

**THE AZAD JAMMU AND KASHMIR
INTERIM CONSTITUTION ACT, 1974**

(ACT VIII OF 1974)

An Act to repeal and, with certain modifications, re-enact the Azad Jammu and Kashmir Government Act, 1970

WHEREAS the future status of the State of Jammu and Kashmir is yet to be determined in accordance with the freely expressed will of the people of the State through the democratic method of free and fair plebiscite under the auspices of the United Nations as envisaged in the UNCIP Resolutions adopted from time to time;

AND WHEREAS a part of the territories of the State of Jammu and Kashmir already liberated by the people are known for the time being as Azad Jammu and Kashmir;

AND WHEREAS it is necessary to provide for the better Government and administration of Azad Jammu and Kashmir until such time as the status of Jammu and Kashmir is determined as aforesaid and for that purpose to repeal and re-enact the Azad Jammu and Kashmir Government Act, 1970, with certain modifications;

AND WHEREAS in the discharge of its responsibilities under the UNCIP Resolutions, the Government of Pakistan has approved of the proposed repeal and re-enactment of the said Azad Jammu and Kashmir Government Act, 1970, and authorized the president of Azad Jammu and Kashmir to introduce the present Bill in the Legislative Assembly of Azad Jammu and Kashmir for consideration and passage;

It is hereby enacted as follows:-

1. **Short title and commencement, etc.**-(1) This Act may be called the Azad Jammu and Kashmir Interim Constitution Act, 1974.
 - (2) It shall come into force on the day on which the Azad Jammu and Kashmir Government Bill, 1974, is assented to, or is deemed to have been assented to, by the President.
 - (3) This Bill shall not be presented to the President for assent unless it has been passed by the votes of not less than two-thirds of the total number of members of the Assembly.
 - (4) The President shall assent to this Bill within three days after it has been presented to him for assent under sub-section (2) and, if the President fails to do so, he shall be deemed to have assented to this Bill at the expiration of the said period.
- ¹[2. **Definitions.**-(1) In this Act, unless there is anything repugnant in the subject or context,-

‘**Agricultural income**’ means agricultural income as defined for the purposes of the law relating to income-tax;

‘**Assembly**’ means the Legislative Assembly of Azad Jammu and Kashmir;

‘**Azad Jammu and Kashmir**’ means the territories of the State of Jammu and Kashmir which have been liberated by the people of that State and are for the time being under the administration of

¹. Substituted by (1st Amendment) Act, 1975.

Government and such other territories as may hereafter come under its administration;

‘Corporation tax’ means any tax on income that is payable by companies and in respect of which the following conditions apply:-

- i) the tax is not chargeable in respect of agricultural income;
- ii) no deduction in respect of the tax paid by companies is, by any law which may apply to the tax, authorized to be made from dividends payable by the companies to individuals;
- iii) no provision exists for taking the tax so paid into account in computing for the purposes of income tax the total income individuals receiving such dividends, or in computing the income-tax payable by, or refundable to, such individuals;

‘Council’ means the Azad Jammu and Kashmir Council constituted under this Act;

‘Financial year’ means the year commencing on the first day of July and ending on the thirtieth day of June;

‘Government’ means the Azad Government of the State of Jammu and Kashmir;

‘Joint sitting’ means a joint sitting of the Assembly, [¹the Federal Minister in-charge of the Council Secretariat] and the elected members of the Council;

‘Judge’ in relation to the Supreme Court of Azad Jammu and Kashmir or the High Court, includes the Chief Justice of the supreme Court of Azad Jammu and Kashmir or, as the case may be, High Court and also includes an Additional Judge of the High Court;

‘Muslim’ means a person who believes in the Unity and oneness of Almighty Allah, His angels, the Books of Allah, the Holy Quran being the last of them, His prophets, the absolute finality of the prophet hood of Muhammad (Peace be upon him), the day of Judgement, and all the requirements and teachings of the Holy Quran and Sunnah;

‘Person’ includes any body politic or corporate;

‘President’ means the President of Azad Jammu and Kashmir and includes a person for the time being acting as, or performing the functions of the President of Azad Jammu and Kashmir;

‘Prescribed’ means prescribed by law or rules made thereunder;

‘Property’ includes any right, title or interest in property, movable or immovable, and any means and instruments of production;

‘Remuneration’ includes salary and pension;

¹ Inserted by (2nd Amendment) Act, 1976.

‘Service of Azad Jammu and Kashmir’ means any service, post or office in connection with the affairs of Azad Jammu and Kashmir, including the council, but does not include service as Chairman of the council, President, Speaker, Deputy Speaker Prime Minister, Minister, Federal Minister Incharge of the Council Secretariat or Advisor appointed under Section 21, ¹[Parliamentary Secretary, Advisor to the Prime Minister] or a member of the Assembly or member of the Council;

‘Speaker’ Means Speaker of the Assembly and includes any person acting as the Speaker of the Assembly;

‘State Property’ means any movable or immovable property as belonged to the State of Jammu and Kashmir or its former Ruler or a Raja and is within the territories of Pakistan;

‘State Subject’ means a person for the time being residing in Azad Jammu and Kashmir or Pakistan who is a State Subject, as defined in the late Government of the State of Jammu and Kashmir Notification No I-L/84, dated the 20th April, 1927 as amended from time to time;

‘Taxation’ means the imposition of any tax or duty, whether general, local or special and ‘tax’ shall be construed accordingly;

‘Tax on income’ includes a tax in the nature of an excess profits tax or a business profits tax.

(2) In this Act, Act of the Assembly, or ‘Act of the Council’ shall include an Ordinance promulgated by the President under sub-section (1) of Section 41, or as the case may be, under sub-section (4) of that section.

(3) ²[A person who does not believe in the absolute and unqualified finality of the Prophet hood of Muhammad (Peace be upon him) the last of the Prophets or claims to be prophet, in any sense of the word or of any description whatsoever, after Muhammad (Peace be upon him), or recognises such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of this Act or law.]

‘3. **Islam to be state religion.** - Islam shall be the State religion of Azad Jammu and Kashmir.

4. **Fundamental Rights.-** (1) Any law or any custom or usage having the force of law in so far as it is inconsistent with the rights conferred by this section, shall, to the extent of such inconsistency, be void.

(2) ³[No law shall made] which takes away or abridges the rights so conferred and any law made in contravention of this sub-section shall, to the extent of such contravention, be void.

(3) The Provisions of this section shall not apply to any law relating to the members of the defense services or of the forces charged with the maintenance of public order for the purpose of ensuring proper discharge of their duties or the maintenance of discipline among them.

(4) **The Rights**

1. **Security of person.-** No person shall be deprived of liberty save in accordance with law.

¹ Inserted by (10th Amendment Act, XX of 1993.

² Added by (3rd Amendment)Act, 1976

³ Substituted by (1st Amendment) Act, 1975.

2. **Safeguard as to arrest and detention.**- (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.
- (2) Every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate, and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.
- (3) Nothing in sub-paragraphs (1) and (2) shall apply to any person-
- (a) Who for the time being is an enemy alien, or
- (b) Who is arrested or detained under any law providing for preventive detention.
- (4) No law providing for preventive detention shall authorise the detention of a person for a period exceeding three months unless the review board set up by the Government has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.
- (5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order:
- Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against the public interest to disclose.
3. **Slavery and forced labour prohibited.**- (1) No person shall be held in slavery, and no law shall permit or in any way facilitate the introduction into Azad Jammu and Kashmir of slavery in any form.
- (2) All forms of forced labour are prohibited.
- (3) Nothing in this paragraph shall be deemed to affect compulsory service-
- (a) by persons undergoing punishment for offences against any law; or
- (b) required by any law for a public purpose.
4. **Protection against retrospective Punishment.**- No law shall authorise the punishment of a person.
- (a) for an act or omission that was not punishable by law at the time of the act or omission; or
- (b) 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.
5. **Freedom of movement.**- Subject to any reasonable restrictions imposed by law in the public interest, every State subject shall have the right to move freely throughout Azad Jammu and Kashmir territory and to reside and settle in any part thereof.

6. **Freedom of assembly.**- Every State Subject shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.
7. **Freedom of association.**- (1) Subject to this Act, every State subject shall have the right to form association or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order.
(2) No person or political party in Azad Jammu and Kashmir shall be permitted to propagate against, or take part in activities prejudicial or detrimental to, the ideology of the State's accession to Pakistan.
8. **Freedom of trade, business or profession.**- Every State Subject possessing such qualifications, if any, as may be prescribed by law in relation to his profession or occupation shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:
Provided that nothing in this paragraph shall prevent-
- (a) the regulation of any trade or profession by a licensing system; or
 - (b) the regulation of trade, commerce or industry in the interest of free competition therein; or
 - ¹[(c) the carrying on, by Government or the Council, or by a corporation controlled by Government or the Council, of any trade business, industry or service, to the exclusion, complete or partial, or other persons.]
9. **Freedom of Speech.**- Every State subject shall have the right to freedom of speech and expression, subject to any reasonable restrictions imposed by law in the interest of the security of Azad Jammu and Kashmir, friendly relations with Pakistan, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence.
10. **Freedom of religion.**- Subject to law, public order and morality-
- (a) Every state subject has the right to profess and practice his religion; and
 - (b) every religious denomination and every sect thereof has the right to establish, maintain and manage its places of worship:
- Provided that nothing contained in sub-paragraphs(a) and (b) shall be so construed as to abridge the authority to promulgate laws which may prescribe prohibition or penalty for conversion from Islam or the act of converting or the attempt of converting a Muslim to some other religion.
11. **Safeguard against taxation for purposes of any particular religion.**- No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.
12. **Safeguard as to educational institutions in respect of religion etc.**-
(1) No person attending any educational institution shall be required to

¹ Substituted by (1st Amendment) Act, 1975.

receive religious instructions or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

- (2) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination.
 - (3) No state subject shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.
 - (4) in respect of any religious institution , there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.
 - (5) Every religious community or denomination shall have the right to establish and maintain educational institutions of its own choice, and the Government shall not deny recognition to any such institution vests in that community or denomination.
 - (6) Nothing in this paragraph shall prevent any public authority from making provision for the advancement of any society or educationally backward class of state Subjects.
13. **Provision as to property.**- Subject to any reasonable restrictions imposed by law in the public interest, every State Subject shall have the right to acquire, hold and dispose of property.
14. **Protection as to property.**- (1) No person shall be deprived of his property save in accordance with law.
- (2) No Property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation thereof and either fixes the amount of compensation or specifies the principles on which and the manner in which compensation is to be determined and given.
- (3) Nothing in this paragraph shall, affect the validity of.
- (a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health; or
 - (b) any law relating to the acquisition, administration or disposal of any property which is or is deemed to be evacuee property under any law; or
 - (c) ¹[any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law; or
 - (d) any law providing for the taking over of the management of any property by the Government for a limited period, either in the

¹ Substituted by (1st Amendment) Act,1975.

public interest or in order to secure the proper management of the property, or for the benefit of its owner; or
 (e) any law providing for the acquisition of any class of property for the purpose of-

- i) providing education and medical aid to all or any specified class of State Subjects; or
- ii) providing housing and public facilities and services such as roads, water supply, sewerage, gas and electric power to all or any specified class of state subjects; or
- iii) providing maintenance to those who, on account of unemployment, sickness, infirmity or old age, are unable to maintain themselves; or

(f) any law in force immediately before the coming into force of this Act.]

Explanation.- In sub-paragraphs (2) and (3), 'property' shall mean immovable property, or any commercial or industrial undertaking, or any interest in any undertaking.

- 15. **Equality of state subjects.-** all state subjects are equal before law and are entitled to equal protection of law.
- 16. **Non- discrimination in respect of access to public places,-** In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any state subject on the ground only of race, religion, caste, sex or place of birth, but nothing herein shall be deemed to prevent the making of any special provision for women.
- 17. **Safeguard against discrimination in service.-** No State Subject otherwise qualified for appointment in the service of Azad Jammu and Kashmir shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste or sex;

Provided that, in the interest of the said service, specified posts or services may be reserved for members of either sex.

- 18. **Abolition of untouchability.-** Untouchability is abolished and its practice in any form is forbidden and shall be declared by law to be an offence.

- 5. **President.-** ¹[(1) There shall be a President of Azad Jammu and Kashmir, who shall be elected by the members of the joint sitting by the votes of majority of the total membership of the joint sitting in such manner as may be prescribed;

Provided that , if no person secures such majority in the first poll, a second poll shall be held between the persons who secure the two highest numbers of votes in the first poll and the person who secures a majority of votes of the members present and voting shall be declared to have been elected as president;

Provided further that, if the number of votes secured by two or more persons securing the highest number of votes is equal further poll shall be held between them until one of them secures a majority of votes of the members present and voting.]

¹ Substituted by (1st Amendment) Act,1975.

(2) The election to the office of President shall be conducted under the control and supervision of the Chief election Commissioner.

(3) The election of the president under sub-section(2) shall not be called in question in any Court or before any Tribunal or other authority.

¹[(3-1) Election to the office of President shall be held not earlier than sixty days and not later than thirty days before the expiration of the term of the President in office or, if the election cannot be held within that period because the Assembly is dissolved, within thirty days of the general election to the Assembly.]

(4) No person shall be qualified for election as President unless.-

- (a) he is Muslim;
- (b) he has attained the age of thirty-five years;
- (c) his name appears on the electoral roll prepared for election of the members of the Assembly; and
- (d) he is qualified to be elected as member of the Assembly.

(5) Subject to the provisions of this Act, the president shall hold office for a period of five year from the date on which he enters upon his office and shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(6) Before he enters upon his office, the president shall make before the Chief Justice of ²[Azad Jammu and Kashmir] an oath in the form set out in the First Schedule;

Provided that this provision will not apply to a person acting as president;

Provided further that the oath made or deemed to have been made under the provisions of Azad Jammu and Kashmir Government Act, 1970 shall be deemed to have been made under this Act.

(7) The President may resign his office by writing under his hand addressed to the Speaker of the Assembly.³[-----]

⁴[(8) The President shall not be a member, or a candidate for election as member, of the Assembly and if a member of the Assembly is elected as President his seat in the Assembly shall become vacant on the day he enters upon his office.]

6. **Removal of President.**- (1) if one-third of the total number of members of the ⁵[Joint Sitting] give a notice in writing to the Speaker of the Assembly of their intention to move a resolution of no confidence against the President, the Speaker shall convene a meeting of the ⁶[Joint Sitting] not later than two weeks from the date of receipt of the notice.

¹ Inserted by (1st Amendment) Act ,1975.

² Substituted by ibid

³ Omitted by ibid.

⁴ Substituted by (1st Amendment) Act,1975.

⁵ Ibid

⁶ Ibid

- (2) The President shall have the right to appear before the ¹[Joint Sitting] during the consideration of the resolution under sub-section(1) and to make a statement if he so desires.
- (3) If the resolution under sub-section (1) is passed by the ²[Joint sitting] by the votes of not less than two-thirds of the total number of members of the ³[Joint sitting,] the President shall forth with cease to hold office.
7. **President to act on advice, etc.-** (1) ⁴[Subject to an express provision to the contrary in this Act,] in the performance of his functions, the President shall act] on and in accordance with the advice of the Prime Minister and such advice shall be binding on him.
(2) The question whether any, and if so what, advice was tendered to the President by the Prime Minister shall not be enquired into any Court.
8. **Acting President.-** At any time when the President is unable to perform the functions of his office due to absence, illness or any other cause, the Speaker of the Assembly shall act as President and shall perform the functions of President.
9. **Casual vacancy in the office of President.-** Where the office President falls vacant due to death, resignation or any other cause the Speaker of the Assembly ⁵[---]shall.
- (a) perform the functions of President till such time as a new President is elected; and
- (b) cause an election to the office of President to be held within a period of ⁶[thirty days] from the date on which the office falls vacant ⁷[or, if the election cannot be held within that period because the Assembly is dissolved, within thirty days of the general elections to the Assembly.]
10. **President's power of pardon and reprieve.-** The President ⁸[shall have] power to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any Court, Tribunal or other authority;
- ⁹ [Provided that this power shall not be exercised in respect of sentences of 'hadd' qisas and 'Diyat'.]
11. **Plebiscite Adviser.-** The President may appoint a Plebiscite Adviser to advise the Government in relation to the holding of a plebiscite in the State of Jammu and Kashmir in terms of the UNCIP Resolutions.
12. **The Government.-** (1) Subject to this Act, the executive authority of Azad Jammu and Kashmir shall be exercised in the name of the President by the Government, consisting of the Prime Minister and the Ministers, which shall act through the Prime Minister who shall be the Chief executive of Azad Jammu and Kashmir.
- (2) in the performance of his functions under this Act, the Prime Minister may act either directly or through the Ministers.

¹ Ibid

² Ibid

³ Ibid

⁴ Ibid

⁵ Omitted by Ibid

⁶ substituted by ibid.

⁷ Inserted by ibid

⁸ Substituted by (10th Amendment) Act, xx of 1993.

⁹ Added by ibid

(3) The Prime Minister and the Ministers shall be collectively responsible to the Assembly.

¹[(4) Order and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the Government, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(5) The Government may regulate the allocation and transaction of its business and may for the convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it.]

13. **The Prime Minister.-** (1) The Assembly shall meet on the thirtieth day following the day on which a general election to the Assembly is held, unless sooner summoned by the President.

(2) After the election of the Speaker, ²[and the Deputy Speaker] the Assembly shall, to the exclusion of any other business, proceed to elect, without debate one of its Muslim members to be the Prime Minister.

(3) The Prime Minister shall be elected by the votes of the majority of the total membership of the Assembly;

Provided that, if no member secures such majority in the first poll, a second poll shall be held between the members who secure the two highest numbers of votes in the first poll and the member who secures a majority of votes of the members present and voting shall be declared to have been elected as Prime Minister;

Provided further that, if the number of votes secured by two or more members securing the highest number of votes is equal, further poll shall be held between them until one of them secures a majority of the members present and voting.

(4) The member elected under sub-section(3) shall be called upon by the President to assume the office of Prime Minister and he shall, before entering upon the office make before the President oath in the form set out in the First Schedule.

14. **Ministers.-** (1) The Prime Minister shall appoint Ministers from amongst the members of the Assembly;

³[Provided that a Minister may be appointed from amongst the elected members of the Council.]

(2) Before entering upon office, a Minister shall make before the President oath in the form set out in the First Schedule.

(3) A Minister may, by writing under his hand addressed to the Prime Minister, resign his office or may be removed from office by the Prime Minister.

¹["14.A **Parliamentary Secretaries.-** (1) The Prime Minister may appoint Parliamentary Secretaries from amongst the members of the Assembly to perform such functions as may be prescribed.

¹ Added by (1st amendment) Act, 1975.

² Inserted by (10th Amendment) Act xx of 1993.

³ Inserted by (10th Amendment) Act xx of 1993.

(2) A Parliamentary Secretary may, by writing under his hand addressed to the Prime Minister, resign his office or may be removed from office by the Prime Minister.”]

15. **Prime Minister continuing in office.**- (1) The Prime Minister shall continue to hold office until his successor enters upon the office of Prime Minister.
- (2) Nothing in section 13 or section 14 shall be construed to disqualify the Prime Minister or a Minister from continuing in office during the period the Assembly stands dissolved.
16. **Resignation of Prime Minister.**- (1) subject to sub-section (2) the Prime Minister may, by writing under his hand addressed to the President, resign his office and, when the Prime Minister resigns, the Ministers shall cease to hold office.
- (2) The Prime Minister, and at the request of the Prime Minister, a Minister shall continue to perform the functions of the office of Prime Minister or, as the case may be, Minister until a new Prime Minister has been elected and has entered upon his office.
- (3) If the Assembly is in session at the time when the Prime Minister resigns his office, the Assembly shall forthwith proceed to elect a Prime Minister, and if the Assembly is not in session the President shall for that purpose summon it to meet within fourteen days of the resignation.
17. **Minister Performing functions of Prime Minister.**- (1) In the event of the death of the Prime Minister or the office of the Prime Minister becoming vacant by reason of his ceasing to be a member of the Assembly the most senior minister for the time being shall be called upon by the President to perform the functions of that office and the Ministers shall continue in office until a new Prime Minister has been elected and has entered upon his office.
- (2) if the Assembly is in session at the time when the Prime Minister dies or the office of the Prime Minister becomes vacant the Assembly shall forthwith proceed to elect a Prime Minister, and if the Assembly is not in session the President shall for that purpose summon it to meet within fourteen days of the death of the Prime Minister or, as the case may be, of the office becoming vacant.
- (3) When, for any reason, the Prime Minister is unable to perform his functions, the most senior Minister for the time being shall perform the function of Prime Minister until the Prime Minister resumes his functions.
- (4) In this section, most senior Minister, means the Minister for the time being designated as such by the Prime Minister.
18. **Vote of no-confidence against Prime Minister.**- (1) A resolution for a vote of no-confidence (hereinafter in this section referred to as the resolution) may be passed against the Prime Minister by the Assembly.
- (2) A resolution shall not be moved in the Assembly unless, by the same resolution the name of another member of the Assembly is put forward as the successor.
- (3) A resolution shall not be moved in the Assembly while the Assembly is considering demands for grants submitted to it in the Annual Budget.

¹ Inserted by(10th Amendment) Act xx of 1993.

(4) A resolution shall not be voted upon before the expiration of three days, or later than seven days, from the date on which it is moved in the Assembly.

(5) If the resolution is passed by majority of the total membership of the Assembly, the President shall call upon the person named in the resolution as the successor to assume office and, on his entering upon office his predecessor and the Minister appointed by him shall cease to hold office.¹[-----]

(6) If a resolution is not passed another such resolution shall not be moved until a period of six months has elapsed.

19. **Extent of executive authority of Government.-** (1) Subject to this Act, the executive authority of the Government shall extend to

the matters with respect to which the Assembly has power to make laws.

(2) The executive authority of the Government shall be so exercised as:-

(a) not to impede or prejudice the responsibilities of the Government of Pakistan ²[in relation to the matters specified in sub-section(3) of section 31;] and

(b) to secure compliance with the Laws made by the Council.

(3) Notwithstanding anything contained in this Act, the Government may, with the consent of the Council, entrust, either conditionally or unconditionally, to the Council, or to its officers functions in relation to any matter to which the executive authority of the Government extends.

20. **Advocate- General.-** (1) The President shall appoint a person, being a person qualified to be appointed a Judge of the High Court to be the Advocate _General for Azad Jammu and Kashmir.

(2) It shall be the duty of the Advocate-General to give advice to Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Government.

(3) The Advocate-General shall hold office during the pleasure of the President.

(4) The Advocate-General may, by writing under his hand addressed to the President resign his office.

(5) The person holding the office as advocate-General immediately before the commencement of this Act shall be deemed to be the Advocate-General, appointed under this Act.

21. **Azad Jammu and Kashmir Council.-** (1) There shall be an Azad Jammu and Kashmir Council consisting of

(a) The Prime Minister of Pakistan;

(b) The President;

(c) Five Members to be nominated by the Prime Minister of Pakistan from time to time from amongst Federal Minister and members of Parliament;

¹ Omitted by (9th Amendment) Act IX of 1988.

² Substituted by (1st Amendment) Act,1975.

- (d) The Prime Minister of Azad Jammu and Kashmir or a person nominated by him; and
- (e) Six members to be elected by the Assembly from amongst state subjects in accordance with the system of proportional representation by means of the single transferable vote.

(2) The Prime Minister of Pakistan shall be the Chairman of the Council.

(3) The President shall be the vice-Chairman of the Council.

¹[(3-A) The Federal Minister of State for Kashmir Affairs and Northern Affairs shall be an ex-officio member of the Council .]

(4) The qualifications and disqualification for being elected, as and for being ,a member of the Council shall, in the case of a member referred to in clause(e) of sub-section(1), be the same as these for being elected as, and for being a member of the Assembly.

²[(4-A) The seat of a member of the Council elected by the Assembly , hereinafter referred to as an elected member, shall become vacant if;-

- (a) he resigns his seat by notice in writing under his hand addressed to the Chairman or, in his absence, to the Secretary of the Council;
- (b) if he is absent, without the leave of the Chairman, from thirty consecutive sittings of the Council;
- (c) he fails to make the oath referred to in sub-section(6) within a period of ninety days after the date of his election , unless the Chairman, for good cause shown, extends the period; or
- (d) he ceases to be qualified for being a member under any provision of this Act or any other law.

(4-B) If any question arises whether a member has, after his election, become disqualified from being a member of the Council, the Chairman shall refer the question to the Chief Election Commissioner and, if the Chief Election Commissioner is of the opinion that the member has become disqualified , the member shall cease to be a member and his seat shall become vacant.

(4-C) An election to fill a vacancy in the office of an elected member shall be held not later than thirty days from the occurrence of the vacancy or, if the election cannot be held within that period because the Assembly is dissolved, within thirty days of the general election to the Assembly.

(4-D) The manner of election of elected members and filling of a casual vacancy in the office of an elected member shall be such as may be prescribed.]

(5) ³[An elected member] shall hold office for a term of five years from the day he enters upon his office;

⁴[Provided that an elected member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.]

¹ Added by (2nd Amendment) Act, 1976.

² Inserted by (1st Amendment) Act,1975.

³ Substituted by (1st Amendment)Act, 1975.

⁴ Added by ibid

¹[(6) An elected member] shall, before entering upon office, make before the Chairman oath in the form set out in the First Schedule.]

(7) ²[The executive authority of the Council shall extend to all matters with respect to which the Council has power to make laws and shall be exercised, in the name of the Council, by the Chairman who may act either directly or through the Secretariat of the Council of which a Federal Minister nominated by the Chairman from amongst the members of the Council and not more than three advisors appointed by the Chairman shall be in -charge;

Provided that the Council may direct that, in respect of such matters as it may specify, its authority shall be exercisable by the Vice-Chairman of the Council, subject to such conditions, if any, as the Council may specify.

(8) An advisor may be appointed from amongst the elected members or the members of the Assembly.

(9) An advisor shall, before entering upon office, make before the Chairman oath in the form set out in the First Schedule.

(10) An Advisor who is a member of the Assembly ³[and the Federal Minister of the State for Kashmir Affairs and Northern Affairs] shall have the right to speak in, and otherwise take part in the proceedings of the Council, but shall not by virtue of this sub- section be entitled to vote.

(11) The Council may make rules for regulating its procedure and the conduct of its business, and shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings of the council shall not be invalid on the ground that a person who was not entitled to do so sat, voted or otherwise took part in the proceedings.

(12) Order and other instruments made and executed in the name of the Council shall be authenticated in such manner as may be specified in rules to be made by the Council and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Council.

(13) The Chairman may regulate the allocation and transaction of the business of the Council and may, for the convenient transaction of that business, delegate any of its functions to officers and authorities subordinate to it.]

Explanation: In this section, ‘chairman’ means Chairman of the Council.

⁴[(14) The words ‘The Prime Minister of Pakistan’ wherever occurring in this section shall be deemed to include the person for the time being exercising the powers and performing the functions of the Chief Executive of Pakistan.

22. **Legislative Assembly.-** (1) The Legislature of Azad Jammu and Kashmir shall consist of legislative Assembly consisting of ⁵[forty nine] members of whom.

(a) ⁶[forty one] shall be elected directly on the basis of adult franchise;

(b) ¹[Five], who shall be women, shall be elected by the directly elected members;

¹ Substituted by ibid

² ibid

³ Inserted by (2nd Amendment) Act, 1976.

⁴ Added by (5th Amendment) Act, 1977.

⁵ Substituted by (7th Amendment) Act II of 1986.

⁶ Substituted by 11th Amendment 2005

²[(c) One, who shall be from amongst the Ulema-e- Din or Mushaikh and well-versed with the teachings of Islam, shall be elected by the directly elected members;

(d) One, who shall be from amongst the Jammu and Kashmir State Subjects residing abroad, shall be elected by the directly elected members; and

(e) One, who shall be from amongst the technocrats and other professionals, shall also be elected by the directly elected members.]

(2) The manner of election of the members of the Assembly and the manner of filling casual vacancies shall be such as may be prescribed.

(3) Every Assembly, unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly.

³[(4) A general election to the Assembly shall be held within a period of sixty days immediately preceding the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the result of the election shall be declared not later than fourteen days before that day.]

23. **oath of members of the Assembly.**-(1) A person elected as member of the Assembly shall not take his seat in the Assembly until he makes before such person as is prescribed by rules of the Assembly an oath in the form set out in the First schedule.

(2) The oath may be made at any time whether or not the Assembly is in session.

(3) if any person sits or votes in the Assembly knowing that he is not qualified to be, or is disqualified from being, a member of the Assembly he shall be liable in respect of every day on which he so sits or votes to a penalty of two hundred rupees a day which may be recovered from him as a debt to the Government recoverable as arrears of land revenue.

24. **Qualification of members of the Assembly.**- (1) A person shall be qualified to be elected as, and to be, a member of the Assembly if-

(a) He is a State Subject;

(b) He is not less than twenty-five years of age; and

(c) His name appears on the electoral roll of any constituency in Azad Jammu and Kashmir or Pakistan.

(2) A person shall be disqualified from being so-elected if-

(a) he is of unsound mind and stands so declared by competent court; or

(b) he is an undischarged insolvent unless a period of ten years has elapsed since his being adjudged as insolvent; or

(c) he has been on conviction for any offence sentenced to transportation for any term or imprisonment for a term of not less than two years unless a period of five years has elapsed since his release ; or

(d) he holds any office of profit in the service of Azad Jammu and Kashmir or in the service of Pakistan other than an office which is not a whole time office remunerated either by salary or by fee other than an office specified in the second Schedule; or

¹ ibid

² Added by (7th Amendment) Act, II of 1986.

³ Added by (5th Amendment) Act, 1977.

- (e) he has been dismissed for miss-conduct from the service of Azad Jammu and Kashmir or the service of Pakistan unless a period of five years has elapsed since his dismissal ; or
- (f) he is otherwise disqualified from being a member of the Assembly by this Act or by under any other law.

25. **Seat in Assembly become vacant under certain circumstances.-**

(1) The seat of a member of the Assembly shall become vacant if-

- (a) he resigns his seat by notice in writing under his hand addressed to the Speaker, in his absence, to the Secretary of the Assembly; or
- (b) he is absent from the Assembly without the leave of the Assembly for thirty consecutive sitting days of the Assembly; or
- (c) he fails to make the oath referred to in section¹[(23),]within a period of ninety days after the date of his election unless the Speaker for good cause shown extends the period; or
- (d) he is elected as a member of the Council; or
- (e) he ceases to be qualified for being a member under any provision of this Act or any other law.

²[(1-A) If a member of the Assembly is elected to more than one seat, he shall within a period of thirty days after the declaration of the result for the last such seat, resign all but one of his seats, and if he does not so resign, all the seats to which he has been elected shall become vacant at the expiration of the said period of thirty days except the seat to which he has been last elected or, if he has been elected to more than one seat on the same day, the seat for election to which his nomination was filed last.]

(2) if any question arises whether a member of the Assembly has, after his election become disqualified from being a member of the Assembly, the Speaker shall refer the question to the Chief Election-Commissioner and, if the Chief Election Commissioner is of the opinion that the member has become disqualified the member shall cease to be a member and his seat shall become vacant.

³[(3) When except by dissolution of the Assembly, a seat in the Assembly has become vacant not later than one hundred and twenty days before the term of the Assembly is due to expire, an election to fill the seat shall be held within sixty days from the occurrence of the vacancy.]

26. **Right to address and take part in Assembly Proceedings.-** (1) The President may address the Assembly and send messages to the Assembly.

(2) The Advocate- General shall have the right to Speak, and otherwise take part in the proceeding of, the Assembly or of any of its committees, but shall not by virtue of this section have the right to vote.

27. **Meeting of the Assembly.-** (1) The Assembly shall assemble at such times and at such places as the President may appoint; and the President may prorogue a

¹ Substituted by (1st Amendment) Act,1975.

² Inserted by (1st Amendment) Act,1975.

³ Added by (5th Amendment)Act,1977

session of the Assembly except when the Assembly has been summoned by the Speaker.

(2) Any meeting of the Assembly may be adjourned by the Speaker or other person presiding there at.

(3) There shall be at least ¹[four] sessions of the Assembly every year and ²[three months] shall not intervene between the first sitting of the Assembly in one session and its first sitting in the next session.

³[(4) On a requisition signed by not less than one-fourth of the total membership of the Assembly the Speaker shall summon the Assembly to meet, at such time and place as he thinks fit within fourteen days of the receipt of the requisition and when the Speaker has summoned the Assembly, only he may prorogue it.]

28. **Dissolution of Assembly.**- ⁴[(1)] The President shall dissolve the Assembly if so advised by the Prime Minister, and the Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Prime Minister has so advised.

Explanation.- Reference in this section to Prime Minister shall not be construed to include reference to a Prime Minister against whom a resolution for a vote of no confidence has been moved in the Assembly but has not been voted upon or against whom such a resolution has been passed or who is continuing in office after his resignation or after the dissolution of the Assembly or a Minister performing the functions of Prime Minister under sub-Section(1) or sub-Section (3) of section 17.

⁵[(2) When the Assembly is dissolved a general election to the Assembly shall be held within a period of ninety days after the dissolution, and the results of the election shall be declared not later than fourteen days after the conclusion of the polls.]

29. **Speaker of the Assembly.**- (1) The Assembly shall, at its first meeting or as soon thereafter as may be, elect from amongst its members a Speaker ⁶[and a Deputy Speaker] of the Assembly.

(2) Before entering upon office, a member of the Assembly elected as Speaker ⁷[or Deputy Speaker] shall make before the Assembly an oath in the form set out in the first Schedule.

(3) All proceedings of the Assembly shall be conducted in accordance with Rules of procedure made by the Assembly and approved by the President.

⁸[(4) The Speaker shall preside at the meetings of the Assembly and, when the office of the Speaker is vacant, or the Speaker is absent or is unable to perform his functions due to any cause, the

Deputy Speaker shall act as Speaker, and if at that time, the Deputy Speaker is also absent or is unable to act as Speaker due to any cause, such member of the Assembly present as may be determined by the Rules of procedure of the Assembly shall preside at the meeting of the Assembly.

¹ Substituted by (10th Amendment) Act XX of 1993

² Ibid

³ Added by (1st Amendment)Act ,1975.

⁴ Inserted by (5th Amendment) Act, 1977

⁵ Added by ibid

⁶ inserted by (1st Amendment) Act, 1975.

⁷ ibid

⁸ Substituted by ibid.

(5) So often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall elect one of its members to fill the office.]

(6) The Speaker may resign his office by writing under his hand addressed to the President.

¹[(6-A) The Deputy Speaker may resign his office by writing under his hand addressed to the Speaker.]

(7) The office of the Speaker ²[or Deputy Speaker] shall become vacant if.

(a) Except as provided in sub-Section(8) he ceases to be a member of the Assembly; or

(b) He is removed from office by a resolution of the Assembly of which not less than seven day's notice by not less than ³[one –fourth of the total membership of the Assembly] has been given and which is passed by a majority of total membership of the Assembly.

(8) When the Assembly is dissolved, the Speaker shall continue in his office till the person elected to fill the office by the next Assembly enters upon his office.

30. ⁴**[Voting in Assembly and quorum.-]**(1) Subject to this Act,

(a) a decision in the Assembly shall be taken by a majority of the votes of the members present and voting but the Speaker or the person presiding in his absence shall not vote except when there is an equality of votes in which case he shall exercise his casting vote;

(b) the Assembly may act notwithstanding any vacancy in its membership; and

(c) any proceeding in the Assembly shall not be invalid on the ground that some person who was not entitled to do sat, voted or otherwise took part in the proceedings.

(2) If at any time during a meeting of the Assembly the attention of the person presiding at the meeting is drawn to the fact that ⁵[number of the members is less than one third of the total membership of the Assembly,] it shall be the duty of the person presiding either to adjourn the meeting or to suspend the meeting ⁶[till such number of the members are present.]

⁷[30-A **Restriction on discussion in Assembly etc.-** No discussion shall take place in the Assembly or the Council or the joint sitting with respect to the conduct of any Judge of the Supreme Court of Azad Jammu and Kashmir or the High Court in the discharge of his duties.

30-B. **Finance Committee.-** (1) The expenditure of the Assembly within authorised appropriation shall be controlled by the Assembly acting on the advice of the Finance Committee.

¹ inserted by (1st Amendment) Act, 1975

² ibid

³ substituted by(10th Amendment) Act XX of 1993.

⁴ Substituted by (1st Amendment) Act,1975

⁵ Substituted by (10 Amendment) Act XX of 1993.

⁶ Ibid

⁷ Inserted by(1st Amendment) Act,1975.

(2) The Finance Committee shall consist of the Speaker, the Finance Minister and such other member as may be elected thereto by the Assembly.

(3) The Finance Committee may make rules for regulating its procedure.

30-C. **Secretariat of Assembly.**- (1) The Assembly shall have a separate Secretariat.

(2) The Assembly may by laws regulate the recruitment and conditions of service of persons appointed to the secretarial staff of the Assembly.

(3) Until provision is made by the Assembly under sub-Section (2) the persons appointed to the Secretarial Staff of the Assembly shall continue to be governed by the conditions of service for the time being applicable to them.]

31. **Legislative Power.**- (1) Subject to the succeeding provisions of this section, both the council and the Assembly shall have the power to make laws-

(a) for the territories of Azad Jammu and Kashmir;

(b) for all state subjects wherever they may be; and

(c) for all officers of the Council or as the case may be, the Government, wherever they may be.

(2) Subject to sub-section(3).

(a) the Council shall have exclusive power to make laws with respect to any matter in the Council Legislative list set out in the Third Schedule, hereinafter referred to as the Council Legislative list; and

(b) the Assembly shall, and the Council shall not, have power to make laws with respect to any matter not enumerated in the Council Legislative list.

(3) Neither the Council nor the Assembly shall have the power to make any law concerning.-

(a) the responsibilities of the Government of Pakistan under the UNCIP Resolutions;

(b) the defence and security of Azad Jammu and Kashmir;

(c) the current coin or the issue of any bills, notes or other paper currency; or

(d) the external affairs of Azad Jammu and Kashmir including foreign trade and foreign aid.

(4) No tax shall be levied for the purposes of the territories of Azad Jammu and Kashmir except by or under the authority of an Act of the Council or the Assembly.

(5) No law shall be repugnant to the teachings and requirements of Islam as set out in the Holy Quran and Sunnah and all existing laws shall be brought in conformity with the Holy Quran and Sunnah.

32. **Reference to Council of Islamic Ideology.**- (1) If one-third of the total number of members of the Assembly ¹[or, as the case may be, the council] so requires, the Assembly ²[or as the case may be the Council]shall refer to the council of Islamic

¹ Inserted by (1st Amendment) Act, 1975.

² Ibid.

Ideology constituted under the constitution of the Islamic Republic of Pakistan (hereinafter referred to as the Islamic Council) for advice any question as to whether a proposed law is or is not repugnant to the injunctions of Islam.

(2) when a question is referred by the Assembly ¹[or as the case may be, the Council] to the Islamic Council, the Islamic Council shall, within fifteen days thereof, inform the Assembly ²[or , as the case may be, the Council] of the period within which the council expects to be able to furnish that advice.

(3) Where the Assembly ³[or, as the case may be, the Council] considers that in the public interest, the making of the proposed law in relation to which the question arose should not be postponed until the advice of the Islamic Council is furnished, the law may be made before the advice is furnished;

Provided that, where a law is referred for advice to the Islamic Council and the Council advises that the law is repugnant to the injunctions of Islam, the Assembly ⁴[or, as the case may be, the Council] shall reconsider the law so made.

33. **Amendment of this Act.-** ⁵(1) The provision of this Act may be amended in accordance with the following provisions;

Provided that no amendment shall be made in Section 31; this section or section 56 save with the prior approval of the Government of Pakistan.]

(2) A bill to amend this Act may originate either in the Council or in the Assembly.

(3) Within fourteen days of the day on which a Bill to amend this Act is introduced in the Council or the Assembly, the president shall summon a Joint sitting⁶[----]and if the Bill is passed in the joint sitting , with or without amendment, by the votes of the majority ⁷[of the total membership of the joint sitting,] the Bill shall be presented to the President for assent.

- ⁸[33-A. **Procedure at Joint sitting.-** (1) The President may after consultation with the Chairman of the Council and the Speaker make rules as to the procedure with respect to the joint sittings.

(2) At a joint sitting, the Speaker or, in his absence, such person as may be determined by the rules made under sub-section(1) shall preside.

(3) The President may address a joint sitting and send message in a joint sitting.

(4)The Advocate-General shall have the right to speak in, and otherwise take part in the proceedings of, a joint sitting or any of its committees, but shall not by virtue of this section have the right to vote.]

34. **General provisions regarding Council, etc.-** (1) The validity of any proceedings in the Council, the Assembly or a joint sitting shall not be questioned in any court.

(2) An officer or member or an authority in whom powers are vested for the regulation of proceedings, conduct of business, maintain order in the Council, the Assembly, or a joint sitting shall not, in relation to the exercise by him of any of those powers, be subject to the jurisdiction of any court.

¹ Inserted by(1st Amendment) Act,1975.

² Ibid

³ Ibid

⁴ Ibid

⁵ Substituted by ibid

⁶ Omitted by ibid

⁷ Inserted by ibid

⁸ Ibid

(3) A member of, or a person entitled to speak in, the Council the Assembly or a joint sitting shall not be liable to any proceedings in any court in respect of anything said by him or any vote given by him in the council, the Assembly or a joint sitting or in any committee thereof.

(4) A person shall not be liable to any proceedings in any court in respect of publication by or under the authority of the Council, the Assembly or a joint sitting of any report, paper, vote or proceedings.

(5) No process issued by a court or other authority shall except with the leave of the Chairman of the Council or the Speaker be served or executed within the precincts of the place where a meeting of the Council or, as the case may be, the Assembly is being held.

(6) Subject to this section, the privileges of the Council, the Assembly, the committees and members of the Council or the Assembly and of the persons entitled to speak in the Council or the Assembly may be determined by law.

35. **Authentication of Bills passed by the Council.-** A bill passed by the Council shall not require the assent of the President and shall, upon its authentication by the Chairman of the Council, become law and be called an Act of the Council.

36. **President's assent to Bill.-** (1) Subject to this Act, when a Bill has been passed by the Assembly or a joint sitting, it shall be presented to the President for assent.

(2) The President shall assent to a Bill within seven days after it has been presented to him for assent under sub-section(1) or under section 33 and if the President fails to do so he shall be deemed to have assented to the Bill at the expiration of the said period.

(3) When the President has assented or is deemed to have assented to a Bill, it shall become law and be called.-

(a) in the case of Bill to amend this Act, an Act of Azad Jammu and Kashmir; and

(b) in the case of a Bill with respect to any other matter, an Act of the Assembly.

37. **Council Consolidated Fund.-** (1) All revenues received by the Council, all loans raised by the Council and all moneys received by it in repayment of any loan¹[----] shall form part of a consolidated fund, to be known as the Council consolidated Fund.

²[(2) All other moneys;

(a) received by or on behalf of the Council; or

(b) received by or deposited with the Supreme Court of Azad Jammu and Kashmir or any other court established under the authority of the Council shall be credited to the Public Account of the Council.

(2-A) The Custody of the Council consolidated Fund, the payment of moneys into that Fund, the withdrawal of money therefrom, the custody of other moneys received by or on behalf of the council, their payment into, and withdrawal from the Public Account of the Council, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Council or, until provision in that behalf is so made ,by rules made by the Chairman of the Council.]

¹ Omitted by (1st Amendment) Act, 1975

² Substituted by ibid

(3) The Council shall, in respect of every financial year, cause to be prepared, and approve, a statement of the estimated receipts and expenditure of the Council for that year.

(4) The Chairman of the Council shall authenticate by his signature the statement approved by the Council under sub-section (3); and no expenditure from the Council Consolidated Fund shall be deemed to be duly authorised unless it is specified in the statement so authenticated.

¹[(5) If in respect of any financial year it is found;

(a) that the amount authorised to be expended for a particular service for the current financial year is insufficient, or that a need has arisen for expenditure upon some new service not included in the statement referred to in sub-section(3) for that year; or

(b) that any money has been spent on any service during a financial year in excess of the amount granted for that year, the Chairman of the Council shall have power to authorise, expenditure from the Council consolidated Fund and shall cause to be laid before the Council a supplementary statement or, as the case may be, an excess statement, setting out the amount of that expenditure, and the provisions of sub-section(3) and (4) shall apply to those statements as they apply to the statement referred to in sub-section (3).

(6) Notwithstanding anything contained in the foregoing provisions of this section, the Council shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding four months, pending Completion of the procedure prescribed in sub-section (3) and (4).]

²[**37-A. Azad Jammu and Kashmir Consolidated Fund.-** (1) All revenue received by the Government, all loans raised by the Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Azad Jammu and Kashmir Consolidated Fund.

(2) All other moneys;

(a) received by or on behalf of the Government; or

(b) received by or deposited with the High Court or any other court established under the authority of the Government shall be credited to the Public Account of the Government.

(3) The Custody of the Azad Jammu and Kashmir consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Government, their payment into, and withdrawal from the Public Account of the Government and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Assembly or, until provision in that behalf is so made by rules by the President.]

38. **Budget.-** (1) The ³[Government]shall, in respect of every financial year, cause to be laid before the Assembly a statement of the estimated receipts and expenditure for that year, to be called the Annual Budget.

(2) The Annual Budget shall be submitted to the Assembly in the form of demands, for grants and the Assembly shall have power to assent to, or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein;

¹ Inserted by.

² Inserted by(1st Amendment)Act, 1975.

³ Substituted by (1st Amendment) Act, 1975

Provided that, for a period of ten years from the commencement of this Act or the holding of the second general election to the Assembly after such commencement, whichever occurs later, a demand shall be deemed to have been assented to without any reduction of the amount specified therein, unless, by the votes of a majority of the total reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the ¹[Government.]

(4) The Annual Budget as passed by the Assembly shall be placed before the president who shall authenticate it by his signature.

²[(5) If in respect of any financial year it is found;

(a) that the amount authorized to expended for a particular service for the current financial year is insufficient, or that need has arisen for expenditure upon some new service not included in the Annual Budget for that year; or

(b) that any money has been spent on any service during a financial year in excess of the amount granted for that service for that year; the Government shall have power to authorize expenditure from the Azad Jammu and Kashmir consolidated Fund and shall cause to be laid before the Assembly a supplementary Budget or, as the case may be, an Excess Budget, setting the amount of that expenditure, and the provisions of this section shall apply to those budgets as they apply to the Annual Budget.

(6) Notwithstanding anything, contained in the foregoing provisions of this section, the Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding four months, pending completion of the procedure prescribed in sub-section(2) for the voting of such grant and the authentication of the Budget as passed by the Assembly in accordance with the provisions of sub-section (4) in relation to the expenditure.]

39. ³[**Special provisions regarding Budget, etc.**]- (1) Where the Annual budget for any financial year cannot be passed by the Assembly by reason of its having been earlier dissolved, the ⁴[Prime Minister] shall cause to be prepared an Annual Budget for that year and, by his signature, authenticate the Budget.

(2) The Annual Budget for any financial year authenticated by the ⁵[Prime Minister] under sub-section (1) shall, for the purpose of this Act, be deemed to have been passed by the Assembly.

40. **Restriction on expenditure.**- No expenditure shall be incurred by the Government except as authorized by the Annual or supplementary Budget as passed or deemed to have been passed by the Assembly.

41. **Power to make Ordinance.**-(1) The President may, except when the Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an ordinance as the circumstances may require.

¹ Ibid

² Ibid

³ Substituted by (1st Amendment) Act, 1975

⁴ Ibid

⁵ Ibid

(2) An ordinance promulgated under this section shall have the same force and effect as an Act of the Assembly and shall be subject to like restrictions as the power of the Assembly to make law, but every such Ordinance.

(a) shall be laid before the Assembly and shall stand repealed at the expiration of four months from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution; and

(b) may be withdrawn at any time by the President.

(3) Without prejudice to the provisions of sub-section (2) an Ordinance laid before the Assembly shall be deemed to be a Bill introduced in the Assembly

(4) The President ¹[shall] likewise, except when the council is in session, if so advised by the Chairman of the council make, ²[promulgate and withdraw]an Ordinance as the circumstances may require; and the provisions of sub-section (2) and sub-section(3) shall apply to an Ordinance so made as if reference therein to 'Act of the Assembly and Assembly were references respectively to 'Act of the council and council'.

³[42. **Supreme Court of Azad Jammu and Kashmir.-** (1) There shall be constituted a Supreme Court of Azad Jammu and Kashmir to be the highest Court of appeal,

(2) Subject to the provisions of this Act, the Supreme Court of Azad Jammu and Kashmir shall have such jurisdiction as is or may be conferred on it by this Act or by or under any law.

⁴[(3) The supreme Court shall consist of a Chief Justice to be known as Chief Justice of Azad Jammu and Kashmir and two other Judges.]

(4) The Chief Justice of Azad Jammu and Kashmir shall be appointed by the President on the advice of the Council and each of the other Judges of the Supreme Court of Azad Jammu and Kashmir shall be appointed by the President on the advice of the Council after consultation with the said Chief Justice.

(5) A person shall not be appointed a Judge of the Supreme Court of Azad Jammu and Kashmir unless he has-

(a) for a period of or for periods aggregating, not less than five years been a Judge of High court; or

(b) for a period of, or for periods aggregating, not less than fifteen years, been an advocate or pleader of a High Court.

Explanation.- in this sub-section , 'High Court' includes.-

(a) The High Court of Azad Jammu and Kashmir and a High Court or an equivalent Court that existed in Azad Jammu and Kashmir before the fourteenth day of August, 1947; and

(b) A High Court in Pakistan including a High Court that existed in Pakistan at any time before the fourteenth day of August, 1973.

(6) Before entering upon office, the Chief Justice of Azad Jammu and Kashmir shall make before the President and any other Judge of the Supreme Court of Azad Jammu and Kashmir

shall make before the Chief Justice, oath in the form set out in the First Schedule.

¹ Substituted by (1st Amendment) Act, 1975

² Ibid

³ Ibid

⁴ Substituted by (10st Amendment) Act, xx1993.

(7) A Judge of the Supreme Court of Azad Jammu and Kashmir shall hold office until he attains the age of sixty-five years , unless he sooner resigns or is removed from office in accordance with law.

(8) At any time when the office of Chief Justice of Azad Jammu and Kashmir is vacant, or the Chief Justice, is absent or unable to perform the functions of his office due to any other cause, the President shall appoint the most senior of the other Judges of the Supreme Court of Azad Jammu and Kashmir to act as Chief Justice of Azad Jammu and Kashmir.

(8-A) if at any time it is not possible for want of quorum of judges of the Supreme Court to hold or continue any sitting of the Court, or for any other reason it is necessary to increase temporarily the number of Judges of the Supreme Court, the Chief Justice of Azad Jammu and Kashmir may, in writing,

- ¹[(a) With the approval of the President , request a person who has held the office of a Judge of that Court, the Supreme Court of Pakistan or the Judicial Board or has held the office of Judge of the High Court for a minimum period of three years and since whose ceasing to hold that office three years have not elapsed; or
- (b) With the approval of the President and except in the case of Chief Justice, with the consent of the Chief Justice of High Court, require a Judge of that Court who has held office as such Judge for a minimum period of three years; or
- (c) With the approval of the president, request any person qualified for appointment as Judge of the Supreme Court, to attend sittings of the Supreme Court as an ad-hoc Judge for such period as may be necessary and while so attending an ad-hoc Judge shall have the same power and jurisdiction as a Judge of the Supreme Court.

(9)The remuneration and other terms and conditions of service of a Judge of the Supreme Court of Azad Jammu and Kashmir shall be as provided in the Fourth schedule.

(10) Subject to the succeeding provision of this section, the Supreme Court of Azad Jammu and Kashmir shall have jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of the High Court of Azad Jammu and Kashmir.

(11)An appeal shall lie to the Supreme Court of Azad Jammu and Kashmir from any judgment, decree , final order or sentence of the High Court of Azad Jammu and Kashmir.-

- (a) if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced to death or to imprisonment for life; or, on revision, has enhanced a sentence to a sentence as aforesaid; or
- (b) if the High Court has withdrawn for trial before itself any case from any court subordinate to it and has in such trial convicted the accused person and sentenced him as aforesaid; or
- (c) if the High Court has imposed any punishment on any person for contempt of the High Court ; or
- (d) if the amount or value of the subject-matter of the dispute in the court of first instance was, and also in dispute in appeal is, not less than fifty thousand rupees or such other sum as may be specified in that behalf by Act of the Council and the judgment, decree or final order appealed from

¹ Substituted by (4th Amendment) Act, 1977

- has varied or set aside the judgment, decree or final order of the court immediately below; or
- (e) if the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value and the judgement, decree or final order appealed from has varied or set aside the judgement, decree or final order of the court immediately below;
- (f) if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Act.
- (12) An appeal to the Supreme Court of Azad Jammu and Kashmir from a judgement, decree, order or sentence of the High Court in a case to which sub section(11) dose not apply shall lie only if the supreme Court of Azad Jammu and Kashmir grants leave to appeal.]

¹[(13) (a) An appeal to the Supreme Court shall be heard by a Bench consisting of not less than two judges to be constituted or reconstituted by the Chief Justice;

(b) If the Judges hearing a petition or an appeal are divided in opinion of majority shall prevail;

(c) If there is no such majority as aforesaid, the petition or appeal, as the case may be, shall be placed for hearing and disposal before another Judge to be nominated by the Chief Justice;

Provided that if there is no other Judge, or if no other Judge is able to hear the case, the judgment, decree, order or sentence appealed from shall be deemed to be the judgment, decree, order or sentence, as the case may be, of the Supreme Court;

Provided further that in case of difference of opinion as aforesaid, if the difference is only in respect of the nature, quantum or extent of the relief, liability, penalty or punishment to be granted or imposed, the decision of the Supreme Court shall be expressed in term of opinion of the senior of the two Judges.]

²[(14) The person holding office as Chief Justice of the State of Azad Jammu and Kashmir immediately before the commencement of the Azad Jammu and Kashmir interim constitution (first Amendment) Act,1975, shall as from such commencement hold office as Chief Justice of Supreme Court under this Act on the same terms and conditions of service as were applicable to him immediately before such commencement.

(15) All legal proceeding pending in the Judicial Board, immediately before the commencement of the Azad Jammu and Kashmir interim constitution (first Amendment) Act, 1975, shall on such commencement, stand transferred to, and be deemed to be pending before the Supreme Court for determination and any judgment or order of the Judicial Board delivered or made before such commencement shall have the same force and effect as if it had been delivered or made by the Supreme Court.]

³[42-A **Issue and execution of processes of Supreme Court.-** (1) The Supreme Court shall have powers to issue such directions, orders or

¹ Substituted by (10th Amendment) Act,xx 1993

² Added by (3rd Amendment) Act, 1976.

³ Inserted by (3rd Amendment) Act, 1976.

decrees as may be necessary for doing complete justice in any case or matter pending before it including an order for the purpose of securing the attendance of any person or the discovery or production of any document.

(2) any such direction order or decree shall be enforceable throughout Azad Jammu and Kashmir as if it has been issued by the High Court.

(3) All executive and judicial authorities throughout Azad Jammu and Kashmir shall act in aid of the Supreme Court.

(4) Subject to this Act and Law, the Supreme Court may, in consultation with the Council, make rules regulating the practice and procedure of the Court;

Provided that till the new rules are framed, the rules framed by the Judicial Board shall, so far as they are not inconsistent with this Act and any other law, be deemed to have been made by the Supreme Court until altered or amended and reference to the Judicial Board in there rules shall be construed to be referred to the Supreme Court.

42-B Decisions of Supreme Court binding on other Courts.- Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principal of law, be binding on all other Courts in Azad Jammu and Kashmir.]

¹[**42-C Seat of the Supreme Court.-** (1) The seat of the Supreme Court shall be at Muzaffarabad.

(2) The Supreme Court may sit at such other place or places as the Chief Justice of Azad Jammu and Kashmir, with the approval of the President, may appoint.

²[**42-D Review of judgment of Order by the Supreme Court.-** The Supreme Court shall have powers, subject to the provisions of an Act of the Assembly or the Council and of any rules made by the Supreme Court , to review any judgement pronounced or any order made by it.

42-E. Supreme Judicial Council.- (1) There shall be a Supreme Judicial Council of Azad Jammu and Kashmir.

(2) The Supreme Judicial Council shall consists of;-

(a) the Chief Justice of Azad Jammu and Kashmir who shall be its Chairman.

(b) The Senior Judge of the Supreme Court; and

(c) The Chief Justice of the High Court.

(3) A Judge of the Supreme Court or of the High Court shall not be removed from office except as provided by this section.

(4) If, on information received from the Supreme Judicial Council or from any other source, the Chairman of the Azad Jammu and Kashmir Council or the President is of the opinion that a Judge of the supreme Court or of the High Court.-

¹ Inserted by (10 th Amendment) Act XX of 1993.

² Inserted by (10th Amendment)Act XX of 1993.

- (a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or
 - (b) may have been guilty of misconduct, the Chairman or the President, as the case may be, shall direct the Supreme Judicial Council to inquire into the matter.
- (5) if, upon any matter inquired into by the Supreme Judicial Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail, and the report of the Supreme Judicial Council shall be expressed in terms of the view of the majority.
- (6) If, after inquiring into the matter, the Supreme Judicial Council reports to the Chairman of the Azad Jammu and Kashmir Council that it is of the opinion.-
- (a) that the judge is incapable of performing the duties of his office or has been guilty of misconduct, and
 - (b) that he should be removed from office, the Chairman shall advise the President to remove the Judge from his office and the President shall pass orders accordingly.
- (7) The Supreme Judicial Council shall issue a Code of conduct to be observed by Judges of the Supreme Court, and of the High Court.
- (8) If at any time the Supreme Judicial Council is inquiring into the conduct of a Judge who is a member of the Supreme Judicial Council, or a member of the Supreme Judicial Council is absent or is unable to act due to illness or any other cause, then;
- (a) If such member is the Chief Justice or Judge of the Supreme Court, the judge of the Supreme Court who is next in seniority;
 - (b) If such member is the Chief Justice of High Court the senior most of the other Judges of the High Court, shall, act as a member of the Supreme Judicial Council in his place.
- (9) If, upon any matter inquired into by the Supreme Judicial Council, there is a difference of opinion amongst its members, the opinion of the Supreme Judicial Council shall be expressed in terms of the view of the majority.

¹[42-F. **Power of Supreme Judicial Council to enforce Attendance of persons etc:-** (1) For the purpose of inquiring into any matter, the supreme Judicial Council shall have the same powers as has the Supreme Court, to issue directions or orders for securing the attendance of any person or the discovery or production of any document and any such direction or order shall be enforceable as if it has been issued by the Supreme Court.

- (2) The Provisions of section 45 shall apply to supreme Judicial Council as they apply to the Supreme Court and the High Court.

42-G. **Bar of Jurisdiction:-** The proceedings before the Supreme Judicial Council, and the removal of a Judge under section 42-E shall not be called in question in any Court.]

¹ Inserted by (10th Amendment) Act XX of 1993

43. High Court.- (1) There shall be a High Court for Azad Jammu and Kashmir, hereinafter called the High Court, which shall consist of a Chief Justice and such number of other Judges as may be prescribed by an Act of the Assembly.

¹[(1-A) (a) The functions of the High Court may be performed by a single Bench, a Division Bench or a Full Bench;

Provided that the Chief Justice may recall a case pending before Bench and make it over to another Bench or constitute a larger Bench for the purpose;

(b) in case of difference of opinion in a Full Bench, the opinion of the majority shall prevail;

(c) in case of difference of opinion in a Division Bench, the matter shall be referred to a third judge and the decision of the High Court shall be expressed in terms of Judgement of the majority.]

(2) The person holding office as Chief Justice or other Judge of the High Court immediately before the commencement of this Act shall be deemed to be the Chief Justice or other Judge, as the case may be, appointed under this Act.

²[(2-A) A Judge of the High Court shall be appointed by the President on the advice of the Council and after consultation –

(a) with the Chief Justice of Azad Jammu and Kashmir ; and

(b) except where the appointment is that of Chief Justice, with the Chief Justice of the High Court.

(3) ³[A person shall not be appointed]as a Judge of the High Court or Advocate-General unless-

(a) he has for a period, or for periods aggregating, not less than ten years, been an Advocate or pleader of the High Court of Azad Jammu and Kashmir or a High Court in Pakistan.

Provided that the term “High Court,” herein shall include a High Court or an equivalent Court that existed at any time before the 14th day of August, 1947 ; or

(b) he has for a period of not less than ten years held a judicial office out of which not less than three years shall have been as District and sessions Judge.

(4) Before he enters upon his office, the Chief Justice of the High Court shall make before the president, and an other judge of the High Court shall make before the Chief Justice, an oath in the form set out in the First Schedule.

(5) The Chief Justice or a Judge of the High Court shall hold office until he attains the age of sixty-two years unless he sooner resigns or is removed from office in accordance with law.

Provided that the President may appoint a Retired Judge of any High Court of Pakistan to be the Chief Justice or a Judge of the High Court for a period not exceeding three years and such person shall hold office till he attains the age of sixty-five years.

¹ Inserted by(10th Amendment) Act XX of 1993

² Inserted by (1st Amendment)Act,1975

³ Substituted by *ibid*.

- (6) If at any time any Judge of the High Court is absent or is unable to perform his functions due to illness or some other cause, the President may appoint a person qualified for appointment as a Judge of the High Court to be an Additional Judge of the High Court for the period for which the Judge is absent or unable to perform his functions.
- (7) A Judge of the High Court shall not,
- (a) hold any other office of profit in the service of Azad Jammu and Kashmir if his remuneration is there by increased; or
- (b) occupy any other position carrying the right to remuneration for the rendering of services, but this sub-section shall not be construed as preventing a Judge from holding or managing private property.
- (8) A person who has held office as a Judge of the High Court shall not hold any office of profit in the service of Azad Jammu and Kashmir, not being a Judicial or quasi-Judicial office or the office of Chief Election Commissioner or of Chairman or member of the Public Service Commission, before the expiration of two years after he ceased to hold that office.
- (9) The remuneration and other terms and conditions of Service of Judge of High Court shall be as provided in the ¹[Fifth Schedule.]

²[43-A. **Acting Chief Justice:-** At any time when:-

- (a) the office of Chief Justice of High Court is vacant ; or
- (b) the Chief Justice of High Court is absent or is unable to perform the functions of his office due to any other cause, the President shall appoint the senior most of the other Judges of the High Court to act as Chief Justice.]

44. Jurisdiction of High Court:- (1) The High Court shall have such jurisdiction as is conferred on it by this Act or by any other law.

(2) Subject to this Act, the High Court ³[may] if it is satisfied that no other adequate remedy is provided by law.-

- (a) on the application of any aggrieved party, make an order.-
- i. directing a person performing function in connection with the affairs of Azad Jammu and Kashmir or local authority to refrain from doing that which he is not permitted by law to do, or to do that which he is required by law to do; or
- ii. declaring that any act done or proceedings taken ⁴[-----] by a person performing functions in connection with the affairs of the state or a local authority has been done or taken without law full authority , and is of no legal effect; or

¹ Substituted by (1st Amendment) Act, 1975

² Inserted by (10th Amendment) Act XX of 1993

³ Substituted by (1st Amendment) Act, 1975

⁴ Omitted by ibid

- (b) on the application of any person , make an order.-
- i. directing that a person in custody in Azad Jammu and Kashmir be brought before the High Court so that the Court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or
 - ii. requiring a person ¹[-----] holding or purporting to hold a public office ²[in connection with the affairs of Azad Jammu and Kashmir] to show under what authority of law he claims to hold that office; or
- (c) on the application of any aggrieved person , make an order giving such directions to the person or authority , including the council and the Government, exercising any, power or performing any function in, or in relation to, Azad Jammu and Kashmir as may be appropriate for the enforcement of any of the fundamental rights conferred by this Act.

(3) An order shall not be made under sub-section (2) of this section on application made by or in relation to a person in the Defence Service in respect of his terms and conditions of service, in respect of any matter arising out of his service or in respect of any action in relation to him as a member of the Defence Services.

(4). Where.-

- (a) application is made to the High Court for an order under clause (a) or clause(c) of sub section (2); and
- (b) The court has reason to believe that the making of an interim order would have the effect of prejudicing or interfering with the carrying out of a public work or otherwise being harmful to the public interest, the court shall not make an interim order unless the advocate General has been given notice of the application and the Court, after the Advocate-General or any officer authorized by him in this behalf has been given an opportunity of being heard, is satisfied that the making of the interim order would not have the effect referred to in clause (b) of this sub-section.

(5) In this section, unless the context otherwise requires, person includes any body politic or corporate, any authority of or under control of the council or the Government and any court or tribunal other than the Supreme Court of Azad Jammu and Kashmir, the High Court or a Court or Tribunal established under a law relating to the Defence Services.

³[44-A. **Rules of procedure.-** Subject to this Act and law, the High Court may in consultation with the Government , make rules regulating the practice and procedure of the court or of any Court subordinate to it.

44-B. **Decision of High Court binding on subordinate Court.-** subject to section 42-B, any decision of the High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it.]

⁴[44-C. **Seat of the High Court.-** (1) The permanent seat of the High Court shall be at Muzaffarabad.

¹ ibid

² Inserted by ibid

³ Inserted by (3rd Amendment)Act 1976

⁴ Inserted by (10th Amendment) Act, XX of 1993

(2) The High Court may, from time to time , sit at such other places as the Chief Justice of the High Court, with the approval of the President, may appoint.]

45. Contempt of Court.- (1) In this section “Court” means the Supreme Court of Azad Jammu and Kashmir or the High Court.

(2) A court shall have power to punish any person who-

- (a) Abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court;
- (b) Scandalizes the Court or otherwise does anything which tends to bring the Court or a Judge of the Court into hatred, ridicule or contempt;
- (c) Does anything which tends to prejudice the determination of a matter pending before the Court; or

does any other thing which , by law , constitutes contempt of the Court.

(3) The exercise of the power conferred on a court by this section may be regulated by law and, subject to law, by rules made by the Court.

46. High Court to superintend and control all courts subordinate to it, etc.- (1)

The High Court shall superintend and control all other courts that are subordinate to it.

(2) There shall, in addition to the Supreme Court of Azad Jammu and Kashmir and the High Court, be such other Courts as are established by law.

(3) A Court so established shall have such jurisdiction as conferred on it by law.

(4) No Court shall have any jurisdiction which is not conferred on it by this Act or by or under any other law.

¹[46-A. **Advisory jurisdiction.-** (1) If, at any time , the Chairman of the Council or the President desires to obtain the opinion of the Supreme Court of Azad Jammu and Kashmir on any question of law which he considers of public importance, he may refer the question to the Supreme Court of Azad Jammu and Kashmir for consideration.

(2) The Supreme Court of Azad Jammu and Kashmir shall consider a question so referred and report its opinion on the question to the Chairman of the Council or, as the case may be, the President.]

47. Administrative Courts and Tribunals.- (1) Notwithstanding any thing herein before contained, the ²[Council in respect of matters to which its executive authority extends and the Assembly in respect of matters to which the executive authority of the Government extends,] may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of.-

(a) matters relating to the terms and conditions of persons who are or have been in the service of ³[Azad Jammu and Kashmir] including disciplinary matters;

(b) matters relating to claims arising from tortuous acts of⁴[the Council or the] Government or any person in the service of⁵[Azad Jammu and Kashmir]or of any local or other authority empowered by law to levy any tax or cess and any servant or such authority acting in the discharge of his duties as such servant; or

(c) matters relating to acquisition, administration and disposal of any property which is deemed to be enemy property under any law.

¹ Inserted by (1st Amendment) Act, 1975

² Inserted by (1st Amendment) Act, 1975

³ Substituted by ibid

⁴ Inserted by ibid

⁵ Substituted by ibid

(2) Notwithstanding anything herein before contained, where any Administrative Court or Tribunal is established under sub- section (1) , no other Court shall grant an injunction , make any order or entertain any proceeding in respect of any matter to which the jurisdiction of such Administrative court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal shall abate on such establishment.

(3) An appeal to the Supreme Court of Azad Jammu and Kashmir from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court of Azad Jammu and Kashmir being satisfied, that the case involves a substantial question of law of public importance, grants leave to appeal.

¹[47-A. **Employees of Court.-** The Supreme Court and the High Court, with the approval of the President, may make rules providing for the appointment of employees of the Court and for their terms and conditions of employment.]

48. Public Service Commission.- (1) There shall be a public Service Commission for Azad Jammu and Kashmir which shall consist of such number of members, including a Chairman, and perform such function as may be prescribed.

(2) The public Service Commission existing immediately before the commencement of this Act and the persons holding office as Chairman and other members of that Commission immediately before such commencement shall be deemed to have been constituted and appointed under this Act.

49. The Services.- (1) Subject to this Act, the appointment of persons to and the terms and conditions of service of persons in, the service of Azad Jammu and Kashmir may be regulated by law.

²[(2) Until an Act of the Council in respect of persons in the service of Azad Jammu and Kashmir employed in connection with the affairs of the Council, or an Act of the Assembly in respect of such persons employed in connection with the affairs of the Government, makes provision for the matters referred to in sub- section (1) , all rules and orders in force immediately before the commencement of this Act, shall continue in force and may be, amended from time to time by the Council or, as the case may be, the Government.]

50. Chief Election Commissioner.- (1) There shall be a Chief Election Commissioner appointed by the President ³[on the advice of the Council] on such terms and conditions as may be prescribed.

(2) The person appointed as Chief Election Commissioner under the Azad Jammu and Kashmir Government Act, 1970 or deemed to have been so appointed and functioning as such immediately before the commencement of this Act shall be deemed to have been appointed as Chief Election Commissioner under sub-section (1) on the same terms and conditions of service as are applicable to him immediately before such commencement.

⁴[50-A. **Auditor General.-** (1) There shall be an Auditor General of Azad

¹ Inserted by (10th amendment) Act XX of 1993.

² Substituted by (1st Amendment)Act 1975

³ Inserted by ibid

⁴ Inserted by (1st Amendment) Act, 1975

Jammu and Kashmir who shall be appointed by the President on the advice of the Council.

(2) Before entering upon office, the Auditor – General shall make before the Chief Justice of Azad Jammu and Kashmir oath in the form set out in the First Schedule.

(3) The terms and conditions of service, including the terms of office, of the Auditor- General shall be determined by Act of the council and, until so determined, by rules made by the Council.

(4) The Auditor-General shall, in relation to;

(a) the accounts of the Council and any authority or body established by the council; and

(b) the accounts of the Government and any authority or body established by the Government ; perform such functions and exercise such powers as may be determined, by or under Act of the Council and, until so determined, by rules made by the council.

(5) The accounts of the Council and of the Government shall be kept in such form and in accordance with such principles and methods as may be determined by the Auditor –General with the approval of the Council.

(6) The reports of the Auditor –General relating to the accounts of the Council shall be submitted to the Chairman of the Council; who shall cause them to be laid before the Council; and the reports of the Auditor-General relating to the accounts of the Government shall be submitted to the President who shall cause them to be laid before the Assembly.]

51. Continuance of existing laws.- subject to the provisions of this Act, all laws which, immediately before the commencement of this Act, were in force in Azad Jammu and Kashmir shall continue in force until altered , repealed or amended by an Act of the appropriate authority.

¹[**Explanation.-** In this section.-

(a) ‘laws; includes Ordinance, Orders , rules, bye-laws, regulations and any notification and other legal instruments having the force of law; and

(b) ‘in force’ in relation to any law, means having effect as law whether or not the law has been brought into operation.]

52. General Provision regarding President and Ministers.- (1) ²[The President, the Prime Minister, a Minister or an Advisor shall not.-]

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

(b) occupy any other position carrying the right to remuneration for the rendering of service, but this action shall not be construed as preventing

¹ Added by (1st Amendment) Act,1975

² Substituted by ibid

the President, the ¹[Prime Minister, a Minister or an Advisor]from holding or managing his private property.

- (2) No criminal proceedings whatsoever shall be instituted or continued against the President ²[or the Chairman of the Council] while he is in office.
- (3) No civil proceedings in which relief is claimed against the President ³[or the Chairman of the Council] shall be instituted while he is in office in respect of anything done or not done, or purporting to have been done or not done, by him in his personal capacity, whether before the or after he enters upon his office unless at least sixty days before the proceedings are instituted , notice in writing has been delivered to him, or sent to him, stating the nature of the proceedings, the cause of the action, the name, description and place of residence of the party by whom the proceedings are to be instituted and the relief which he claims.
- (4) Except in relation to proceedings referred to in sub-section (3) no process whatsoever shall be issued from any court, or Tribunal against the President ⁴[or the Chairman of the Council,] whether in a personal capacity or otherwise, while he is in office.
- (5) Subject to this Act, ⁵[the President, the Prime Minister, the Chairman of the Council, the Federal Minister who is a member of the Council, a Minister or an Advisor shall not] except in respect of anything done or not done by him in contravention of law, be answerable to any Court or Tribunal for the exercise of the powers, or the performance of the duties, of his office or for any act done or purporting to be done by him in the exercise of those powers or in the performance of those duties;

Provided that nothing in this sub-section shall be construed as restricting the right of any person to bring appropriate proceedings against the ⁶[council]or as the case may be, the Government.

⁷[52-A. **Power to acquire property and to make contracts, etc.-** (1) The executive authority of the Government and of the Council shall extend, subject to any Act of the appropriate authority to the grant, sale, disposition or mortgage of any property vested in, and to the purchase or acquisition of property on behalf of, the Government or as the case may be, the Council, and to the making of contracts.

(2) All property acquired for the purpose of the Government or of the Council shall vest in the President or, as the case may be, in the Council.

(3) All contracts made in the exercise of the executive authority of the Government or of the Council shall be expressed to be made in the name of the President or, as the case may be, the Council and all such contracts and all

¹ ibid

² inserted by ibid

³ ibid

⁴ Inserted by (1st Amendment) Act, 1975

⁵ substituted by ibid

⁶ Inserted by (1st Amendment) Act, 1975

⁷ ibid

assurances of property made in the exercise of that authority shall be executed on behalf of the President or the Council by such persons and in such manner as the President or, as the case may be, the council may direct or authorize.

(4) Neither the President, nor the Chairman of the Council, shall be personally liable in respect of any contract or assurance made or executed in the exercise of the executive authority of the Government or, as the case may be the Council, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

(5) Transfer of land by the Government or the Council shall be regulated by law.]

53. Power to issue proclamation.- (1) ¹[The President, if so advised by the Chairman of the Council] a grave emergency exists in which the security of Azad Jammu and Kashmir is threatened by war or external aggression or by internal disturbances, the President ²[shall] issue Proclamation of emergency, hereinafter referred to as the proclamation.

³[(2) A proclamation shall be laid before a joint sitting which shall be summoned by the President to meet within thirty days of the proclamation being issued and.-

(a) shall, cease to be in force at the expiration of two months unless before the expiration of that period it has been approved by a resolution of the joint sitting; and

(b) shall, subject to the provisions of clause (a), cease to be in force upon a resolution disapproving the resolution being passed by the votes of the majority of the total membership of the joint sitting.

(2-A) Notwithstanding anything contained in sub-section (2), if the Assembly stands dissolved at the time when the proclamation is issued, the proclamation shall continue in force for a period of four months but, if a general election to the Assembly is not held before the expiration of that period, it shall cease to be in force at the expiration of that period unless it has earlier been approved by a resolution of the Council.]

(3) A proclamation may be made before the actual occurrence of war or external aggression if the President is satisfied that there is imminent danger thereof.

53-A. ⁴[deleted]

54. Power to suspend fundamental rights.- (1) while a proclamation is in operation, the President may, by order, declare that rights to move any Court for the enforcement of such of the rights conferred by section 4 as may be specified in the order, and all proceedings pending in any court for the enforcement of the rights

¹ Substituted by (1st Amendment) Act, 1975

² ibid

³ Substituted by ibid.

⁴ Vide Azad Jammu and Kashmir interim Constitution (5th Amendment) Act, 1977 (Act VII of 1977) a temporary insertion of this section stands Deleted from the date, the Prime Minister elected by the Assembly Constituted after 2nd General Election under the AJ&K Interim Constitution Act, 1974, enters upon his office. The Prime Minister entered upon office on 17th June, 1985.

so specified, shall remain suspended for the period during which the proclamation is in force.

(2) Every order made under sub-section (1) , shall, as soon as may be, laid before the Assembly.

55. Power to vary or rescind proclamation.- (1) A proclamation issued under section 53 may be varied or revoked by a subsequent proclamation.

(2) The validity of any proclamation issued or order made under section 53 or section 54 shall not be questioned in any Court.

56. Act not to derogate from responsibilities of Pakistan.- Nothing in this Act shall derogate from the responsibilities of the Government of Pakistan in relation to the ¹[matters specified in sub-section (3) of section 31] or prevent the Government in Pakistan from taking such action as it may consider necessary or expedient for the effective discharge of those responsibilities.

²[56-A **Failure to comply with requirement as to time does not render an act invalid.-** when any act or thing is required by this Act to be done within a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period.

56-B **Oath of office.-** (1) An oath required to be made by person under this Act shall be made in a language that is understood by that person.

(2) Where, under this Act, an oath is required to be made before a specified person and for any reason, it is impracticable for

the oath to be made before that person, it may be made before such other person as may be nominated by that person.

(3) Where, under this Act, a person is required to make an oath before he enters upon an office, he shall be deemed to have entered upon the office on the day on which he makes the oath.

56-C **Effect of repeal of laws.-** Where a law is repealed , or is deemed to have been repealed, by, under, or by virtue of this Act, the repeal shall not, except as otherwise provided in this Act,-

(a) revive anything not in force or existing at the time at which the repeal taken effect;

(b) affect the previous operation of the law or any thing duly done or suffered under the law;

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;

(d) affect any penalty , forfeiture or punishment incurred in respect of any offence committed against the law; or

¹ Substituted by (1st Amendment) Act, 1975

² Inserted by ibid.

(e) affect any investigation , legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.]

57. Act to over-ride other laws, etc.- (1) The provisions of this Act shall over-ride and have effect notwithstanding the provisions of any law for the time being in force.

(2) No Court, including the ¹[supreme court of Azad Jammu and Kashmir]and the High Court, shall call into question or permit to be called into question, the validity of this Act ²[or an Act to amend it.]

58. Power to make rules.- The President may make rules for carrying out the purpose of this Act.

59. Repeal and saving.- (1) The Azad Jammu and Kashmir Government Act, 1970, hereinafter referred to as the said Act, together with the Acts amending it, and the rules made thereunder are hereby repealed.

³[(2)-----]

¹ Inserted by (1st Amendment) Act, 1975

² Added by ibid

³ Omitted by (1st Amendment) Act, 1975.

The First Schedule
Oath of Office
President
[see section 5 (6)]

I,-----do solemnly swear that I am a Muslim and believe in the Unity and oneness of Almighty Allah, His angels, the Books of Allah, the Holy Quran being the last of them, his prophets, the absolute finality of the prophethood of Muhammad (Peace be upon him), the day of Judgment , and all the requirements and teachings of the Holy Quran and Sunnah;

That, as President of Azad Jammu and Kashmir, I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as President honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as President;

So Help me Allah.

Prime Minister
(see section 13(4))

I,-----do solemnly swear that I am a Muslim and believe in the Unity and oneness of Almighty Allah, His angels, the Books of Allah, the Holy Quran being the last of them, his prophets, the absolute finality of the prophethood of Muhammad (Peace be upon him), the day of Judgment , and all the requirements and teachings of the Holy Quran and Sunnah;

That I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as Prime Minister honestly and faithfully;
and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Prime Minister of Azad Jammu and Kashmir;

So Help me Allah.

Minister
[See Section 14 (2)]

I,-----do hereby solemnly swear in the name of Allah;
I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as Minister honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Minister;

So Help me Allah.

**Speaker ¹[Or Deputy Speaker] of Legislative Assembly
[see section 29 (2)]**

I,----- having been elected as Speaker ²[or Deputy Speaker] of Azad Jammu and Kashmir Legislative Assembly do hereby solemnly swear in the name of Allah;

That, I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as Speaker ³[or Deputy Speaker] of Legislative Assembly honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Speaker ⁴[or Deputy Speaker] of Legislative Assembly;

So Help me Allah.

**Member of Legislative Assembly or Council
[see section 21 (6) and 23 (1)]**

I,----- having been elected as Member of Azad Jammu and Kashmir Legislative Assembly(or Council) do hereby solemnly swear in the name of Allah;

That, I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;

That I will perform my functions as Member of Legislative Assembly(or Council) honestly and faithfully; and

That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Member of Legislative Assembly(or Council) ;

So Help me Allah.

**⁵[Chief Justice of Azad Jammu and Kashmir, Judge of
Supreme Court of Azad Jammu and Kashmir
[see section 42 (6)]**

I,-----having been appointed Chief Justice of Azad Jammu and Kashmir (or Judge of the Supreme Court of Azad Jammu and Kashmir) do solemnly swear that I owe allegiance to Allah and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment and will administer justice according to the law in force in Azad Jammu and Kashmir, without fear or favour, affection or ill-will.]

¹ Inserted by (1st Amendment) Act, 1975

² Ibid

³ Ibid

⁴ Ibid

⁵ Inserted by (1st Amendment) Act, 1975

**Oath of Chief Justice
Judge High Court
[See section 43(4)]**

I,-----having been appointed Chief Justice (or Judge) of the High Court of Judicature, Azad Jammu and Kashmir State do solemnly swear that I owe allegiance to Allah and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment and will administer justice according to the law in force in Azad Jammu and Kashmir, without fear or favour, affection or ill-will.

**¹[Oath of Advisor
[see section 21(9)]**

I,-----do hereby solemnly swear in the name of Allah;
I will remain loyal to the country and the cause of accession of the State of Jammu and Kashmir to Pakistan;
That I will perform my functions as Advisor honestly and faithfully; and
That I will not directly or indirectly communicate or reveal to any person any official secret which may come to my knowledge as Advisor;
So Help me Allah.

**²[Auditor-General
[see section 50-A(2)]**

I,-----do hereby solemnly swear in the name of Allah;
That, as Auditor-General of Azad Jammu and Kashmir, I will perform my functions honestly, faithfully in accordance with the Azad Jammu and Kashmir Interim Constitution Act, 1974, and the law and to the best of my knowledge, ability and judgment, without fear or favour, affection or ill-will.]

**Second Schedule
[see section 24 (2) (d)]**

1. An office, which is not a whole time office remunerated either by salary or by fee.
2. The office of Lamberdar, inamdar, Sufedposh and Zaildar, whether called by this or any other title.
3. The offices of the Chairman of the Union Council, Union Committee and Town Committee and of the Vice Chairman of the Municipal Committee and District Council.
4. Reserve of the Armed Forces.
5. Any other office which is declared by an Act of the Assembly not to disqualify its holder from being elected as, or from being a member of the Assembly.

¹ Added by (1st Amendment) Act, 1975

² Ibid

Third Schedule
[see section 31 (2)]
Council Legislative list

1. Subject to the responsibilities of the Government of Pakistan under the UNCIP Resolutions, nationality, citizenship and ¹[Nationalization;]migration from or into Azad Jammu and Kashmir, and admission into, and emigration and expulsion from, Azad Jammu and Kashmir, including in relation thereto the regulation of the movements in Azad Jammu and Kashmir of persons not domiciled in Azad Jammu and Kashmir.
2. Post and Telegraphs, including Telephones, Wireless, Broad- Casting and other like forms of communications; post office saving Bank.
3. Public debt of the Council, including the borrowing of money on the security of the Council consolidated Fund.
4. Council public services and Council Public Service commission.
5. Council pensions, that is to say, pensions payable by the Council or out of the Council consolidated Fund.
6. Administrative courts for Council subjects.
7. Council agencies and institutions for the following purpose, that is to say, for research , for professional or technical training, or for the promotion of special studies.
8. Nuclear energy, including.-
 - (a) mineral resources necessary for the generation of nuclear energy;
 - (b) the production of nuclear fuels and the generation and use of nuclear energy; and
 - (c) ionising radiation.
9. Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodrome.
10. Beacons and other provisions for safety of aircraft.
11. Carriage of passengers and goods by air.
12. Copyright, inventions, designs, trade marks and merchandise marks.
13. Opium so far as regards sale for export.
14. Banking, that is to say, the co-ordination with the Government of Pakistan of the conduct of banking business.
15. The law of insurance and the regulation of the conduct of insurance business.
16. Stock-exchange and future markets with object and business not confined to Azad Jammu and Kashmir.
17. Corporations, that is to say, the incorporation regulation and winding up of trading corporations including banking, insurance and financial corporations, but not including corporations owned or controlled by Azad Jammu and Kashmir and carrying on business only within Azad Jammu and Kashmir or, co-operative societies, and of corporations, whether trading or not, with object not confined to Azad Jammu and Kashmir, but not including universities,

¹ Substituted for 'Nationalisation, and shall be deemed always to have been so substituted by(14th Amendment Act 1977

18. Planning for economic coordination including planning and coordination of scientific and technological research.
19. Highways, continuing beyond the territory of Azad Jammu and Kashmir excluding roads declared by the Government of Pakistan to be strategic importance.
20. Council surveys including geological surveys and council meteorological organizations.
21. Works, lands and buildings vested in, or in the possession of, the council for the purpose of the council (not being Military, Navel or air force works), but as regards property situate in Azad Jammu and Kashmir, subject always to law made by the Legislative Assembly, save in so far as law made by the council otherwise provides.
22. Census.
23. Establishment of standards of weights and measures.
24. Extension of the powers and jurisdiction of members of a police force belonging to Azad Jammu and Kashmir or any province of Pakistan to any area in such province of Azad Jammu and Kashmir, but not so as to enable the police of Azad Jammu and Kashmir or such province to exercise powers and jurisdiction in such province or Azad Jammu and Kashmir without the consent of the Government of that province or Azad Jammu and Kashmir; extension of the powers jurisdiction of members of a police force belonging the Azad Jammu and Kashmir or a province of Pakistan to railway areas outside Azad Jammu and Kashmir or that province.
25. Election to the council.
26. The salaries, allowance and privileges of the members of the council and¹[Advisors.]
27. Railways.
28. Mineral oil natural gas; liquids substances declared by law made by the Council to be dangerously inflammable.
29. Development of industries, where development under council control is declared by law made by council to be expedient in the public interest.
30. Removal of prisoners and accused persons from Azad Jammu and Kashmir to Pakistan or from Pakistan to Azad Jammu and Kashmir.
31. Measures to combat certain offences committed in connection with matters concerning the council and the Government and the establishment of police force for that purpose²[or the extension to Azad Jammu and Kashmir of the jurisdiction of a police force establish in Pakistan for the investigation of offences committed in connection , with matters concerning the Government of Pakistan]

¹ Substituted by (1st Amendment) Act, 1975

² Added by ibid

32. Prevention of the extension from Azad Jammu and Kashmir to Pakistan or from Pakistan to Azad Jammu and Kashmir of infections of contagious diseases or pests affecting men; animals or plants.
33. Population planning and social welfare.
34. Boilers.
35. Electricity.
36. Newspapers, books and printing presses.
37. State property.
38. Curriculum , syllabus, planning, policy, centers of excellence and standards of education.
39. Sanctioning of cinematograph films for exhibition.
40. Tourism.
41. Duties of customs, including export duties.
42. Taxes on income other than agricultural income.
43. Taxes on corporations.
44. Taxes on the capital value of the assets, not including taxes on capital gains on immovable property.
45. Taxes and duties on the production capacity of any plant, machinery, under taking, establishment or installation in lieu of the taxes and duties specified in entries 42 and 43 or in lieu of either or both of them.
46. Terminal taxes on goods or passengers carried by railway or air, taxes on their fares and freights.
47. Fees in respect of any of the matters enumerated in this list, but not including fees taken in any court.
48. Jurisdiction and powers of all courts with respect to any of the matters enumerated in this list.
49. Offences against laws with respect to any of the matters enumerated in the list.
50. Inquiries and statistics for the purpose of any of the matters enumerated in this list.
51. Matters which under the Act are within the Legislative competence of the Council or relates to the Council.
52. Matters incidental or ancillary to any of the matters enumerated in this list.

**¹[Fourth Schedule
[see section 42(9)]**

The Chief Justice and Judges of the Supreme Court of Azad Jammu and Kashmir shall be entitled to the same salary, Allowances, Privileges and pension as are admissible to the Chief Justice and the Judges of the Supreme Court of Pakistan.

**²[Fifth Schedule
[see section 43(9)]**

The Chief Justice and the Judges of the High Court of Azad Jammu and Kashmir shall be entitled to the same salary, Allowances, Privileges and pension as are admissible to the Chief Justice and Judges of the High Court in Pakistan.]

¹ Substituted by(10th Amendment)Act XX of 1993 and shall be deemed to have taken effect from the 1st day of July, 1990.

² Ibid

Preface

The Jammu and Kashmir State was one of the largest amongst the more than 560 princely States in British Rule in India. This State was sold by the Britishers to one Dogra Gulab Singh against a petty sum of Rs.75 Lacs (Nanak Shahi) under Amritsar sale Deed of 1846. The Dogra despotic and oppressive rule forced the dominant Muslim majority in the State to overthrow the rule of Hindu Dogra dynasty.

The situation became serious on July 13,1931, when the innocent people were gunned down by the Dogra forces in Srinagar which sparked off disturbances all over the State. These disturbances climaxed in the appointment of GLANCY COMMISSION to look into the causes of unrest and for suggesting suitable measures. On the recommendations of the Commission, one important development was the constitution of Praja Sabha (Legislative Assembly partly elected and partly nominated). The elections to the Assembly were held in 1934, 1938 and 1946.

The Freedom movement in Indo-Pak sub-continent forced the Britishers to pack up from India and the division of British India into two dominions i.e India and Pakistan came into existence legally and constitutionally as a result of Partition Plan June 1947 and India independence Act.-1947. The Maharaja Hari Singh acceded the state to India in violation of principles of partition plan against the wishes of dominant Muslim majority of the state and as such the peoples of Jammu and Kashmir state started war of liberation and established Azad Government of the Jammu and Kashmir state on 24th October 1947. This Government was working like a war council. The Rules of Business were framed in order to run the administration of Azad Jammu and Kashmir. The Executive as well as the legislative authority, vested in the President. The Courts and laws code was enacted in 1948, for running the judicial administration and some laws of Punjab were adopted in Azad Jammu and Kashmir state, while some of the laws of former Jammu and Kashmir state were allowed to continue in operation. In 1949, the earlier courts and laws code was replaced, by the courts and laws code Act 1949. Thereafter, in 1952 the Rules of Business were revised. The system of administration as well as the legislation was provided in the Rules of Business. There was another revision of the Rules in 1957. In the system, which pre-vailed from 1947 to 1960, the person holding the confidence of the working committee of Muslim conference was nominated as the President of Azad Jammu and Kashmir. For some-times, in the earlier years, the office of Supreme Head also existed and he approved the Legislation for Azad Jammu and Kashmir but this office was abolished in 1952 and thereafter only the President was the Executive Head, who was assisted by some Ministers.

In 1960, the Presidential Elections system through the votes of basic democrat, was introduced in Azad Jammu and Kashmir with another body known as Azad Jammu and Kashmir council which was also elected by the basic democrats. This Council consisted of 12 members elected by the people of Azad Jammu and Kashmir, whereas 12 were elected by the refugees of Azad Jammu and Kashmir State, settled in Pakistan, in 1964, this system was also replaced and Azad Jammu and Kashmir Government Act 1964 was enacted, whereby the provision for the state council was amended to the extent that 8 state Councillors were to be elected by the Basic Democrats of Azad Jammu and Kashmir. In 1965, the provision was made for appointment of two members by President from amongst the refugees settled in Pakistan. The Chairman of the Council was to be nominated by the Chief Advisor under the Act of 1964 from amongst the members. The Chairman had to act as the President for Azad Jammu and Kashmir Ex-Officio. In 1968, the Azad Jammu and Kashmir Government Act 1968 came into force and 8 Councillors were elected while

4 members were to be nominated by the Chief Advisor from amongst the refugees settled in Pakistan. The Chairman of the Council was elected by the councilors, who was also ex-officio President. In 1969 a caretaker-Government was inducted into office.

The major constitutional change came in 1970 when the system of adult franchise was adopted and a democratic set up was introduced in Azad Jammu and Kashmir, through Azad Jammu and Kashmir Act 1970. For the first time, the Legislative Assembly as well as President for Azad Jammu and Kashmir were also elected on the basis of adult franchise by the people of Azad Jammu and Kashmir and the refugees of Jammu and Kashmir, settled in Pakistan. The Assembly consisted of 24 elected members and one co-opted lady member. The Presidential system of Government worked for about 4 years when in 1974, the parliamentary system was introduced in Azad Jammu and Kashmir, under the Azad Jammu and Kashmir Interim Constitution Act, 1974 which has undergone about 8 amendments so far. Earlier in 1974, the Assembly consisted of 40 members, elected on the basis of adult franchise and two co-opted lady members, whereas the Assembly now consists of 41 elected Members and co-opted members of which 5 are ladies, one Member co-opted out of Ulmas, one out of technocrats, while one is from amongst Jammu and Kashmir nationals working overseas. Since 1975, the Prime Minister is elected by the Members of legislature. He is the Chief Executive of the state, whereas the President is the constitutional head, under the Interim Constitution. We have now an independent judiciary, apart from the Executive and the Legislature. There is a Supreme Court for Azad Jammu and Kashmir and a High Court, in addition to many other courts, established under various laws. The pattern of the state, in Azad Jammu and Kashmir is almost the same, prevailing in Pakistan with the exception that there exists in Azad Jammu and Kashmir council with Prime Minister of Pakistan as its Chairman, 6 elected members, 3 ex-officio members, and 5 members nominated from the members of Pakistan National Assembly. The council has been assigned a specified field of activities and it has some of the functions assigned to the Central Government in Pakistan. The Defence, Security, Foreign Affairs and Foreign Trade, Currency and coins are the responsibilities of the Government of Pakistan.

The elected Government under the Act, 1974 remained suspended with effect from August 1977 to 16th of June 1985 under the provision of section 53A of the constitution. The elected Government took over on 17th June 1985 under the premiership of Sardar Sikander Hayat Khan while Sardar Mohammad Abdul Qayyum Khan took over as President, Azad Jammu and Kashmir on 1-10-1985.

The people of Azad Jammu and Kashmir cherish high hopes for the success of democratic system in Azad Jammu and Kashmir and let us pray that this system flourishes in the days to come. The democratic set-up also provides ever fresh fillip to freedom struggle to the people in occupied Kashmir.

Sd/-(KHALIL AHMED QURESHI)
SECRETARY LAW.
13-02-1989

THE
AZAD JAMMU & KASHMIR
INTERIM CONSTITUTION
ACT, 1974

(Amended upto date & Modified
upto September 2005)

Azad Jammu & Kashmir Interim Constitution Act, 1974

As modified upto
September 2005

**Azad Govt. Of The State of
Jammu & Kashmir**