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AZAD JAMMU & KASHMIR ELECTION COMMISSION

MANUAL OF INSTRUCTIONS FOR THE GUIDANCE OF RETURNING OFFICERS

UNDER

**The Azad Jammu and Kashmir
Legislative Assembly (Elections) Ordinance 1970**

And

The Rules framed thereunder

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AZAD JAMMU AND KASHMIR ELECTION COMMISSION

Instructions relating to the duties and functions of the Returning Officers under the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance 1970 and the Rules framed thereunder.

PART –1 INTRODUCTORY

1. The Returning Officers should please carefully study the provisions of the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance 1970, (hereinafter called the Ordinance) and the Azad Jammu and Kashmir Legislative Assembly (Elections) Rules 1970 (hereinafter called the Rules). This will greatly help in the performance of their duties and avoidance of procedural errors.

Copies of the Ordinance and Rules have already been sent to them.

2. These instructions are in addition to and not in derogation of the Ordinance and the Rules.
3. General elections to the Azad Jammu and Kashmir Legislative Assembly (hereinafter called the Assembly) will be held on a date to be notified in the Official Gazette, under Sub-Section (1) of Section 10 of the Ordinance, on the basis of the electoral rolls prepared in 2016 and constituencies delimited in 2016.
4. Forty one members falling under the following three categories are to be returned to the Assembly by direct vote, namely;
 - (i) twenty nine members to be elected by the State Subjects from twenty nine territorial constituencies comprising the territory of Azad Jammu and Kashmir;
 - (ii) six members to be elected by the State Subjects “from amongst themselves”, who being refugees from the occupied areas in the districts of Muzaffarabad, Anantnag (Islamabad) and Baramula (hereinafter called the Kashmir Valley) are now resident in Pakistan; these six seats which are non-territorial are called “Kashmir Valley Seats”; and
 - (iii) six members to be elected by the State Subjects, “from amongst themselves” who being resident in Pakistan, are either refugees from the occupied areas of the former State not being “the Kashmir Valley” or belong to the territory of the Azad Jammu and Kashmir;

these six seats are called “Jammu and Others” and are also non-territorial.

From this analysis, two things are noteworthy:

First: A State-Subject enrolled as voter in a constituency falling under the second or third category would, on the basis of that enrollment, be eligible to contest election from a constituency falling under the first category also.

Second: Election to any of the six seats falling under the second, or as the case may be, the third category can be contested by a State-Subject only if he is enrolled as voter in any of the six constituencies in that particular category.

This is the outcome of the limiting word, “from amongst themselves” in Sub-Section (2) and (3), of Section 2 of AJ&K Legislative Assembly (Elections) Ordinance 1970 (Ordinance VI of 1970) in respect of membership falling under the second and third categories and the absence of similar limiting words in sub- section (1) *ibid* in respect of the twenty nine seats falling under the first category.

5. Forty one members of the Assembly elected as aforesaid, in turn elect five women members; one from Ulma-e-Din or Mushaikh, one from Overseas Kashmiris (Kashmiris residing abroad) and one from Technocrats to raise the total membership of the Assembly to forty nine incidentally, subject to the reservation explained above, women are also eligible to contest election to the Assembly from forty one seats.
6. Under the law for the conduct of election, the Returning Officer occupies key position. His responsibilities and duties include —
 - (i) appointment of the Presiding Officers, Polling Officers, if any, and staff for each polling station in the constituency of which he is the Returning Officer and giving instructions to them with regard to their respective duties;
 - (ii) settling of the polling scheme for the constituency and selection of premises for polling stations;
 - (iii) arranging for the supply of equipment to the polling stations e.g. stationery, seats etc. well before the polling day;
 - (iv) arranging for the training of the polling staff; and
 - (v) collection of results from the polling stations, consolidation and communication of the same to the Election Commission.

- * **To ensure smooth conduct of polls, prompt and punctual action is required at every stage.**

PRE-POLLING STAGE

7. The Chief Election Commissioner (hereinafter referred as the Commissioner) will appoint a Returning Officer and, wherever necessary, one or more Assistant Returning Officers for each constituency. The appointments will be notified in the Official Gazette.
8. An Assistant Returning Officer, wherever appointed, will perform such duties as may be assigned to him by the Returning Officer;

Provided that, nomination papers will be received, endorsed, scrutinized, accepted or rejected, as the case may be, by the Returning Officer; so also, the consolidation of the election result of a constituency under Section 36 of the Ordinance.
9. The Returning Officer and the Assistant Returning Officer shall perform their duties and functions under the general supervision of the Commissioner, and any instruction issued by him, shall subject to the provisions of the Ordinance and the Rules, be binding upon them.
10. The Returning Officer shall, before such time as the Commissioner may fix, prepare polling scheme, forward list of the polling stations he is proposing to set up in the constituency of which he is the Returning Officer, for the approval of the Commissioner or the District Returning Officer, as the case may be.
11. Any person aggrieved by the list of the polling stations prepared by the Returning Officer under section (1-A) of Section 7 of the AJ&K Legislative Assembly (Elections) Ordinance 1970 (Ordinance X of 1970), may file an appeal before the District Returning Officer and any person aggrieved by the decision of District Returning Officer may file second appeal before the Chief Election Commissioner.
12. Polling Scheme will generally be prepared in consultation with the Assistant Returning Officer keeping in view the following guide-lines:
 - (i) Polling stations for a constituency will bear running serial number, so that each polling station is identified by its serial number and name, if any;
 - (ii) Electoral areas and voters assigned to each polling station will be clearly indicated under each polling station. The assignment of voters may have to be corrected because of the preparation of the fresh electoral rolls, which continues until the announcement of the election schedule.

- (iii) Polling station should invariably be established in public buildings preferably educational buildings, rest houses and union council offices etc. situated within the limits of the constituency. In case if public building is not available in a particular area polling station can be setup in a private building (only in the exceptional circumstances when no suitable public building is available for the purpose) or in a tent as the case may be with the prior approval of the Commissioner. While setting up a polling station in a private building, the Presiding Officer shall ensure that building does not belong to (or is in control of) any candidate or election agent or polling agent or any known leader or active worker of any political party or candidate.
 - (iv) A prior inspection of the building selected to adjudge, its suitability and location will be essential.
 - (v) Every effort shall be made to ensure that female voters of a particular electoral area are assigned to the same polling station to which their men-folk have been assigned, but it should be seen that separate booths with separate entrances and exits for male and female voters are arranged. Maximum two booths will be arranged.
 - (vi) While assigning voters resident in an electoral area to a polling station, great care will be taken, that no voter enrolled in that electoral area is omitted from the list and conversely no voter enrolled in another electoral area is included in the list of voters assigned to that polling station.
 - (vii) A polling station will be established up to 500 voters comprising only one booth. It doesn't mean that polling station must be up to 500 voters. It can be established below than 500 voters also. Exceeding by 500 voters and up to 700 voters two booths will be setup and in case more than 700 voters two separate polling stations will be established. More than two booths will not be allowed in any case.
 - (viii) In case of big cities with distinct bifurcation of the electoral areas served by each polling station. Separate polling stations for men and women will be setup. In combined polling stations two booths can be made. The bifurcation in such cases will be done in such manner so as to make it possible that full pages of electoral rolls are used at each such polling station to avoid any wastage of copies of electoral rolls.
13. Under the law, it is the personal responsibility of the Returning Officer to submit to the Commissioner or as the case may be to the District Returning Officer the list of polling stations he proposes to setup in the constituency. It is important that the list is submitted well before the terminal date fixed by the Commissioner so that the list, when approved by the Chief Election Commissioner or District Returning Officer, is published in Official Gazette at least 15 days before the polling day. This is mandatory requirement.

14. Normally, no change will be possible in the final list of polling stations as published in Official Gazette, nor would it be desirable, save under exceptional circumstances and with the prior permission of the Commissioner.
15. For the purpose of holding general elections to the Assembly, the Commissioner shall, by notification in the Official Gazette under Sub-Section (1) of Section 10 of the AJ&K Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), call upon the electors to elect a member from each constituency on the day specified in the notification. The notification shall also specify the dates inter alia, for the filing and scrutiny of nomination papers, filing of appeals against acceptance or rejection of nomination, and withdrawal of candidature.
16. As soon as may be after the notification issued by the Commissioner, referred to in the preceding paragraph, each Returning Officer shall also give public notice under Sub-Section (2) and (3) *ibid* and invite nominations in respect of the constituency of which he is the Returning Officer, the terminal date, time and place for receiving nomination papers, time for the scrutiny of nomination papers, withdrawal of nominations and the taking of poll. The notice shall be affixed in a conspicuous place outside his office.

Public notice shall be in the form set out in Appendix 'A' to the Instructions.
17. Nomination papers shall be filed by the candidate in person or his proposer or seconder and by no other person.
18. More than one nomination paper may be filed by or on behalf of a candidate for the same constituency.
19. The Returning Officer shall acknowledge receipt of the nomination papers, give serial number to each nomination paper, endorse thereon the name of the person presenting it, the date and time of its receipt and inform such person of the date, time and place at which he would hold the scrutiny.
20. The Commissioner will issue four copies of electoral rolls to the Returning Officer who will retain one copy to be used as master copy, retain another as spare copy and will put in the polling bag for each polling booth two copies for the Presiding Officer, and the Polling Officer.
21. Only an elector borne on the rolls of a constituency will propose or second a duly qualified person to be a member for that constituency. However, it would be unlawful for such elector to subscribe to or second the proposal in respect of another candidate from that constituency. A violation of this provision will render void, all nominations subscribed to or seconded by such elector.

22. The nomination shall be in Form 1 appended to the Rules; printed forms have been supplied sufficient number to the Returning Officer who will issue on request these forms free of cost, to each prospective candidate. If for any reason printed forms are not available it would be in order to file typewritten nomination forms or in manuscript, so however, such forms are complete in all respects including the declarations by the person, nominated and his proposer and seconder.
23. A person nominated for any of the constituencies in the territory of Azad Jammu and Kashmir and for any constituency in Pakistan, may deliver or cause to be delivered a duplicate of his nomination papers, with a photo-state copy of deposit receipt or of bank draft to the Secretary Election Commission, Muzaffarabad, by registered post acknowledgement due so as to reach the addressee before the expiry of the time specified for the filing of nominations.
24. If there shall arise a question at the time of scrutiny, as to whether, a person seeking nomination, filed or has caused to be filed before the Returning Officer his nomination paper within the appointed time and a candidate in support of his having done so, produces before, the Returning Officer, receipt issued by the Secretary Election Commission, or the Post Office, the Returning Officer shall immediately inform the Commissioner and also send for the duplicate of the nomination paper. If the duplicate nomination paper has been received as aforesaid, it will be dispatched to the Returning Officer who shall treat it for all intents and purposes as original delivered to him under Sub-Section (3) of Section 11 of the Ordinance and all subsequent proceedings with regard thereto shall be taken on that basis.
25. After the receipt of nominations, a notice with regard to each nomination filed with the Returning Officer shall be affixed at a conspicuous place in his office and a copy of the same shall be forwarded to the Secretary Election Commission, Muzaffarabad.

DEPOSITS

26. The amount of security deposit for election to a seat in the Assembly is Rs. 10,000. In the case of a candidate from a constituency in the territory of Azad Jammu and Kashmir, the amount shall be deposited in cash either with the Returning Officer or in the Government treasury or sub-treasury in the territory of the constituency, and in the latter case, the treasury receipt shall be annexed to the nomination paper. In the case of a candidate from any constituency in Pakistan, the deposit shall be made by means of a bank draft drawn in favour of the Accountant General, Azad Government of Jammu and Kashmir and will be similarly annexed. The head of account for the purpose of deposit will be "Deposits and Advance-Part II-Deposits not bearing Interest-Civil Deposits in Connection with Election". The Returning Officer

shall issue receipt in Form III appended to the rules for each cash deposit, treasury receipt or bank draft, as the case may be.

A single deposit of Rs. 10,000 will be in order in case of a candidate filing more than one nomination paper for contesting election from that constituency.

27. The Returning Officer shall maintain a register in Form II appended to the rules and enter in the register particulars of every cash deposit or of the bank draft accompanying the nomination paper.

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP OF THE ASSEMBLY.

28. (1) Subject to the reservations referred to in paragraph 4 above, a person shall be qualified to be elected and be member of the Assembly, if he---
- (a) is a State Subject within the meaning of the late Government of the State of J&K Notification No. 1- L/84 dated the 20th April, 1927, set out in Appendix II;
 - (b) is not less than 25 years of age on the last date for filing nomination;
 - (c) is enrolled as voter in an electoral area in the territory of Azad Kashmir or in any part of Pakistan;
 - (d) he is of good character and is not commonly known as one who violates Islamic Injunctions;
 - (e) he has an adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;
 - (f) he is sagacious, righteous, honest, ameen and not profligate;
 - ¹(g) he has academic qualification of not less than matriculation or equivalent from a recognized institution.

Provided that the provisions (d) and (e) above shall not apply to a person who is a non-muslim, but such a person shall have a good moral reputation.

- (2) A person shall be disqualified for being elected or chosen and for being a member, if;
- (i) he is of unsound mind and stands so declared by a competent court; or
 - (ii) he is an un-discharged insolvent unless a period of ten years has elapsed since his being adjudged as an insolvent; or

¹ Added by Ordinance XXVI of 2001.

- (iii) he has been, on conviction for any offence, sentenced to transportation for any term or imprisonment for a term of not less than two years unless a period of five years has elapsed since his release; or
- (iv) 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, or other than an office, of Parliamentary Secretary, Advisor to the Government, Special Assistant to the Prime Minister or to the President or Chairman District Council or Municipal Committee or the Chairman and Members of Zakat Council or Chairman of a Development Authority or Board¹ as specified in the Second Schedule of Interim Constitution Act, 1974; or
- (v) he has been dismissed for mis-conduct from the service of Azad Jammu and Kashmir or the service of Pakistan unless a period of five years has elapsed since his dismissal; or
- (vi) he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (vii) he is propagating any opinion or acting in any manner, pre-judicial to the ideology of Pakistan, the ideology of State's accession to Pakistan or the sovereignty, integrity of Pakistan or security of Azad Jammu and Kashmir or Pakistan or morality, or the maintenance of Public order, or the integrity or independence of the Judiciary of Azad Jammu and Kashmir or Pakistan, or which defames or brings into ridicule the Judiciary of Azad Jammu and Kashmir or Pakistan or the Armed Forces of Pakistan; or
- (viii) he has been removed or compulsorily retired from the service of Azad Jammu and Kashmir or Pakistan on the grounds of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement; or
- (ix) he has been in the Service of Azad Jammu and Kashmir or Pakistan or of any statutory body or any body which is owned or controlled by the Government or the Government of Pakistan, or in which any of the Government has a controlling share or interest, other than any office exempted in clause (IV), unless he retires from such service; or
- (x) he is found guilty of corrupt or illegal practice under any other law for the time being in force, unless a period of seven years has elapsed from the date on which that order takes effect; or

¹ Inserted by Ordinance XXI of 2001

- (xi) he has, at any time on or after the Ninth day of September, 1979, been an office-bearer of a political party dissolved under Section 9 of the Azad Jammu and Kashmir Political Parties Ordinance, 1979 and has not, before a declaration in respect of such party is made under Sub-Section (1) of that Section, resigned, or publicly announced disassociation, from such party, unless a period of five years has elapsed from the date of such dissolution; or
- (xii) he has been convicted under Section 10 of the Azad Jammu and Kashmir Political Parties Ordinance, 1979, unless a period of five years has elapsed from the date of his release; or
- (xiii) omitted
- (xiv) omitted
- (xv) he is for the time being dis-qualified from being elected or chosen as a member of the Legislative Assembly of Azad Jammu and Kashmir under any law for the time being in force; or
- (xvi) omitted
- (xvii) he whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a cooperative society and Government for the supply of goods to, or for the execution of any contract or the performance of any service undertaken by Government:

Provided that the disqualification under this clause shall not apply to a person—

- (a) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee executor or administrator, until the expiration of six months after it has so devolved on him or such longer period as the President may, in any particular case, allow; or
- (b) where the contract has been entered into by or on behalf of a public company as defined in the Companies Act, 1913 (VII of 1913), of which he is a share-holder but is neither a director holding an office of profit under the company nor a managing agent; or
- (c) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course or carrying on separate business in which he has no share or interest.

Explanation I.—In Sub-Clause (v), (viii) and (ix) of Sub-Section (2) ‘Service of Azad Jammu and Kashmir’ and ‘Service of Pakistan’ have the same meaning as assigned to them in Section 2 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 and in Article 260 of the Constitution of Pakistan respectively.

Explanation II.—In Sub-Clause (xi) of Sub-Section (2) office bearer of a political party means an office bearer of the National or District set-up of the party otherwise than as a mere member of the Working Central, District or other committee of party.

Explanation III.—In Sub-Clause (xvii) of Sub-Section (2) ‘goods’ does not include agricultural produce or commodity grown or produced by him or such goods as their under any directive of Government or any law for the time being in force, under a duty or obligation to supply.

- (xviii) he is having a bad reputation or known to be morally corrupt;
- ¹(xix) he or any person on his behalf makes or threatens to make use of any force, show of arms or use of arms in any manner with the intention to nullify or disrupt elections or influence the result of election;
- (xx) he or any person on his behalf inflicts or threatens to inflict any injury, damage, harm or loss to any person or candidate so as to restrain him from voting or adversely affects the election process in any manner;
- (xxi) he has failed to file the required return of election expenses within time or it is proved that he has exceeded the permissible limit of election expenses.
- (xxii) he is a willful defaulter of any tax or other financial dues owed to the Government, a local Government or any financial institution including utility bills outstanding for six months or more;
- (xxiii) he possesses assets which are inconsistent with his declared assets or justifiable means, whether held in his own name or in the name of dependents or any other person or corporate body in whose name assets are held in trust or under any other formal or informal arrangements, whereby the defacto control of such assets including their sale, transfer or pecuniary interest is retained by him; and
- (xxiv) he fails to submit a statement under section 47-A of AJ&K Legislative Assembly (Elections) Ordinance 1970 or knowingly submits a false or incorrect statement;
- (xxv) he does not have academic qualification of matriculation or equivalent from a recognized institution.

¹ Added by Ordinance No. xxvi of 2001.

SCRUTINY

29. Each candidate, his election agent, proposer and seconder and one other person authorized in writing in this behalf by the candidate may be present at the time of scrutiny and shall be allowed reasonable opportunity to examine all nomination papers received by the Returning Officer.
30. The Returning Officer may, on his own motion or on an objection, conduct summary enquiry and reject a nomination paper if he is satisfied that---
- (a) the candidate is not qualified or is disqualified to be elected and to be member; or
 - (b) the proposer or seconder is not qualified to subscribe to the nomination paper or has subscribed to the nomination papers of more than one candidate; or
 - (c) any requirement of Sections 11 and 12 of the Ordinance has not been complied with or the signature of the person nominated or the proposer or seconder is not genuine.
31. If the nominated person has not signed the prescribed declaration and refuses to do so even at the time of scrutiny, his nomination paper shall be rejected.
32. The Returning Officer will not, however, reject a nomination paper on the ground of any defect which is not of a substantial nature and may allow, to rectify any such defect forthwith. He shall not however enquire into or permit to be called in question the correctness or validity of any entry in the electoral roll:
- Provided that clerical or printing error in the electoral roll will be ignored if the identity of the person concerned is sufficiently established;
- Provided further that where the age of the person nominated is in dispute, the Returning Officer may examine such evidence, as he may deem necessary to decide whether or not the person nominated had attained the age of 25 years on the last date for filing nominations.
33. The rejection of a nomination paper of a candidate will not affect the validity of any other nomination paper filed by him if on scrutiny such other nomination paper is found to be valid.
34. No adjournment for the scrutiny for any reason whatsoever, shall be allowed beyond the date fixed in the public notice issued.
35. The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it as the case may be, and shall in the event of rejecting any nomination paper or repelling any objection taken against its acceptance, record a brief statement of reasons in support of his decision.

36. (1) The Returning Officer shall, on request being made to him, supply forthwith, a copy of his order free of cost to the person whose only nomination paper or all nomination papers have been rejected or whose objection against the acceptance of a nomination paper has been repelled.
- (2) The Returning Officer will also ensure that the rejected nomination paper or any papers on the basis of which objection to the nomination paper of a candidate was taken and order made thereon, are dispatched to the Chief Election Commissioner AJ&K, at House No. 1, adjacent to the AJ&K Legislative Assembly Building, Chatter Domel, Muzaffarabad, AJ&K.

APPEAL AGAINST THE ACCEPTANCE

OR REJECTION OF A NOMINATION PAPER

37. A person aggrieved by the order of Returning Officer whereby his only nomination paper or all nomination papers filed by or on his behalf, have been rejected or a nomination paper of another candidate has been accepted, notwithstanding an objection taken by such person, against its acceptance, may file appeal before the Commissioner within a prescribed period to the Commissioner who will determine the appeal after hearing it on the appointed day.

LIST OF VALIDLY NOMINATED CANDIDATES

38. As soon as may be after the scrutiny but not later than the next following day, the Returning Officer shall draw up list of validly nominated candidates in Form IV appended to the Rules and shall affix it at conspicuous place in his office and send the copy of the same to the Secretary, AJ&K Election Commission, Muzaffarabad.
39. The Returning Officer shall revise the list of validly nominated candidates, to give effect to the decision of the Commissioner accepting any appeal taken against the order made by the Returning Officer.

The Returning Officer shall also affix in his office revised list of the validly nominated candidates, and send a copy of the same to the Secretary, AJ&K Election Commission at block No. 6 (Ground Floor), Civil Secretariat, Chatter Domel, Muzaffarabad, AJ&K.

WITHDRAWAL OF NOMINATION

40. A validly nominated candidate may, by notice in writing signed and delivered by him in person or by an advocate duly authorized by the candidate in writing, withdraw his candidature on or before the last day fixed for withdrawal. A notice of withdrawal once delivered to the Returning Officer shall not be allowed to be withdrawn or revoked.

41. The Returning Officer shall, if he is satisfied about the genuineness of the candidate's signature on the notice of withdrawal, cause a copy of the same to be affixed at a conspicuous place in his office. The Returning Officer shall after the withdrawal of a validly nominated candidate draw up revised list of the remaining contesting candidates in Form V appended to the Rules and shall affix a copy of the revised list in a conspicuous place in his office and send a copy by the same to the Secretary, AJ&K Election Commission at block No. 6 (Ground Floor) Civil Secretariat, Chatter Domel, Muzaffarabad, AJ&K.

ALLOCATION OF SYMBOLS

42. Subject to any general direction by the Commissioner, the Returning Officer shall allocate one of the symbols prescribed in Rule 9 of the Rules, to each contesting candidate, keeping in view any preference expressed by him. If two or more candidates have given preference for the same symbol, the matter shall be decided by drawing lots.

It would not be permissible to allocate any symbol outside the prescribed list.

The Returning Officer shall indicate in the list in Form V against the name of each contesting candidate and the symbol allocated to him.

43. The Returning Officer shall without any avoidable delay send the final list of the contesting candidates in the constituency of which he is the Returning Officer, to the Chief Election Commissioner, Azad Jammu & Kashmir, Muzaffarabad by the quickest possible means, if need be, by a special messenger. The Returning Officer shall also append to the list, a statement as to whether the allocation of symbols was or was not disputed and in the event of any dispute, how the matter was decided?
44. Retirement from election, etc.- (1) A contesting candidate may retire from the contest by a notice in writing signed by him and delivered to the Returning Officer on any day not later than two days before the polling day either by such candidate in person or by an agent authorized in this behalf in writing by such candidate.
- (2) No person who has given a notice of retirement under Sub-Section (1) shall be allowed to cancel the notice.
- (3) The Returning Officer shall upon receiving a notice of retirement under Sub-Section (1) cause a copy thereof to be affixed at some conspicuous place in his office and also to be published in such manner as he may think fit.
- (4) A person in respect of whom a notice of retirement has been published under Sub-Section (3) shall be deemed to have withdrawn his candidature under Section 15.

TERMINATION OF PROCEEDINGS ON THE DEATH OF A CONTESTING CANDIDATE

45. If at any time before the day of the poll, a contesting candidate dies, the Returning Officer shall, by public notice, terminate proceeding for election in the constituency, inform the Commissioner of having done so, and shall subject to any direction, in that behalf by the Commissioner, invite fresh nominations from the constituency wherefrom the deceased candidate was contesting election.

POSTPONEMENT OF SCRUTINY ETC.

46. Where any proceeding relating to the scrutiny of nomination papers cannot take place on the appointed day for reasons beyond the control of the Returning Officer, he may postpone or adjourn such proceeding, record reasons which necessitated postponement or adjournment of proceeding and shall with the approval of the Commissioner, by public notice, fix another date for the proceeding so postponed or adjourned.

POSTAL BALLOT

47. The following persons are entitled to vote by postal ballot in the constituency where they are enrolled as voters, namely---
- (i) any person, who for any reason resides in an "electoral area" other than the electoral area in which he would have had, but for such reason been resident, and his wife, if she ordinarily resides with him;
 - (ii) any person detained in prison or other legal custody; and
 - (iii) any person engaged to election duty at a polling station other than the one at which he is entitled to cast his vote.

Persons falling under clauses (i) and (ii) and desirous of casting their votes by postal ballots shall apply in writing to the Returning Officer of the constituency within 10 days next after the notification under Section 10 (1) of the AJ&K Legislative Assembly (Elections) Ordinance, 1970 and in the case of persons falling under (iii) above, as soon as may be, after their appointment for election duty is notified. The Returning Officer, will not be bound to entertain any application for postal ballot, if in his opinion it is unduly delay.

48. The Returning Officer will make timely assessment about the approximate number of postal ballots required to be printed for constituency, adding another 10% of the actual requirement and shall inform the Commissioner to arrange for printing of the postal ballots and the declarations in Form VIII and covers in Forms IX and X and instructions for the guidance of electors voting by postal ballot as set out in Form XI appended to the Rules.

49. As soon as a written application by an elector is received, the Returning Officer shall send postal ballot, with the declaration in Form VIII and the cover in Form X to the elector and maintain a list showing the names of the electors to whom postal ballots have been issued. The Returning Officer will also score out under his signature the entry relating to each such elector from the copies of the electoral rolls sent to him and endorse the words P.B. in capitals in the margin to exclude the possibility of casting vote for the second time or false personation.
50. For that propose, the Commissioner will cause to be sent four updated copies of electoral rolls of the constituency to the Returning Officer, one copy so endorsed will be retained by the Returning Officer as master copy with a spare copy. The remaining two copies after being so endorsed will be split up according to the requirements of each polling station for being dispatched under sealed cover to the Presiding Officer alongwith the polling bag containing polling material.
51. The Returning Officer will ensure that the electoral rolls are correctly split according to the electoral areas assigned to each polling station and that two copies which are supplied by the Returning Officer to a polling station are identical in all respects.
52. The electoral rolls which are sent to a polling station will be further subdivided by the Presiding Officer into as many parts consisting of full pages as there are polling booths at that polling station. Subsequent assignment of voters to each booth at the polling station will confirm to such subdivided electoral rolls. This will obviate the use of more than two copies of the electoral rolls and the necessity of scoring out the names of electors from the rolls assigned to each booth or as the case may be, to whom postal ballot have been sent.
53. Copies of electoral rolls sent to a Presiding Officer as aforesaid shall bear the signature and seal of the Returning Officer to vouch for the authenticity of the rolls.

POLLING SCHEME

54. Keeping in view the general convenience of the electors and for the purpose of maintenance of law and order and after consultation with the Deputy Commissioner, the Returning Officer will determine the number and location of polling stations in the constituency and forward the list for approval to the Commissioner or the District Returning Officer as the case may be well in time so that the list of the polling stations is published in the Official Gazette at least 15 days before the polling day. Timely publication of the list of polling stations is mandatory.

55. As a rule, polling stations shall be located in public buildings unless there are compelling reasons to the contrary, and shall generally be within a radius of about 3 miles from the locality, wherefrom the electors will have to proceed to vote at that polling station.

Use of private building for setting up a polling station shall be avoided, and in any event shall not be requisitioned if it is owned by a candidate or his partisan or a party contesting the election.

56. In urban areas, wherever convenient, separate polling stations shall be setup for men and women.
57. A prior inspection of buildings to be selected for polling stations to adjudge their suitability, would be essential and should be invariably done.
58. List of polling stations will be drawn up in the following Proforma and notified in the Official Gazette.

S. No.	Name and location of station.	Village in case of rural area	Ward/Mohalla/ Street in case of urban areas	Serial number of voters in the electoral rolls assigned to the polling station	Total No. of voters assigned to the polling station	No. of booths
1	2	3	4	5	6	7

59. Polling stations for a constituency shall bear running serial numbers so that when the final list of polling stations is drawn up and notified, each polling station is identified by its number and name, if any.

60. The assignment of electoral areas to each polling station shall clearly be mentioned against each station. So also assignment of voters by serial number vide electoral rolls showing at the same time, the break up of male and female voters.

In the event of fresh entries by virtue of any amendments of electoral rolls, prior to the announcement of election schedule, the assignment of the voters, may have to be further corrected.

61. A polling station shall not have more than two booths depending upon the accommodation available and the number of electors to be assigned to that polling station.

The Returning Officer or Polling Officer will himself visit the building to determine suitability of its location and sufficiency of accommodation.

62. Booths shall be so located that after an elector has received the ballot paper, he is able to mark it secretly in a screened off compartment to be provided in each booth. No person other than the elector who is about to mark his ballot paper, will be allowed to enter the screened off compartment at a time.

62-A. The Presiding Officer/Polling Officer will be so seated that the elector on emergence from the screened off compartment inserts his ballot paper in the ballot box placed within the view of the Presiding Officer/ Polling Officer.

The ballot box shall also be kept within the view of the polling agent of each candidate.

62-B. Where there are more than one polling booth at a polling station, the booths will be so located that the Presiding Officer/Polling Officer is also able to observe casting of votes at each booth and that each booth has a screened off compartment of its own where the electors will mark their ballot papers in secret.

APPOINTMENT OF POLLING PERSONNEL

63. The Returning Officer shall, with the approval of the Commissioner, appoint a Presiding Officer such number of Polling Officer and other staff as may be necessary for each polling station.

Except in cases of sudden illness or any other unforeseen event there will be no change in the polling personnel approved by the Commissioner.

The Presiding Officer will assign such duties as may be specified by him, to any Polling Officer.

64. The Returning Officer will cause to be drawn up in duplicate, list of Presiding Officers and auxiliary staff, with their full description, designated to serve at each polling station in the constituency. One copy will be retained by the Returning Officer and the other will be dispatched to the Secretary AJ&K Election Commission, Muzaffarabad. No change will be made in the list except in exceptional circumstance and with the permission of the Commissioner about which Secretary Election Commission will also be informed.

65. In his absence, the Presiding Officer shall designate the most senior Polling Officer to discharge functions and perform duties of Presiding Officer in the event of his unforeseen absence or incapacity.
66. Special care shall be taken in appointing the Presiding Officer, and the Polling Officers. They should be reputable and neutral. The Presiding Officers should also be persons of status and caliber, able to organize orderly conduct of polls and maintain discipline, and ordinarily should not be lower than 17 Grade Officers, and Polling Officers below 16 Grade Officers. In case of need, polling personnel may also be drawn from autonomous and local bodies.
- The requirement should be met from within the district and as far as possible the polling personnel resident in the vicinity of the polling station may be appointed to avoid traveling over long distances for reaching to the polling station.
67. As far as possible, the polling personnel for polling stations and booths for women shall be selected from among lady officers and teaching staff of colleges and schools for girls. If ladies of appropriate caliber or maturity are not available in sufficient number, aged male professors or teachers should be appointed.
68. Ten percent reserve polling staff will be earmarked for each constituency to fill the places, unforeseen absentees.

INSTRUCTIONS TO THE POLLING PERSONNEL

69. The Returning Officer will ensure that the Presiding Officers and other personnel appointed for the polling stations in the constituency are properly instructed about the nature of their duties, especially the conduct of polls, measures to be taken to guard against bogus voting and to preserve secrecy of vote. As a part of instructions, arrangements shall be made for trial poll to demonstrate to each member of the polling personnel, the nature of duties assigned to him.
70. The equipment for setting up polling stations, including posters, placards, banners etc. will be supplied by the Commissioner to the Returning Officer well in time for onward dispatch to the Presiding Officer to enable him to setup the polling stations before the polling day.

There will be separate polling stations for six “Kashmir Valley and Jammu & Others” seats respectively.

71. Ballot boxes in sufficient numbers and election material will also be supplied to the Returning Officer by the Commissioner for onward dispatch to each polling station.
72. Ballot boxes are fitted with mechanical device for locking. Instructions for the operation of locking will be sent alongwith other election material to the Returning Officer for distribution among Presiding Officers. The Returning Officer will ensure that Presiding Officers understand the mechanism for opening and closing the ballot box.

Only one box will be used at a time at a polling booth and will not be replaced until it is filled to capacity by ballot papers.
73. The Returning Officer will ensure well before the polling day that all the arrangements for the conduct of poll have been completed and that the election material has been sent to each polling station in the constituency. For that purpose he will visit each polling station at least two days before the polling day to satisfy himself about the proper layout of the polling station for the effective supervision of the polls by the Presiding Officer and Polling Officers.
74. The Returning Officer will be responsible for making necessary arrangement for the maintenance of law and order at the polling station, with the assistance of the District Administration.
75. The time for poll shall not be less than 8 hours beginning from 0800 and ending 1700 hours. The polling personnel, will however, be allowed half hour’s interval for lunch rotation without stoppage of the poll.

FINAL CONSOLIDATION OF RESULTS AFTER THE CLOSE OF POLL

76. The Returning Officer will have to work round the clock for obtaining the results of the count from Presiding Officer until results from all the polling stations in the constituency are completed and released. Partial results will be released at convenient intervals to various news media and transmitted to the Election Commission. The release of results whether completed or partial, will, however, be unofficial and no candidate will be declared elected even if he has sufficient lead over other candidates. Official results declaring a candidate to have been elected will be announced only by Commissioner when notified in the Official Gazette.

After the receipt of polling bags from all polling stations, the Returning Officer shall give each contesting candidate and his election agent, notice in writing of the date, time and place for the consolidation of the results. The consolidation of results shall be done in the presence of the candidates and their election agents as may be present and shall be in Form XVI appended to the Rules.

77. Before the consolidation of result by him, the Returning Officer shall first examine the ballot papers excluded from the count by the Presiding Officers and if the Returning Officer finds that any ballot paper should not have been excluded, he shall count it as valid vote cast in favour of the candidate for whom it had been cast. He will take similar action in respect of challenged votes if excluded from the count, which however, will be kept separate from other packets.
78. A ballot paper shall be rejected by the Returning Officer if it bears---
- (i) no official mark and initials of the Presiding Officer;
 - (ii) any writing or mark other than the official mark and the prescribed mark or to which any other object of any kind, which tends to identify the voter, has been attached;
 - (iii) no prescribed mark indicating the candidate from whom the vote has been cast; or
 - (iv) any mark from which it is not clear for whom the elector has voted.
79. Ballot paper, which has been properly issued to a voter and has been marked by him with prescribed seal in a manner which indicates the candidate in whose favour he has voted, shall not be rejected as invalid, unless it is clear that the voter has tried to identify himself.
80. If an elector has put more than one mark on the ballot with the prescribed stamp but in favour of same candidate in the space provided for the same, the vote may not be treated as invalid on that account.
81. If due to over-inking of the rubber stamp and wrong folding, a second impression of the original mark is carried over faintly to a space provided for the same and symbol of another candidate and the Returning Officer may in such case treat the ballot paper as validly cast in favour of the candidate in whose space the original mark was put.

82. In case the mark appears on a line in between the space of two contesting candidates, the vote may be treated as validly cast in favour of the candidate in whose space the whole or more than half the area of the prescribed mark appears.

PREPARATION OF CONSOLIDATED STATEMENT

83. Before recording the number of valid votes in the consolidated statement against the name of each contesting candidate, the Returning Officer shall take into account, the ballot papers which were treated by him as valid but were excluded from the count by the Presiding Officer.
84. The Returning Officer shall also include in the count all valid votes cast by postal ballots in favour of each candidate and separately indicate the same in the statement in Form XVI appended to the Rules.

RE-COUNT

85. The Returning Officer may not undertake a recount of valid ballot papers in respect of any polling station unless—
- (a) the initial count by the Presiding Officer is challenged by the contesting candidate or his agent and the Returning Officer considers the challenge to be reasonable and not frivolous, or
 - (b) he has been directed so to do by the Commissioner.

EQUALITY

86. If the Returning Officer finds after the consolidation of results that there is equality of votes between two or more contesting candidates, the results of election shall be determined by drawing lots. The proceedings in such case be recorded and signatures of such of the contesting candidates and their election agents, as may be present, be obtained on the proceedings.
87. A copy of the results of the count and also that of the consolidated statement in Form XVI appended to the Rules, shall be issued by the Returning Officer to each contesting candidate or his election agent, who may be present.
88. The Returning Officer shall re-seal all the packets opened by him and put them in the bag in which these packets were received from the polling

stations. The bag will also be sealed. The candidates or their election agents shall, if they so desire, be allowed to sign the packets or affix their seals.

89. The bags shall be kept in safe custody subject to any direction issued by the Commissioner in that behalf.

REFUND OF DEPOSITS

90. All deposits shall be refunded to the candidates except the deposit in case of a candidate who has received less than one-eighth of the total number of votes cast in the constituency.

Deposits shall also be refunded to the withdrawing candidates, or as the case may be in case of termination of proceedings, due to the death of a contesting candidate unless the surviving candidate wants to utilize the security deposit in a subsequent election.

In other cases the refund shall be allowed after the declaration of results.

91. The deposit which is not required to be refunded shall be forfeited to the State of Azad Jammu and Kashmir by a separate order made in each case by the Returning Officer. A copy of the order shall be sent for information to the Commissioner.

ELECTION EXPENSES

92. Immediately after the declaration of results, two copies of Forms XVIII and XIX prescribed under the Rules for the submission of election expenses returns shall be supplied to each contesting candidate free of cost. The contesting candidates shall be informed of the last date for the submission of election expenses returns, failure of which entails legal penalties.

APPENDIX 'I'

PUBLIC NOTICE

WHEREAS, for the purpose of holding election for constituting the Azad Jammu and Kashmir Legislative Assembly, the Chief Election Commissioner Azad Jammu and Kashmir vide notification issued by him in pursuance of Sub-Section (1) of Section 10 of the AJK Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970). Published in Official Gazette dated..... has called upon the electors of Constituency No to elect a person from the said Constituency; I, Returning Officer, pursuant to Sub-Section (2) *ibid*,

do hereby give public notice, that the following dates have been appointed by the Chief Election Commissioner for election to the Legislative Assembly from the above said Constituency namely ----

- Nomination of candidates
- Scrutiny of nominations
- Last date for withdrawal of candidature
- Polling day

(2) Notice is hereby given under Sub-Section (3) ibid that nomination shall be received by me in my office at between 9:00 a.m. to 3:00 p.m. on such working day on or before the (insert here the terminal date)

Returning Officer
Number and name of the
Constituency.

Place

Date

APPENDIX 'II'

No. I-L/84. ----- The following definition of the term "State Subject" has been sanctioned.

The term "State Subject" includes:---

- Class I. --- All persons born residing within the State before the commencement of the reign of Maharaja Gulab Singh and also persons who settled therein before the commencement of Samvat year 1942 and have since been permanently residing therein.
- Class II. --- All persons other than those belonging to Class I who settled within the State before the close of Smavat year 1968 and have since permanently resided and acquired immovable property therein.
- Class III. --- All persons other than those belonging to Class 1 and 2 permanently residing within the State who have acquired under a Raeyatnama any immovable property therein or who may hereafter acquire such property under an Ijzatnama and may execute a Raeyatnama after 10 year continuous residence therein.

- Note 1. --- In matter of grants of State scholarships, State lands for agriculture and house building purposes and recruitments to State Service, State Subject of Class I should receive preference over other classes and those of Class II over Class III .
- Note 2. --- The descendants of the persons who have secured the status of any class of State Subjects will be entitled to become the State Subject of the same class. For example if A is declared a State Subject of Class II his sons and grandsons will ipso facto acquire the status of the same Class II and not of Class I.
- Note 3.--- The wife or a widow of a State Subject of any class shall acquire the status of her husband as State Subject of the same class as her husband so long as she resides in the State and does not leave the State for permanent residence outside the State.
- Note 4.--- In the case of unmarried female employees the State Subject certificate of the father or the brother may be accepted as valid for their employment in Government Service.

Audit Interpretation:---

Under the standing orders the State Subject Certificates of husbands are accepted in audit in the case for female employees. The State Subject Certificate of the father-in-law of a widow should be accepted in audit in case she has not remarried.

Nomination of candidates

Scrutiny of nominations

Last date for withdrawal of candidature

Polling day

(2) Notice is hereby given under Sub-Section (3) ibid that nomination shall be received by me in my office at between 9:00 a.m. to 3:00 p.m. on such working day on or before the _____ (insert here the terminal date).

Returning Officer
Number and name of the
Constituency.

Place

Date