thing or any pecuniary advantage from a person or

any agent of a person, for any favour shown or promised to be

10.

shown by the accused, it shall be presumed, unless the contrary is proved, that he accepted or obtained, or agreed to accept or attempted to obtain that gratification or that valuable thing or pecuniary advantage for himself or some other person, as the case may be as a motive or reward such as is specified in Sections 161 to 163 of the said Code, or, as the case may be, without consideration which he believed to be inadequate.

(2) Where in any trial of an offence punishable under Section 165-A of the Azad Penal Code (Act XLV of 1860), it is proved that any gratification other than legal remuneration or any valuable thing has been given or offered to be given or attempted to be given by any accused person it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to be given by any accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be as motive or reward such as is specified in Sections 161 to 163 of the said Code, or as the case may be, without consideration or for a consideration, which he believed to be inadequate.

(3) In any trial of an offence punishable under this Act, the fact that the accused person or any other person on his behalf is in possession for which the accused person cannot satisfactorily account, of property or pecuniary resources disproportionate to his known sources or income, or that such person has, on or about the time of the commission of the offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, the Court shall presume, unless the contrary is proved that the accused person is guilty of the offence of corruption and corrupt practices and his conviction therefore shall not be invalid by reason only that it is based solely on such presumption.

Disqualification to Contest Election.-Where a holder of a Public Office is convicted for the offence of corruption and corrupt practices and sentenced to a term of imprisonment for a term of not less than two years, he shall stand disqualified from being elected or chosen as and from being a member of the Legislative Assembly or the Council, as the case may be, for a period of five years reckoned from the date when he is released.

Offences to be exclusively triable by the Court.-(1) Subject to the provisions of sub-section (2) and notwithstanding anything contained in any other law for the time being in force, an offence alleged to have been committed by the holder of a public office as defined in Section 2 clause (j) and punishable under this Act shall exclusively be triable by a bench of the High Court or Shariat Court defined in clause (c) of Section 2 and the case shall be heard

11.

12.

13.

day to day and disposed of within 60 days;

Provided that the Court may, in case of extraordinary circumstances, for the reason to be recorded, extend the said period for further 30 days.

Provided that where the delay in the trial is occasioned by any act or omission of the accused or any other person acting on his behalf, the Court may direct that the accused shall cease to perform the functions of his office either on the conclusion of the trial or for such period as the Court may direct.

(2) Where more than one benches have been constituted in High Court or Shariat Court, the cases referred to the High Court or Shariat Court shall be assigned to various benches by the Chief Justice of the High Court or Shariat Court.

Disciplinary action may continue.- Where the holder of public office is a person specified in sub-clause (iti) of clause (j) of Section 2, nothing shall be deemed to prevent the Government from taking disciplinary action.

Provisions _of the Code _to apply, etc.-(1) Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act the Code of Criminal Procedure, 1898 (Act V of 1898), shall, mutatis mutandis, apply to the proceedings under this Act.

'Txxx]

*[(2)] Notwithstanding anything contained in sub-section (1) 3[xxx] or in any law for the time being in force, the Court may, for reasons to be recorded, dispense with any provision of the Code and follow such procedure as it may deem fit in the circumstances of the case.

Chief Ehtesab Commissioner.-(1) There shall be a Chief Ehtesab Commissioner to be appointed for a term of three years by the President after consultation with the Prime Minister, Leader of Opposition and the Chief Justice of Azad Jammu & Kashmir, for the purposes of inquiries, investigation and prosecution into allegations of corruption and corrupt practices under this Act: Provided that the Chief Ehtesab Commissioner already appointed shall be deemed to have been appointed under this Act.

' Omitted by Ibid. The original extract of subsection (2) of Sec. 12 is reproduced as under:-

“(2) Subject to sub-section (1) the provisions of Chapter XXII-A of

the Code shall apply to trial under this Act.”

2 Subsection (3) re-numbered as subsection (2) Ibid.

3 The words and figures “or subsection (2)” omitted by Ibid.

14,

15.

16.

(2) The Chief Ehtesab Commissioner shall be a person who is, or has been, or is qualified to be a Judge of the Supreme Court of Azad Jammu and Kashmir and shall not be eligible for any extension of tenure or for reappointment.

(3) The Chief Ehtesab Commissioner shall not hold any office or profit in the service of Azad Jammu and Kashmir before the expiration of two years after he has ceased to hold that office, nor he shall be eligible during the tenure of office for a period of two years thereafter for election as a member of Legislative Assembly or any Local body or to take part in any political activity.

(4) The Chief Ehtesab Commissioner may resign from his office by writing under his hand addressed to the President.

(5) The Chief Ehtesab Commissioner shall be entitled to the same salary and privileges as of a Judge of the Supreme Court of Azad Kashmir.

(6) The Chief Ehtesab Commissioner may be removed from his office on the ground of misconduct or being incapable of performing the duties of his office in the manner specified under Section 42-E of the Interim Constitution Act, 1974.

(7) Nothing in sub-section (2) and (3) shall apply to a person appointed as the Chief Ehtesab Commissioner from amongst the sitting Judges of the Supreme Court.

Acting Chief Ehtesab Commissioner.-(1) At any time when the Chief Ehtesab Commissioner is absent or unable to perform the functions of his office due to any other cause the Government shall, after consultation with the Chief Justice Azad Jammu and Kashmir appoint a person who is or has been, or is qualified to be a Judge of the Supreme Court or High Court to act as Chief Ehtesab Commissioner.

(2) When the office of Chief Ehtesab Commissioner falls vacant due to death, resignation or any other cause, the Acting Chief Ehtesab Commissioner shall perform the functions of Chief Ehtesab Commissioner till a new Chief Ehtesab Commissioner is appointed.

Director General.-Director General shall be appointed by the Government with the consultation of the Chief Ehtesab Commissioner and his terms and conditions shall be determined by the Government.

Cognizance_of offences, etc.-(1) The Court shall not take cognizance except on a reference made by the Chief Ehtesab Commissioner.

(2) A reference under this Act shall be initiated by the Chief Ehtesab Commissioner on-

i) a reference received from any officer duly authorized by the Government; or

- ii) receipt of a complaint; or
- iii) his own accord.

(3) Where the Chief Ehtesab Commissioner is of the opinion that it may be necessary to initiate proceedings on a reference, complaint or on his own accord, as the case may be, he shall refer the matter to the Ehtesab Cell for enquiry and investigation.

'“(4) The responsibility for enquiring into or investigating an offence alleged to have been committed under this Act shall rest upon the Ehtesab Cell under the supervision of Chief Ehtesab Commissioner and the said Cell shall be required to examine all material, evidence and proof, and for this purpose may cause the attendance of any person:

Provided that the Ehtesab Commission or Ehtesab Cell may require the assistance of any agency, Police Officer, other official or any other person if it so deems fit.”]

(5) The Ehtesab Cell shall complete the enquiry and investigation under this Act within one month or as soon thereafter, as may be feasible.

(6) On the completion of the enquiry and investigation indicating that matter may require a reference to the Court it shall be the duty of the Ehtesab Cell to communicate to the Chief Commissioner its appraisal of the material and evidence in the form of a reference to him.

(7) In the event that the Chief Ehtesab Commissioner is of the opinion that a complaint received by him is patently mala fide, or has been filed with the intent to malign or defame the holder of a public office, he may refer the matter to the Court and if the complainant is found guilty he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

17. Effect_of reference, etc.-(1) Where a reference is made to the Chief Ehtesab Commissioner under sub-section (6) of Section 16

' Subs. by Ibid. The original extract of subsection (4) of Sec. 16 is reproduced as under:-

“(4) The responsibility for enquiring into or investigating an offence alleged to have been committed under this Act shall rest on the Ehtesab Cell, to the exclusion of any other agency or authority, and the said Cell shall be required to examine all material, evidence and proof and for this purpose may cause the attendance of any person:

Provided that the Ehtesab Cell may require the assistance of any agency, police officer or other official, if it so deems fit.”

18.

19.

such a reference shall be deemed to be an information recorded under Section 154 of the Code:

Provided that where Chief Ehtesab Commissioner is of the opinion that a prima facie case is not made out against the accused, he may reject the reference or, as the case may be and record his reasons for such rejection and Ehtesab Cell may again refer the case after removing the objections.

(2) Where the Chief Ehtesab Commissioner is satisfied that a prima facie case is made out against the accused he shall have the power to direct that the accused shall be arrested and the case be referred to the Court for trial in accordance with law. The direction given by the Chief Ehtesab Commissioner shall contain the substance of the act of corruption and corrupt practices alleged to have been committed by the accused and a copy of such direction shall be forwarded to the Registrar of the Court having jurisdiction to try the accused and another copy shall be given to the accused on demand.

(3) Where the holder of public office or any other person accused of an offence under this Act is arrested under the orders of the Chief Ehtesab Commissioner, and is produced before a Judicial Magistrate for police custody under Section 167 of the Code, such Magistrate may authorize his detention in such custody for a term not exceeding fourteen days as whole but he shall not be authorized to release him.

Voluntary return, etc.-Where before the commencement of the trial or at any time thereafter with the leave of the Court, the holder of a public office or any other person accused of an offence under this Act voluntarily returns to the Chief Ehtesab Commissioner, the property, assets or gains acquired through corruption or corrupt practices and discloses the full particular relating thereto the Court may not proceed with the trial subject to such conditions as to fine or penalty, if any, as may be imposed by the Court and on condition that he resigns from office.

Tender of Pardon to accomplice.-(1) Notwithstanding anything contained in the Code, in the case of an offence punishable under this Act, at any stage of investigation or inquiry, '[the] Chief Ehtesab Commissioner may, with the approval of the Government with a view to obtain the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a full or conditional pardon to such a person on condition of his making a full and true disclosure of the whole of the

' In subsection (1) of Sec. 19 for the word "with" occurring before the words "Chief Ehtesab Commissioner" the word "the" subs. by Ibid.

circumstances within his knowledge relating to the said offence including the names of the persons involved therein whether as principals or abettors or otherwise.

(2) Every person accepting a tender of pardon under sub-section (1) shall be examined by the Chief Ehtesab Commissioner and shall also be examined as a witness in the subsequent trial.

(3) Subject to sub-section (4), the person to whom pardon has

been granted under this Section shall not:-

(a) in the case of a full pardon be tried for the offence in respect of which the pardon was granted; and

(b) in the case of a conditional pardon be awarded a

punishment or penalty, higher or other than that specified

in the grant of pardon notwithstanding the punishment or

penalty authorised by law.

(4) Where the Chief Ehtesab Commissioner certifies that in his opinion any person who has accepted such tender has either willfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such a person may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the said matter including the offence of giving false evidence.

(5) Any statement made before the Chief Ehtesab Commissioner or the Court by a person who has accepted a tender of pardon may be given in evidence against him at such trial.

20. Accused may be arrested in certain cases, etc.-(1) Where a reference is made to the Chief Ehtesab Commissioner under clause (i) of sub-section (2) of Section 16, such reference shall be deemed to be an information recorded under Section 154 of the Code.

(2) Where the Chief Ehtesab Commissioner initiates proceedings either on the receipt of a complaint or on his own accord, and from the information received has reason to suspect the commission of an offence under this Act, he may direct that such information shall be treated as information recorded under Section 154 of the Code.

'1“(3) A holder of Public Office accused of an offence under this Act may be arrested, on the direction of Director General with the prior approval of the Chief Ehtesab Commissioner.”]

' Subs. by Ibid. The original extract of subsection (3) of Sec. 20 is reproduced as under:-

“(3) A holder of public office accused of an offence under this Act shall not be arrested unless so directed by the Chief Ehtesab Commissioner

in writing.”

21.

22.

23.

24.

(4) Where a holder of public office accused of any offence under this Act is produced before a Judicial Magistrate for police custody under Section 167 of the Code, such Magistrate may authorize the detention of such holder of public office in such custody for a term not exceeding fourteen days in the whole.
Special Prosecutor.-The Chief Ehtesab Commissioner may, in consultation with the Law, Justice and Parliamentary Affairs Department, Azad Jammu & Kashmir, appoint Special Prosecutors for conducting prosecution of cases under this Act and determine their terms and conditions.

Powers of the Chief Ehtesab Commissioner to seek assistance.-

(1) The Chief Ehtesab Commissioner shall have the power to seek assistance and call for documents and information relevant to any proceedings pending before it under this Act, from any department of the Government, local authority, bank or any other person or authority and it shall be the duty of such department, local authority, bank, person or authority to render such assistance or furnish such document or information as he may require.

(2) Any document or information called for under sub-section

(1) shall only be used for the purpose of this Act and shall not be made available to any other person.

Appointment_of members of staff_and_ officers for the Chief

Ehtesab Commissioner.-(1) The member of the staff and officers

of the Chief Ehtesab Commissioner shall be appointed by the

Government through Law, Justice and Parliamentary Affairs

Department in concurrence with the Chief Ehtesab Commissioner.

(2) The members of the staff and officers of Chief Ehtesab

Commissioner shall be entitled to such salary, allowances and

other terms and conditions of service as may be determined by the

Government having regard to the salary, allowances and other

terms and conditions of service that may, for the time being, are

admissible to other employees of the Government in the corresponding pay scales.

Power to punish for contempt.-The Chief Ehtesab Commissioner

shall have the same powers, mutatis mutandis, as the Supreme

Court has to punish any person for its contempt who:-

(a) abuses, interferes with, impedes, imperils, or obstructs the process of the Chief Ehtesab Commissioner in any way or disobeys any order of the Chief Ehtesab Commissioner;

(b) scandalises the Chief Ehtesab Commissioner or otherwise does anything which tends to bring the Chief Ehtesab Commissioner, his staff or nominees or any person authorized by the Chief Ehtesab Commissioner in relation to his officer, into hatred, ridicule or contempt.

(c) does anything which tends to prejudice the determination

25.

26.

27.

of a matter pending before the Chief Ehtesab commissioner;

(d) does any other thing which by any other law, constitutes contempt of Court:

Provided that fair comments made in good faith and in public interest on the working of the Chief Ehtesab Commissioner or any of his staff, or on the report of the Chief Ehtesab Commissioner after the completion of the investigation shall not constitute contempt of the Chief Ehtesab Commissioner or his office.

(2) Any person sentenced under sub-section (1) may, within thirty days of the passing of the order, appeal to the Supreme Court.

Accused to be a competent witness.-(1) Any person charged with an offence punishable under this Act shall be a competent witness for the defense and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that the accused shall not be compelled to be a witness against himself:

Provided further that where an accused appears as a witness on his own choice and refuses to answer any question, the Court may draw such adverse inference from such refusal as it may think fit.

(2) The provisions of Qanun-e-Shahadat Order, 1984, as adopted in AJ&K shall apply, as far as practicable, in the proceedings under this Act.

Complainant to be rewarded etc.-Where as a result of a complaint made by a private individual against holder of a public office under clause (ii) of sub-section (2) of Section 16, such holder of public office is convicted by the Court and his conviction is maintained in appeal, the complainant may be entitled to such reward as may be determined by the Court, or as the case may be, the Supreme Court;

Provided that where such complaint proves to be false, mala fide, or is made for any ulterior motive or to provide financial or any other benefit to another person, the complainant shall be punishable with imprisonment for a term which may extend to three years or with fine, or with both.

Cognizance of false evidence, etc.--(1) Notwithstanding anything contained in the preceding provisions, or any other law already in force, on pronouncement of the judgment the court shall have jurisdiction and power to take cognizance of an offence committed in the course of the investigation or trial of a case tried under this Act, by a police officer, a witness, including an expert, who has tendered false opinion in a case relating to a matter covered by his

28.

29.

30.

31.

32.

specialty whether he deposed in court or not, or any other person, under Sections 176 to 182 of Chapter X, or Sections 191 to 204, or 211 to 223, or 225-A of Chapter XI, of the Azad Penal Code (Act XLV of 1860) or under any other law relating to false evidence and offences against public justice, and to summarily try him and award punishment provided for the offence under the law.

(2) For the purpose of trial under sub-section (1), the Court may, as nearly as may be, follow the procedure specified in Chapter XXII of the Code.

(3) The Proceedings under sub-section (1) may be initiated by the Court on its own accord after the decision of the appeal, if any, or on an application made by the special prosecutor or the person accused of an offence tried by the court, within thirty days from the order in appeal:

Provided that the time requisite for obtaining the copy of the order of the appellate court shall be excluded.

Appeal.-(1) Any person sentenced by the Court under this Act, may within 30 days of the decision, prefer an appeal to the Supreme Court;

Provided that the Court shall supply copies of its final decision to the convict free of costs.

(2) In case of acquittal or dismissal of reference the Government may, prefer an appeal within 30 days to the Supreme Court.

Act to override other laws.-(1) The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

(2) No sanction for prosecution or investigation by any officer required under any other law is needed in respect of the offences to be tried under this Act.

Protection __ against _ Retrospective _ Punishment.-Nothing contained herein shall authorize the punishment of a person for an offence by a penalty greater than, or of a kind different from the penalty prescribed by Law for that offence at the time the offence, was committed and the Court while imposing a penalty, may, if necessary, modify it to such extent as may be necessary.

Rules.-The Government may, on recommendation of the Chief Ehtesab Commissioner make rules for carrying out the purposes of this Act.

Repeal.-The Ehtesab Ordinance, 1997 (Ordinance X of 1997), the Ehtesab (Amendment) Ordinance, 1997 (Ordinance XXII of 1997) and the Ehtesab Ordinance, 1997 (Ordinance XXVI of 1997) are hereby repealed.

THE SCHEDULE

SECTION 2 '[CLAUSE (m)]

Offences punishable under Sections 403, 404, 406 to 409, 417 to 420, 423, 465 to 468, 471 to 477-A of Azad Penal Code (XLV of 1860) and as attempts, abetments and conspiracies in relation thereto or connected therewith.

Offences punishable under Official Secret Act, 1923 (XIX of 1923).

Offences Punishable under the Forest Regulations, 1930 (II of 1930).

Offences punishable under the Official Misdemeanor Act, 1948.

Offences punishable under the Prevention of Corruption Act, 1950.

Offences punishable under the Public Offices (Misconduct) Ordinance, 1965 (X of 1965).

Offences punishable under Mirpur Development Authority Ordinance, 1974 (Ordinance IV of 1974).

Offences punishable under the Muzaffarabad Development Authority Act, 1989 (Act II of 1989).

Offences punishable under the Local Government Act, 1990.

Offences punishable under the Kotli Development Authority Act, 1992 (Act XIX of 1992).

Offences punishable under the Pearl Development Authority Act, 1993 (Act XIV of 1993).

Offences punishable under the Bagh Development Authority Act, 1995.

Offence punishable under the Criminal Law (Amendment) Act, 1956.

Offences punishable under the Anti-Corruption Establishment Act, 1993"]

Sd/-(Iftikhar Hussain Butt)
Secretary

Law, Justice and Parliamentary

Affairs Department.

' At the face of schedule for "cl. (i)" the words "cl. (m)" subs. by Ibid.

2 Added by Ibid.