



# ZAKAT AND USHR ACT 1985

AS AMENDED UP TO DATE  
MAY, 2011

Zakat and Ushr Department, Azad Government of the State of Jammu and Kashmir.  
Muzaffarabad.



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**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR**

Law, Justice, Parliamentary Affairs and Human Rights Department.

**AN  
ACT,**

to make provisions relating to the assessment, collection and disbursement of Zakat and Ushr

**WHEREAS** it is necessary to make provisions relating to the assessment, collection and disbursement of Zakat and Ushr and matters connected therewith or incidental thereto;

**AND WHEREAS**, Azad Jammu and Kashmir, being an Islamic State, must provide for the implementation of Islamic precepts;

<sup>1</sup>[**AND WHEREAS** the Azad Jammu and Kashmir Interim Constitution Act, 1974 lays down that Islam shall be the State Religion of Azad Jammu and Kashmir];

**AND WHEREAS** Zakat, including Ushr, is one of the fundamental pillars (Arkan) of Islam;

**AND WHEREAS** the prime objective of the collection of Zakat and Ushr and disbursement therefrom, is to assist the needy, the indigent and the poor;

**AND WHEREAS** the rates of Zakat and Ushr, as also the purposes for the utilisation of Zakat and Ushr, are specified in Shariah;

**AND WHEREAS** Shariah enjoins upon all Muslims who are SAHIB-I-NISAB to pay and the State to arrange for the proper collection, disbursement and the utilisation of Zakat and Ushr, and also allow such Muslims to disburse for the purposes authorised by Shariah the part thereof not collected by the State;

It is hereby enacted as follows:-

## **CHAPTER- I**

### **PRELIMINARY**

1. **Short Title, extent, application and commencement.**- (1) This Act may be called the Zakat and Ushr Act, 1985.

(2) It extends to the whole of Azad Jammu and Kashmir, but as regards payments and recovery of Zakat and Ushr applies only to the Muslims State subject of Azad Jammu and Kashmir <sup>2</sup>[or a person carrying on any business or trade in Azad Jammu and Kashmir] and a company, or other association of persons or body of individuals whether incorporated or not,

<sup>1</sup> Inserted vide Act XIII of 1992.

<sup>2</sup> Inserted vide Act XIII of 1992.

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majority of the Shares of which is owned or the beneficial ownership of which is held by such State Subject:

<sup>1</sup>["Provided that the State and non-state subject students residing in Pakistan but studying in various educational institutions of Azad Jammu and Kashmir shall be eligible to receive financial assistance from Azad Kashmir Zakat Fund".]

(3) In respect of a person who may believe that the whole or any part of the recoveries effected from him in the manner laid down in this Act are not according to his belief; such recoveries shall nevertheless be made, but shall be deemed to be contribution to Zakat Fund on the part of that person:

<sup>2</sup>[Provided that,-

- (a) No Zakat or Ushr shall be charged or collected on compulsory basis in respect of the assets or produce of a person who, within the period of three months preceding the valuation date, files with the Deducting Agency, or with the Local Committee in the case of a declaration in the prescribed form sworn by him before a Magistrate, an Oath Commissioner, a Notary Public or any other person authorised to administer Oath in the presence of two witnesses who identify him to the effect that he is a Muslim and a follower of one of the recognised Fiqh's, which he shall specify in the declaration, and that his faith and the said fiqh do not oblige him to pay the whole or any part of Zakat and Ushr in the manner laid down in the Act; and
- (b) a declaration, or an attested copy thereof filed as aforesaid in one Zakat year, whether before or after the commencement of this Act, shall continue to be valid or so long as, -
- (i) the declaration or copy and the asset liable to Zakat to which it relates, remain in the custody of the Deducting Agency; or
- (ii) the person filing the declaration or copy continues to hold, in respect of the land to the produce to which it relates, the same status as held at the time of filing of the declaration, and the declaration or copy remains in the custody of the Local Committee:]

Provided further that, where for any reason Zakat or Ushr is collected on compulsory basis from such a person and he does not wish to leave it in the Zakat Fund as Sadqah or Khairat in the name of Allah as manifestation of the Unity of the Ummah and claims refund, on the basis of a declaration as aforesaid filed by him within the period specified in the first proviso or within such further period as may be prescribed, the amount so collected shall be refunded to him in the prescribed manner; and

(4) The Azad Jammu and Kashmir Shariat Court may, on the application of any person, decide the question whether a declaration such as is referred to in the first or second proviso to sub-section (3) made by any person is valid according to the fiqh he professes to follow; and, if the Azad Jammu

<sup>1</sup> Inserted vide Act XIII of 1992.

<sup>2</sup> Sub, ----- ibid -----



and Kashmir Shariat Court decided that the declaration is not valid, such person shall, without prejudice to any other action that may be taken against him under any other law, be liable to pay Zakat or Ushr, as the case may be, in the manner laid down in this Act.

**Explanation.-** In this Act reference to Zakat deductible at source or to Ushr realisable on compulsory basis shall be construed to imply a reference to contributions to Zakat Fund also.

(5) It shall come into force on such date as the Government may by notification in the official Gazette, appointed and different dates may be appointed for different provisions of this Act.

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

- i) **'annuity'** means the sum payable periodically, according to the annuity policy conditions, to an annuitant during his lifetime, or for a fixed number of years, as the case may be and includes the scheme or postal annuities as notified by the Government;
- ii) **'assets'** means assets liable to Zakat as provided in this Act;
- iii) **'atiyyat'** means voluntary donations to the Zakat Funds, otherwise than on account of Zakat or Ushr, and includes SADAQAT-I-NAFILAH;
- iv) **'Council'** means the Zakat Council established under Section 13.
- <sup>1</sup>[(iv-A) **'Constituency'** means the constituency as defined in the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970].
- v) **'Chief Administrator'** means a person appointed as such under section 14, and include an officer authorised by him to exercise or perform any power or function of Chief Administrator under this Act;
- vi) **'Company'** means a company as defined in the companies Act, 1913 (VII of 1913);
- vii) **'Deducting Agency'** means a bank, post office or other institution referred to in the fifth column of the First Schedule;
- viii) **'Deducting Date'** means, in respect of the assets mentioned in the First Schedule, the date or dates on which Zakat is to be deducted at source and which is or are specified in the fourth column of that Schedule;
- ix) **'District Committee'** means a District Zakat and Ushr Committee constituted under Section 15;
- x) **'Government'** means the Azad Government of the State of Jammu and Kashmir;
- xi) **'Government Security'** has the same meaning as in the Securities Act, 1920 (X of 1920) of Pakistan;
- xii) **'Insurer'** means the State Life Insurance Corporation of Pakistan or Postal Life Insurance;
- xiii) **'Local Committee'** means a Local Zakat and Ushr Committee constituted under Section 17;
- xiv) **'Locality'** means the area within the jurisdiction of a Local Committee;

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<sup>1</sup> Inserted vide Act XIII of 1992



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- xv) <sup>1</sup>[**Constituency**] Committee' means a <sup>2</sup>[Constituency] Zakat and Ushr Committee constituted under section 16;
- xvi) '**Maturity Value**' means the sum payable, according to stipulated conditions on survival of the life assured to the specified age or to the end of the terms of the policy;
- xvii) '**Nisab**', in relation to assets liable to Zakat Except agricultural produce and animals fed free in pastures means 612.32 grams of silver or cash or gold, or goods for any trade or any assets liable to Zakat under Shariah the aggregate value of which is equal to the value of 612.32 grams of silver as notified by the Chief Administrator for each Zakat year or, in the case of a person whose assets liable to Zakat consist only of Gold, 87.48 grams of Gold;
- xviii) '**Prescribed**' means prescribed by rules;
- xix) '**Produce**' means gross agriculture, horticultural or forest produce;
- xx) '**Provident Fund**' has the same meaning as in the provident Funds Act or rules made thereunder;
- xxi) '**Recognised Provident Fund**' means a Provident Fund recognized as such, by the competent authority, under the income Tax Ordinance, 1979 (XXXI of 1979);
- xxii) '**Return**' means income, howsoever described, accruing on an asset;
- xxiii) '**Rules**' means rules made under this Act;
- xxiv) '**Sahib-i-Nisab**' means a person who owns or possesses assets not less than nisab, but does not include –
- a) the Government, the Azad Jammu and Kashmir Council or a Local Authority;
  - b) a statutory corporation, a company or other enterprise owned wholly, directly or indirectly, by the Government, the Azad Jammu and Kashmir Council, a Local Authority or a Corporation owned by the Government or the Azad Jammu and Kashmir Council, either singly or jointly with one or more of the other three;
  - c) <sup>3</sup>[the Investment Corporation of Pakistan and its Mutual Funds;]
  - d) the National Investment (Unit) Trust;
  - e) an ICP mutual Fund;
  - f) a recognised Provident Fund;
  - g) any unit fund maintained by the Defence Services, included the Civil Armed Forces;
  - h) a Zakat Fund;
  - i) an institution, fund, trust, endowment or society –
    - (a) registered as a Charitable organisation under the Societies Registration Act, 1860 (XXI of 1860), or as a company under Section 26 of companies Act, 1913 (VII of 1913), or registered or approved as a charitable or social welfare organisation under any other law for the time being in force; and

<sup>1</sup> Inserted vide Act XIII of 1992

<sup>2</sup> ----- *ibid* -----

<sup>3</sup> Sub.----- *ibid* -----

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- (b) approved by the Azad Jammu and Kashmir Central Board of Revenue for the purposes of Section 47 of the Income Tax Ordinance 1979 (XXXI of 1979) as adopted in Azad Kashmir;
  - j) a Deeni-Madrasah registered as such by the Auqaf Department;
  - k) a mosque;
  - l) an orphanage registered as such under the law relating to orphanages;
  - m) a workers participation fund established under the Companies Profits (Workers participation) Act, 1968 (XII of 1968); or
  - n) amount of party to a suit or case kept with or under the orders of a Court pending decision of the suit or case;
  - xxv) '**Security**' means any stock, share, script, debenture, bond, pre-organisation certificate, or instrument commonly know as security;
  - xxvi) '**Share**' means a share in the Share-Capital of a company, or in any body corporate established by or under a Federal or Provincial Laws of Pakistan or under any law for the time being enforce in Azad Jammu and Kashmir and includes stock;
  - xxvii) '**Surrender Value**' means the sum payable by an insurer on cancellation of a life-insurance policy or annuity, according to stipulated terms and conditions, at any time before maturity benefits become available;
  - xxviii) '**Survival benefit**' means the amount payable according to life insurance policy conditions during the currency of a policy, or survival of the life assured to the specified date as stipulated in the policy;
  - xxix) '**Valuation Date**' means –
    - a) in respect of assets liable to Zakat, the first day of the Zakat year; and
    - b) in respect of produce liable to Ushr, such date or dates as may be prescribed or as may be notified by the Chief Administrator, for the valuation of the assets or produce for the purposes of this Act;
  - xxx) '**Zakat Fund**' means a fund established under Section 8; and
  - xxxi) '**Zakat Year**' means year according to the Hijra Calendar for which Zakat is chargeable, commencing on the first day of Reme-zan-ul-Mubarak and ending with the last day of following Sha' ban-ul-Moazzam;

Provided that the first Zakat year shall commence with the commencement of this Act and end with the last day of Sha' ban-ul-Moazzam, 1401 A.H.

## CHAPTER – II

### ZAKAT

3. **Charge and collection of Zakat.**- (1) Subject to the other provisions of this Act, Zakat in respect of assets mentioned in the First Schedule shall be charged and collected, on compulsory basis, for each Zakat year, at the rates and in the manner specified therein, and as may be prescribed, from every person who is on the Valuation Date, <sup>1</sup>[and has for the whole of the

<sup>1</sup> Sub. vide Act XIII of 1992.



preceding Zakat year been, Sahib-e-Nisab and who owns or possesses such assets on the Valuation Date:]

Provided that where an asset mentioned in the First Schedule has been assigned by that person owning or possessing it, in favour of another person, Zakat in respect of that asset shall be charged and collected on compulsory basis as if the asset has not been so assigned;

Provided further that, if an asset was owned or possessed by a person on the valuation date but is owned or possessed by some other person on the deduction date, the Zakat on such asset shall be charged and collected from such other person on behalf of the person owning or possessing it on the valuation date:

Provide further that, if a person proves in the prescribed manner to the satisfaction of the Local Committee of the Locality where he ordinarily resides that he was not a sahib-e-nisab on the valuation date or was not in ownership or possession of assets of the value of nisab for the whole of the preceding Zakat year, Zakat shall not be so charged and collected from him, or if collected shall be refunded to him in the prescribed manner:

Provided further that no Zakat shall be charged and collected from the assets of a person who died on or before the Deduction Date.

(2) In deducting the amount to be collected as Zakat on compulsory basis, the value of an asset on which Zakat is deductible <sup>1</sup>[at source may be reduced, to the extent and in the manner prescribed,] only on account of debts which have been –

- (a) primarily secured by that asset;
- (b) used for the creation of an asset on which Zakat is deductible at source; and
- (c) Obtained from the deducting agency having custody of the asset securing the debt and of the asset created under clause (b).

(3) Where a person from whom Zakat has been deducted at source –

- (a) proves that –
  - i. he is not a Muslim; or
  - ii. [he is not a state subject of Azad Jammu and Kashmir or-is not a person carrying on any business or trade in Azad Jammu and Kashmir;]<sup>2</sup> or
  - iii. that amount deducted from him is more than what is due under this Act, either on account of an error apparent from the record, or on account of reduction provided for in sub-section (2) not having been dully allowed to him; or
  - iv. he falls under any of the exclusion given in sub-clause (a) to (n) of clause (XXIV) of Section 2; or
- (b) proves, as laid down in the third provisio to sub-section <sup>3</sup>[(1)] that he is not a sahib-i-nisab or was not in ownership or

<sup>1</sup> Inserted vide Act xiii of 1992.

<sup>2</sup> Sub. ----- *ibid* -----.

<sup>3</sup> Sub. ----- *ibid* -----.



possession of nisab for the whole of the preceding Zakat year, or

- (c) files a declaration such as is referred to in the second proviso to sub-section (3) of Section 1, which has not been challenged in Azad Jammu and Kashmir Shariat Court under sub-section (4) of that section, and claims refund, the amount so deducted or, as the case may be, the amount so deducted in excess shall be refunded to him in the prescribed manner.

(4) Where the recovery of Zakat deductible at source, in respect of any of the assets mentioned in the First Schedule, falls into arrears, <sup>1</sup>[or the Zakat fund is mis-appropriated, embezzled or used for the purpose not specified by the Shariah and the law for the time being in force] the Chief Administrator may forward to the Collector of the District concerned a duly signed certificate specifying the amount of arrears due and the particulars of the person from whom due, and the Collector shall, on receipt of such certificate proceed to recover the amount so specified, as if it were an arrears of land revenue.

(5) a 'Sahib-i-Nisab' may pay either to a Zakat Fund or direct to those eligible under Shariah to receive Zakat so much of the Zakat due under Shariah as is not deductible at source under this Act, for example, that due in respect of assets mentioned in the Second Schedule.

(6) any amount deducted at source by the Deducting Agency from any person shall be treated as payment of Zakat on behalf of such person or, in the case of a person referred to in sub-section (3) of section 1, as contribution to Zakat Fund or Sadqah or Khairat in the name of Allah, as the case may be, on the part of that person.

<sup>2</sup>[3-A. **Profit on Zakat Fund.** - (1) The profit accrued on the deposit of the Zakat Fund shall be deemed to be public money and shall be utilized as may be prescribed by the Government.

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

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

4. **Secrecy of Information.**- Any information furnished or collected in connection with deduction of Zakat at source under this Act shall be treated as secret and shall not be used for any other purpose, including the assessment or collection of any tax.

<sup>1</sup> Inserted vide XIII of 1992.

<sup>2</sup> .....ibid.....



## CHAPTER – III

### USHR

5. **Charge and Collection of Ushr.**- (1) Subject to the other provisions of this Act there shall be charged and collected, on compulsory basis, in such manner as is laid down in section 6, and as may be prescribed, from every land owner, grantee allottee, lessee, lease holder or land holder (other than a person included from the definition "sahib-i-nisab") Ushr at the rate of five percent of his share of the produce, as on the valuation date:

Provided that if any plot of land is used principally for growing one crop and a small portion thereof, not exceeding one-fourth of an acre, is used for growing another crop, Ushr shall not be charged in respect of the produce of such small portion.

**Explanation.**- In this section and section 6, 'land holder', 'grantee', 'allottee', 'lessee', 'Lease holder' and 'land owner' shall have same meaning as 'in the laws relating to land administration and 'land holder' includes a person in possession of any plot of land who has grown a crop on such plot.

(2) An individual land-owner, grantee, allottee, lessee, lease-holder or land-holder shall be exempted from the compulsory levy of Ushr if –

- (a) he is eligible under Shariah to receive Zakat; or
- (b) the produce from his land is less than five 'wasqa' (948 Kilograms) of wheat, or <sup>1</sup>[its] equivalent in value in the case of other crops liable to Ushr.

(3) The currency equivalent of five 'wasqa' of wheat in value shall be such as may be notified for each Zakat year by the Chief Administrator.

(4) Ushr shall be the first charge on the produce.

(5) Ushr shall be collected in cash:

Provided that, where the produce consists of wheat, paddy or maize, Ushr, at the option of the Council, may be collected in kind.

(6) A 'sahib-i-nisab' may pay either to the Local Zakat Fund or directly to those eligible under Shariah to receive Zakat, so much of the Ushr due under Shariah as is not compulsorily realisable under this Act, for example in respect of item <sup>2</sup>[8] of the Second Schedule.


6. **Mode of assessment and collection of Ushr.**- (1) A Local committee shall be supplied by the Revenue Department, and such other department or official agency or any other person as may be determined by the Chief Administrator, in respect of a land-owner grantee, allottee, lessee, lease-holder or land-holder in the locality, in the prescribed form and manner, with the record containing such information for a crop season as may be required for the purpose of this Act.

(2) An assessee may compute his Ushr liability on self-assessment basis and communicate the same to the Local Committee in such form and

<sup>1</sup> Sub. vide Act XIII of 1992.

<sup>2</sup> ----- ibid -----






manner as may be prescribe and, while so computing his Ushr liability shall be entitle to reduce as an allowance for expenses on production one-fourth of the total value of his produce.

(3) If the Local Committee finds that an assessee's self-assessment of his Ushr liability is acceptable, it shall notify it to the assessee as the Ushr demand of that assessee.

(4) Where an assessee fails to communicate to the Local Committee his self-assessment of Ushr liability under sub-section (2), or a Local Committee does not find the self-assessment of the Ushr liability by an assessee acceptable under sub-section (3), the Local Committee shall subject to such guidelines and instructions as may be given by the Council or, if so authorised by the Council, by the District Committee after taking into consideration the information furnished to it under sub-section (1), and any other information that it may deem relevant, adopting such procedure as it may deem fit, and allowing the reduction provided for <sup>1</sup>[in sub-section (2), make] in the prescribed form and manner, its own assessment of Ushr realisable on compulsory basis under this Act, and notify the demand to the assessee.

(5) In the case of a lease inforce immediately before the commencement of this Act, the liability of the lesser and the lessee to pay Ushr shall be equitably apportioned between them by the Local Committee.

(6) An assessee aggrieved by the assessment under sub-section (4) or, as the case may be, the lesser or the lessee aggrieved by apportionment under sub-section (5), may, within <sup>2</sup>[fifteen days of the Local Committee's announcing the assessment, or, as the case may be, apportionment] apply in the prescribed form and manner to the <sup>3</sup>[Constituency] Committee within whose jurisdiction the locality for which the Local Committee is constituted for revision :



<sup>4</sup>[Provided that no such application shall be admitted unless the applicant has deposited into the Local Zakat Fund not less than fifty percent of his liability as assessed or apportioned by the Local Committee].

<sup>5</sup>[(7) The Constituency Committee to which an application is made under sub-section (6) or Section 7, or which takes-up a matter under section 7 of its own motion, shall give its decision within a period not exceeding one month counted from the date on which it receives the application or, as the case may be, so takes up the matter, and such decision shall be final and shall not be questioned before any court or other authority].

(8) The demand as determined under sub-section (3), or, as the case may be, under sub-section (4) or sub-section (7), shall be paid by the assessee and collected by the Local Committee in such manner as may be prescribed.

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<sup>1</sup> Inserted vide Act XIII of 1992.

<sup>2</sup> Sub. vide Act XIII of 1992.

<sup>3</sup> Subs. ----- *ibid* -----

<sup>4</sup> Inst. ----- *ibid* -----

<sup>5</sup> Sub. ----- *ibid* -----



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(9) Where the recovery of Ushr compulsorily realizable under this Act falls into arrears, the Chairman of the Local Committee shall forward to the collector of the district concerned a duly signed certificate specifying the amount of arrears due and the particulars of the person from who due and the collector shall on receipt of such certificate, proceed to recover the amount so specified as if it were an arrears of land revenue.

7. The <sup>1</sup>[Constituency] committee within whose jurisdiction <sup>2</sup>[the Local Committee] is situated, may at any time either of its own motion or on the application of an adult Muslim residing within the locality make an order enhancing the liability assessed under <sup>3</sup>[sub-section (4) of Section 6] or apportioned under sub-section (5), <sup>4</sup>[of Section (6)] by the Local Committee:

<sup>5</sup>[Providing that no such order shall be made unless the person affected has been given an opportunity of showing cause against it and of being heard.]

## CHAPTER IV

### ZAKAT FUNDS

8. **Establishment of Zakat Funds.** - There shall be established the following Zakat Funds, namely : -

(a) An Azad Kashmir Zakat Fund to which shall be credited –

- i) The Zakat deducted at source;
- ii) the Zakat paid into it voluntarily;
- iii) the transfers, if any, from the local Zakat Funds; and
- iv) the grants, ATIYYAT and any other receipt;
- <sup>6</sup>v) the transfers, if any, from the Pakistan Central Zakat Fund;

(b) A Local Zakat Fund for each Local Committee to which shall be credited -

- i) the proceeds of Ushr;
- ii) the Zakat paid into it voluntarily;
- iii) the transfer to it from the Azad Kashmir Zakat Fund;
- and
- iv) the grants ATIYYAT and any other receipts.

9. **Utilization of Zakat Funds.** – The money in a Zakat Fund shall be utilized for the following purposes, namely: -

(a) Assistance to the needy, indigent and the poor, particularly orphans and widows, the handicapped and the disabled, eligible to receive Zakat under Shariah for their subsistence or rehabilitation, either directly or indirectly through DEENI MADARIS or vocational educational institutions or public hospitals, clinics, dispensaries or health laboratories:

<sup>1</sup> Sub. Vide Act XIII of 1992.

<sup>2</sup> Inst. ----- ibid -----.

<sup>3</sup> Inst. ----- ibid -----.

<sup>4</sup> Inst ----- ibid -----.

<sup>5</sup> Inst ----- ibid -----.

<sup>6</sup> Inst ----- ibid -----.



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Provided that the lists of the individuals to be assisted directly and the institutions through which assistance is to be given, from a Local Zakat Fund shall be prepared and maintained, according to prescribed basis and manner, by the Local Committee in whose jurisdiction the individual ordinarily resides, or the institutions through which they are to be assisted are situated, as the case may be:

Provided further that the list of institution through which assistance from Azad Kashmir Zakat Fund is to be given shall be prepared and maintained; according to prescribed basis and manner, by the council; and

- (b) Expenditure on the collection, disbursement and administration of Zakat and Ushr.

[Provided that the expenditure on Zakat Council, Administrative Organization of the Chief Administrator, District and Constituency Zakat Committee shall be met by the Government, whereas, honorarium, as may be fixed by the Government payable to non-official Chairmen and members of Zakat Council, Chairman District and Constituency Zakat Committees and recurring expenses of Zakat Fund staff and administrative expenditure of Local Zakat Committees subject to the approval of Zakat Council in its budget on periodic basis shall be borne out of the Zakat fund which shall not exceed 10% of total annual collection of Zakat fund].<sup>1</sup>

Provided further that the banking services and the services connected with the assessment or collection of Zakat or Ushr realisable on compulsory basis under this Act shall be rendered free of charge, except that the Chief Administrator in regard to Ushr, any authorise payment or remuneration for any specified services; and

- <sup>2</sup>[(bb) The Zakat Council may allow in accordance with the criteria applied to the assistance of destitute in the limits of Local Zakat Committees of respective District Zakat and Ushr Committees, to meet the urgent needs of the poor, needy and indigent;] and

- (c) Any other purpose permitted by Shariah.

10. **Disbursements from Zakat Funds.**- (1) The Council may from Azad Kashmir Zakat Fund make disbursements and transfer funds to [the personal ledger account of]<sup>3</sup> a Local Zakat Fund, in such form and manner as may be prescribed and as would help in ensuring satisfaction of the needs of the needy and the poor through out its jurisdiction, as far as possible on a uniform basis.

(2) A Local Committee shall disburse, or incur expenditure from the Local Fund, in the prescribed manner, for authorised purposes within the locality, particularly for the benefits of the individuals directly or indirectly under clause (a) of Section <sup>4</sup>[9]

<sup>1</sup> Substituted vide Act 1 of 2002.

<sup>2</sup> Substituted vide Act 1 of 2002.

<sup>3</sup> Inserted vide Act 1 of 2002.

<sup>4</sup> Substituted vide Act XIII of 1992.



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Provided that a Local Committee may or, if so required by the Council, shall transfer from the Local Zakat Fund to the Azad Kashmir Zakat Funds, funds surplus to its needs.

<sup>1</sup>[(3) Where a Local Zakat Committee cannot be constituted under the law for any reason, the Constituency Zakat and Ushr Committee shall function as such for that area till the constitution of the said Local Zakat Committee subject to a period not exceeding three months.

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

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

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

11. **Accounts.**- (1) The accounts of the Azad Kashmir Zakat Fund and a Local Zakat Fund shall be maintained and operated, respectively, by the Chief Administrator, and the Local Committee, in such form and manner as may be prescribed.

(2) The records of the accounts of the Zakat Funds shall be preserved for such period and shall be made available for audit or inspection to such persons or agencies and in such manner, as may be prescribed.

12. **Audit.**- (1) To carry out audit of the Azad Kashmir Zakat Fund annually or at shorter intervals, the Council shall appoint auditors, being persons who are, in its opinion qualified for the purpose.

(2) To carry out audit of the Local Zakat Funds within a district annually or at short intervals, the District Committee shall appoint auditors being persons who are, in its opinion qualified for the purpose.

(3) The audit performed by auditors under sub-section (1) and (2) shall include propriety audit.

(4) The annual report of the auditors on the Azad Kashmir Zakat Fund shall be laid before the Legislative Assembly and that on a Local Zakat Fund before the <sup>2</sup>[Zakat Council].

(5) Nothing in this Section shall be deemed to prevent;

- a) the Auditor-General of Azad Jammu and Kashmir from auditing any of the Zakat Funds;
- b) the Council, from getting audited any of the Local Zakat funds; or
- c) a Local Committee from getting its own Local Zakat Fund audited.

<sup>1</sup> Inserted vide Act XIII 1992.

<sup>2</sup> Subs .....ibid.....



# CHAPTER – V

## ORGANIZATION AND ADMINISTRATION

13. **Zakat Council.**- (1) The Government shall, by notification into the official Gazetted, establish a Zakat Council to provide policy Guidelines for, and to exercise general superintendence and control on matters relating to Zakat and Ushr, particularly the Zakat Fund and maintenance of their accounts.

(2) The Council shall consist of , -

- a) Chairman.
- b) <sup>1</sup>[four Ulema to be nominated by] the president in consultation with the Council of Islamic Ideology.
- c) <sup>2</sup>[one person from each District, to be nominated by the President;]
- d) the Secretary to the Government in the Finance Department;
- e) the Secretary to the Government in the Ammor-i-Deenia Department;
- f) the Secretary to the Government in the Local Government Department; and
- g) the Chief Administrator who shall also be the Secretary to the Council;  
<sup>3</sup>[(h) the Accountant General, Azad Jammu and Kashmir] and  
<sup>4</sup>[(i) the Secretary, Zakat and Ushr Department.

[(3) The Chairman of the Council shall be a person who is or has been a Chief Justice or Judge of the Supreme Court or High Court or is qualified to be a Judge of High Court, to be appointed by the President.]<sup>5</sup>

[(4) The Chairman and the other members of the Council, not being an ex-officio member, shall hold office on discretion of the Government].<sup>6</sup>

(5) The Chairman or a member, not being an ex-officio member, may, by writing under his hand addressed to the President resign his office:

Provided that he shall continue to hold office until his resignation is accepted by the President.

(6) Any vacancy in the office of Chairman a member, other than an ex-officio member, shall be filled by the nomination in accordance with sub-section (2) or sub-section (3), as the case may be, of a person qualified to hold the office.

[(7) The Chairman or member nominated under sub-section (6) shall hold office for the un-expired term of his predecessor.]<sup>7</sup>

<sup>1</sup> Substituted vide Act XXX of 1993

<sup>2</sup> Substituted vide Act XIII of 1992

<sup>3</sup> Inserted.....ibid.....

<sup>4</sup> Inserted vide Act XV of 1994

<sup>5</sup> Substituted vide Act XI of 1996

<sup>6</sup> Inserted vide Ordinance X of 2011

<sup>7</sup> Omitted.....ibid.....



[[8) The President may, in consultation with the Chairman and after giving an opportunity of being heard, remove any member of the Council as he may deem fit.]<sup>1</sup>

14. **Chief Administrator.**- (1) For carrying out the purposes of this Act, there shall be appointed by the Government [in consultation with the Chairman of the Zakat Council]<sup>2</sup> a Chief Administrator.

(2) The Chief Administrator shall have the powers of the Financial Commissioner for the Purposes of this Act and other terms and conditions of service shall be such as may be determined by the Government.

(3) The Chief Administrator shall act under the general superintendence and control of and in accordance with the policy guidelines given by the Council and perform such functions as are assigned to him by or under this Act.

15. **District Zakat and Ushr Committee.**- (1) In each District, a District Zakat and Ushr Committee shall be constituted by the [Government.]<sup>3</sup>

(2) The District Committee shall, subject to such guidelines as may be given by the Council <sup>4</sup>[or Chief Administrator],-

(a) Oversee, generally, the functioning of [Constituency Committee]<sup>5</sup> and more particularly, the assessment of Ushr and the collection of Zakat and Ushr and Attiyyat and the Funds, by the Local Zakat Committees in the District.

(b) for the purpose mentioned in clause (a) make plans for the district in such form and manner as may be prescribed;

(c) compile account of Local Zakat Funds for the district in such form and manner as may be prescribed;

(d) arrange in the prescribed manner, audit of the Local Zakat Funds in the district; and

(e) tender to the Council advice on any matter specified by it:

Provided that, in any district where there is a district social welfare officer appointed by the Government, the District Committee may co-opt him as a member of the committee, ex-officio.

[(3) The District Committee shall consist of a Chairman, who shall be non-official and shall be nominated by the Government in consultation with the Chairman of the Zakat Council, Deputy Commissioner of the District, the District Mufti and one non-official member from each Tehsil in the District to be nominated by the Government in consultation with the Chairman of the District Committee:]<sup>6</sup>

<sup>7</sup>[Provided that the Chairman and members of the district committee shall be the persons who are of good moral character bearing financial integrity

<sup>1</sup> Omitted vide Ordinance X of 2011

<sup>2</sup> Inserted vide Act XIII of 1992

<sup>3</sup> Substituted..... *ibid*.....

<sup>4</sup> Inserted ..... *ibid*.....

<sup>5</sup> ----- *ibid* -----

<sup>6</sup> ----- *ibid* -----

<sup>7</sup> Added vide Act I of 2002



and are not commonly known as persons who violate Islamic Injunctions and do not possess any office assignment of a political party.]

(4) The District Committee so constituted shall be duly notified by the [Government]<sup>1</sup>

[(5) The Chairman and other members of the District Committee, not being ex-officio members, shall hold office on the discretion of the Government.]<sup>2</sup>

(6) The Chairman or a member, not being the ex-officio members may by writing under his hand addressed to the [Prime Minister,]<sup>3</sup> resign his office; Provided that he shall continue to hold office until his resignation is accepted by the [Government]<sup>4</sup>

(7) Any vacancy in the office of the Chairman or a member other than the ex-official member, shall be filled in accordance with sub section [(3)]<sup>5</sup> of Section [15]<sup>6</sup> by a person qualified to hold the office.

(8) The Chairman or member appointed under sub-section (7) shall hold office for the un-expired term of his predecessor].<sup>7</sup>

[(9) The Government may, after giving an opportunity of being heard remove any non-official member or Chairman of the District Committee as it may deem fit.]<sup>8</sup>

16. **[Constituency]<sup>9</sup> Zakat and Ushr Committee.**- (1) There shall be constituted a Constituency Zakat and Ushr Committee in each constituency:

[Provided that there shall be a separate Zakat and Ushr Committee in each Municipal Corporation and for the purpose of this section, the limits of Municipal Corporation shall be deemed to be a constituency.]<sup>10</sup>

“Provided further that there shall be two Zakat and Ushr Committees in Consistency LA-23, Muzaffarabad1.]<sup>11</sup>

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

Provided that if the Chairman or a member is nominated from Local Committee, he shall cease to hold the seat of Local Committee.]<sup>12</sup>

[(3) .....]<sup>13</sup>

<sup>1</sup> Inserted vide Act XIII of 1992.

<sup>2</sup> Inserted vide Ordinance X of 2011.

<sup>3</sup> Substituted vide Act XIII of 1992.

<sup>4</sup> Substituted vide Act XIII of 1992.

<sup>5</sup> Substituted vide Act XIII of 1992.

<sup>6</sup> Inserted vide Act XIII of 1992.

<sup>7</sup> omitted vide Ordinance XXVI 2010 .

<sup>8</sup> Inserted vide Act XIII of 1992.

<sup>9</sup> Substituted vide Act XIII of 1992.

<sup>10</sup> Inserted Act XXX of 1993.

<sup>11</sup> Inserted Vide ordinance X of 2011.

<sup>12</sup> Inserted vide Act VIII of 2003.

<sup>13</sup> Omitted vide Act XIII of 1992.



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(4) [Constituency]<sup>1</sup> Committee so constituted shall be duly notified by the [Chief Administrator.]<sup>2</sup>

(5) The [Constituency]<sup>3</sup> Committee, shall, subject to such guidelines as may be given by the Zakat Council, or the District committee: -

- a) oversee assessment of Ushr and Collection of Zakat, Ushr and Atiyyat and the disbursement and the utilization of the money in the Local Zakat Funds by the Local Committee in the Constituency;
- b) for the purposes mentioned in clause (a) make plans for the Constituency, in such form and manner as may be prescribed;
- c) compile Accounts of the Local Zakat Funds for the Constituency, in such form or manner as may be prescribed; and
- d) tender to the District Committee advice on any matter connected with the collection, disbursement or utilization of Zakat and Ushr.

(6) The Chairman and members of a [Constituency]<sup>4</sup> Committee not being ex-officio members shall hold office for a term of three years and shall be eligible for [re-appointment.]<sup>5</sup>

(7) The Chairman or a member, not being an ex-official member, may by writing under his hand addressed to the [Chief Administrator]<sup>6</sup> resign his office:

Provided that he shall continue to hold office until his resignation is accepted by the [Chief Administrator.]<sup>7</sup>

(8) Any vacancy in the office of Chairman or member, other than an ex-officio member, shall be filled by the [nomination]<sup>8</sup> of a person qualified to hold the office.

(9) The Chairman or member [nominated]<sup>9</sup> under sub-section (8) shall hold office for the un-expired term of his predecessor.

[10 The Chief Administrator may after giving an opportunity of being heard, remove any non-official member or Chairman of the Constituency Committee as he may deem fit.]<sup>10</sup>

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**17. Local Zakat and Ushr Committee.-** (1) A Local Zakat and Ushr Committee shall be constituted for: -

- a). each revenue estate in settled rural area;
- b). each Deh or Village in non-settled area; and
- c). ward in Urban area;

Provided that, if in the opinion of the Council the population of a revenue estate, deh or village is too large or too small to have one Local Zakat and

<sup>1</sup> Substituted vide Act XIII of 1992

<sup>2</sup> Subs.....*ibid*.....

<sup>3</sup> Subs.....*ibid*.....

<sup>4</sup> Subs.....*ibid*.....

<sup>5</sup> Subs.....*ibid*.....

<sup>6</sup> Subs.....*ibid*.....

<sup>7</sup> Subs.....*ibid*.....

<sup>8</sup> Subs.....*ibid*.....

<sup>9</sup> Subs.....*ibid*.....

<sup>10</sup> Inserted vide Act XIII of 1992



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Ushr Committee, such revenue estate, deh or village may, if too large, be divided into two or more localities, or if too small, grouped with any other revenue estate, deh or village to form one locality.

**Explanation. -**

- a) "Urban area" means area within the local limit of a Municipal/Town Committee;
- b) "Rural area" means area other than Urban area;
- c) "Settled rural area" means rural area for which revenue settlement record exists;
- d) "Non-settled rural area" means rural area other than settled rural area; and
- e) "Ward" means a distinct and compact locality the population of which does not exceed three thousand approximately.

(2) The Local Committee shall, subject to such guidelines as may be given by the Zakat Council, District Committee or the [Constituency] <sup>1</sup>Committee.

- a) determine Ushr demand compulsorily realisable under this Act and collect Zakat and Ushr and Atiyyat and disburse and utilise the moneys in the Local Zakat Fund;
- b) for the purposes mentioned in clause (a) make plans of the locality;
- c) prepare and maintain accounts of the Local Zakat Fund in such form and manner as may be prescribed; and
- d) tender to the [Constituency] <sup>2</sup> Committee as the case may be advice on any matter connected with the collection, disbursement or utilization of Zakat and Ushr.

(3) The Local Committee shall consists of seven members selected by the [team] <sup>2</sup>in the manner specified in sub-section (4):

[Provided that in urban areas the seventh member shall be a lady, selected under this Section].<sup>3</sup>

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(4) The District Committee shall constitute a team of three or more persons, including at least one Gazetted Officer, one Aalim-e-Deen and one member of District Committee to organise a public gathering of the adult Muslim residents of a locality and [.....]<sup>4</sup> to select, in the prescribed manner, seven adult Muslim residing in that locality who are known to be pious and not [be office bearer of a political party]<sup>5</sup> and who enjoy their trust to be the members of the Local Zakat Committee:

Provided that a person who is a member of a team constituted for the selection of members of a local committee shall not be eligible to be a member of such local committee and a person who is a salaried employee of the Government or of a Local Authority otherwise than as a Pesh Imam of a mosque or a teacher of a Local School or of a Corporation set-up, owned or control by the Government, shall not be eligible to be a member of a local committee:

<sup>1</sup> Substituted vide Act XIII of 1992

<sup>2</sup> Subs.....ibid.....

<sup>3</sup> Inserted .....ibid.....

<sup>4</sup> Omitted .....ibid.....

<sup>5</sup> Subs.....ibid.....



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Provided further that where in a district the number of Local Committee is so large that the member, of the District Committee cannot be put on all the teams constituted for the selection of members of local committees in the District, the District Committee, may, at its discretion nominate any other non-official person of the District to re-present it on the said team.

[.....]<sup>1</sup>

(5) If, at the time of selection, any adult Muslim resident of the locality present in the gathering raise objection with respect to another person so presents that such other person: -

- a) is not a Muslim;
- b) is not an adult;
- c) is not a resident of the locality;
- d) is an un-discharged insolvent; or
- e) is of unsound mind;

or, being person proposed to be selected as a member of the Local Committee, suffers from any of the said disqualifications or is not known to be pious, or is known to be [office bearer of a political party]<sup>2</sup> or has, during the period of three years proceeding the date of selection, been ordered to execute a bond under Section 108, 109 or 110 of the Code of Criminal Procedure. 1898 (Act V of 1898), or been convicted for an offence involving moral turpitude, or been declared a goonda under the law relating to the control of goondas, the team of personas organising the gathering shall make as summary inquiry and give a decision on the objection raised; and, in case the members of the team are equally divided in their opinion, the member of the team nominated by the District Committee to be its Convenor shall have a second vote.

(6) The members of a Local Committee as given in sub-section (3) above shall elect one of their members being a person who is literate and who offers prayers five times a day regularly and observes the fasts throughout the ramazan-ul-mubarak according to the injunctions of Islam, to be the Chairman of the Local Zakat Committee; and if two or more person secure an equally number of votes, the result of the election shall be determined by drawing lots;

Provided that the condition of the Chairman being literate may be waived in a locality where no literate, pious and practising Muslim is available.

(7) The Local Committee so constituted shall be duly notified by the District Committee concerned.

(8) Any adult Muslim resident of a locality who is aggrieved by the conduct of the result of the proceeding for the selection of the members, or the election of the Chairman of the Local Committee concerned may [within thirty days]<sup>3</sup> prefer an appeal to the [Chief Administrator].<sup>4</sup>

<sup>1</sup> Omitted vide Act XIII of 1992

<sup>2</sup> Substituted vide Act XIII of 1992

<sup>3</sup> Inserted vide Act XIII of 1992

<sup>4</sup> Substituted vide Act XIII of 1992



Provided that the Chief Administrator]<sup>1</sup> shall not grant any injunction or make any interim order, including a stay order during the period an appeal is pending.

[(9) The Chief Administrator Zakat on an appeal under sub-section (8), shall decide the appeal within thirty days and his decision shall be final and shall not be called in question before any court or other authority:

Provided that the Chairman Zakat Council may, at any time either of his own motion or on the application of an aggrieved person, revise the order passed by the Chief Administrator under this sub-section]<sup>1</sup>.

(10) The Chairman and members of the Local Committee shall hold office for a term of three years and shall be eligible for re-election or re-selection, as the case may be.

(11) The Chairman or a member may, by writing under his hand addressed to the Local Committee, resign his office;

Provided that he shall continue to hold office until his resignation is accepted by the Local Committee.

(12) Any vacancy in the office of Chairman or member shall be filled by the election or selection, as the case may be, of a person qualified to hold the office, in accordance with the provisions of sub-section (4) or as the case may be, sub-section (6).

(13) The Chairman, or the member elected or selected, as the case may be, under sub-section (12) shall hold office for the un-expired term of his predecessor.

18. **Member of Council and Committees to be Muslim.** - All the members of the Council or Committee shall be Muslims and where the holder of an office cannot become a member by reason of his not being a Muslim, the President in the case of Council and the Council in the case of a Committee shall nominate a Muslim member in his place.

19. **Vacancy, etc., not to invalidate acts or proceedings.**- (1) Notwithstanding anything contained in this Act, --

- a) a Council or Committee established or constituted thereunder for the first time shall be deemed to be dully established or constituted even if its strength is less than the strength specified in this Act by not more than two;
- b) the Chairman of a Local Committee holding office immediately before the commencement of this Act shall be deemed to be duly elected as such Chairman;
- c) no act or proceeding of a Council or Committee established or constituted under this Act shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of such Council or Committee.

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<sup>1</sup> Substituted vide Act XIII of 1992.



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20. **Powers to preside at meetings in the absence of Chairman.**- If the office of Chairman of a Council or Committee established or constituted under this Act is for the time being vacant, or the Chairman is absent from a meeting of the Council or Committee the meetings thereof or, as the case may be, the meeting from which the Chairman is absent shall be presided at -----

- a) [in the case of Council, by the Secretary Zakat and Ushr;]<sup>1</sup>
- b) in the case of a District Committee by the Deputy Commissioner;
- c) in the case of a [Constituency]<sup>2</sup> Committee, by the ex-officio member, that is, the Assistant Commissioner, Sub-Divisional Magistrate or the Tehsildar as the case may be; and
- d) in the case of a Local Committee, by the member elected by the members present.

21. **Vote of no confidence against the Chairman of [.....]<sup>3</sup> a Local Committee or the member of a Local Committee or a Local Committee as a whole.**- (1) Where in case of [.....]<sup>4</sup> a Local Committee, the District Committee after such inquiry as it may deem fit, is of the opinion that the members of that Committee no longer have confidence in the Chairman, the District Committee may in the prescribed manner, remove the Chairman from his office.

(2) Where in the case of member of a Local Committee or of a Local Committee as a whole, [the Zakat Council or,]<sup>5</sup> the District Committee, after such inquiry as it may deem fit, is of the opinion that the adult Muslim residents of the locality no longer have confidence in the member, or in the committee as a whole [the Zakat Council or,]<sup>6</sup> the District Committee may in the prescribed manner, remove the member from his office or dissolve the Committee as a whole.

(3) The vacancy in the office of Chairman or member or members so caused shall be notified by the District Committee and shall be filled in accordance with the provisions of this Act.

22. **Power of Suppression and removal.**- (1) If, after such inquiry as may be necessary, the Council is of the opinion that a Committee constituted under this Act.

- a) [is]<sup>7</sup> unable to discharge or persistently fails in discharging its duties; or
- b) is unable to administer its affairs; or
- c) acts in a manner contrary to public interest; or
- d) otherwise exceeds or abuses its powers, the Council may, by a resolution, declare the committee to be superseded for such period not exceeding one year as may be specified in the resolution:

*1 Substituted vide Act XV of 1994*

*2 Substituted vide Act XIII of 1992*

*3 Omitted vide Act XIII of 1992*

*4 Omitted vide Act XIII of 1992*

*5 Inserted vide Act XIII of 1992*

*6 Inserted vide Act XIII of 1992*

*7 Substituted vide Act XIII of 1992*

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Provided that the period of supersession may, if the Council considered it necessary to do so, be extended beyond a period of one year; or

- e) has a majority of members who are not pious Muslim [or office bearers of a political party.]<sup>1</sup>
- (2) When a resolution is passed under sub-section (1) in respect of a Committee.
- a) the persons holding office as Chairman and members of the Committee to which the resolution related, shall cease to hold office;
- b) all functions of the committee shall during the period of suppression, be performed by an Administrator [.....]<sup>2</sup> appointed by the Council.
- c) before the expiry of the period of suppression, elections shall be held and selection or nomination made in accordance with the provisions of this Act to re-constitute to the Committee.
- (3) If, after such inquiry as may be necessary, the Council is of the opinion that the Chairman or the member of a committee constituted under this Act –
- a) was at the time of his selection, election or nominations: -
- i. not a pious Muslim;
  - ii. not an adult;
  - iii. not a resident of the area within the jurisdiction of the Committee;
  - iv. an un-discharged insolvent;
  - v. not of sound mind; or
  - [(vi) an office bearer of a political party];<sup>3</sup>
- b) has been during the period of three years preceding the date of his selection, election or nomination.
- i. ordered to execute a bond under Section 108, 109 or 110 of the Code of Criminal Procedure, 1898; or
  - ii. convicted for an offence, involving moral turpitude; or
  - iii. declared Goonda under the law relating to the control or Goondas;
- c) has after his selection, election or nomination, incurred any of the disqualifications referred to in sub-clause (i), (iii), (iv), (v) or (vi) of clause (a) or sub-clauses (i), (ii) or (iii) of clause (b);
- d) has, without reasonable excuse, absented himself from three consecutive meetings of the Committee;
- e) has been guilty of abuse of power or of the misconduct in the discharge of his duties as Chairman or member, or been responsible for any loss or misapplication of any money or property of the Committee; or

<sup>1</sup> Substituted vide Act XIII of 1992

<sup>2</sup> Omitted vide Act XIII of 1992

<sup>3</sup> Sub, *ibid* -----



f) [has become physically disabled from performing functions as Chairman or member, the council may remove such Chairman or member from office.]<sup>1</sup>

**Explanations** . - for the purposes of clause (e), 'Mis-conduct' means bribery, corruption, jobbery, favouritisms, nepotism wilful maladministration or wilful diversion of funds and includes any attempt, at or abetment or, such mis-conduct.

(4) When the Chairman or member of a Committee is removed from, or other wise ceases to hold office, the vacancy in the office of such Chairman or member shall be filled within such time as the council may determine, by the election, selection or nomination, as the case may be, in accordance within the provisions of the Act, of a person qualified to hold the office.

(5) The Chairman or member elected, selected or nominated under, sub-section (4) shall hold office for the un-expired term of his predecessor.

(6) The Council may delegate to [the Chief Administrator]<sup>2</sup> all or any of its powers under the preceding provisions of this section in respect of a committee.

(7) The Chairman or a member of a Committee superseded under sub-section (1), or a Chairman or member removed from office under sub-section (3), may, within such time, and in such form and manner, as may be prescribed, apply to the Council for a review of its decision is and the decision of the Council in such review given, after giving to the applicant an opportunity of being heard shall be final and shall not be called in question before any Court or other authority. [.....]<sup>3</sup>

[(8) The Zakat Council may after giving an opportunity of a showing cause and being heard, remove any non-official member or Chairman of a Committee, as it may deem fit.]<sup>4</sup>

23. **Officers and Staff**.- The administrative organisation of the Chief Administrator shall be a Department or a part of a department of the Government and except where otherwise provided in this Act, to enable the committees constituted under this Act to perform their functions, such officers and staff may be appointed on such terms and conditions, and by such authorities, as may be prescribed.
24. **Certain persons to be public servants**.- Every person engaged in or employed for, the administration of this Act shall be deemed to be a public servant within the meaning of Section 21 of the Penal Code (Act XLV of 1860).

<sup>1</sup> Substituted vide Act XIII of 1992.

<sup>2</sup> Substituted vide Act XIII of 1992.

<sup>3</sup> Omitted vide Act XIII of 1992.

<sup>4</sup> Added vide Act XIII of 1992.



# CHAPTER VI

## MISCELLANEOUS

25. **Exemption.-** The Government may, in consultation with the Council of Islamic Ideology, exempt, by notification in the official Gazette, and specified class or classes of persons from payment of compulsory levy of Zakat or Ushr.
26. **Certain tax concession.-** (1) Notwithstanding any thing contained in any other law for the time being in force.
- a) in determining the tax liability of an assessee for an assessment year—
- i. under the Income Tax Ordinance, 1979 (XXXI of 1979) his taxable income shall be reduced by the amount paid by him to a Zakat Fund, during the previous year relevant to that assessment year; and;
- ii. under the Wealth Tax Act, 1963 (XV of 1963), his assets in respect of which Zakat or contribution in lieu thereof, has been deducted at source during the year relevant to that assessment year shall be excluded from his taxable wealth; and
- b) land revenue and development cess shall not be levied on land on the produce of which Ushr or contribution in lieu thereof, has been charged on compulsory basis.
- (2) Nothing in the preceding sub-section shall be deemed to affect the liability to pay income tax, wealth tax, Land revenue or development cess in respect of any period preceding the enforcement of the relevant provisions of this Act.
27. **Power to make rules.-** The Council may by notification in the official Gazetted, make rules for carrying out the purposes of this Act.
28. **Power to call for information and issue directions.-** The Council, the Chief Administrator, a District committee or [Constituency]<sup>1</sup> Committee, a Local Committee, may, within its or his jurisdiction call for such information or record from, and issue such directions to, the concerned persons or agencies as may be necessary for the performance of its or his functions under this Act.
29. **Indemnity and bar of Jurisdiction.-** (1) No suit, prosecution or other legal proceedings shall lie against any person for any thing in good faith done or intended to be done under this Act or any rule.
- (2) No Court shall call in question, or permit to be called in question, any thing done or any action taken under this act or any rule.
- (3) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings in relation to any thing done or intended to be done or any action taken or intended to be taken under this Act or any rule.
- 29-A **[Dissolution and reconstitution of Committees.-** (1) The Government, may, at any time, dissolve Zakat Council, District Zakat and Ushr Committees, Constituency Zakat and Ushr Committees and Local Zakat and Ushr Committees, and new Council, Committees shall be constituted within a period of three months from the dissolution:  
Provided that existing Zakat Council except its Chairman, District Zakat and Ushr Committees, Constituency Zakat and Ushr Committees and Local Zakat

<sup>1</sup> Substituted vide Act XIII of 1992



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and Ushr Committees shall stand dissolved and cease to function with immediate effect and new Council, Committees shall be constituted under Section 13, 15, 16 and 17 with in a period of three months from the commencement of this Act.]<sup>1</sup>

30. **Removal of difficulties.**- The Government may, make such provision as may be necessary to remove any difficulty in carrying out the purposes of this Act.
31. **Repeal.**- The Zakat and Ushr Ordinance, 1985 (Ordinance CLVI of 1985) is hereby repealed.



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<sup>1</sup> Added vide Act I of 2002



# FIRST SCHEDULE

(See Section 2 and 3)

ASSETS SUBJECT TO COMPULSORY LEVY OF ZAKAT  
THROUGH DEDUCTION AT SOURCE FOR CREDIT  
TO THE AZAD JAMMU AND KASHMIR ZAKAT FUND.

Sl. #	Assets	Rate and Basis For Computing the Amount to be Deducted at Zakat	The Deduction Date	Deducting Agency
1	2	3	4	5
1.	SAVING BANK ACCOUNTS AND similar accounts by whatever name described (excluding foreign currency accounts) with the banks operating in Azad Jammu and Kashmir, Post office, National Servings Centres and financial institutions keeping such accounts.	2.5% of the amount standing to the credit of an account at the commencement of the day on Valuation date, (No deduction shall be made in case the amount standing to the credit of an account does not exceed the amount notified by the Chief Administrator.	As notified by the Chief -Administrator for the Zakat year.	The Bank, Office, Centre or institution as the case may be, keeping the account.
2.	NOTICE DEPOSITS RECEIPTS and accounts and similar receipts and accounts by whatever name described (excluding foreign currency receipts and accounts) with the banks operating in Azad Jammu and Kashmir, post offices, National Savings Centres and financial institutions issuing such receipts and keeping such accounts.	2.5% of the face value of a receipt or the amount standing to the credit of an account as the case may be at the commencement of the day on the Valuation Date, in each Zakat year.	The date on which the first return is paid or the date of encashment/withdrawal, which ever be earlier in the Zakat year.	The bank, office centre or institution as the case may be issuing the receipt or keeping the account, and responsible for paying the return or the amount enchased/withdrawn.
3.	Fixed Deposit Receipts and Accounts and similar receipts and accounts (excluding foreign currency receipts and accounts) and certificates (e.g. Khas Deposit Certificates) by whatever name described, issued by the banks operating in Azad Jammu and Kashmir post office, National Savings Centre and financial institutions, on which	2.5% of the face value of a receipt or a certificate, or the amount standing to the credit of an account, as the case may be, as at the commencement of the day on the Valuation Date, in each Zakat year.	The date on which the first return is paid, or the date of encashment/ redemption / withdrawal, whichever be earlier in the Zakat year.	The bank, office, centre or institution, as the case may be, issuing the receipt or certificate or keeping the account, and responsible of paying the return or encashment /redemption /with drawal.



	return is receivable by the holder periodically or is received earlier than maturity.			
4	Savings/deposits certificate (e.g. Defence Savings Certificates, National Deposit Certificate), receipts and accounts by whatever name described, issued or kept by the banks operating in Azad Jammu and Kashmir, post offices, National Savings Centres, financial institutions, statutory corporations and companies, on which return is receivable and is received by the holder, only on maturity or encashment.	2.5% of the payable value of certificates or receipts or the amount standing to the credit of an account, as the case may be as on the Valuation Date.	The date on which the value on maturity is paid, or of encashment/ withdrawal, whichever be earlier in the Zakat year.	The bank, office, centre institution, corporation or company, as the case may be, responsible for paying the return or the amount withdrawn or redeeming encashing the certificates or receipts.
5	Units of the National Investment (Unit) Trust.	2.5% of the repurchase value of the Units as on the Valuation Date in each Zakat year.	The date on which the first return or the repurchase value is paid, whichever be earlier in the Zakat year.	The Trustees of the National Investment (Unit) Trust or its authorised agent paying the return on, or the repurchase value of, the Units.
6	<sup>1</sup> [Investment Corporation of Pakistan and its mutual Funds Certificate]	2.5 % of the face value, of the market value based on the closing rate at the Karachi Stock Exchange, whichever be lower as on the Valuation Date in each Zakat year.	The date on which the first return is paid in the Zakat year.	Investment Corporation of Pakistan.
7	Government securities (other than prize bonds and certificates mentioned at serial number 3 and 4 on which return is receivable by the holder periodically.	2.5% of the face value of the Government securities as on the Valuation Date in each Zakat year.	The date on which the first return is paid or the date of encashment / redemption, whichever be earlier in the Zakat year.	The bank, office or institution as the case may be, responsible for paying the return or encashing/ redeeming the security.
8	Securities including shares and debentures of companies or statutory corporations (excluding those held in the name of company or a statutory corporation and those mentioned at serial number 5, 6 and 7, on which return is payable	If listed on the stock exchange, 2.5% of the paid up value, or the market value based on the closing rate at the Karachi Stock Exchange, whichever be lower as on the Valuation Date, in each Zakat year. If not listed on the stock exchange, 2.5% of the	The date on which the first return is paid or the date of encashment/ redemption whichever be earlier in the Zakat year.	The corporation, company or institution, as the case may be, responsible for paying the return or encashing/redeeming the security.

<sup>1</sup> Subs vide Act XIII of 1992



	periodically or other wise, and is paid.	paid-up value on the valuation date, in each Zakat year.		
9	Annuities.	The insurer.		
	Life insurance policies	2.5% of the payable value on maturity or of surrender value as on the valuation Date in the Zakat year in which the policy matures or its survival benefit or surrender value is paid, as the case may be.	The date of payment of value on maturity or of survival benefit or of surrender value.	The insurer.
10	Provident Funds	In case of non-refundable advance 2.5% of the amount drawn or, in case of final settlement, 2.5% of the balance standing to the credit of the subscriber as on the Valuation Date, excluding in both cases the employers, contribution and the return accrued thereon.	The date of payment of the advance or of the balance.	The authority, officer or institution making payment of the advance or of the balance.

**Note.-** Deduction at source exceeding two and one-half percent of the value of an asset specified in this schedule, shall not be made in respect of that asset within the same Zakat year.

1. No Zakat shall be charged on the amount paid as premium of a Life Insurance Policy of a person from his Provident Fund and, where the proceeds of a life insurance policy of a person are credited to his Provident Fund during the Zakat year, Zakat shall be charged on the amount received or drawn during that year as final settlement of his account in the Provident Fund or as non-refundable advance, to the extent of the proceeds so credited.
2. If the amount to be deducted at source at Zakat, in a particular case, is less than a rupee, it shall not be charged, and if it is more than a rupee but has a fraction of a rupee, fifty paise and more shall be treated as the next higher rupee and less than fifty paise shall not be charged, where the entire amount of the return/balance/settlement of annuity benefit is to be appropriated towards Zakat, and the amount contains a fraction of rupee, this fraction shall not be so appropriated.
3. The Deduction Date for serial number I shall be deemed to be a public holiday, for banks only, within the meaning of the Negotiable Instruments Act, 1881 (XXVI of 1881) Banks shall, however, remain open for their employees.
4. In case the amount of the first return on any of the assets specified at S. Nos. 2, 3 and 5 to 8 or the first instalment of the annuity benefit, is less than the Zakat due, the entire amount of such return or instalment shall be appropriated toward Zakat and the unrealized balance shall be deducted from the subsequent returns or instalments paid during the same Zakat year or, as the case may be, from the encashment or surrender value.



## SECOND SCHEDULE

(See Section 2,3 (5) and 5)

**ITEMS NOT SUBJECT TO COMPULSORY LEVY OF ZAKAT BUT ON WHICH ZAKAT IS PAYABLE BY EVERY SAHIB-E-NISAB ACCORDING TO THE RELEVANT NISAB, ON SELF ASSESSMENT BASIS, EITHER TO ZAKAT FUND OR TO ANY INDIVIDUAL OR INSTITUTION, ELIGIBLE, UNDER THE SHARIAH, TO RECEIVE ZAKAT.**

Sr.	Item	Rate and basis for self assessment
1	Gold and silver and manufactures thereof.	2.5 % of the market value, as on the valuation date.
2	Cash.	2.5 % of the amount as on the valuation date.
3	Prize Bonds.	2.5 % of the face value, as on the valuation date.
4	Current accounts and foreign currency account and, to the extent not subject to compulsory levy of Zakat under the First Schedule, other accounts, certificates, receipts, units of National Investment (Unit) Trust, ICP-Mutual Fund certificates), Government securities, annuities, life insurance policies and provident funds.	2.5 % of the value of the asset, as on the valuation date.
5	Loans receivable, excepting loans receivable by banks, other financial institution statutory corporations and companies.	2.5 % of the amount of loan receivable, as on the Valuation date.
6	Securities including shares and debentures, to the extent not subject to compulsory levy of Zakat under the first Schedule.	If listed on the stock exchange, 2.5% of the market value (i.e. the closing rate at the Karachi stock exchange), as on the valuation date. If not listed on the stock exchange, 2.5% of the paid up value, as on the valuation date.
7	Stock-in-trade of: - a) Commercial undertaking (including dealers in real estate). b) Industrial undertakings. c) Precious metals and stone and manufactures thereof. d) Fish and other catch / produce of the sea, except catches by indigenous techniques.	a) 2.5% of the cash value, or, at the option of the sahib-e-nisab, the market value, as on the Valuation date. b) 2.5% of the book value, or, at the option of the sahib-e-nisab, the market value of raw materials and finished goods, as on the Valuation date. c) 2.5% of the market value, as on the valuation date. d) 2.5% of the value, as on the valuation date.
8.	Agricultural (including horticultural and forest produce: (a) tenant's share (b) other than the tenant's share.	a) i) 10% of the produce, as on the Valuation date, in the barani area; and ii) 5% of the produce, as on the valuation date, in the non-barani area. i) 5% over and above the compulsory 5%, in the barani area as on the Valuation date; and b) ii) One-fourth for the value of produce allowed as an allowance for expenses on production.
9.	Animal (fed free in pastures): Sheep or goats.	a) (i) For owners of one to 39 heads; nil; (ii) For owners of 40 to 120 heads; one sheep/goats; (iii) For owners of 121 to 200 heads; Two sheep/goats; (iv) For owners of 201 to 400 heads; Three sheep/goats; and (v) For owners of every complete additional hundred heads; One sheep/goat, as on the valuation date. (i) For owners of one to 29 heads; Nil;



آزاد حکومت ریاست جموں و کشمیر  
محکمہ قانون، انصاف، پارلیمانی امور و انسانی حقوق

☆☆☆  
نمبر ق/ویننگ / 652 / 2011ء مورخہ 07/2011

بخدمت:-

جناب ایڈیشنل سیکرٹری،  
سیکرٹریٹ سماجی بہبود و ترقی نسوان / زکوٰۃ و عشر / اسلامی نظریاتی کونسل،  
منظر آباد۔

عنوان:- زکوٰۃ و عشر ایکٹ 1985ء کی ویننگ

(اسلام) علیکم!

معاملہ مندرجہ عنوان الصدر میں بحوالہ آپ کے مکتوب نمبر اس۔ ز۔ ع/3472/2010ء مورخہ 05.10.2010 تحریر خدمت پ-4 ہے کہ مسودہ زکوٰۃ و عشر بر زبان انگریزی کو سال 2011 تک جاری شدہ ترمیمی آرڈیننس کی متعلقہ دفعات شامل کرتے ہوئے ویٹ کر دیا گیا ہے۔ لہذا معاملہ بعد از ویننگ ارسال خدمت ہے۔

دالہ  
سکشن آفیسر قانون  
7/7/11  
سیکشن آفیسر (ویننگ)  
فون نمبر: 921015

(منبتہ vetted ڈاکوٹلس)

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