

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR

Law, Justice, Parliamentary Affairs and Human Rights Department

“Muzaffarabad”

Dated: The 2nd day of June, 2018

No.LD/Legis-Act/37-52/2018. The following Act of the Azad Jammu and Kashmir, passed by the Joint Sitting and assented by the President on the 1st day of June, 2018, is hereby published for general information:-

[Act III of 2018]

AN

ACT

further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974

WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Interim Constitution Act, 1974 (VIII of 1974), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018.

(2) It shall come into force at once.

2. Amendment in the Preamble of the Azad Jammu and Kashmir Interim Constitution Act, 1974.- In the Azad Jammu and Kashmir Interim Constitution Act, 1974 (VIII of 1974), hereinafter referred to as the Constitution, in the Preamble, between third and fourth paragraphs, the following new paragraphs shall be inserted:-

“**AND WHEREAS** the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah;

AND WHEREAS, it is necessary to cause further empowerment of the Legislative Assembly of Azad Jammu and Kashmir and Azad Government of the State of Jammu and Kashmir as being chosen representative of the people of Azad Jammu and Kashmir to exhaustively exercise their legislative powers and executive authority, as the case may be, for the better governance, socio-economic development and in particular for general welfare of people of Azad Jammu and Kashmir in the sustained manner and other matters ancillary thereto beside pursuing and fostering our cause of securing self-determination under the UN Charter and according to the UNCIP Resolutions through the democratic method of free and fair plebiscite under the auspices of the United Nations;”

- 3. General amendment in the Constitution.**- In the Constitution,-
- (i) for the words “**this Act**” wherever occurring, the words “**the Constitution**” shall be substituted and referred as such;
 - (ii) for the words “**Section**” and “**sub-section**”, wherever occurring, the words “**Article**” and “**sub-Article**” shall be substituted and referred as such respectively.
- 4. Amendment of Article 1 of the Constitution.**- In the Constitution, sub-Article (1) of Article 1 shall be substituted as under,-

“(1) This Constitution shall henceforth be known as the Azad Jammu and Kashmir Interim Constitution, 1974.”

5. Amendment of Article 2 of the Constitution.- In the Constitution, in Article 2, in sub-Article (1),-

- (i) the definition of term ‘**Joint Sitting**’ shall be omitted;
- (ii) in the definition of term ‘**Judge**’, between the words “an” and “additional”, the words “ad-hoc Judge of the Supreme Court and” shall be inserted.
- (iii) in the definition of term ‘Service of Azad Jammu and Kashmir’ the words “or Advisor appointed under Article 21” shall be omitted.
- (iv) for sub-Article (2), the following shall be substituted:-

“(2) In the Constitution, Act of the Assembly, shall include an Ordinance promulgated under sub-Article (1) of Article 41.”

6. Addition of new Article 3-A to 3-J of the Constitution.- In the Constitution, after Article 3, the following new Article 3-A, 3-B, 3-C, 3-D, 3-E, 3-F, 3-G, 3-H, 3-I, and 3-J shall be added, namely.-

“3-A. Principles of Policy.- (1) The Principles set out in Article 3-A, 3-B, 3-C, 3-D, 3-E, 3-F, 3-G, 3-H, 3-I and 3-J shall be known as the Principles of Policy, and it is the responsibility of each organ and authority of the State, and of each person performing functions on behalf of an organ or authority of the State, to act in accordance with these Principles in so far as they relate to the functions of the organ or authority.

(2) In so far as the observance of any particular Principle of Policy may be dependent upon resources being available for the purpose, the Principle shall be regarded as being subject to the availability of resources.

(3) In respect of each year, the President shall cause to be prepared and laid before the Assembly, a report on the observance and implementation of the Principles of Policy and provision shall be made in the rules of procedure of the Assembly for discussion on such report.

3-B. Responsibility with respect to Principles of Policy.- (1)

The responsibility of deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State, is in accordance with the Principles of Policy is that of the organ or authority of the State, or of the person, concerned.

(2) The validity of an action or of a law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the State or any organ or authority of the State or any person on such ground.

3-C. Islamic way of life.- (1) Steps shall be taken to enable the

Muslim State Subjects, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The state shall endeavor, as respects the Muslims of State:-

- (a) to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of Arabic language and to secure correct and exact printing and publishing of the Holy Quran;
- (b) to promote unity and the observance of the Islamic moral standards; and
- (c) to secure the proper organization of zakat, usher, auqaf and mosques.

3-D. Promotion of local Government institutions.- The State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women.

3-E. Parochial and other similar prejudices to be discouraged.- The State shall discourage parochial, racial, tribal and sectarian prejudices among the State Subjects.

3-F. Full participation of women in life.- Steps shall be taken to ensure full participation of women in all spheres of life.

3-G. Protection of family, etc.- The State shall protect the marriage, the family, the mother and the child.

3-H. Protection of minorities.- The State shall safeguard the legitimate rights and interests of minorities including

their due representation in the Service of Azad Jammu and Kashmir.

3-I. Promotion of social justice and eradication of social evils.- The State shall,-

- (a) promote, with special care, the educational and economic interests of backward classes or areas;
- (b) remove illiteracy and provide free and compulsory secondary education within minimum possible period;
- (c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit;
- (d) ensure inexpensive and expeditious justice;
- (e) make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment;
- (f) enable the people of different areas, through education, training, agricultural and industrial development and other methods, to participate fully in all forms of national activities, including employment in the service of Azad Jammu and Kashmir;
- (g) prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements;

- (h) prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes; and
- (i) decentralise the Government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public.

3-J. Promotion of social and economic well-being of the people.- The State shall , -

- (a) secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;
- (b) provide for all citizens, within the available resources of the State, facilities for work and adequate livelihood with reasonable rest and leisure;
- (c) provide for all persons employed in the service or otherwise, social security by compulsory social insurance or other means;
- (d) reduce disparity in the income and earnings of individuals, including persons in the various classes of the service; and
- (e) eliminate *riba* as early as possible.

7. Amendment of Article 4 of the Constitution.- In the Constitution, in sub-Article (4) of Article 4, in paragraphs relating to fundamental rights,-

- (i)** in paragraph 1, between the words “**of**” and “**liberty**” the words “**life or**” shall be inserted;
- (ii)** in paragraph 2, for the sub-paragraph (4) and (5), the following shall be substituted, namely:-

“(4) No law providing for preventive detention shall be made except to deal with persons acting in a manner prejudicial to the integrity, security or defense of Azad Jammu and Kashmir or Pakistan or any part thereof, or public order, or the maintenance of supplies or services, and no such law shall authorize the detention of a person for a period exceeding three months unless the Review Board has, after affording him an opportunity of being heard in person, reviewed his case and reported, before the expiration of the said period, that there is, in its opinion, sufficient cause for such detention, and, if the detention is continued after the said period of three months, unless the Review Board has reviewed his case and reported, before the expiration of each period of three months, that there is, in its opinion, sufficient cause for such detention.

Explanation-I: In this clause, "the Review Board" means a Board appointed by the Chief Justice of Azad Jammu and Kashmir consisting of a Chairman and two other persons, each of whom is or has been a Judge of the Supreme Court or a High Court.

Explanation-II: The opinion of the Review Board shall be expressed in terms of the views of the majority of its members.

(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, within fifteen days from such detention, 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.

(6) The authority making the order shall furnish to the Review Board all documents relevant to the case unless a certificate, signed by a Secretary to the Government concerned, to the effect that it is not in the public interest to furnish any documents, is produced.

(7) Within a period of twenty four months commencing on the day of his first detention in pursuance of an order made under a law providing for preventive detention, no person shall be detained in pursuance of any such order for more than a total period of eight months in the case of a person detained for acting in a manner prejudicial to public order and twelve months in any other case:

Provided that this clause shall not apply to any person who is employed by, or works for, or acts on instructions

received from, the enemy, or who is acting or attempting to act in a manner prejudicial to the integrity, security or defense of Azad Jammu and Kashmir or Pakistan or any part thereof or who commits or attempts to commit any act which amounts to an anti-national activity as defined in a law or is a member of any association which has for its objects, or which indulges in, any such anti-national activity.

(8) The Review Board shall determine the place of detention of the person detained and for a reasonable subsistence allowance for his family.

(9) Nothing in this clause shall apply to any person who for the time being is an enemy alien.

(iii) In paragraph 3,-

(a) in sub-paragraph (2), between the words “**labour**” and “**are**” the words “**and traffic in human beings**” shall be inserted and thereafter the following new sub-paragraph (2-a) shall be added;

“(2-a) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.”

(b) the full stop at the end of clause (b) of sub-paragraph (3) shall be substituted by a colon and thereafter the following proviso shall be added:

“Provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.”

(iv) for paragraph 7, the following shall be substituted, namely:-

“7. Freedom of association.- (1) Every State Subject shall have the right to form association or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan and Azad Jammu and Kashmir, morality or public order.

(2) Every State Subject, not being in the Service of Azad Jammu and Kashmir, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of the State and such law shall provide that where the Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of the State, the Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) 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.

(4) Every political party shall account for the source of its funds in accordance with law.”

(v) in paragraph 8, in clause (c),-

- (a) the words “**or Council**” appearing between the words “**Government**” and “**or**” shall be omitted; and
- (b) the words and comma “**or the Council,**” appearing between the words “**Government**” and “**of**” shall be omitted.

(vi) In the paragraph 14,-

- (a) in sub-paragraph (3), in clause (b), after the words “**under any law**”, at the end, the words and brackets, “**(not being property which has ceased to be evacuee property under any law)**” shall be added; and
- (b) after sub-paragraph (3), the following new sub-paragraph (4) shall be added,-
“(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article, or determined in pursuance thereof, shall not be called in question in any court.”

(vii) For paragraph 15, the following shall be substituted, namely.-

“15. Equality of State Subjects.- (1) All State Subjects are equal before law and are entitled to equal protection of law.

(2) There shall be no discrimination against any State Subject on the basis of sex.

(3) Nothing in this Article shall prevent the state from making any special provision for the protection of women and children.

(viii) The paragraph 16 shall be renumbered into subparagraph (1) and thereafter the following new subparagraph (2) shall be added, namely,-

“(2) Nothing in sub-Article (1) shall prevent the state from making any special provision for women and children.”

(ix) For paragraph 17, the following shall be substituted namely:-

“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 of race, religion, caste, residence, sex or place of birth:

Provided that in the interest of the said service, specified posts or services may be reserved for members of either sex if such posts or services entail the performance of duties and functions which cannot be adequately performed by members of the other sex:

Provided further that under-representation of any class or area in the service of State may be redressed in such manner as may be determined by an Act of Assembly.

(x) After paragraph 18, the following new paragraphs 19, 20, 21, 22, 23 and 24 shall be added, namely:-

“19. Right to fair trial.-For the determination of his civil rights and obligations or in any criminal charge

against him, a person shall be entitled to a fair trial and due process.

20. Protection against double punishment and self-incrimination.- No person shall,-

- (i) be prosecuted or punished for the same offence more than once; or
- (ii) when accused of an offence, be compelled to be a witness against himself.

21. Inviolability of dignity of man, etc.-

- (i) The dignity of man and, subject to law, the privacy of home, shall be inviolable.
- (ii) No person shall be subjected to torture for the purpose of extracting evidence.

22. Right to information.- Every State Subject shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.

23. Right to education.- The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.

24. Preservation of language, script and culture.- Without prejudice to the national language of Azad Jammu and Kashmir as may be declared by the Government, any section of society having a distinct language, script or culture shall have the right to

preserve and promote the same and subject to law, establish institutions for that purpose.”

8. **Amendment of Article 5 of the Constitution.**- In the Constitution, in Article 5, in sub-Article (1), for the words “**Joint Sitting**”, appearing twice, the word “**Assembly**” shall be substituted.
9. **Amendment of Article 6 of the Constitution.**- In the Constitution, in Article 6, for the words “**Joint Sitting**”, wherever appearing, the word “**Assembly**” shall be substituted.
10. **Amendment of Article 12 of the Constitution.**- In the Constitution, in Article 12, the words and comma “Subject to this Act,” shall be omitted.
11. **Amendment of Article 14 of the Constitution.**- In the Constitution, in Article 14, in sub-Article (1), the proviso, shall be substituted as under:-

“Provided that from next term of Assembly, total strength of Ministers in the cabinet shall not exceed thirty percent of the total membership of the Assembly.”

12. **Substitution of Article 14-A of the Constitution.**- In the Constitution, for Article 14-A the following shall be substituted, namely:-

“14-A. Appointment of Advisors, Special Assistants and Parliamentary Secretaries.- (1) The Prime Minister may appoint Advisors and Special Assistants to Government, of whom total strength in each case shall not exceed two, for the performance of such duties and functions as may be prescribed by law.

(2) The Prime Minister may also appoint Parliamentary Secretaries, not exceeding five from amongst the members of the Assembly to perform such functions as may be prescribed by law.

(3) The Advisor, Special Assistant or Parliamentary Secretary, as the case may be, by writing under his hand addressed to the Prime Minister, may resign from his office or may be removed from his office by the Prime Minister.”

13. Amendment of Article 17 of the Constitution.- In the Constitution, in sub-Article (3) of Article 17, for the comma and words “, **for any reason, the Prime Minister is unable to perform his functions**” the words “**the Prime Minister is unable to perform his functions due to physical incapacitation or sickness**” shall be substituted.

14. Amendment of Article 18 of the Constitution.- In the Constitution, for sub-Article (1) of Article 18, the following shall be substituted, namely,-

“(1) A resolution for a vote of no-confidence (hereinafter in this Article referred to as the resolution) moved by not less than twenty five per centum of the total membership of the Assembly may be passed against the Prime Minister by the Assembly.”

15. Substitution of Article 19 of the Constitution.- In the Constitution, for Article 19, the following shall be substituted, namely:-

“19. Extent of executive authority of Government.- (1) The executive authority of the Government shall extend to the matters with respect to which the Assembly has power to make laws including Part-B of Third Schedule and shall be so exercised as,-

- (a) not to impede or prejudice the responsibilities of Government of Pakistan in relation to the matters specified in sub-Article (3) of Article 31; and
- (b) to secure compliance with the laws made in relation to matters specified in Third Schedule as set out under sub-Article (3) of Article 31.

(2) The Government, if deems necessary or expedient in the public interest and to secure paramount purpose of social and economic wellbeing of the people of the State, may with the consent of the Government of Pakistan, entrust, either conditionally or unconditionally, to the Government of Pakistan or to any of its subordinate authority including a ministry, division, organization or statutory body or entity of Pakistan, to perform any of such functions within territory of the State as may be prescribed by law.

(3) The Government of Pakistan may also entrust, either conditionally or unconditionally, any of its functions to the Government in relation to any matter specified in Part-B of the ‘Third Schedule’ as set out under sub-Article (3).

(4) The relationship between Government of Pakistan with the Government shall be such as manifested

in sub-Article (3) of Article 31 and the Cabinet Division D.O. No. 8/9/70-Cord-1 dated the 11th May, 1971 of the Government of Pakistan with respect to peculiar political status of Azad Jammu and Kashmir and shall be the guiding principles to maintain direct working relationship of Government with the Government of Pakistan.”.

16. Amendment of Article 21 of the Constitution.- In the Constitution, in Article 21,-

- (i) sub-Articles (7), (8), (9), (10), (11), (12) and (13) shall be omitted; and
- (ii) sub-Article (14) shall be renumbered as sub-Article (7) thereof and thereafter the following new sub-Article (8) shall be added, namely:-

“(8) The Council shall have an advisory role in respect of matters and subjects, referred to in sub-Article (3) of Article 31 and in respect of the responsibilities of Government of Pakistan under the UNCIP Resolutions.”.

17. Amendment of Article 22 of the Constitution.- In the Constitution, in Article 22,-

- (i) in sub-Article (1), for the words “**forty nine**” the words “**fifty three**” shall be substituted;
- (ii) for clause (a) of sub-Article (1), the following shall be substituted, namely:-

“(a) forty five shall be elected directly on the basis of adult franchise, out of whom,-

- (i) thirty three members to be elected by the State Subjects residing in the Azad Government of the State of Jammu and Kashmir as defined in Article 2:

Provided that this amendment shall take effect from the next term of the Assembly;

- (ii) six members to be elected from amongst themselves by the refugees from the occupied areas of districts of Muzaffarabad, Anantnag (Islamabad) and Baramula as these existed on the 14th day of August, 1947, who are now residing in any of the province of Pakistan;
- (iii) six members to be elected from amongst themselves by such of the State Subjects from occupied areas of districts of Jammu, Kathua, Reasi, Udhampur, Poonch State and Mirpur as existed on the 14th day of August, 1947 and Mangla Dam affectees who are now residing in any of the province of Pakistan:

Provided that the members represented under sub-clauses (ii) and (iii), hereinabove, shall be deemed to have been elected and shall always to have been validly represented and elected under this Article.

18. Amendment of Article 27 of the Constitution.- In the Constitution, for sub-Article (3) of Article 27, the following shall be substituted, namely:-

“(3) The Assembly shall meet for not less than sixty working days in each year.”.

19. Amendment of Article 30-A of the Constitution.- In the Constitution, in Article 30-A, the words “**or the Council or the joint sitting**” shall be omitted.

20. Substitution of Article 31 of the Constitution.- In the Constitution, for Article 31, the following shall be substituted, namely:-

“**31. Legislative Power.**- (1) Subject to sub-Article (3) 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 persons in the Service of Azad Jammu and Kashmir, wherever they may be.

(2) The Assembly shall have exclusive power to make laws on any matter not enumerated in Part-A of the Third Schedule.

(3) The Government of Pakistan shall have exclusive power to make laws with respect to any matter enumerated in ‘Part-A’ of the Third Schedule.

(4) The Assembly shall, with the consent of Government of Pakistan, make laws with respect to any matters enumerated in ‘Part-B’ of the Third Schedule.

(5) All taxes including the income tax shall be levied for the purposes of the territories of Azad Jammu and Kashmir by or under the authority of an Act of the Assembly.

(6) 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.

Explanation.—In the application of this sub-Article to the personal law of any Muslim sect, the expression "Quran and Sunnah" shall mean the Quran and Sunnah as interpreted by that sect.”.

21. Substitution of Article 32 of the Constitution.- In the Constitution, Article 32 shall be substituted as under,-

“32. Council of Islamic Ideology.- (1) There shall be a Council of Islamic Ideology, hereinafter referred to as the Islamic Council.

(2) The Islamic Council shall consist of such members, being not less than five nor more than ten, as the President may appoint, on the advice of the Prime Minister, from amongst persons having knowledge of principles and philosophy of Islam as enunciated in the Holy Quran and Sunnah, or understanding of the economic, political, legal or administrative problems of Azad Jammu and Kashmir.

(3) While appointing members of Islamic Council, the President shall ensure that,-

(a) so far as practicable, various school of thought are represented in the Islamic Council

- (b) not less than one of the members are persons each of whom is or has been a judge of the Supreme Court or of a High Court; and
- (c) not less than one third of the members are persons each of whom has been engaged for a period of not less than fifteen years, in Islamic research or instruction.

(4) The President shall appoint one of the members of Islamic Council to be Chairman of Islamic Council.

(5) If one-third members of the total strength of the Assembly so requires, the Assembly may refer to Islamic Council or Islamic Ideology Council of Pakistan constituted under Article 228 of the Constitution of Pakistan, for solicitation of advice as to whether a proposed law is or is not repugnant to the injunctions of Islam:

Provided that the Government may also make such reference for advice of Islamic Council or Islamic Ideology Council of Pakistan, if deems expedient in the public interest.

(6) When a proposed law or a question is referred under sub-Article (6), the Islamic Council, or the Islamic Ideology Council of Pakistan, as the case may be, shall, within fifteen days, inform the Assembly or the Government of the period within which the council expects to be able to furnish that advice:

Provided that the Islamic Council may refer the question so received, with or without its opinion, to the Council of Islamic Ideology of Pakistan for advice.

(7) Where the Assembly 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 or Islamic Ideology Council of Pakistan is furnished, the law may be made before the advice is furnished;

Provided that, where a law is referred for advice under sub-Article (7) and it is advised that the law is repugnant to the injunctions of Islam, the Assembly shall reconsider the law so made.

(8) A member of Islamic Council shall hold office for a period of three years.

(9) A Member may, by writing under his hand addressed to the President, resign his office or maybe removed by the President upon the passing of a resolution for his removal by a majority of the total membership of the Islamic Council.

(10) The proceedings of the Islamic Council shall be regulated by rules of procedure to be made by the Council with the approval of the Government.

22. Substitution of Article 33 of the Constitution.- In the Constitution, for Article 33 the following shall be substituted, namely,-

“33. Amendment of the Act.- (1) The provisions of the Constitution may be amended in accordance with the following provisions.

(2) No amendment shall be made in Articles 31, 33 and 56, without the prior approval of the Government of Pakistan.

(3) A bill to amend the Constitution, shall be originated in the Assembly and when the bill has been passed with or without amendment by the votes of not less than two-third of total membership of the Assembly, the bill shall be presented to the President for assent.”.

23. Omission of Article 33-A of the Constitution.- In the Constitution, Article 33-A shall be omitted.

24. Substitution of Article 34 of the Constitution.- In the Constitution, for Article 34, the following shall be substituted, namely:-

“34. Validity of Proceedings of the Assembly.- (1) The validity of any proceedings in the Assembly shall not be questioned in any court.

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

(3) A member of, or a person entitled to speak in the Assembly 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 Assembly 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 Assembly, of any report, paper, vote or proceedings.

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

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

25. Omission of Article 35 of the Constitution.- In the Constitution, Article 35 shall be omitted.

26. Amendment of Article 36 of the Constitution.- In the Constitution, in Article 36, in sub-Article (1), the words ‘**or a Joint Sitting**’ shall be omitted.

27. Omission of Article 37 of the Constitution.- In the Constitution, Article 37 shall be omitted.

28. Amendment of Article 37-A of the Constitution.- In the Constitution, in Article 37-A,-

- (i) in sub-Article (1), between the words “**revenue**” and “**received**” the words “**taxes including income tax**” shall be inserted; and

- (ii) in sub-Article (2), in clause (b), between the words “the” and “High Court” the words “Supreme Court and the” shall be inserted.

29. Amendment of Article 41 of the Constitution.- In the Constitution, in Article 41,-

- (i) in sub-Article (2), in the clause (a), the semi-colon at the end shall be substituted by a colon and the word “and” at the end shall be omitted and thereafter following proviso shall be added:

“Provided that the Assembly may by a resolution extend the Ordinance for a further period of four months and it shall stand repealed at the expiration of the extended period.” and

- (ii) sub-Article (4) shall be omitted.

30. Amendment of Article 42-A of the Constitution.- In the Constitution, in Article 42-A, in sub-Article (4), for the words “Council” the words “Government” shall be substituted.

31. Amendment of Article 42-D of the Constitution.- In the Constitution, in Article 42-D, the words “or the Council” shall be omitted.

32. Amendment of Article 43 of the Constitution.- In the Constitution, in Article 43, after sub-Article (1-A), the following new sub-Article (1-B), (1-C) and (1-D) shall be added, namely,-

“(1-B) There shall be a Shariat Appellate Bench of the High Court as constituted by an Act of the Assembly consisting of Chief Justice of High Court, all the Muslim Judges of the High Court and an Aalim Judge, to perform

such functions and exercise such jurisdiction as may be conferred upon it by an Act of the Assembly.

(1-C) The Aalim Judge shall be appointed by the President on the advice of the Prime Minister and after consultation with the Chief Justice of the Supreme Court and the Chief Justice of High Court, from amongst the persons having such qualification and experience and on such terms and conditions, as may be, prescribed by an Act of the Assembly.

(1-D) The Shari'at Appellate Bench of the High Court, existing at the time of enforcement of this Amendment Act, 2018 shall be deemed to have been constituted under this Article.

33. Amendment of Article 47 of the Constitution.- In the Constitution, in Article 47,-

(i) In sub-Article (1), the words “**Council in respect of matters to which its executive authority extends and**” shall be omitted.

(ii) in clause (b) of sub-Article (1), the words “**the Council or**” shall be omitted.

34. Substitution of Article 48 of the Constitution.- In the Constitution, for Article 48, the following shall be substituted:-

“48. Public Service Commission.- (1) There shall be a Public Service Commission consisting of a Chairman and such number of members who shall be having such qualification as may be prescribed by an Act of the Assembly.

(2) The appointment of the Chairman Public Service Commission and members shall be made by the President

on advice of the Prime Minister on such terms and conditions as may be prescribed by an Act of the Assembly:

Provided that in respect of appointment of Chairman, the Prime Minister, may solicit the opinion of Leader of Opposition in the Assembly before making advice to the President for such appointment.

(3) The Chairman and members of Public Service Commission appointed immediately before the commencement of this amending Act, 2018 shall be deemed to have been appointed under this Article subject to terms and conditions already determined and notified at the time of their appointment.”

35. Substitution of Article 50 of the Constitution.- In the Constitution, for Article 50 the following shall be substituted, namely:-

“50. Election Commission.- (1) There shall be an Election Commission for Azad Jammu and Kashmir, hereinafter referred to as “the Commission”.

(2) The Commission shall consist of the Chief Election Commissioner, who shall act as the Chairman and two Members.

(3) The Chief Election Commissioner, hereinafter referred to as the Commissioner, shall be appointed by the President on the advice of the Chairman of the Council.

(4) The Prime Minister after consultation with the Leader of Opposition in the Assembly shall finalize the nominees for the appointment as Commissioner.

(5) No person shall be appointed as the Commissioner unless he has been a Judge of the Supreme Court or High Court or has been a civil servant of BPS-21 and above, in the service of Azad Jammu and Kashmir.

(6) The members of the Commission possessing the qualification as mentioned for Commissioner in sub-Article (5) above, shall be appointed by the President on the advice of the Prime Minister.

(7) It shall be duty of the Commission to organize and conduct the election for the office of the President, the Assembly, the Council and local government bodies and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with the law.

(8) The Commission shall have such powers and perform such functions as are conferred on it under the Constitution and Act of the Assembly.

(9) At any time when the office of Commissioner is vacant or the Commissioner is absent or unable to perform the functions of his office due to any cause, the senior member of Commission duly designated at the time of appointment shall act as Commissioner for a period not exceeding six months.

(10) Before entering upon office, the Commissioner shall make oath before the Chief Justice of Azad Jammu and Kashmir and the members before the Commissioner in the form set out in the First Schedule.

(11) Subject to this Article, the Commissioner and each member, as the case may be, shall hold office for a term of five years from the day he enters upon his office:

Provided that the Chief Election Commissioner appointed before the commencement of the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018 shall be deemed to have been appointed under this Article for remaining period of his term.

(12) The Commissioner and members shall not be removed from their office except in the manner prescribed in Article 42-E.

(13) The Commissioner or the member may, by writing under his hand addressed to the President, resign from his office.

(14) The terms and conditions, other than mentioned hereinabove, for the office of the Commissioner and member shall be such as may be prescribed by an Act of Assembly.

(15) The Commissioner or a member shall not,-

- (a) hold any other office of profit in the Service of Azad Jammu and Kashmir or Pakistan; or
- (b) occupy any other position carrying the right to remuneration for the rendering of such services.

(16) A person who has held office as Commissioner or the member shall not hold any office of profit in the Service of Azad Jammu and Kashmir or Pakistan before the expiration of two years after he has ceased to hold that office.

(17) The Commission shall perform such functions as may be determined by Act of Assembly.

(18) It shall be the duty of all executive authorities in the state to assist the Commission in the discharge of its functions.

(19) Until Assembly by law otherwise provides, the Commission may, on the advice of the Prime Minister and with the approval of the President, make rules providing for the appointment of officers and servants to be employed in connection with the functions of the Commission and for their terms and conditions of employment.”.

36. Amendment of Article 50-A of the Constitution.- In the Constitution, in Article 50-A, in sub-Article (1), for the word ‘**Council**’, the words “**Chairman of the Council**” shall be substituted.

37. Amendment of Article 51 of the Constitution.- In the Constitution, in Article 51, the existing provision shall be renumbered to as sub-Article (1) and thereafter the following new sub-Article (2) shall be added, namely:-

“(2) Subject to the Constitution, all laws of Azad Jammu and Kashmir which, from time to time, made by the Azad Jammu and Kashmir Council and in force immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018, shall continue to be in force until amended or altered or repealed by the Act of the Assembly or by the order, notification etc., of the Government of Pakistan or, as the

case may be, by the Azad Government of the State of Jammu and Kashmir:

Provided that the reference of Azad Jammu and Kashmir Council made in the existing laws, on the commencement of the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018, shall, as far as practicable, be construed and referred to as the Assembly, or as the case may be, Government of Pakistan or the Azad Government of the State of Jammu and Kashmir.”.

38. Insertion of new Article 51-A of the Constitution.- In the Constitution, after Article 51, the following new Article 51-A shall be inserted, namely:-

“51-A. Transfer of Employees, Assets and Liabilities.-(1) On the commencement of the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018, all moveable and immovable properties and assets, moneys or funds received by and deposited in the Azad Jammu and Kashmir Council Consolidated Fund or made part of Public Finance, all savings or fixed deposits of the Council in all bank accounts and also such liabilities which were incurred under any law, shall immediately be transferred or invested with Azad Jammu and Kashmir Consolidated Fund or, as the case may be, to the Government.

(2) All existing employees in the service of Azad Jammu and Kashmir Council who immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018 were

serving on regular basis under superintendence and control of Azad Jammu and Kashmir Council for any department, secretariat or any statutory body or institution or organizations duly constituted or setup under any law or through its executive authority shall stand transferred or shifted to the Government forthwith on commencement of this amending Act, 2018.

(3) The rights of the persons under existing laws of Azad Jammu and Kashmir who were, immediately before the commencement of the Azad Jammu and Kashmir Interim Constitution (Thirteenth Amendment) Act, 2018, serving under the Azad Jammu and Kashmir Council shall be protected and officers and servants on deputation from the Federal Government or any province shall be entitled for repatriation to their parent organizations.

(4) The persons serving on contractual or temporary basis shall not be entitled to claim any right to continue their employment and they shall be dealt in accordance with prevailing service rules of Azad Jammu and Kashmir and terms of their appointments.

(5) Subject to Article 51, the perks, privileges and allowances to the elected members of the Council and also salary, allowances and pensionary benefits of the employees of the Council in the Service of Azad Jammu and Kashmir, as admissible to them under the law, shall be borne by the Government, for which budgetary requirements shall be made out of the Azad Jammu and Kashmir Consolidated Fund.”

39. Substitution of Article 52-A of the Constitution.- In the Constitution, for Article 52-A, the following shall be substituted, namely:-

“52-A. Power to acquire property and to make contracts, etc.- (1) The executive authority of the Government shall extend, subject to an Act of the Assembly, 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 and to the making of contracts.

(2) All property acquired for the purpose of the Government shall vest in the President.

(3) All contracts made in the exercise of the executive authority of the Government shall be expressed to be made in the name of the President and all such contracts and all assurances of property made in the exercise of that authority shall be executed on behalf of the President by such persons and in such manner as the President may direct or authorize.

(4) The President shall not be personally liable in respect of any contract or assurance made or executed in the exercise of the executive authority of the Government and no person making or executing any such contract or assurance on his behalf shall be personally liable in respect thereof.

(5) Transfer of land or property by the Government shall be regulated by law.”

40. Addition of Articles 52-B and 52-C in the Constitution.- In the Constitution, after Article 52-A, following Articles 52-B and 52-C shall be added:-

“52-B. Ownerless property.- Any property which has no rightful owner, if located within Azad Jammu and Kashmir, shall vest in the Government.

52-C. Natural Resource endowment.- (1) The natural resource of Azad Jammu and Kashmir which having a potential of economic value and providing for the sustenance of life for future generations shall be preserved and regulated by an Act of the Assembly.

(2) Without prejudice to sub-Article (1), the natural resource of Azad Jammu and Kashmir may be utilized under the law, in the economic and efficient manner, by the Government and also may be authorized under an Act of Assembly to utilize any resource of the State by any person, entity or authority of Pakistan in consideration of valuable economic benefits for the public interest such as net-hydel profit or royalty or any other acceptable form or benefit but without affecting the pristine environmental value of the inherent endowment of the State.”

41. Amendment of Article 53 of the Constitution.- In the Constitution, in Article 53,-

(i) in sub-Article (2), for the words “**a joint sitting**” the words “**the Assembly**” shall be substituted.

- (ii) in sub-Article (2-A), the words “**unless it has earlier been approved by a resolution of the Council**” shall be omitted.

42. Amendment of Article 54 of the Constitution.- In the Constitution, in Article 54, in sub-Article (1), full stop at the end shall be substituted by a colon and thereafter the following proviso shall be added:

“Provided that the Assembly shall, in no case be dissolved on account of issuance or pendency of the proclamation under the Constitution.”

43. Amendment of Article 58 of the Constitution.- In Article 58, between the words “**may**” and “**make**”, the commas and words “, **on the advice of Prime Minister,**” shall be substituted.

44. Amendment of the First Schedule of the Constitution.- In the Constitution, in First Schedule,-

- (i) form of “Oath of Advisor” shall be omitted; and
- (ii) form of oath for office of Chief Election Commissioner and Member of the Election Commission shall be added as under,-

**“CHIEF ELECTION COMMISSIONER OR A MEMBER OF
THE ELECTION COMMISSION**

[See Article 50]

I, _____, do solemnly swear that as Chief Election Commissioner or member of the Election Commission, I shall discharge my duties, and perform my functions honestly, to the best of my ability, faithfully in

accordance with the Azad Jammu and Kashmir Interim Constitution, 1974 and the law, and without fear or favor, affection or ill will, and that I shall not allow my personal interest to influence my official conduct or my official decisions.

May Allah Almighty help and guide me (A'meen).”

45. Substitution of Third Schedule of the Constitution.- In the Constitution, for the Third Schedule the following shall be substituted, namely,-

“THIRD SCHEDULE
[See Article 31 (3) and (4)]
‘Part-A’

1. The responsibilities of the Government of Pakistan under the UNCIP Resolutions.
2. Defense and security of Azad Jammu and Kashmir.
3. The current coin or the issue of bills, notes or other paper currency.
4. The External affairs of Azad Jammu and Kashmir including foreign trade and foreign aid.
5. Post and Telegraphs, including Telephones, Wireless, Broadcasting and other like forms of communications; post office saving Bank.
6. 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) ionizing radiations.

7. Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.
8. Beacons and other provisions for safety of aircraft.
9. Carriage of passengers and goods by air.
10. Copyright, inventions, designs, trademarks and merchandise marks.
11. Opium so far as regards sale for export.
12. State Bank of Pakistan; banking, that is to say, the conduct of banking business by corporations other than corporations owned or controlled by Azad Jammu and Kashmir and carrying on business only within the Azad Jammu and Kashmir.
13. The law of insurance, except as respects insurance undertaken by Azad Jammu and Kashmir and the regulation of the conduct of insurance business, except as respects business undertaken by Azad Jammu and Kashmir.
14. Stock exchanges and future markets with objects and business not confined to Azad Jammu and Kashmir.
15. 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 or cooperative societies, and of corporations, whether trading or not, with objects not confined to Azad Jammu and Kashmir, but not including universities.
16. Planning for economic coordination including planning and coordination of scientific and technological research.
17. Highways, continuing beyond the territory of Azad Jammu and Kashmir and also roads declared by the Government of Pakistan to be of strategic importance.
18. External affairs; the implementing of treaties and agreements, including educational and cultural pacts and agreements, with

other countries; extradition, including the surrender of criminals and accused persons to Governments outside Pakistan.

19. Foreign exchange; cheques, bills of exchange, promissory notes and other like instruments.
20. Administrative Courts and Tribunals for subjects under this Part.
21. Libraries, museums, and similar institutions controlled or financed by the Government of Pakistan.
22. Government of Pakistan agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.
23. Education as respects Azad Jammu and Kashmir students in foreign countries and foreign students in Azad Jammu and Kashmir.
24. Import and export across customs frontiers as defined by the Government of Pakistan.
25. International treaties, conventions, agreements and International arbitration.
26. Surveys including geological surveys and meteorological organizations.
27. Establishment of standards of weights and measures.
28. Duties of customs, including export duties.
29. Taxes on corporations.
30. Offences against laws with respect to any of the matters in this Part.
31. Inquiries and statistics for the purposes of any of the matters in this Part.
32. Matters incidental or ancillary to any matter enumerated in this Part.

‘Part-B’

1. Railways.

2. Mineral oil and natural gas; liquids and substances declared by Government of Pakistan to be dangerously inflammable.
3. National planning and national economic coordination, including planning and coordination of scientific and technological research.
4. Supervision and management of public debt.
5. Boilers
6. Census.
7. State Property until transfer to the Government of AJK.
8. Electricity except the power generation planned and made by Government of AJK.
9. Terminal taxes on goods or passengers carried by railway or air, taxes on their fares and freights.
10. 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 or the Azad Jammu and Kashmir but not so as to enable the police of Azad Jammu and Kashmir or such province to exercise power and jurisdiction in such province or Azad Jammu and Kashmir and without the consent of the Government of that province or the Azad Jammu and Kashmir.
11. Measures to combat certain offences committed in connection with matters concerning the subjects included in this list.
12. Removal of prisoners and accused persons from Azad Jammu and Kashmir to Pakistan or from Pakistan to Azad Jammu and Kashmir.
13. 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.

14. Curriculum, syllabus, planning, policy, centers of excellence and standards of education.
15. Medical and other professions excluding legal profession.
16. Standards in institutions for higher education and research, scientific and technical institutions.
17. Matters concerning coordination between Azad Jammu and Kashmir and other Provinces of Pakistan.
18. The salaries, allowance and privileges of the members and including salaries and pension payable to employees of the council.
19. Jurisdiction and powers of all courts with respect to any of the matters enumerated in this list.
20. Offences against laws with respect to any of the matters in this Part.
21. Inquiries and statistics for the purposes of any of the matters in this Part.
22. Matters incidental or ancillary to any matter enumerated in this Part.”

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(Irshad Ahmed Qureshi)
Secretary Law