

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

Dated the 29th June, 1992.

No. 695-99/LD/Leg/92. The following Act of the Assembly received the assent of the President on the 24th June, 1992 is hereby published for general information:-

(Act XIII of 1992)

AN

ACT

to amend the Zakat and Ushr Act, 1985;

WHEREAS it is expedient to amend the Zakat and Ushr Act, 1985 (Act XIX of 1985), for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and Commencement.- (1) This Act may be called the Zakat and Ushr (Amendment) Act, 1992.

(2) It shall come into force at once.

2. Amendment of Preamble, Act XIX of 1985.- In the Zakat and

Ushr Act, 1985 (XIX of 1985), hereinafter referred to as the said Act, in the preamble, after paragraph 3, the following new paragraph shall be inserted:-

“AND WHEREAS the Azad Jammu and Kashmir Interim Constitution Act, 1974 lays down that Islam shall be the State Religion of Azad Jammu and Kashmir;”

3. Amendment of Section 1, Act XIX of 1985.- In the said Act, in Section 1, in sub-section (2)-,

(a) between the words “State Subject of Azad Jammu and Kashmir” and the words “and a Company” the words “or a person carrying on any business or trade in Azad Jammu and Kashmir” shall be inserted and shall be deemed always to have been so inserted; and

(b) after sub-section (2) as amended aforesaid the following proviso shall be added:-

“Provided that the State and non-state subject students residing in Pakistan but studying in various educational institutions of Azad Jammu and Kashmir,

(c)

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shall be eligible to receive financial assistance from Azad Kashmir Zakat Fund”.

in sub-section (3), the first proviso shall be substituted as under:-

“Provided that-,

(a)

(b)

No Zakat or Ushr shall be charged or collected on compulsory basis in respect of the assets or produce of a person who, within the period of three months preceding the valuation date, files with the Deducting Agency, or with the Local Committee in the case of a declaration in the prescribed form sworn by him before a Magistrate, an Oath Commissioner, a Notary Public or any other person authorized to administer Oath in the presence of two witnesses who identify him to the effect that he is a Muslim and a follower of one of the recognized Fiqh's, which he shall specify in the declaration, and that his faith and the said fiqh do not oblige him to pay the whole or any part of Zakat and Ushrin the manner laid down in the Act; and

a declaration, or an attested copy thereof filed as aforesaid in one Zakat year; whether before or after the Commencement of this Act, shall continue to be valid or so long as,-

(i) the declaration or copy and the asset liable to Zakat to, which it relates, remain in the custody of the Deducting Agency; or

(ii) the person filing the declaration or copy continues to hold, in respect of the land to the produce to which it relates the same status as held at the time of the filing of the declaration, and the declaration or copy remains in the custody of the Local Committee”.

Amendment of Section 2, Act XIX of 1985.- In the said Act, in Section 2,-

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(ii)

“(xv)

after clause (iv), the following new clause (iv-A) shall be inserted, namely:-

“(iv-A) “Constituency” means, the constituency as defined in the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970”.

clause (xv) shall be substituted as under:-

“Tehsil Committee” means a Tehsil Zakat and Ushr Committee constituted under Section 16”.

(iii) in clause (xxiv) sub-clause (c) shall be substituted as under:-

“(c) the Investment Corporation of Pakistan and its Mutual Fund;”.

Amendment of Section 3, Act XIX of 1985.- In the said Act, in Section 3,-

(a) in sub-section (1), for the words “and has for the preceding Zakat year been sahib-e-nisab;” the words “and has for the whole of the preceding Zakat year been, sahib-e-nisab and who owns or possesses such assets on the Valuation Date;” shall be substituted;

(b) in sub-section (2), between the word “deductible” and “only” the words “at source may be reduced, to the extent and in the manner prescribed” shall be inserted;

(c) in sub-section (3)-,

(i) in clause (a) sub-clause (ii) shall be substituted as under;

(ii) he is not a state subject. of Azad Jammu and

Kashmir or is not a person carrying on any business or trade in Azad Jammu and Kashmir; or shall be added;

(iii) in clause-(b) for the brackets and figure “(3)” the brackets and figure “(1)” shall be substituted;

(d) in sub-section (4) between the words “falls into arrears” and “comma” the words “or the Zakat fund is mis-appropriated, embezzled or used for the purpose not specified by the Shariah and the law for the time being in force shall be inserted.

Insertion of Section 3-A, Act XIX of 1985.- In the said Act after Section 3, the following new Section 3-A shall be inserted namely:-

“3-A. Profit on Zakat Fund. - (1) The profit accrued on the deposits of the Zakat Fund shall be deemed to be public money and shall be utilized as may be prescribed by the Government.

(2) Whoever, being in any manner entrusted with Zakat Fund or the profit accrued thereon, commits criminal breach of trust in respect of that fund or profit or uses the fund or the profit for the purpose not specified by the Shariah or any law for the time being in force, shall be punished with imprisonment for a term which may extend to seven years, and shall be liable to fine.

(3) An action under sub-section (2) shall not absolve any person from the process of recovery of such amount under any law for the time being in force.”

Amendment of Section 5, Act XIX of 1985.- In the said Act, in Section 5,-

(i) in sub-section (2) in clause (b) for the word “it” the word “its” shall be substituted;

(ii) in sub-section (6) for the word and figure “item 9” the word and figure “item 8” shall be substituted.

Amendment of Section 6, Act XIX of 1985.- In the aforesaid Act in Section 6,-

(a) in sub-section (4), between the words “provided for” and the words “in the prescribed” the words “in sub-section (2), make” shall be inserted;

(b) in sub-section (6) for the words “within such time as may be prescribed” the words “within fifteen days of the Local Committee’s announcing, the assessment, or, as the case may be, apportionment” shall be inserted;

(c) in sub-section (6) the full stop at the end shall be substituted by a colon ‘and thereafter the following proviso shall be added:-

“Provided that no such application shall be admitted unless the applicant has deposited into the Local Zakat Fund not less than fifty percent of his liability as assessed or apportioned by the Local Committee”;

(d) sub-section (7) shall be substituted as under:-

“(7) “the Tehsil Committee to which an application is made under sub-section (6) or Section 7 or which takes-up a matter under Section 7 of its own motion, shall give its decision within a period not exceeding one month counted from the date on which it receives the application or, as the case may be, so takes up the matter, and such decision shall be final and shall not be questioned before any Court or other authority;”

Amendment of Section 7, Act XIX of 1985.- In the said Act, in Section 7-,

(a) for the words “the Locality for which the Local Committee is constituted” the words “the Local Committee” shall be substituted;

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(b) for the word and figure "Section 4", the words and figure sub-section (4) of Section 6" shall be substituted;

(c) between the words and figure "sub-section (5)" and the words "by the Local Committee", the words and figure" of Section 6" shall be inserted; and

(d) after Section 7, the full stop at the end shall be substituted by a colon and thereafter the following proviso shall be added:-

"Provided that no such order shall be made unless the person affected has been given an opportunity of showing cause against it and of being heard;"

Amendment of Section 8, Act XIX of 1985.- In the said Act in Section 8, in clause (a), after sub-clause (iv), a new sub-clause (v) shall be added:-

"(v) the transfers, if any, from the Pakistan, Central Zakat Fund;"

Amendment of Section 9, Act XIX of 1985.- In the said Act, in Section 9,-

(a) for the first proviso to clause (b) the following shall be substituted, namely:-

"Provided that the expenditure on the Zakat Council and the Administrative Organization of the Chief Administrator and that of District and Tehsil Committees shall be met by the Government, and that on Local Zakat Committees and the honorarium payable to the non-official members and a non-official Chairman of Zakat Council, Chairman District and Tehsil Zakat Committees, as may be determined by the Government, not exceeding five percent of the total annual collections, from the Zakat funds;" and

(b) after clause (b) the word "and" at the end shall be omitted and thereafter a new clause (bb) shall be added:-

"(bb) the Zakat Council may place at the disposal of Chief Administrator and Chairman of each District Zakat and Ushr Committee such amount as may be fixed by it from time to time, per year to meet with the urgent needs of poor, needy and indigents."

Amendment of Section 10, Act XIX of 1985.- In the said Act,
in Section 10,-

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(a) in sub-section (2) for the figure "8" the figure "9" shall be substituted.

(b) after sub-section (2) the following new sub-section (3), (4), (5) and (6) shall be added:-

"(3) | Where a Local Zakat Committee cannot be constituted under the law for any reason, the Tehsil Zakat and Ushr Committee shall function as such for that area till the constitution of the said Local Zakat Committee subject to a period not exceeding three months.

(4) Where a Tehsil Zakat Committee cannot be constituted under the law for any reason, the District Zakat Committee shall function as such for that area till the constitution of the said Tehsil Zakat Committee subject to a period not exceeding three months.

(5) Where a District Zakat and Ushr Committee does not exist for any reason, the Chief Administrative shall arrange the performance of functions of the District. Zakat Committee, till the reconstitution or restoration of the said Committee.

(6) Where there is a dispute in selection of the members of a Local Zakat Committee, the District Zakat Committee may constitute such committee by nomination of suitable persons from amongst the permanent residents of that area".

Amendment of Section 12, Act XIX of 1985.- In the said Act, in Section 12, in sub-section (4) for the words "District Council concerned, established under the law relating to Local Government" the words "Zakat Council" shall be substituted.

Amendment of Section 13, Act XIX of 1985.- In the said Act, in Section.13,-

(a) in sub-section (2), clauses (b) and (c) shall be substituted as under:-

"(b) two Ulema to the nominated by the President, in consultation with the Council of Islamic Ideology;

(c) one person from each District to be nominated by the President".

(b) after clause (g) a new clause (h) shall be added as under:-

"(h) the Accountant General, Azad Jammu and

Kashmir”.

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(c)

(d)

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in sub-section (4) the words “for a similar term”,
occurring at the end, shall be omitted; and

after sub-section (7), the following new sub-section (8)
shall be added:-

“(8) the President may, in consultation with the
Chairman and after giving an opportunity of being
heard, remove and member of the Council as he may
deem fit.”

Amendment of Section 14, Act XIX of 1985.- In the said Act in
Section 14, in sub-section (1) between the word “Government”
and the words “a Chief Administrator” the commas and the
words “in consultation with the Chairman of the Zakat Council,”
shall be inserted.

Amendment of Section 15, Act XIX of 1985.- In the said Act in
Section 15,-

(a)

(b)

(d)

(e)

in sub-section (1) for the words “Zakat Council” the
word “Government” shall be substituted;

in sub-section (2),-

(i) after the word “Council” the words “or Chief
Administrator” shall be inserted;

(ii) in clause (a), between the words “functioning of”
and “and” the words “Tehsil Committee” shall
be inserted;

sub-section (3) shall be substituted as under:-

“(3) \ the District Committee shall consist of a
Chairman, who shall be non-official and shall be
nominated by the Government in consultation with the

Chairman of the Zakat Council, Deputy Commissioner of the District, the District Qazi and one non-official member from each Tehsil in the District to be nominated by the Government in consultation with the Chairman of the District Committee”;

in sub-section (4), for the word “Council” the word “Government” shall be substituted;

in sub-section (5), the words “for a similar term” at the end shall be omitted;

in sub-section (6),--

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(i) for the word "Council" the words "Prime Minister" shall be substituted; and

(ii) in the proviso for the word "Council" the word "Government" shall be substituted;

(g) in sub-section (7) for figures "8" and "16" the figures "3" and "15" shall respectively be substituted; and

(h) after sub-section (8) the following new sub-section (9) shall be added:-

"(9) the Government may, after giving an opportunity of being heard remove any non-official member or Chairman of the District Committee as it may deem fit".

Amendment of Section 16, Act XIX of 1985. - In the said Act in Section 16,-

"(a) for sub-section (2) the following shall be substituted:-

"(2) the Tehsil Committee shall consist of a Chairman, who shall be non-official and shall be nominated by the Chief Administrator, Assistant Commissioner of the Tehsil, the Tehsil Qazi and four non-official members to be nominated by the Chief Administrator in consultation with the Chairman of the Tehsil Committee:

Provided that if the Chairman or a member is nominated from Local Committee, -he shall cease to hold the seat of Local Committee."

(b) sub-section (3) shall be omitted.

(c) in sub-section (4), for the word "District Committee concerned" the words "Chief Administrator" shall be substituted;

(d) in sub-section (6) for the words "re-election: the words

"re-appointment" shall be substituted;

(e) in sub-section (7), for the words "Tehsil Committee: at both the places, the words "Chief Administrator" shall be substituted;

(f) in sub-section (8), for the word "election" the word "nomination" shall be substituted;

(g) in sub-section (9) for the word "elected" the word

“nominated” shall be substituted; and

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(h)

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after sub-section (9) a new sub-section (10) shall added as under:-

“(10) the Chief Administrator may after giving opportunity of being heard, remove any non-official member or Chairman of the Tehsil Committee as he may deem fit.”

Amendment of Section 17, Act XIX of 1985. - In the said Act Section 17,-

(a)

(b)

(d)

(e)

in sub-section (3),-

(i) for the words “residents of the locality” the word “team” shall be substituted;

(ii) in sub-section (3) the full stop at the end shall substituted by a colon and thereafter following proviso shall be added.-

“Provided that in urban areas the seventh member shall be a lady selected under this Section”.

in sub-section (4),-

(i) the words “call upon themto” shall be omitted;

(ii) for the words “engaged in political activities words “be office bearer of a political party” shall be substituted; and

(ili) the third proviso shall be omitted;

in sub-section(5) for the words “engaged in political activities” the words “officer bearer of a political party” shall be:substituted;

in sub-section (8),-

(i) for the words "District Zakat Committee" wherever occurring the words "Chief Administrator Zakat" shall be substituted; and

(ii) between the word "may" and "prefer" the words "within thirty days" shall be inserted.

for sub-section (9) the following shall be substituted:-

"(9) the Chief Administrator Zakat on an appeal

under sub-section (8), shall decide the appeal within

thirty days and his decision shall be final and shall not be called in question before any Court or other authority:

Provided that the Chairman Zakat Council may, at any time, either of his own motion or on the application of an aggrieved person, revise that order passed by the Chief Administrator under this sub-section".

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Amendment of Section 21, Act XIX of 1985.- In the said Act, in Section 21,-

(a)

(b)

(c)

in the heading the words “a Tehsil Committee or” shall be omitted;

in sub-section (1) the word “a Tehsil Committee or of” shall be omitted; and

in sub-section (2) between the words “as a whole” and the words “District Committee” the words “the Zakat Council or,” shall be inserted.

Amendment of Section 22 Act XIX of 1985.- In the said Act, in Section 22,-

(a)

(b)

(c)

(d)

(e)

(g)

in sub-section (1),-

(i) in clause (a) for the word “in” occurring at the first time the word “is” shall be substituted;

(ii) in clause (e) for the words “or who are engaged in political activity” the words “or office bearers of a political party” shall be substituted;

in sub-section (2), in clause (b) the comma and words “not being an official”, shall be omitted.

in sub-section (3),-

(i) sub-clause (vi) of clause (a) shall be substituted

as under:-

“(vi) an office bearer of a political Party”.

clause (f) shall be substituted as under:-

“(h) has become physically disabled from performing functions as Chairman or member, the Council may remove such Chairman or member from office.”

in sub-section (6),-

(i) for the words “a District Committee” the words

“the Chief Administrator” shall be substituted;

and

(ii) the words “other than a District Committee”

shall be omitted.

the explanation to sub-section (7) shall be omitted and

after sub-section (7) a new sub-section (8) shall be added

as under,-

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“(8) the Zakat Council may after giving an opportunity of showing causes and being heard, remove any non-official member or Chairman of a Committee, as it may deem fit.”

Amendment of Section 28, Act XIX of 1985.- In the said Act, in Section 28, between the words “District Committee” and “or” the comma and words, “a Tehsil Committee” shall be inserted.

Amendment of first Schedule Act XIX of 1985.- The said Act, in the first Schedule, against item, 6 for the words “I.C.P. Mutual fund Certificates” the words “Investment Corporation of Pakistan and its Mutual Funds Certificates” shall be substituted.

General Amendment Act XIX of 1985.- In the Zakat and Ushr Act, 1985 (Act XIX of 1985),-

(a) for the words “District Qazi” and “Tehsil Qazi” wherever occurring the words “District. Mufti” and “Tehsil Mufti” shall respectively be substituted;

(b) for the words “Tehsil Committee” wherever occurring the words “constituency committee” shall be substituted.

Repeal. - The Zakat and Ushr (Amendment) Ordinance, 1992 (Ordinance XXXIV of 1992) is hereby repealed.

Sd/-
(Syed Shakir Shah)
Deputy Secretary Law