
**EXTRACT FROM THE CONSTITUTIONAL
PROVISIONS RELATING TO ELECTIONS**

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ARRANGEMENT OF ARTICLES

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

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

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

- (2) The election to the office of President shall be conducted under the control and supervision of the Chief Election Commissioner.
- (3) The election of the President under sub-section (2) shall not be called in question in any court or before any Tribunal or other authority.

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

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

- (a) The Prime Minister of Pakistan;
- (b) The President;
- (c) Five members to be nominated by the Prime Minister of Pakistan from time to time from amongst Federal Ministers and members of Parliament;

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

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

- (d) The Prime Minister of Azad Jammu and Kashmir or a person nominated by him; and
- (e) Six members to be elected by the Assembly from amongst State Subjects in accordance with the system of proportional representation by means of the single transferable vote.
- (2) The Prime Minister of Pakistan shall be the Chairman of the Council.
- (3) The President shall be the Vice-Chairman of the Council.

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

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

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

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

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

¹ Added by (2nd Amendment) Act, 1976.

² Added by (1st Amendment) Act, 1975.

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

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

(5) ¹[An elected member shall hold office for a term of five years from the day he enters upon his office:

²[Provided that an elected member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.]

(6) ³[An elected member shall, before entering upon office, make before the Chairman oath in the form set out in the First Schedule.]

(7) ⁴[The executive authority of the Council shall extend to all matters with respect to which the Council has power to make laws and shall be exercised in the name of the Council, by the Chairman who may Act either directly or through the Secretariat of the Council of which a Federal Minister nominated by the Chairman from amongst the members of the Council and not more than three Advisors appointed by the Chairman shall be incharge:

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

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

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

(10) An Advisor who is a member of the Assembly ⁵[and the Federal Minister of the State for Kashmir Affairs and Northern Affairs]

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

² Added by *Ibid.*

³ Substituted by *ibid.*

⁴ *Ibid.*

⁵ Inserted by (2nd Amendment) Act, 1976.

shall have the right to speak in, and otherwise take part in the proceedings of the Council, but shall not by virtue of this sub-section be entitled to vote.

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

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

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

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

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

22. **Legislative Assembly.**— (1) The Legislature of Azad Jammu and Kashmir shall consist of a Legislative Assembly consisting of ²[(forty nine) members of whom__

- a) ³“forty one” shall be elected directly on the basis of adult franchise; and
- b) ⁴[Five who shall be women, shall be elected by the directly elected members.]
- c) One, who shall be from amongst the Ulema-e-Din or Mushaikh and well-versed with the teachings of Islam, shall be elected by the directly elected members;

¹ Added by (5th Amendment) Act, 1977.

² Substituted by Act VII of 2005 dated 10/06/2005.

³ *ibid.*

⁴ Substituted by (7th Amendment) Act II of 1986.

- d) One, who shall be from amongst the Jammu and Kashmir State Subjects residing abroad, shall be elected by the directly elected members; and
- e) One, who shall be from amongst the Technocrats and other professionals, shall also be elected by the directly elected members.]

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

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

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

23. Oath of members of the Assembly.—(1) A person elected as a member of the Assembly shall not take his seat in the Assembly until he makes before such person as is prescribed by rules of the Assembly and oath in the form set out in the first Schedule.

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

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

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

- a) he is State Subject;
- b) he is not less than twenty-five years of age; and
- c) his name appears on the electoral roll of any constituency in Azad Jammu and Kashmir or Pakistan.

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

- (a) he is of unsound mind and stands so declared by competent court; or
- (b) he is an undischarged insolvent unless a period of ten years has elapsed since his being adjudged as insolvent; or
- (c) he has been on conviction for any offence sentenced to transportation for any term of imprisonment for a term of not less than two years unless period of five years has elapsed since his release; or
- (d) he holds any office of profit in the service of Azad Jammu and Kashmir or in the service of Pakistan other than an office which is not a whole time office remunerated either by salary or by fee other than an office specified in the Second Schedule; or
- (e) he has been dismissed for misconduct from the service of Azad Jammu and Kashmir or the service of Pakistan unless a period of five years has elapsed since his dismissal; or
- (f) he is otherwise disqualified from being a member of the Assembly by this Act or by under any other law.

25. Seat in Assembly becomes vacant under certain circumstances.- (1) The seat of a member of the Assembly shall become vacant if.—

- (a) he resigns his seat by notice in writing under his hand addressed to the Speaker, in his absence, to the Secretary of the Assembly; or
- (b) he is absent from the Assembly without the leave of the Assembly for thirty consecutive sitting days of the Assembly; or
- (c) he fails to make the oath referred to in section ¹[23], within a period of ninety days after the date of his election unless the Speaker for good cause shown extends the period; or
- (d) he is elected as a member of the Council; or
- (e) he ceases to be qualified for being a member under any provision of this Act or any other law.

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

¹ Sub. by (1st Amendment) Act, 1975.

days except the seat to which he has been last elected or, if he has been elected to more than one seat on the same day, the seat for election to which his nomination was filed last.]

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

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

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

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

¹ Inserted by (1st Amendment) Act, 1975