

EXTRACT OF IMPORTANT PROVISIONS FROM THE AZAD JAMMU & KASHMIR INTERIM CONSTITUTION ACT, 1974

Section 2.

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

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

‘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;

‘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;

‘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;

‘State Subject’ means a person for the time being residing in the 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.

¹ Inserted vide Tenth Amendment (Act XX of 1993), dated 21.03.1993.

Section 4.

Fundamental Rights:-

(4) The Rights:-

4. **Protection Against Retrospective Punishment:-** No law shall authorized the punishment of a person:

- a) for an act or omission that are not punishable by law at the time of the act or omission; or
- (b) or an offence of a penalty greater than, or of a kind different from, the penalty prescribed by law or that offence at the time the offence was committed.

7. **Freedom of Associations:-** (1) Subject to this Act, every State Subject shall have the right to form associations or unions, subject to any reasonable restriction 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.

15. **Equality of State Subjects:-** All State Subjects are equal before law and are entitled to equal protection of law.

17. **Safeguard Against Discrimination in Services:-** 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 for race, religion, cast or sex;

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

Section 5.

President.²[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.....]

² Substituted vide 1st Amendment Act (Act IX of 1975).

Section 7.

President to Act on Advice, etc:- (1) ³[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.

.....

Section 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.

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

⁴(4) Orders 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.]

Section 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:-

³ Substituted vide the Ibid Act.

⁴ Added vide the 1st Amendment Act (Act IX of 1975).

- (a) not to impede or prejudice the responsibilities of the Government of Pakistan ⁵[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.

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Section 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 Ministers and members of Parliament;
 - (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.
- ⁶[(3A) The Federal Minister of State for Kashmir Affairs and Northern Affairs or Areas shall be an ex-officio member of the Council.]

.....

⁷[(7) 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

⁵ Substituted vide 1st Amendment Act (Act IX of 1975).

⁶ Inserted by vide 2nd Amendment Act (Act VII of 1976).

⁷ Substituted vide 1st Amendment Act (Act IX of 1975).

nominated by the Chairman from amongst the members of the Council and not more than three Advisors appointed by the Chairman shall be incharge;

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.]

.....
(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.

.....
(13) The Chairman may regulate the allocation and transaction of the business of the Council and may, for the convenient transaction of that 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.]

⁸[(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.]

Explanation: In this section, “Chairman” means Chairman of the Council.

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Section 40.

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

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Section 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.

⁸ Added vide 5th Amendment Act (Act VII of 1977).

(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.

Section 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.

⁹[(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.]

Section 58.

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

⁹ Substituted by the 1st Amendment Act (Act IX of 1975).