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AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
Law, Justice, Parliamentary Affairs and Human Rights Department

“Muzaffarabad”
Dated: 09-04-2014.

No. LD/Legis-Act/352-63/2014. The following Act of Assembly received the assent of the President on the 1st day of April, 2014, is hereby published for general information.

[Act XXI of 2014]

**An
Act**

to provide legal protection for the development of water resources of the Azad Jammu and Kashmir

Whereas, it is expedient to regulate the development of water resources of the Azad Jammu and Kashmir;

It is hereby enacted as follows:-

CHAPTER I
PRELIMINARY

1. **Short title, Extent and Commencement.**- (1) This Act may be called the Power Development Organization Act, 2014.
(2) It shall extend to the whole of the Azad Jammu and Kashmir.
(3) It shall come into force at once.
2. **Definitions.**- In this Act, unless there is anything repugnant in the subject or context:-
 - (i) "Assembly" means the Legislative Assembly of the Azad Jammu and Kashmir;
 - (ii) "Bank" means a Bank for the time being included in the

- list of Bank maintained under subsection (1) of section 37 of the State Bank of Pakistan Act, 1956 (Act XXXIII of 1956) and the Bank of Azad Jammu and Kashmir;
- (iii) "Board" means the Board of Directors of the Organization constituted under Section 4;
 - (iv) "Chairman" means the Chairman of the Board;
 - (v) "Company" means a Company registered in Pakistan or in Azad Jammu and Kashmir under the Companies Act, 1984;
 - (vi) "Director General" means the Director General Private Power Cell;
 - (vii) "Federal Government" means the Government of Islamic Republic of Pakistan;
 - (viii) "Fund" means the Organizational fund established under Section 23.
 - (ix) "Government" means the Azad Government of the State of Jammu and Kashmir;
 - (x) "IPP" means Independent Power Producer;
 - (xi) "Land" includes benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;
 - (xii) "Local body" means a Local Council constituted under the Local Government Act, 1990;
 - (xiii) "LOI" means letter of interest to be issued by the Private Power Cell;
 - (xiv) "LOS" means letter of support to be issued by the Private Power Cell;
 - (xv) "Managing Director" means the Managing Director of the Organization;
 - (xvi) "Member" means a member of the Board;
 - (xvii) "Misconduct" means conduct prejudicial to good order or service discipline or contrary to the Government Servants (Conduct) Rules as applicable to the Azad Jammu and Kashmir or conduct unbecoming of an officer and gentleman and includes any act to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Governments Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of services;
 - (xviii) "NEPRA" means the National Electric Power

Regulatory Authority of Pakistan established under Section 3 of the Regulation of Generation Transmission and Distribution of Electric Power Act, 1997 (Act XL of 1997);

- (xix) "Act" means Azad Jammu and Kashmir Power Development Organization Act, 2014;
- (xx) "Organization" means the Azad Jammu and Kashmir Power Development Organization established under Section 3 of the Act;
- (xxi) "Officer" means an Officer of the Organization including the Managing Director;
- (xxii) "Power" includes hydraulic power, electrical energy, steam, gas or any other power notified as such by the Government in the official Gazette;
- (xxiii) "Private Power Cell" means a cell of the Organization to facilitate the IPPs in private sector as defined in the Section 15 sub-section (2) clause (g);
- (xxiv) "Prescribed" means prescribed by rules and regulations;
 - (a) "Regulations" means regulations made under the Act; and
 - (b) "Rules" means rules made under the Act;
- (xxii) "Secretary Board" means Secretary Board of Directors of the Organization;

(2) Expressions and other terms which have not been defined herein before shall carry the same meanings as assigned to them under power policies of the Federal Government adapted and made applicable in Azad Jammu and Kashmir by the Government from time to time.

CHAPTER II CONSTITUTION OF THE BOARD

3. Establishment of Organization.- There shall be an Organization to be known as the Azad Jammu and Kashmir Power Development Organization.

(2) The Organization shall be a body corporate having power to acquire _____ and hold property, both movable and immovable and shall have perpetual _____ succession _____ and a common seal and may by the said name sue and be sued.

(3) The head office of the Organization shall be at Muzaffarabad.

4. **Board of Directors.**- (1) The powers and functions of the Organization shall vest in the Board constituted under sub-section (2).

- (2) The Board shall consist of the following:
- (i) The Prime Minister Chairman
 - (ii) The Minister Incharge Vice-Chairman
 - (iii) The Minister Finance, Planning & Development Member(s)
 - (iv) The Chief Secretary Member
 - (v) The Additional Chief Secretary (Dev.) Member
 - (vi) The Secretary Finance Member
 - (vii) The Secretary Electricity/HEB Member
 - (viii) The Managing Director Member
 - (ix) One member to be nominated by the Government From the Private Sector Member
 - (x) Representative of PP & IB Member
 - (xi) Director General Private Power Cell Member
 - (xii) Secretary Board Secretary/Member

5. **Managing Director.**- (1) The Government shall appoint a person, with the prescribed experience as the Managing Director of the Organization.

(2) The Managing Director shall be the chief executive of the Organization

and shall be responsible for its day to day administration and management. He shall also be responsible to carry out and implement the orders and decisions of the Board.

(3) The term of office of the Managing Director shall be three years.

On expiry of his term, the Government may reappoint the Managing Director if it is considered necessary and on such terms and conditions as it may deem fit:

(4) The Managing Director may, at any time, resign from his office

and by virtue of his resignation, he shall cease to be the Managing Director:

Provided that his resignation in either case shall not take effect until accepted by the Government.

6. **Secretary of Organization.-** There shall be a full-time Secretary of the Organization, who shall, under the general supervision of the Managing Director, be responsible to deal with the proceedings of the Board meetings and other matters entrusted to him by the Organization.

7. **Employment.-** (1) The Organization may employ such experts, advisors, consultants and other officers as it considers necessary for the efficient performance of functions of the Organization, on such terms and conditions as may be determined by the Board with the approval of the Government.
 (2) The Managing Director, in case of urgency may appoint such experts, consultants and other officers as may be considered necessary with the approval of the Chairman:
 Provided that every appointment made under this sub-section shall be reported to the Board without unnecessary delay and shall not continue beyond six months unless approved by the Board.

8. **Removal of Managing Director** (1) Managing Director shall not be removed from office during the terms of his office except in the manner hereinafter provided:-
 - (a) If the Government is of the opinion that Managing Director,-
 - (i) may have been guilty of Misconduct; or
 - (ii) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity.
 - (b) The Government shall appoint a Secretary to the Government as an Inquiry Officer, to enquire into the said matter.

- (2) If the Inquiry Officer, after inquiring into the matter, reports to the Government that he is of the opinion that the Managing Director has been guilty of Misconduct or is incapable of

performing the duties of his office, the Government shall remove the Managing Director from his office.

9. **Meeting of the Board.**- (1) The Board shall meet at least once in every four months in such manner and at such time and place as may be prescribed by the Chairman.

(2) The Chairman, or in his absence, the Vice Chairman shall preside over the meeting of the Board. In the absence of the Chairman and the Vice Chairman, a member authorized by the Chairman shall preside over the meeting and five other members shall constitute the quorum at meeting of the Board.

CHAPTER III **POWER AND DUTIES OF THE ORGANIZATION**

10. **General Powers and duties of the Organization.**- (1) Subject to any other law for the time being in force, and in pursuance of Power policies of Federal Government and the Government adapted and made applicable in Azad Jammu and Kashmir from time to time, the Organization shall prepare, for the approval of the Government, a comprehensive plan for the development and utilization of the water resources of the Azad Jammu and Kashmir. The Organization may also undertake such other tasks/schemes as the Government may direct.

(2) Without prejudice to the provisions of sub-section (1), the Organization

may prepare reports or schemes for the Government providing for all or any of the following matters, namely:

- i) The development and the use of water resources to generate and transmit power.
- ii) The construction, maintenance and operations of power houses, grids, micro-grids and transmission lines connected with the power houses .

(3) Every report or scheme prepared by the Organization under sub-section (1) and (2) shall be processed in accordance with the Government policies or instructions, which may be issued to the Organization from time to time. The Organization shall submit to the Government periodical reviews and other reports.

(4) The Government may sanction or refuse to sanction or return for re-consideration or for re-examination of any report or scheme

submitted to it under sub-section (3), or may call for such further details, or information about any such report or scheme as it may consider necessary.

(5) The Organization shall assist and facilitate the Government and IPPs on all matters regarding joint ventures in the Power sector.

11. Survey and experiments.- The Organization, if considers necessary or expedient for carrying out the purposes of the Ordinance, may,-

- (a) cause studies, pre-feasibility studies, detailed feasibility studies, surveys, experiments of technical research to be made; or
- (b) contribute towards the cost of any such studies, surveys, experiments or technical research made by any other agency.

12. Winding up the Hydro Electric Board and Transfer of its assets and liabilities.- (1) The Azad Azad Jammu and Kashmir Hydro Electric Board already established by the Government under Government Order No. Works/772-871/(HEB)/89 dated 02-02-1989 shall, on the commencement of the Act and immediately after establishment of the Organization, stand wound up and all assets and liabilities of Hydro Electric Board shall also stand transferred to the Organization established under the Act.

(2) All officers and other employees of the said Hydro Electric Board shall, from the commencement of the Act, be the Officers and employees of the Organization established under the Act on the same terms and conditions as applicable to them, before the commencement of the Act.

13. Control over power houses, grids and transmission lines.- (1) Subject to the provisions of any other law for the time being in force, the Organization,-

- i) shall have control over the operation of all power houses, grids, micro grids and transmission lines connected with the power houses in the Azad Jammu and Kashmir constructed by or transferred to the Organization, including such ancillary works as may be considered necessary for their proper operation;

- ii) may make recommendations to the Government for prescribing standards for the maintenance of power houses, grids, micro-grids and transmission lines of the Organization;
- iii) may make recommendations to the Government for proper utilization of power generated through power houses; and
- iv) shall be deemed to be the designee of the Government for the purpose of the complexes designed, insured, financed, acquired, constructed, completed, and commissioned in private sector and transferred to Government or acquired by the Government, under Concession Agreements.

14. Organization to have powers and obligations of licensee under Electricity Act, 1910.- The Organization shall, for the purposes of the Electricity Act, 1910 (Act IX of 1910), as enforced in Azad Jammu and Kashmir be deemed to be a licensee and shall have all the powers and discharge all the obligations of a licensee under the said Act.

15. Power regarding certain matters.- (1) The Organization may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of the Ordinance.
(2) Without prejudice to the generality of the powers conferred by the preceding Sections and the provisions of sub-section (1), the Organization may, in the prescribed manner and subject to the provisions of the Ordinance,-

- a) undertake any work, incur any expenditure, procure plant, machinery and materials required for its use and enter into and perform all such contracts as it may consider necessary or expedient to carry out the purposes of the Ordinance;
- b) acquire by purchase, lease, exchange or otherwise and dispose of by sale, lease, exchange or otherwise, any land or any interest in land;
- c) place wires, poles, wall brackets, stays, apparatus and appliances for the transmission of electricity or for the transmission of telegraphic or telephone communications necessary for the proper execution of a scheme;
- d) undertake any anti-corrosion operations;
- e) restrict or prohibit by general or special order the clearing

- and breaking up of land in the catchment area of any river;
- f) seek and obtain advice and assistance in the preparation or execution of a scheme from any local body or agency of the Government, and such local body or agency shall give the advice and assistance so sought to the best of its ability, knowledge and judgment;
 - g) shall provide one window facilitation for implementation of projects in private sector and shall issue the LOI and LOS, prepare pre-qualification and bid documents, prequalify the sponsors, evaluate the bids of pre-qualified sponsors, assist the sponsors/project companies in seeking necessary consents/permissions from various authorities in the negotiation, execution in administration of the Implementation Agreement, Water Use Agreement through various policies issued or adopted by the Government in this context. All NOCs required for establishment of the project shall be routed through the Organization;
 - h) manage investment for Power projects and coordinate with the concerned institutions of Pakistan for power projects through private sector.

(2) The acquisition of any land or any interest in land for the Organization under this Section or for any scheme under the Act shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894 (Act I of 1894), as enforced in Azad Jammu and Kashmir and the provisions of the said Act shall apply to all such proceedings.

- 16. Right of entry.**- The Managing Director or the Director General Private Power Cell or any person authorized by them in writing may enter upon and survey any land, erect pillars for the determination of intended lines of works, make boring and excavations and do all such other acts which may be necessary for the preparation of any scheme:

Provided that when the affected land does not vest in the Organization, the power conferred by this sub-section shall be exercised in such manner as to cause the least interference with, and the least damage to, the rights of the owner thereof.

- 17. Sanction of Government.**- A scheme made and sanctioned under the Act may be amended or modified by the Organization at any

time, provided if a material change is made in the scheme and its cost or the revised cost exceeds the sanctioning limit of the Organization, then sanction of the relevant forum shall be obtained.

- 18. Arrangement with local body or other agency.**- (1) As soon as any scheme has been carried out by the Organization or at a later date, the Organization may arrange by a written agreement with a local body or other agency within whose jurisdiction any particular area covered by the scheme lies, to take over and maintain any of the works and services in that area. If the Organization fails to obtain the assent of such local body or other agency, it may refer the matter to the Government, and the Government may give such directions to the local body or other agency as it may deem fit.
- (2) The Government shall have the power to direct the Organization to hand over any scheme other than a power scheme or the part of a multipurpose scheme carried out by it to any agency of the Government or a local body. In such a case the Organization shall be entitled to receive audited total cost incurred on that scheme.

CHAPTER IV **ESTABLISHMENT**

- 19. Employment of Officers and Servant.**- (1) The Organization may from time to time employ directly or by induction, transfer, deputation or by absorption from any Government department, semi-autonomous and autonomous bodies, such officers and employees as it may consider necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit:

Provided that the terms and conditions of service of any such person shall not be varied by the Organization to his disadvantage.

(2) Appointment and promotions of officers and employees shall be made by the competent authority under the service rules of the Organization as may be prescribed.

- 20. Immunity.**- (1) The Chairman, Vice-Chairman, Members,

Managing Director, Director General, Officers and employees of the Board or the Organization shall, when acting or purporting to act in pursuance of any of the provisions of the Act, be deemed to be public servants within the meaning of Section 21 of the Azad Penal Code, 1860 (Act XLV of 1860).

(2) No suit, prosecution or other legal proceedings shall lie against the Chairman, Vice-Chairman, Managing Director, Director General, members or officers and employees in respect of anything done or intended to be done, in good faith under the Act.

21. **Delegation of Powers.**-The Board may, by general or special order delegate to the Chairman, Vice-Chairman, Member, Managing Director, Director General, of the Organization any of its powers, duties or functions under the Act subject to such conditions as it may deem fit.

CHAPTER V **REPORTS AND STATEMENTS**

22. **Submission of yearly reports and returns etc.**- (1) The Organization shall submit to the Assembly, as soon as possible after the end of every financial year but before the last day of October next following, a report on the conduct of the affairs of the Organization for the year including an analysis of its physical activities and financial achievements.

(2) The Assembly may require the Organization to furnish it with,-

- (i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Organization; or
- (ii) a report on any such matter; or
- (iii) a copy of any document in custody of the Organization and the Organization shall comply with such requisition.

CHAPTER VI **FINANCE**

23. **Fund.**- (1) There shall be a fund to be known as the Fund of the Organization vested in the Organization which shall be utilized with the approval of Board to meet charges in connection with its functions under the Act, including the payment of salaries and other remunerations to the Managing Director, Officers and

employees of the Organization.

(2) The fund shall consist of,-

- (a) grants made by the Government including the Federal Government;
- (b) loans obtained from the Government including the Federal government;
- (c) grants made by local bodies as required by the Government;
- (d) sale proceeds of bonds issued under the authority of the Government;
- (e) loans obtained by the Organization from commercial banks or any other source;
- (f) foreign loans, grants or any other financial assistance obtained; and
- (g) revenue through sale of power generated, water use charges, other than Mangla Dam and all other sums received by the Organization.

(3) The Organization may keep money in any scheduled bank or the Bank of Azad Jammu and Kashmir or a National Saving Centre with the approval of the Board.

(4) Nothing in sub-section (3) shall be deemed to preclude the Organization from investing any such moneys which are not required for immediate expenditure in any of the securities described in Section 20 of the Trusts Act, 1882 (Act II of 1882), as adapted in Azad Jammu and Kashmir or placing them in a fixed deposit with a scheduled bank or the Bank of Azad Jammu and Kashmir or a National Saving Centre with the approval of the Board.

(5) The Board shall endeavor to promote private sector in the generation, transmission and distribution of Power. For this purpose it may sponsor, promote or join private limited Companies incorporated and established under the Companies Act, 1984 (XLVII of 1984), as enforced in Azad Jammu and Kashmir.

(6) The Board may also permit the Organization to join, promote, sponsor or incorporate public limited Companies involved in the generation, transmission and distribution of power.

(7) To join other statutory or corporate bodies, involved in the generation, transmission and distribution of power.

24. **The Organization to be deemed a Local authority.-** The Organization shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 (Act IX of 1914), as enforced in Azad Jammu and Kashmir for the purposes of borrowing money under the said Act, and the making and execution of any scheme under the Act shall be deemed to be a work which such authority is legally authorized to carry out.
25. **Limited Liability.-**The liability of the Government to the creditors of the Organization shall be limited to the extent of grants made by and the loans raised by the Organization with the sanction of the Government.
26. **Rates of sale of Power.-** The rates at which the Organization may sell power shall be so fixed as to provide for meeting the operation costs, investment cost and depreciation of assets, the redemption at due time of loans other than those covered by depreciation, the payment of any taxes and reasonable return on investment or the rates approved by the Government or by adopting, subject to approval of the Board.
27. **Maintenance of Accounts.-** The Organization shall maintain complete and accurate books of accounts in such form as may be prescribed:
- Provided that separate accounts shall be maintained for all schemes transactions relating to Power.
28. **Annual Statement of Account.-** In the month of July each year, the Organization shall submit to the Government for approval of the statement of the estimated rupees and expenditure in respect of the next financial year.
29. **Audit.-** (1) The accounts of the Organization shall be audited by Local Funds Audit of the Finance Department of the Government.
(2) Notwithstanding the provisions of sub-section (1), the Auditor General Azad Jammu and Kashmir may, on the request of the Government, cause to be audited the accounts of the Organization.

CHAPTER VII
RULES AND REGULATIONS

- 30. Rules and Regulations.**- For the purpose of caring into effect the provisions of the Act, the Organization may, with the approval of the Government, frame Rules and Regulation as it may consider necessary or expedient.
- 31. Repeal.**- The Power Development Organization Ordinance, 2014 (Ordinance XII of 2014) is hereby repealed.

Sd/-
(Sardar Rashid Kaleem)
Deputy Secretary Law

No.4400-4500/P&S/2014

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