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**THE**  
**AZAD JAMMU AND KASHMIR COUNCIL**  
**(ELECTION) ACT, 1976 (ACT I OF 1976)**

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# THE AZAD JAMMU AND KASHMIR COUNCIL

(ELECTION) ACT, 1976 (ACT I OF 1976)

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PART I

**Acts, Ordinances, Rules and Regulations**

**AZAD JAMMU AND KASHMIR COUNCIL SECRETARIAT**

NOTIFICATION

*Islamabad, the 22<sup>nd</sup> February, 1977*

**No. L-4/I/77-AJKC.-** The following Act of the Azad Jammu and Kashmir Council was authenticated by the Chairman on 14-2-1976 and is hereby published for general information.

ACTI of 1976

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ACT

*to provide for elections to the Azad Jammu and Kashmir Council.*

WHEREAS it is expedient to provide for the conduct of elections to the Azad Jammu and Kashmir Council and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

CHAPTER I

**PRELIMINARY**

1. **Short title and commencement.-**(1) This Act may be called the Azad Jammu and Kashmir Council (Election) Act, 1976.

(2) It shall be come into force at once.

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

(a) 'Assembly' means the Legislative Assembly of Azad Jammu and Kashmir;

- (b) 'Bye-election' means an election to fill a casual vacancy referred to in section 76;
- (c) 'Candidate' means a person proposed as a candidate for election as a member;
- (d) 'Chairman' means Chairman of the Council;
- (e) 'Commissioner' means the Chief Election Commissioner appointed or deemed to have been appointed under Section 50 of the Interim Constitution;
- (f) 'Contesting candidate' means a candidate who has been validly nominated for election as a member and has not withdrawn his candidature;
- (g) 'Council' means Azad Jammu and Kashmir Council referred to in Section 21 of the Interim Constitution;
- (h) 'Election' means an election to the Council other than bye-election;
- (i) 'Election petition' means an election petition made under Section 34.
- (j) 'Electoral roll' means an electoral roll prepared under the Law relating to the preparation and revision of electoral rolls for the time being in force;
- (k) 'Member' means member of the Council;
- (l) 'Nomination day' means the day appointed under Section 10 for the nomination of candidates;
- (m) 'Polling day' means a day on which poll is taken for an election.
- (n) 'Polling officer' means a polling officer appointed under Section 7;
- (o) 'Prescribed' means prescribed in the Schedule to this Act;
- (p) 'Returned candidate' means a candidate who has been declared elected as a member under this Act;
- (q) 'Returning officer' means a Returning Officer appointed under Section 5 and includes a Polling Officer acting as or performing the function of Returning Officer;

- (r) 'Scrutiny day' means the day appointed under Section 10 for the scrutiny of nomination papers;
- (s) 'Voter' means a person who is a member of the Azad Jammu and Kashmir Legislative Assembly;
- (t) 'Withdrawal day' means the day appointed under Section 10 on or before which candidature may be withdrawn;

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## CHAPTER II

### ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS.

3. **Organization and conduct of election.**-Subject to the provisions of this Act, the Commissioner shall regulate the procedure for organizing and conducting an election in such manner as he may deem fit.

4. **Delegation of powers.**-The Commissioner may authorize any of the officers subordinate to him to exercise and perform all or any of his powers and functions under this Act.

5. **Returning Officers.**- For the purpose of an election, the Commissioner shall appoint a Returning Officer.

6. **Polling Station.**-The Commissioner shall provide a polling station for the purpose of election of members by the voters.

7. **Polling Officers.**-The Commissioner shall, for the purpose of conducting an election, also appoint such number of Polling Officers to assist the Returning Officer as he may consider necessary.

8. **Duties and powers of Returning Officer.**-(1) The Returning Officer shall conduct the poll in accordance with the provisions of this Act and shall exercise all necessary powers for maintaining order at the polling station and shall report to the Commissioner any fact or incident which may, in his opinion, affect the conduct or fairness of the poll.

(2) The Returning Officer may, during the Course of the poll, entrust to any polling Officer such of his functions as may be specified by him; and it shall be the duty of the polling Officer to perform the functions so entrusted.

(3) The Returning Officer shall authorize one of the Polling Officers to act in his place if he is, at any time during the poll, by reason of illness or other cause, not present at the polling station or is unable to perform his functions.

(4) The Returning Officer may; at any time during the poll, for reasons to be recorded in writing suspend any polling Officer and make such arrangements as he may consider necessary for the performance of the functions of the Officer so suspended.

(5) It shall be the duty of a Returning Officer to do all such acts and things as may be necessary for effectively conducting an election in accordance with the provisions of this Act.

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### CHAPTER III

#### CONDUCT OF ELECTION

9. **Supply of List of Voters.**-The Commissioner shall provide the Returning Officer with a list of voters.

10. **Notification for election.**- (1) For the purpose of an election the Commissioner shall, by notification in the Official Gazette, call upon the members of the Assembly to elect such number of members to the Council as specified in such notification.

(2) The Commissioner shall in the same notification fix:-

- (a) a day for the nomination of candidates;
- (b) a day for the scrutiny of nomination papers;
- (c) a day on or before which candidature may be withdrawn;and
- (d) a day for the taking of the poll and the place at which the poll shall be taken.

11. **Nomination for election.**-(1) A voter may propose or second the name of any person qualified for election to the Council.

(2) Every proposal shall be made by a separate nomination paper in the prescribed form which shall be signed by the proposer and the seconder and contain a declaration signed by the candidate that he consents to the nomination and that he is not subject to any disqualification for being elected as a member.

(3) Every nomination paper shall be delivered by the candidate or his proposer or seconder, to the Returning Officer who shall acknowledge receipt thereof.

(4) A person may be nominated by more than one nomination paper.

(5) Every proposal shall be accompanied by a certified copy of the relevant extract from the electoral roll in which the name of the person nominated is enrolled.

12. **Deposit.**-(1) Subject to the provisions of sub-section (2) no nomination paper delivered under section 11 shall be accepted unless:-

(a) a sum of two thousand rupees is deposited in cash by the candidate or by any person on his behalf at the time of its delivery; or

(b) it is accompanied by a receipt showing that a sum as aforesaid has been deposited by the candidate or by any person on his behalf at any branch of the National Bank of Pakistan or at a Government Treasury or Sub-Treasury.

(2) Not more than one deposit under sub-section (1) shall be required in the case of a person who has been nominated as a candidate by more than one nomination paper.

13. **Scrutiny.**-(1) The candidates, their proposers and seconders, and an agent authorized in writing in this behalf by each candidate, may attend the scrutiny of the nomination papers, and the Returning Officer shall give them reasonable opportunity for examining all nomination papers delivered to him under Section 11.

(2) The Returning Officer shall, in the presence of the persons attending the scrutiny under sub-section (1), examine the nomination papers and decide any objection raised by any such person to any nomination.

(3) The Returning Officer may, either of his own motion or upon any objection, conduct such summary inquiry as he may think fit and reject any nomination paper if he is satisfied that—

(a) the candidate is not qualified to be elected as member;

(b) the proposer or the seconder is not qualified to subscribe to the nomination paper;

(c) any provision of section 11 or section 12 has not been complied with; or

- (d) the signature of the proposer or seconder is not genuine: provided that-
  - (i) the rejection of a nomination paper shall not invalidate the nomination of a candidate by any other valid nomination paper;
  - (ii) the Returning Officer shall not reject a nomination paper on the ground of any defect which is not of a substantial nature and may allow any such defect to be remedied forthwith; and
  - (iii) the Returning Officer shall not inquire into the correctness or validity of any entry in the electoral roll.

(4) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it and shall, in the case of rejection, record a brief statement of the reason therefor.

(5) Where the nomination of a candidate has been rejected under this section by a Returning Officer, an appeal shall lie, within two days of the scrutiny day, to the Commissioner, and any order passed by the later on such appeal shall be final.

14. **Publication of the list of candidates.**-(1) The Returning Officer shall, after the scrutiny of nomination papers, prepare and publish in the prescribed manner a list of candidates who have been validly nominated.

(2) In case an appeal against rejection of a nomination paper is accepted by the Commissioner, the list of validly nominated candidates shall be revised accordingly.

15. **Withdrawals.**-(1) Any validly nominated candidate may, by notice in writing signed by him and delivered on or before the withdrawal day to the Returning Officer either by such candidate in person or by an agent authorized by him in writing in this behalf, withdraw his candidature.

(2) A notice of withdrawal under sub-section (1) shall, in no circumstances, be open to recall or cancellation.

(3) On receiving a notice of withdrawal under sub-section (1), the Returning Officer shall, if he is satisfied that the signature on the notice is that of the candidate, cause a copy of the notice to be affixed at some conspicuous place in his office.

(4) The Returning Officer shall, on the day next following the withdrawal day, prepare and publish in the prescribed manner a list of contesting



candidates and forward copy thereof to each such candidate, giving public notice of the date, hour and place of the poll.

16. **Death of a candidate after nomination.**-(1) If a validly nominated candidate who has not withdrawn his candidature died before the completion of the proceedings relating to the election, the Returning Officer shall, by public notice, terminate such proceedings and make a report to the Commissioner.

(2) Where the proceedings relating to an election have been terminated under sub-section (1), fresh proceedings shall be commenced in accordance with the provisions of this Act as if for a new election.

17. **Postponement, etc. under certain circumstances.**-Where the proceedings relating to nomination, scrutiny or withdrawal cannot for reasons beyond the control of the Returning Officer take place on the day appointed therefor, he may postpone or adjourn such proceedings and shall, with the approval of the Commissioner, by public notice fix another day for the proceedings so postponed or adjourned and, if necessary, also the day or days for any subsequent proceedings.

18. **Uncontested election.**-(1) Where after scrutiny under section 13 or withdrawal under section 15, the number of validly nominated candidates, or as the case may be, the contesting candidates is less than or equal to the number of seats to be filled, the Returning Officer shall, by public notice declare such candidates to be elected to the seats and send a return of election to the Commissioner:

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 13 against the rejection of his nomination paper, no person shall be declared elected uncontested until the period for filing such appeal has expired and no such appeal has been filed, or where an appeal is filed, until the disposal of such appeal.

(2) The Commissioner shall publish in the official Gazette the names of the returned candidates.

(3) Where the number of candidates declared elected under sub-section (1) is less than the number of seats to be filled, fresh proceedings shall be commenced in accordance with the provisions of this Act, as if for a new election, to fill the seat or, as the case may be, seats remaining vacant.

19. **Contested Election.**-If after withdrawals, if any, the number of candidates exceeds the number of seats, the Returning Officer shall, on the appointed day, conduct the poll, after giving a notice thereof to the contesting candidates.

20. **Hours of Poll.**- The Returning Officer shall, subject to any direction of the Commissioner, fix the hours during which the poll shall be taken and give public notice of the hours so fixed.

21. **Absence of candidates, etc, not to invalidate acts, etc.**-Where any act or thing is required or authorized by this Act to be done in the presence of a candidate or an agent authorized by him in writing in this behalf, the failure of such person to attend at the time and place appointed for the purpose shall not invalidate any act or thing otherwise validly done.

22. **Adjourned poll.**-(1)If at any time the poll is interrupted or obstructed for reasons beyond the control of the Returning Officer, he may stop the poll and, when he so stops the poll, shall inform the Commissioner of his having done so.

(2) Where a poll is stopped under sub-section (1), the Returning Officer shall immediately report the circumstances to the Commissioner and as soon as may be appoint, with the approval of the Commissioner, a day for a fresh poll and fix the place at which and the hours during which, such fresh poll shall be taken.

(3) All voters shall be allowed to vote at the fresh poll taken under sub-section (2) and no vote cast at the poll stopped under sub-section (1) shall be counted.

23. **Voting Procedure.**-(1) All voters shall be entitled to vote at an election.

(2) No vote shall be given by proxy.

(3) Each voter shall have only transferable vote irrespective of the number of seats to be filled.

(4) A voter shall cast his vote in the prescribed manner.

(5) The ballot paper shall be in such form as the Commissioner may specify.

(6) The polls shall be by secret ballot.

24. **Proceedings at the close of poll.**-(1) Immediately after the close of poll, the Returning Officer shall proceed with the counting of votes in the prescribed manner.

(2) On the completion of counting, the Returning Officer shall prepare and certify a return of the election and submit the same to the Commissioner in the prescribed manner.

25. **Declaration of result of election.**-On the receipt of the returns of the election under sub-section (2) of section 24, the Commissioner shall publish in the official Gazette the names of the returned candidates.

26. **Return or forfeiture of deposit.**-After the termination of the proceedings relating to an election under section 16 where the proceedings have been so terminated or after the declaration of result of an election under section 18 or section 25, the deposit made under section 12 in respect of any candidate shall be returned to the person making it or to his legal representative, except the deposit in respect of a candidate for whom no voter has either voted or indicated any preference.

(2) A deposit which is not required to be returned under sub-section (1) shall be forfeited to the Council.

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## CHAPTER IV

### ELECTION EXPENSES

27. **Election Expenses.**-In this Chapter, 'election expenses' means any expenditure incurred or payment made, whether by way of gift, loan, advance, deposit or otherwise, for the arrangement, conduct or benefit of, or in connection with, or incidental to, the election of a candidate, including expenditure on account of issuing circulars or publications or otherwise presenting to the voters the candidate or his views, aims, or objects, but does not include the deposit made under section 12.

28. **Restriction on Election Expenses.**- (1) No person shall, except to the extent provided in sub-section (2), make any payment whatsoever towards the election expenses of a candidate except to such candidate.

(2) No person other than a candidate shall incur any election expenses of the candidates:

Provided that any person may, if so authorized by a contesting candidate in writing specifying a maximum amount, to the extent of such amount, make payment for stationary, postage, telegram and other petty expenses.

(3) The election expenses of a contesting candidate shall not exceed five thousand rupees.

29. **Return of Election Expenses.**- (1) Every contesting candidate shall within thirty days after the publication of the name of the returned candidates

under section 18 or section 25, submit to the Returning Officer a return of election expenses in the prescribed form containing-

- (a) a statement of all payments made by the contesting candidate together with all the bills and receipts;
- (b) a statement of all disputed claims, if any, of which the contesting candidate is aware; and
- (c) a statement of all unpaid claims, if any, of which the contesting candidate is aware; and
- (d) a statement of all moneys, securities or equivalent of money received from any person for the purpose of election expenses specifying name of every such person.

(2) The return submitted under sub-section (1) shall be accompanied by affidavit sworn by the contesting candidate.

30. **Inspection of Returns, etc.**—(1) The return and documents submitted under section 29 shall be kept by the Returning Officer in his office or at such other convenient place as he may think fit and shall, during one year from the date of their receipt by him, be open to inspection by any person on payment of prescribed fee.

(2) The Returning Officer shall, on an application made in this behalf on payment of the prescribed fee, give any person copies of any return or, document kept under sub-section (1) or of any part thereof.

31. **Election not to be questioned except by election petition or appeal.**— (1) Save as provided in section 32, no election shall be called in question except by an election petition under section 34.

(2) No question that can be settled in an appeal under section 32 shall be raised by an election petition or before any court or authority whatsoever, nor shall any question that can be raised by an election petition be raised before any court or authority other than an Election Tribunal.

32. **Appeal against Count.**— (1) A contesting candidate who is aggrieved by any proceedings under section 24 relating to the count may prefer an appeal challenging the count to the Commissioner.

(2) An appeal under sub-section (1) may be made by the candidate in person, or through a person authorized in writing by the candidate in this behalf, within three days next following the date of the completion of the count under section 24.

(3) The appeal shall be addressed to the Commissioner and shall be filed with the Commissioner or with the Secretary, Election Commission.

(4) The appeal shall be in the form of a memorandum which shall state the grounds for such appeal and shall be accompanied by as many copies thereof as the number of contesting candidates at an election.

(5) The Commissioner may, after giving the parties concerned an opportunity of being heard,-

(a) dismiss the appeal; or

(b) if he does not dismiss the appeal, determine the result of the election on the count of valid votes as corrected, after adjudicating upon the invalid votes, if any, and make such consequential order as may be necessary.

(6) The decision of the Commissioner on appeal under sub-section (5) shall be final.

33. **Commissioner to have certain powers of a Court.**—For the purpose of the disposal of an appeal under section 32, the Commissioner shall have the same powers as are vested in a Court under the Code of Civil procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, that is to say.—

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the discovery and production of documents articles or things;

(c) issuing commissions for the examination of witnesses;

(d) requiring the deposit of diet and travelling expenses of witnesses;

(e) receiving evidence on affidavits;

(f) granting adjournments; and

(g) summoning and examining *suomoto*any person whose evidence appears to be material.

34. **Election petition.**—An election petition shall be presented to the Commissioner within forty-five days of the publication of the result of the election in the Official Gazette and shall be accompanied by a receipt showing that the petitioner has deposited a sum of two thousand rupees at any branch of the National Bank of Pakistan or at Government Treasury or sub Treasury in favour of the Commissioner as security for the costs of the petition.

35. **Parties to the petition.**— The petitioner shall join as respondents to his election petition.

- (a) all contesting candidates; and
- (b) any other candidate against whom any allegation, if any, of any corrupt or illegal practice is made, and shall serve personally or by registered post on each such respondent a copy of his petition.

Explanation. In this section and in the following provisions of this Chapter, “corrupt or illegal practice” means a “corrupt practice” or an “illegal practice” with the meaning of Chapter VI.

36. **Contents of petition.** (1) Every election petition shall contain

- (a) a precise statement of the material facts on which the petitioner relies;
  - (b) full particulars of any corrupt or illegal practice or other illegal act alleged to have been committed, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice or illegal act and the date and place of the commission of such practice or act; and
  - (c) the relief claimed by the petitioner.
- (2) A petitioner may claim as relief any of the following declarations, namely;
- (a) that the election of the returned candidate is void; or
  - (b) that the election of the returned candidate is void and that the petitioner or some other person has been duly elected; or
  - (c) that the election as a whole is void.
  - (d) Every election petition and every schedule or annex to that petition shall be signed by the petitioner and verified in the manner laid down in the code of Civil Procedure, 1908(Act V of 1908), for the verification of pleadings.

37. **Procedure on receipt of petition by the Commissioner.**- (1) The Commissioner shall return an election petition to the petitioner if he finds that it has not been presented within the time specified in section 34 or is not accompanied by a receipt of the deposit required to be made under that section.

(2) If an election petition is not returned under sub-section (1), the Commissioner shall refer it for trial to a Tribunal.

38. **Appointment of Tribunal.**-(1) For the trial of election petitions under the Act, the Commissioner shall appoint as many Election Tribunals as may be necessary.

(2) A Tribunal shall consist of a person who is a Judge of the High Court.

39. **Power to transfer petition.**-(1) The Commissioner, either of his own motion or on an application made in this behalf by any of the parties, may, at any stage, transfer an election petition from one Tribunal to another Tribunal, and the Tribunal to which the election petition is so transferred shall proceed within the trial of the petition from the stage at which it is transferred:

Provided that the Tribunal to which an election petition is so transferred may, if it thinks fit, recall and examine any of the witnesses already examined.

40. **Place of trial.**-The trial of election petition shall be held at such place or places as the Tribunal may think fit.

41. **Advocate General to assist the Tribunal.**-The Advocate General for Azad Jammu and Kashmir shall, if a Tribunal so require, assist the Tribunal at the hearing of an election petition in such manner as it may require.

42. **Appearance before Tribunal.**-Any appearance, application or act before a Tribunal be made or done by a party in person or by an Advocate or any other person entitled or allowed to plead in any Civil Court and duly appointed to act on his behalf:

Provided that the Tribunal may, where it considers it necessary direct any party to appear in person.

43. **Procedure before Tribunal.**-(1) Subject to the provisions of this Act, every election petition shall be tried, as nearly as may be, in accordance with the procedure for the trial of suits under the Code of Civil Procedure, 1908 (Act V of 1908):

Provided that the Tribunal may

- (a) make a memorandum of the substance of the evidence of each witness as his examination proceeds unless it considers that there is special reason for taking down the evidence of any witness in full; and

- (b) refuse to examine a witness if it considers that his evidence is not material or that he has been called on a frivolous ground for the purpose of delaying the proceedings.

(2) Subject to the provisions of this Act, the Evidence Act, 1872 (I of 1872), shall apply for the trial of an election petition.

(3) The Tribunal may, at any time, upon such terms and no payment of such fee as it may direct, allow a petition to be amended in such manner as may in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so however that no new ground of challenge to the election is permitted to be raised.

(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 34 as it may think fit.

44. **Dismissal of petition during trial.**-The Tribunal shall dismiss an election petition if

- (a) the provisions of section 35 or section 36 have not been complied with; or
- (b) the petitioner fails to make the further deposit required under sub-section(4) of section 43.

45. **Power of the Tribunal.**-(1) The Tribunal shall have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), and shall be deemed to be a Civil Court, within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) For the purpose of enforcing attendance of witnesses, the local limits of the jurisdiction of the Tribunal shall be the territories to which this Act extends.

46. **Further provision relating to evidence and witnesses.**-(1) Notwithstanding anything to the contrary contained in any other law for the time being enforce, no document shall be inadmissible in evidence at the trial of an election petition only on the ground that it is not duly stamped or registered.

(2) No witness shall be excused from answering any question as to any matter in issue, or relevant to a matter in issue, in the trial of an election petition upon the ground that the answer to such question may incriminate or tend to incriminate him or that it may expose or tend to expose him to any penalty or forfeiture, but no witness shall be required or permitted to state for whom he has voted at an election.



(3) A witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal and an answer given by him to a question put by or before the Tribunal shall not, except in the case of any criminal proceedings for perjury in respect of his evidence, be admissible in evidence against him in any civil or criminal proceedings.

(4) A certificate of indemnity granted to any witness under sub-section (3) may be pleaded by him in any Court and shall be a full and complete defense to or upon any charge under Chapter IX A of the Pakistan Penal Code (Act XLV of 1860), or under this Act arising out the matter to which such certificate relates but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by any law for the time being in force.

(5) The reasonable expenses incurred by any person in attending to give evidence may be allowed to him by the Tribunal and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

47. **Recrimination where seat is claimed.**-(1) Where in an election petition a declaration is claimed that a candidate other than the returned candidate has been duly elected, the returned candidate or any other party, may produce evidence to prove that the election of such other candidate would have been declared void had he been returned candidate and had a petition been presented calling his election in question;

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he or it has, within the fourteen days next following the commencement of the trial, given notice to the Tribunal of his or its intention so to do and has also deposited the security referred to in section 34.

(2) Every notice referred to in sub-section (1) shall be accompanied by a statement of the case, and all the provisions relating to the contents, verification, trial and procedure of an election petition, or to the security deposit in respect of an election petition, shall apply to such a statement as if it were an election petition.

48. **Decision of the Tribunal.**-The Tribunal may, upon the conclusion of the trial of an election petition, make an order

- (a) dismissing the petition;
- (b) declaring the election of the returned candidate to be void;
- (c) declaring the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected; or

(d) declaring the election as a whole to be void.

(2) Save as provided in sub-section (3), the decision of a Tribunal on an election petition shall be final.

(3) Any person aggrieved by a decision of the Tribunal may, within thirty days of the announcement of the decision, appeal to Full Bench of the High Court of Azad Jammu and Kashmir on any question, whether of law or fact, arising from the decision.

49. **Ground for declaring election of returned candidate void.**-(1) The Tribunal shall declare the election of the returned candidate to be void if it is satisfied that

- (a) the nomination of the returned candidate was invalid; or
- (b) the returned candidate was not, on the nomination day, qualified for, or was disqualified from, being elected as a member; or
- (c) the election of the returned candidate has been procured or induced by any corrupt or illegal practice; or
- (d) a corrupt or illegal practice has been committed by the returned candidate or by any other person with the consent or connivance of the candidate.

(2) The election of a returned candidate shall not be declared void on the ground

- (a) that any corrupt or illegal practice has been committed if the Tribunal is satisfied that it was not committed by or with the consent or connivance of, that candidate and that the candidate took all reasonable precaution to prevent its commission; or
- (b) that any of the other contesting candidates was, on the nomination day, not qualified for, or was disqualified from, being elected as a member.

50. **Ground for declaring a person other than a returned candidate elected.**-The Tribunal shall declare the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected if it is so claimed by the petitioner or any of the respondents and the Tribunal is satisfied that the petitioner or such other contesting candidate was entitled to be declared elected.

51. **Ground for declaring election as a whole void.**-The Tribunal shall declare the election as a whole to be void if it is satisfied that the result of the election has been materially affected by reason of

- (a) the failure of any person to comply with the provision of this Act; or
- (b) the prevalence of extensive corrupt or illegal practice at the election.

52. **Other provisions Relating to Tribunal.**-(1) An order of a Tribunal under section 48 shall take effect on the date on which it is made and shall be communicated to the Commissioner who shall publish it in the Official Gazette.

(2) The Tribunal shall, after an election petition has been disposed of forward the record thereof to the Commissioner who shall retain it for a period of five years from the date of its receipt and shall thereafter cause it to be destroyed.

53. **Withdrawal of petition.**-(1)An election petition may be withdrawn

- (a) before a Tribunal has been appointed, by leave of the Commissioner; and
- (b) after a Tribunal has been appointed, by leave of the Tribunal.

(2) Where leave is granted by the Tribunal, the petitioner shall be ordered to pay the costs incurred by the respondents to the election petition or such portion thereof as the Tribunal may direct.

54. **Abatement on death of petitioner.**-(1) An election petition shall abate on the death of the petitioner or the sole survivor of several petitioners.

(2) Where a petition abates under sub-section (1) after a Tribunal has been appointed, notice of the abatement shall be given by the Tribunal to the Commissioner.

55. **Death or withdrawal of respondent.**-If, before the conclusion of the trial of an election petition, a respondent dies or gives notice in the prescribed form that he does not intend to contest the petition, and no respondent remain to contest the petition, the Tribunal shall, without any further hearing, or after giving such person as it may think fit an opportunity of being heard, decide the case *ex-parte*.

56. **Failure of Petitioner to appeal.**-Where, at any stage of the trial of an election petition no petitioner makes an appearance, the Tribunal may dismiss the petition for default, and make such order as to costs it may think fit.

57. **Order as to costs.**-The Tribunal shall, when making an order under section 48, also make an order determining in its discretion the costs and specifying the persons by and to whom such costs are to be paid.

(2) If, in any order as to costs under sub-section (1), there is a direction for the payment of costs by any party to any person, such costs shall, if they have not already been paid, be payable in full, and shall upon application in writing in that behalf made to the Commissioner within six months of the order by the person to whom costs have been awarded, be paid as far as possible, out of the security for costs deposited by such party.

(3) Where no costs have been awarded against a party who has deposited security for costs, or where no application for payment of costs has been made within the aforesaid six months, or where a residue remains after costs have been paid out of the security, such security or the residue thereof, as the case may be, shall, upon application in writing therefor by the person who made the deposit or by his legal representative, be returned by the Commissioner to the person making the application.

(4) An order for costs may be enforced upon application in writing made to the principal civil court of original jurisdiction of the district in which the person from whom the costs are to be recovered resides or owns property, as if such order were a decree passed by that court:

Provided that no proceedings shall be brought under this subsection except in respect of costs which have not been recovered by an application under sub-section (2).

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## CHAPTER V

### OFFENCES, PENALTY AND PROCEDURE

58. **Corrupt practice.**-A person is guilty of corrupt practice if he-
- (a) contravenes the provisions of section 28;
  - (b) is guilty of bribery, personation or undue influence;
  - (c) makes or publishes a false statement-

- (i) concerning the personal character of a candidate or any of his relations calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing, and did believe the statement to be true; or
- (ii) regarding the withdrawal of a candidate;
- (d) calls upon or persuades any person to vote, or to refrain from voting, for any candidate on the ground that he belongs to a particular religion, community, race, caste, sect or tribe;
- (e) knowingly in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purpose of conveying to or from the polling station any voter except himself and members of his immediate family; or
- (f) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

59. **Bribery.**— A person is guilty of bribery if he, directly or indirectly by himself or by any other person on his behalf, —

- (1) receives or agrees to receive or contracts for any gratification for voting or refraining from voting, or for being or refraining from a candidate at, or for withdrawing from, an election;
- (2) gives, offers or promises any gratification to any person:-
  - (a) for the purpose of inducing,—
    - (i) a person to be or to refrain from being, a candidate at an election;
    - (ii) a voter to vote, or refrain from voting, at an election; or
    - (iii) a candidate to withdraw from an election; or
  - (b) for the purpose of rewarding—
    - (i) a person for having been, or for having refrained from being, a candidate at an election;

- (ii) a voter for having voted or refrained from voting at an election; or
- (iii) a candidate for having withdrawn from election.

*Explanation.*—In this section ‘gratification’ includes a gratification in money or estimable in money and all forms of entertainment or employment.

60. **Personation.**—A person is guilty of personation if he votes, or applies for a ballot paper for voting, as some other person whether that other person is living or dead or fictitious.

61. **Undue influence.**—A person is guilty of undue influence if he:—

- (1) in order to induce or compel any person to vote or refrain from voting, or to offer himself as a candidate or to withdraw his candidature, at an election, directly or indirectly, by himself or by another person on his behalf—
  - (a) makes or threatens to make use of any force, violence or restraint;
  - (b) inflicts or threatens to inflict any injury, damage, harm or loss;
  - (c) calls down or threatens to call down divine displeasure or the displeasure of any saint or pir;
  - (d) gives or threatens to give any religious sentence’, or
  - (e) uses or threatens to use any official influence or governmental patronage; or
- (2) on account of any person having voted or refrained from voting, or having offered himself as a candidate, or having withdrawn his candidature, does any of the acts specified in clause (1); or
- (3) by abduction, duress or any fraudulent device or contrivance—
  - (a) impedes or prevent the free exercise of the franchise by a voter; or
  - (b) compels, induces or prevails upon any voter to vote or refrain from voting.

*Explanation.*—In this section, ‘harm’ includes social ostracism or excommunication or expulsion from any caste or community.

62. **Penalty for corrupt practice.**—Any person guilty of corrupt practice shall be punishable with imprisonment for term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

63. **Illegal practice.**— (1)A person is guilty of illegal practice if he—

- (a) fails to comply with the provisions of section 29;
- (b) obtains or procures, or attempts to obtain or procure, the assistance of any person in the service of Azad Jammu and Kashmir or Pakistan to further or hinder the election of a candidate;
- (c) votes or applies for a ballot paper for voting at an election knowing that he is not qualified for, or is disqualified from, voting;
- (d) votes or applies for a ballot paper for voting more than once in the same polling station;
- (e) removes a ballot paper from a polling station during the poll; or
- (f) knowingly induces or procures any person to do any of the aforesaid acts.

(2) A person guilty of illegal practice shall be punishable with fine which may extend to two thousand rupees.

64. **Prohibition of canvassing in or near polling station.**—A person is guilty of an offence punishable with fine which may extend to one thousand rupees if he, within a radius of four hundred yards of the polling station, on the polling day—

- (a) canvasses for votes;
- (b) solicits the vote of any voter;
- (c) persuades any voter not to vote at the election or for a particular candidate; or
- (d) exhibits, except with the permission of the Returning Officer and at a place reserved for the candidate beyond the radius of one

hundred yards of the polling station, any notice, sign, banner or flag designed to encourage the voters to vote, or discourage the voters from voting for any contesting candidate.

65. **Disorderly conduct near polling station.**—A person is guilty of an offence punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, if he, on the polling day,—

- (a) uses, in such manner as to be audible within the polling station, any gramophone, megaphone, loudspeaker or other apparatus for reproducing or amplifying sounds;
- (b) persistently shouts in such manner as to be audible within the polling station;
- (c) does any act which—
  - (i) disturbs or causes annoyance to any voter visiting a polling station for the purpose of voting; or
  - (ii) interferes with the performance of the duty of the Returning Officer or Polling Officer or any other person performing any duty at a Polling Station; or
- (d) abets the doing of any of the aforesaid acts.

66. **Tempering with papers.**—(1) Except as provided in sub-section (2), a person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he—

- (a) intentionally defaces or destroys any nomination paper, ballot paper or official mark on a ballot paper;
- (b) intentionally takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other than the ballot paper he is authorized by law to put in;
- (c) without due Authority—
  - (i) supplies any ballot paper to any person;
  - (ii) destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use for the purpose of election; or



- (iii) breaks any seal affixed in accordance with the provision of this Act;
  - (d) forges any ballot paper or official mark;
  - (e) causes any delay or interruption in the beginning, conduct or completion of the procedure required to be immediately carried out on the close of the poll.
- (2) A Returning Officer, Polling Officer or any other Officer or clerk on duty in connection with the election who is guilty of an offence under sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

67. **Interference with the secrecy of voting.**—A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both if he—

- (a) interferes or attempts to interfere with a voter when he records his vote;
- (b) in any manner obtains or attempts to obtain in a polling station information as to the candidate or candidates for whom a voter is about to vote or mark his preferences or has voted and marked his preferences; or
- (c) Communicates at any time any information obtained in a polling station as to the candidate or candidates for whom a voter is about to vote or mark his preferences or has voted or marked his preferences; or

68. **Failure to maintain secrecy.**—A Returning Officer or Polling Officer, or any candidate or agent or a candidate attending a polling station or any person attending at the counting of votes, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he—

- (1) fails to maintain or aid in maintaining the secrecy of voting;
- (2) communicates to any person before the poll is closed, except for any purpose authorized by any law, any information as to the official mark; or
- (3) communicates any information obtained at the counting of votes as to the candidates for whom any vote is given or a preference is recorded on any particular ballot paper.

69. **Official not to influence voters.**—A Returning Officer, Polling Officer, or any other officer or clerk on duty in connection with the election, or any member of a police force, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he, in the conduct or management of an election or maintenance or order at a polling station,—

- (a) persuades any person to give his vote;
- (b) dissuades any person from giving his vote;
- (c) influences in any manner the voting of any person; or
- (d) does any other act calculated to influence the result of the election.

70. **Breaches of official duty in connection with election.**—A Returning Officer, Polling Officer or any other person employed by any such officer in connection with his official duties imposed by or under this Act is guilty of an offence punishable with fine which may extend to one thousand rupees if he, willfully and without reasonable cause, commits breach or any such official duty, by act or omission.

71. **Assistance by Government Servant.**—A person in the service of Azad Jammu and Kashmir or Pakistan is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, if he misuses his official position in a manner calculated to influence the result of the election.

72. **Certain Powers of a police officer.**—A Police Officer may—

- (a) arrest without warrant, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any person—
  - (i) who commits personation or an offence under section 65 if the Returning Officer directs him to so arrest such person;
  - (ii) who, being removed from the polling station by the Returning Officer, commits any offence at the polling station.
- (b) remove any notice, sign banner or flag used in contravention of section 64; and
- (c) seize any instrument or apparatus used in contravention of section 65; and take such steps, including use of force, as may be reasonably necessary for preventing such contravention.

73. **Certain offences cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence under section 58 or section 64 or sub-section (1) of section 66 shall be cognizable offence.

74. **Prosecution for offences by public officers.**—(1) No Court shall take cognizance of an offence under sub-section (2) of section 66, section 68, section 69, section 70 or section 71, except upon a complaint in writing made by order of, or under authority from the Commissioner.

(2) The Commissioner shall, if he has reasons to believe that any offence specified in sub-section (1) has been committed, cause such inquiries to be made or prosecution to be instituted as he may think fit.

75. **Limitation for prosecution for corrupt or illegal practices.**—No prosecution for an offence under section 58 or section 64 shall be commenced except—

- (a) within six months of the commission of the offence; or
- (b) if the election at which the offence was committed is subject to an election petition and the Tribunal has made an order in respect of such offence, within three months of the date of such order.

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## CHAPTER VI

### BYE ELECTION

76. **Casual vacancies.**—When, before the expiration of the term of office of a member elected to the Council, his seat becomes vacant or is declared vacant or his election to the Council is declared void, the Commissioner shall, by notification in the official Gazette, call upon the members of the Assembly to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

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## CHAPTER VII

## MISCELLANEOUS

77. **Extension of time for completion of election.**—It shall be competent for the Commissioner, for reasons which he considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued under section 10.

78. **Term of office.**—The term of office of a member of the Council shall commence on the date of the first meeting of the Council held after the names of the persons elected to the Council are notified by the Commissioner.

79. **Vacancy in membership of Assembly not to invalidate election.**—No election by the members of the Assembly shall be called in question on the ground merely of the existence of any vacancy in the membership of the Assembly.

80. **Commissioner to ensure fair election, etc.**—Save as otherwise provided, the Commissioner may issue such instructions and exercise such powers, including the power to review an order passed by any officer under this Act, and make such consequential orders, as may, in this opinion, be necessary for ensuring that an election is conducted honestly, justly and fairly and in accordance with the provisions of this Act.

81. **Directions of Commissioner in certain matters.**—Anything required to be done to carry out the purpose of this Act, for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commissioner may direct.

82. **Jurisdiction of Courts Barred.**—No Courts shall question the legality of any action taken in good faith by, or under the authority of, the Commissioner, a Returning Officer or a Polling Officer or any decision given by any of them or by any other officer or authority appointed under this Act.

83. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Commissioner or any officer or other person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or any order made, or direction given, thereunder.

84. **Power to make rules.**—The Chairman of the Council may, in consultation with the Commissioner, make rules for carrying out the purposes of this Act relating to matters not provided for in this Act.

## THE SCHEDULE

### CHAPTER I

#### PRELIMINARY

**1. Definitions.**—In this Schedule, unless there is anything repugnant in the subject or context,—

- (a) “continuing candidate” means any candidate not elected and not excluded from the poll at any given time;
- (b) “exhausted paper” means a ballot paper on which no further preference is recorded for continuing candidate:

Provided that a ballot paper shall also be deemed to have become exhausted whenever—

- (i) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference; or
- (ii) the name of the candidate next in order of preference, whether continuing or not is marked—
  - (1) by a figure not following consecutively after some other figure on the ballot paper; or
  - (2) by two or more figures;
- (c) “first preference” means the figure 1 set opposite the name of a candidate, “second preference” means the figure 2 set opposite the name of a candidate, “third preference” means the figure 3 set opposite the name of a candidate, and so on;
- (d) “Form” means a form appended to this Schedule and includes a translation thereof into any language;
- (e) “original vote” in relation to any candidate means a vote derived from a ballot paper on which a first preference is recorded for such candidate;
- (f) “publish” with its grammatical variation, includes exhibition at a place accessible to the public;
- (g) “section” means section of the Act;

- (h) “surplus” means the number by which the value of votes, original and transferred, of any candidate exceeds the quota;
  - (i) “transferred vote” in relation to any candidate, means a vote the value or the part of the value of which is credited to such candidate and which is derived from a ballot paper on which a second or a subsequent preference is recorded for such candidate; and
- “unexhausted ballot paper” means a ballot paper on which a further preference is recorded for continuing candidate.

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## CHAPTER II

### NOMINATION, SCRUTINY AND WITHDRAWAL

**2. Nomination paper.**—A nomination paper by which a proposal is made under sub-section (2) of section 11 shall be in Form 1.

**3. Security deposit for nomination.**—(1) The Returning Officer shall maintain a register in Form II in which he shall enter the particulars of every cash deposit made with him under section 12.

(2) Receipt, of a cash deposit by the Returning Officer shall be acknowledged in Form III and the amount shall be deposited by him at a Government Treasury or Sub-Treasury.

(3) The return of a deposit which is required to be refunded under sub-section (1) of Section 26 shall be authorized under the seal and signature of the Returning Officer.

**4. Appeal against rejection of nomination by the Returning Officer.**—(1) An appeal under sub-section (5) of section 13 may be filed by the candidate himself or by a person authorized in writing by the candidate in this behalf.

(2) The appeal shall be addressed to the Commissioner and may be filed with him or the Secretary, Election Commissioner.

(3) An appeal shall be in the form of memorandum which shall state the date of rejection of the nomination and the grounds of appeal and shall be accompanied by a certified copy of the order rejecting the nomination.

(4) The memorandum of appeal shall be accompanied by as many copies thereof as there are candidates at any election.

(5) An appeal shall be disposed of either summarily or after such inquiry as the Commissioner may consider necessary.

(6) If the appeal is allowed, the name of the appellant shall, by order of the Commissioner, be entered by the Returning Officer in the list of validly nominated candidates.

**5. List of validly nominated candidates.**—(1) The list of validly nominated candidates prepared under section 14 shall be drawn up in Form IV soon after the scrutiny.

(2) The Returning Officer shall publish a copy of the validly nominated candidates at some conspicuous place in his office.

(3) In the case of acceptance of an appeal filed under sub-section (5) of section 13, the Returning Officer shall revise the list of validly nominated candidates in accordance with the decision of the Commissioner and shall publish the list so revised at some conspicuous place in his office.

(4) A copy of the list referred to in sub-paragraph (1), and also copy of the list as revised, if any under sub-paragraph (3), shall be furnished to the Commissioner.

**6. List of contesting candidates.**(1) The list of contesting candidates prepared under sub-section (4) of section 15 shall be drawn up in Form V.

(2) The names on the list shall be entered in Urdu in the alphabetical order.

(3) The Returning Officer shall, on the day next following the withdrawal day, publish the list of contesting candidates at some conspicuous place in his office and furnish a copy thereof to the Commissioner and also to each of the contesting candidates.

**7. Declaration of results after scrutiny.**—The result of an uncontested election shall not be declared under sub-section (1) of section 18 unless the Returning Officer has ascertained in writing from the Commissioner that no appeal has been filed against the rejection of any nomination paper or that if an appeal has been filed no nomination rejected by the Returning Officer has been accepted on such appeal.

**8. Form of ballot paper.**—(1) Every ballot paper shall be in such form as may be specified by the Commissioner and the names of the contesting candidates shall be written on it in Urdu.

(2) The names of the contesting candidates shall be arranged on the ballot paper in the same order as shown on the list of contesting candidates prepared under para 6.

(3) If two or more candidates bear the same name, they shall be distinguished by adding the names of their fathers.

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## CHAPTER III

### THE POLL

**9. Agent.**—(1) A contesting candidate may, before the commencement of the poll, appoint not more than one agent, and shall give notice thereof in writing to the Returning Officer.

(2) The appointment of an agent under sub-paragraph (1) may at any time be revoked by the candidate and, when it is so revoked or the agent dies, another person may be appointed by the candidate to be an agent; and a notice of such appointment shall be given to the Returning Officer.

**10. Ballot boxes.**—(1) The ballot boxes shall be such as may be provided by the Commissioner.

(2) The Returning Officer shall ensure, in the presence of such of the contesting candidates or their agents as may be present, before the commencement of the poll that each box is empty and seal it in the balloting position and so place it within his sight as to be ready to receive the ballot papers.

**11. Admission to polling station.**—The Returning Officer shall, subject to such instructions as the Commissioner may give, so regulate the entry of voter to the polling station that only one voter is admitted at a time and exclude therefrom all other persons except.

- (a) any person on duty in connection with the elections;
- (b) the contesting candidates, or one agent of each contesting candidates;  
and
- (c) such other persons as may specifically be permitted by the Returning Officer.

**12. Arrangements at the polling station.**— (1) There shall be displayed, outside the polling station, a copy of the list of contesting candidates.



(2) To enable the voters to mark their ballot papers in secret, the Returning Officer shall set up one or more voting booths screened from observation where voters shall record their votes.

(3) The Commissioner shall provide sufficient number of ballot boxes, copies of the lists of voters, ballot papers, stamps for marking the official mark, instruments for indicating preferences on the ballot papers and such other articles as may be necessary for facilitating the casting of votes.

**13. Maintenance of order at the polling station.**—(1) The Returning Officer shall keep order at the polling station and may remove or cause to be removed any person who misconducts himself at the polling station or fails to obey any lawful order of the Returning Officer.

(2) Any person removed under sub-paragraph (1) from the polling station shall not, without the permission of the Returning Officer, again enter the polling station during day.

(3) The powers under this paragraph shall not be so exercised as to deprive a voter of an opportunity to cast his vote.

**14. Issue of identity cards.**—(1) Each voter shall carry with him an identity card issued to him by the Secretary of the Legislative Assembly and members shall, if so required, show the same to the Returning Officer before a ballot paper is issued to him.

(2) The Returning Officer shall, after satisfying himself about the identity of the voter and after ensuring that he has not already voted, put a tick mark against the name of the voter in the list of voters, enter the name of the voter on the counterfoil of the ballot paper and after stamping the ballot paper on its back with the official mark and initialing it, hand it over to the voter.

(3) No ballot paper shall be issued to a voter unless it has been stamped with an official mark and initialed.

(4) No ballot paper shall be delivered to a voter unless he has put his signature on the counterfoil of the ballot paper in token of the receipt of the ballot paper.

**15. Voting procedure.**—(1) A voter, on receiving the ballot paper, shall forthwith—

- (a) proceed to the voting booth;
- (b) record his vote in accordance with paragraph 16;
- (c) fold the ballot paper so as to conceal his vote; and

(d) insert the ballot paper into the ballot box.

(2) No voter shall be allowed to enter the voting booth when another voter is inside it.

(3) A voter shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper into the ballot box.

**16. Manner of recording vote.**—In giving his vote, a voter-

(a) shall place on his ballot paper the figure 1 opposite the name of the candidate for whom he wishes to vote in the first instance; and

(b) may, in addition, place on his ballot paper the figures 2, 3 and 4 and so on, in the order of his preference, opposite the names of the other candidates.

*Explanation.*—The figures referred to in this sub-paragraph may be marked against different names either in English or in Urdu but not in both and shall not be marked in words.

**17. Manner of marking ballot paper if voter is incapacitated.**—(1)

If a voter is blind or is physically or otherwise so incapacitated as to require the help of a companion, the Returning Officer may allow him to be accompanied by a Companion of not less than twenty-one years of age; and in case the disability is such that the voter cannot mark the ballot paper himself, the person accompanying the voter may mark the ballot paper as indicated by the voter;

Provided that the person allowed to accompany the voter shall not himself be a candidate.

(2) If the ballot paper is to be marked by the companion, the Returning Officer shall make it clear to him that he must mark the ballot paper for the candidate of the voter's choice and that he must not divulge to any one the voter's choice of candidate.

(3) The Returning Officer shall maintain a list of voters on whose behalf the ballot papers have been marked by their companions.

**18. Spoiled ballot papers.**—A voter who has inadvertently spoiled his ballot paper so that it cannot be used may, after satisfying the Returning Officer about the fact of inadvertence, return the ballot paper to the Returning Officer who shall issue another ballot paper after cancelling the spoilt ballot paper which shall be placed in a separate packet labeled "spoilt ballot papers" noting the fact of cancellation on the counterfoil also.

**19. Stray ballot papers.**—If any ballot paper which has been issued to a voter has not been inserted by him into the ballot box but is found anywhere else, it shall be cancelled and accounted for as “spoilt ballot paper”

**20. Sealing of ballot box after poll.**—After the close of the poll, the Returning Officer shall, in the presence of such of the contesting candidates and agents of such candidates as may be present, close the slit for insertion of ballot paper of each ballot box:

Provided that it shall not be necessary to seal the slit if the counting of votes is to begin immediately after the close of the poll.

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## CHAPTER IV

### COUNTING

**21. Opening of ballot boxes and counting of votes.**—(1) The Returning Officer shall, after notice to the contesting candidates as to the time and place of counting, open the ballot boxes in the presence of such of the contesting candidates and their agents as may be present.

- (2) The Returning Officer shall—
  - (a) Proceed to count the ballot papers taken out therefrom and record their number in a statement.
  - (b) Scrutinise the ballot papers taken out the ballot boxes;
  - (c) Separate the ballot papers which he deems valid from these which he rejects under sub paragraph;
- (3) Endorsing on each ballot paper so rejected the word ‘rejected’ and the grounds of rejection.
- (4) A ballot paper shall be invalid:—
  - (a) on which figure 1 is not marked; or
  - (b) on which figure 1 is set opposite the names of more than one candidates, or is so placed as to render it doubtful as to which candidate it is intended to apply; or
  - (c) on which figure 1 and some other figures are set opposite the name of the same candidate; or

- (d) on which there is a mark or writing or to which some object is attached by which the voter can be identified; or
- (e) which is unmarked or void on the ground or uncertainty; or
- (f) which does not bear the official mark or initials of the Returning Officer.

**22. Arrangement of valid ballot papers.**— After rejecting the ballot papers which are invalid, the Returning Officer shall—

- (a) arrange the ballot papers in parcels according to the first preference recorded for each candidate;
- (b) count and record the number of the ballot papers in each parcel and check the total number thereof; and
- (c) credit to each candidate the value of the ballot papers on which preference for him has been recorded.

**23. Counting of votes where one seat is to be filled.**—(1) At any election, where only one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 1 at each count, and the quota sufficient to secure the return of candidate at the election shall be determined as follows—

- (a) add the values credited to all the candidates;
- (b) divide the total by 2; and
- (c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

(2) If, at the end of the first or any subsequent count, the total value of ballot papers credited to any candidate is equal to, or greater than, the quota or there is only one continuing candidate, that candidate shall be declared elected.

(3) If, at the end of any count, no candidate can be declared elected, the Returning Officer shall—

- (a) exclude from the poll the candidate who up to that stage has been credited with the lowest value;
- (b) examine all the ballot papers in his parcel and sub-parcels, arrange the un-exhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of papers in each such sub-paragraph and credit it to the candidate for whom such preference is

recorded, transfer the sub-parcel to that candidate and make a separate sub-parcel of all the exhausted papers; and

- (c) see whether any of the continuing candidates has, after such transfer and credit, secured the quota.

(4) If, when a candidate has to be excluded under clause (a) of subparagraph (3), two or more candidates have been credited with the same value and stand lowest on the poll, the candidate for whom the lowest number of original votes is recorded shall be excluded and, if this number also is the same, the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(5) If two or more candidates are lowest on the pool each has the same of votes at all counts the Returning Officer shall decide by lot which of them shall be excluded.

**24. Ascertaining the quota.**—At any election, where more than one seat is to be filled, every ballot paper shall be deemed to be of the value of 100, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:—

- (a) add the value credited to all the candidates under paragraph (c) of paragraph; 2
- (b) divide the total by a number which exceeds by 1 the number of seats to be filled; and
- (c) add 1 to the quotient ignoring the remainder, if any, and the resultant number is the quota.

**25. General instructions.**— (1) For the purpose of counting of votes, the Returning Officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

(2) A candidate shall be deemed to have been elected if, at the end of any count or at the transfer of any parcel or sub parcel of an excluded candidate, the value of ballot papers credited to such candidate is equal to or greater than the quota, and no further ballot paper shall be transferred to him.

**26. Transfer of surplus.**— (1) If at the end of any count the value of the ballot papers credited to candidates is greater than the quota, the surplus shall be transferred in accordance with the provisions of this paragraph to the continuing candidates according to the preferences indicated on the ballot papers of that candidate.

(2) If more candidates than one have a surplus, the largest surplus shall be dealt with first and the others in the order of magnitude:

Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(3) If more candidates than one have an equal surplus arising out of the same count, the surplus of the candidate with the greatest value at the earliest count at which the values credited to these candidates were unequal, shall be dealt with first and, where the value credited to such candidates were equal at all counts, the Returning Officer shall determine by lot which surplus will be dealt with first.

(4) If the surplus of any candidate to be transferred arises from original votes only, the Returning Officer shall examine all the papers in the parcel of that elected candidate, sort out unexhausted papers into sub-parcels according to the next available preference recorded thereon and shall make a separate sub-paragraph of the exhausted ballot papers.

(5) If the value credited to an elected candidate whose surplus is to be transferred arises from original and transferred votes, or from transferred votes only, the Returning Officer shall examine the ballot papers contained in the sub-paragraph last transferred to the elected candidate.

(6) If the total value of the unexhausted papers is equal to or less than the surplus, the Returning Officer shall transfer each sub-paragraph of un-exhausted papers to the contesting candidate indicated thereon as the voters' next preference, each paper being transferred at the value at which it was received by the candidate whose surplus is being transferred.

(7) When the total value of the unexhausted papers is less than the surplus, the exhausted papers shall be set aside at a value which is equal to the difference between the surplus and the total value of the un-exhausted papers.

(8) If the total value of the unexhausted papers is greater than the surplus, the Returning Officer shall transfer each paper in each sub-paragraph of unexhausted papers to the continuing candidate indicated thereon as the voter's next preference and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the number of unexhausted papers (fractional reminders being disregarded), except that the consequential loss of the value shall be noted on the result sheet.

(9) The papers transferred to each candidate shall be added in the form of a sub-paragraph to the papers already belonging to such candidate.

(10) All papers in the parcel or sub-paragraph of an elected candidate not transferred under this paragraph shall be set apart as finally dealt with.

**27. Exclusion of candidates lowest on the pool.**—If, at the end of any count no candidate has a surplus and one of more seats remain unfilled, the Returning Officer shall exclude from the count the candidate credited with the lowest value shall sort the unexhausted papers into sub-parcels according to the next available preferences recorded thereon and shall transfer each sub-parcel to the contesting candidates for whom the next preference is recorded.

**28. Order of transfer of sub-parcel.**— (1) The parcel containing the original votes of an excluded candidate shall be transferred first, the transfer value of each paper being 100.

(2) The sub-parcels containing transferred votes shall then be transferred which, and at the value at which, the excluded candidate obtained them.

(3) Each such transfer shall be deemed to be a separate transfer.

(4) When a candidate has been excluded and, as a result of transfer of his votes, another candidate has been elected with a surplus, in such a case his surplus votes shall be transferred before another exclusion is considered.

(5) In the transfer of each parcel or sub-parcel, a separate sub-parcel shall be made of the exhausted papers which shall be set aside at the value at which the excluded candidate obtained them.

**29. Filling the last vacancies.**— (1) If, at the end of any count as a result of transfer of papers, the number of continuing candidates is equal to the number of vacancies to be filled, no further transfer shall be made.

(2) When the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates shall thereupon be deemed to be elected.

(3) When, at the end of any count, only one vacancy remains unfilled and the value credited to someone continuing candidate exceeds the total of the value credited to the other continuing candidates together with any other surplus not transferred, that candidate shall thereupon be deemed to have been elected and no further transfer shall be made.

(4) When, at the end of any count, only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes at all counts and no surplus remains capable of transfer, the Returning Officer shall decide by lot which of them shall be excluded and, after excluding him in the manner aforesaid, declare the other candidate be elected.

**30. Equality of candidates lowest on the pool.**—(1) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the pool, regard shall be had to the

original votes of each candidate and the candidate for whom lowest original votes are recorded shall be excluded and, if the value of their original votes is equal the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(2) If two or more candidates are lowest on the pool and each has the same value of votes at all counts, the Returning Officer shall decide by lot which candidate shall be excluded.

**31. Provision for recounting.**—(1) Any candidate or, in his absence, his agent may at any time during the counting of votes, either before commencement or after the completion of any transfer of votes, whether surplus or otherwise, request the Returning Officer to re-examine and recount the papers of all or any of the candidates, not being papers set aside at any previous transfer as finally dealt with, and the Returning Officer shall forthwith re-examine and recount the same accordingly:

Provided that nothing in this sub-paragraph shall make it obligatory on the Returning Officer to recount the same votes more than once.

(2) The Returning Officer may, in his discretion, recount the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous account.

**32. Illustration of procedure as to the count.**—An illustration of the procedure as to the counting of votes in accordance with this schedule is given in the appendix to this schedule

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## CHAPTER V

### ELECTION RETURN

**33. Return by Returning Officer.**—On the completion of counting, the Returning Officer shall prepare and certify a return of the election in Form VI and permit any candidate or his agent to take a copy of or extract from such return.

**34. Grant of certificate of election to returned candidate.**—At the request of a candidate who has been declared to be elected, the Returning Officer may grant to such a candidate a certificate of election in Form VII and obtain from the candidate an acknowledgement of its receipt duly signed by him.

**35. Documents to be sent to, and retained by, the Commissioner.**—(1) The Returning Officer shall forward to the Commissioner—



- (a) separate packets containing the valid ballot papers and rejected ballot papers each of which shall be sealed with the seal of the Returning Officer;
  - (b) the packets containing the counterfoils of issued ballot papers;
  - (c) the packets containing the marked copies of the list of voters;
  - (d) the packets containing the result of the count; and
  - (e) such other papers as the Commissioner may direct.
- (2) The Returning Officer shall endorse on each packet forwarded under sub-paragraph (1), the description of its contents, and the date of the election to which the contents relate.
- (3) The Commissioner shall retain the documents contained in the packets received under sub-paragraph (1) for a period of one year from the date of their receipt, and thereafter shall, unless otherwise directed by the Tribunal, cause them to be destroyed.
- (4) The documents retained by the Commissioner under sub-paragraph (3), except the ballot papers, shall be open to public inspection during office hours on payment of a fee at the rate of one rupee for each document.
- (5) Copies of, or extracts from the documents mentioned in sub-paragraph (4) shall be furnished upon an application made by any person on payment of a fee at the rate of one rupee for the first two hundred words or a fraction thereof and fifty paise for every additional hundred words or a fraction thereof.
- (6) Every application for inspection of documents or supply of copies under sub-paragraph (4) and sub-paragraph (5) shall be accompanied by court-fee stamps of the requisite value.

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## CHAPTER VI

### **ELECTION EXPENSES**

**36. Account of election expenses.**— (1) Each candidate shall keep and maintain a register of receipts and expenditure in Form VIII.

(2) The return of election expenses required to be submitted under section 29 shall be in Form-VIII.

(3) All vouchers shall be kept along with the account of election expenses arranged according to the date of payment and serially numbered and such serial number shall be entered in the appropriate column of the relevant account.

**37. Affidavit.**—The affidavit referred to in clause (2) of section 29 shall be sworn by a candidate in Form IX.

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## CHAPTER VII

### ELECTION DISPUTES

**38. Presentation of election petition.**—(1) An election petition may be presented by any candidate in person or by a representative authorized by him in writing in this behalf or by registered post, but not otherwise.

(2) An election petition, if sent by registered post, shall be deemed to have been filed in time if it is posted within the period specified in section 34.

(3) An election petition not filed within the period specified in section 34 shall be returned to the petitioner.

**39. Withdrawal of respondents.**—A notice under section 55 by a respondent in an election petition shall be in Form X.

**40. Supply of Copies of decisions on petition.**— (1) Copies of any interim or final orders passed by a Tribunal on any election petition may be furnished to the parties to the petition by the Tribunal on an application in writing.

(2) The fees for the supply of copies mentioned in sub-paragraph (1) shall be one rupee for the first two hundred words or a fraction thereof and fifty paise for every additional hundred words or a fraction thereof.

(3) Every application for the supply of copies under sub-paragraph (1) shall be accompanied by court-fee stamps of the requisite value.

**41. Order of production of document.**—(1) The Tribunal may order the opening of packets of counterfoils and certificates or the inspection of any counted ballot papers.

(2) An order under sub-paragraph (1) may be made subject to such conditions as to persons, time, place and mode of inspection, production of documents and opening of packets as the Tribunal making the order may think expedient:

Provided that in making and carrying into effect an order for the inspection of counted ballot papers, care shall be taken that no vote shall be disclosed until it has been held by the Tribunal to be invalid.

(3) Where an order is made under sub-paragraph (1), the production by the Commissioner of any document in such manner as may be directed by the order shall be conclusive evidence that the document relates to the election specified in the order, and any endorsement or any packet or ballot papers so produced shall be *prima facie* evidence that the ballot papers are what the endorsement states them to be.

(4) The production from proper custody of a ballot paper purporting to have been used at an election, and of a counterfoil having a number, shall be *prima facie* evidence that the voter whose vote has given by that ballot paper was the voter who had on the list of voters the same number as was written on the counterfoil.

(5) Save as in this paragraph provided, no person shall be allowed to inspect any rejected or counted ballot paper in the possession of the Commissioner.

**FORM – 1**

## NOMINATION

For

Election to the Council \_\_\_\_\_

(To be filled in by the proposer)

I, \_\_\_\_\_ (Name of the proposer) a member of the Azad Jammu & Kashmir Legislative Assembly, do hereby propose the name of \_\_\_\_\_ whose address is \_\_\_\_\_ as a candidate for election as a member of the Council.

Date \_\_\_\_\_

Signature of Proposer

-----  
(To be filled in by the seconder)

I, \_\_\_\_\_ (Name of the seconder) a member of the Azad Jammu & Kashmir Legislative Assembly, do hereby second the Nomination of \_\_\_\_\_ whose address is \_\_\_\_\_ as a candidate for election as a member of the Council.

Date \_\_\_\_\_

Signature of seconder

(Declaration by the person nominated)

I, \_\_\_\_\_ son / daughter/ wife of \_\_\_\_\_ registered as a voter at Serial No. \_\_\_\_\_ in the electoral roll for \_\_\_\_\_ electoral area in \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_ do hereby declare that I have consented to the above nomination and that I am not subject to any disqualification for being or being elected as a member of the Council.

Date \_\_\_\_\_

Signature or Thumb impression  
of the person nominated.

-----  
(To be filled in by the Returning Officer)

Serial number of nomination paper \_\_\_\_\_  
This nomination paper was delivered to me at my office at \_\_\_\_\_  
(hours) on \_\_\_\_\_ (date) by \_\_\_\_\_  
being the candidate / proposer/ seconder.

Date \_\_\_\_\_

Returning Officer

---

(Decision of Returning Officer accepting or rejecting the nomination paper  
on the day fixed for scrutiny)

I have examined this nomination paper in accordance with the provisions  
of section 13 of the Act and decide as follows:-

---

---

(In case of rejection, state brief reasons)

Date \_\_\_\_\_

Returning Officer.

## RECEIPT

(To be filled in by the Returning Officer)

Serial number of nomination paper \_\_\_\_\_

The nomination paper of \_\_\_\_\_ a candidate for election \_\_\_\_\_  
to the Council was delivered to me at my office at \_\_\_\_\_ (hours)  
on \_\_\_\_\_ (date) by the candidate / proposer / seconder.

All nomination papers will be taken up for scrutiny at \_\_\_\_\_ (hours)  
on \_\_\_\_\_ (date) at \_\_\_\_\_ (place).

Date \_\_\_\_\_

Returning Officer

## FORM II

## Form of Deposit Register for election to the Council.

Sl. No.	Candidate's Name	Serial No. of nomination filed	Amount deposited	particulars of the Bank or Treasury Receipt, if received in cash, of the receipt issued in Form III	Signature of the Returning Officer	Disposal of the cash deposit (and remarks, if any)
1	2	3	4	5	6	7

## FORM III

## RECEIPT

Sl.No ..... Sl.No. ....  
Sum received ..... Received a sum of Rs .....  
Deposited by ..... (figures) .....  
Sl.No. in the Deposit Register ..... (in words) in cash from.....  
..... a candidate for election as member of  
..... the Council and entered (in the Deposit  
Register under Sl. No. ....  
Candidate's name ..... dated.....)

Date \_\_\_\_\_ Signature of  
Returning Officer

Date \_\_\_\_\_ Signature and seal of  
the Returning Officer.

**FORM IV**

## LIST OF VALIDLY NOMINATED CANDIDATES

**Election to the Council**

S. No.	Name of candidate	Name of father/husband	Address of Candidate
1	2	3	4

Place \_\_\_\_\_

Date \_\_\_\_\_

Returning Officer

**FORM V**

## LIST OF CONTESTING CANDIDATES

**Election to the Council**

Sl. No.	Name of the contesting candidates in alphabetical Order determined according to Urdu language	Name of the father/husband	Address of the contesting candidates
1	2	3	4

**FORM VI****RETURN OF ELECTION****Election to the Council**

The result of poll and of the transfer of votes is as follows:-

Number of valid votes \_\_\_\_\_

Number of members to be elected \_\_\_\_\_

Quota (Number of votes sufficient to secure the election of a candidate) \_\_\_\_\_

Name of candidates	First Count	Second Count	3 <sup>rd</sup> Count	4 <sup>th</sup> Count	Name of elected candidate and order of election
	Votes polled by each candidate	Transfer Result of	Transfer Result of	Transfer Result of	

Value of exhausted Papers, \_\_\_\_\_

Loss due to fraction \_\_\_\_\_

Total: \_\_\_\_\_

I declare that \_\_\_\_\_

(1) (Name) \_\_\_\_\_

(Address) \_\_\_\_\_

(2) (Name) \_\_\_\_\_

(Address) \_\_\_\_\_

(etc) \_\_\_\_\_ has/have been duly elected.

Date \_\_\_\_\_

Place \_\_\_\_\_

(Signature)  
Returning Officer.



**FORM VII**

**CERTIFICATE OF ELECTION**

I, the Returning Officer for election to the Council, hereby certify that I have on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ declared Mr./Mirs/Miss \_\_\_\_\_ to have been duly elected to be a member of the Council and that in token thereof. I have granted to him/her this certificate of election.

Place \_\_\_\_\_

**Returning Officer**

Date \_\_\_\_\_

**FORM VIII**

**RETURN OF ELECTION EXPENSES**

**Election to the Council**

Name of the candidate\_\_\_\_\_

Address of the candidate\_\_\_\_\_

**PARTA- ACCOUNT OF ELECTION EXPENSES**

The date on which expenditure was incurred or authorized	The nature of expenditure	The amount paid(I)	The amount outstanding (ii)	The amount of expenditure		The name and address of payee	The serial No. of vouchers in the case of amount paid	The serial No. of bills, if any in the case of amount outstanding	The name and address of the person to whom the amount outstanding is payable
				Total of (i) and (ii)	The date of payment				
(a)	(b)	(c)	(d)	(e)		(f)	(g)	(h)	(i)

PART B-ACCOUNT OF DISPUTED CLAIMS

The date on which the claims is alleged to have arisen	Name and address of the claimant	The nature of the claim	The amount of the claim	Ground on which the claim is disputed
a	b	c	d	e

PART C-ACCOUNT OF UNPAID CLAIMS

The date on which the claim arose	Name and address of the claimant	The nature of unpaid claim	The amount of unpaid claim	The reason for non-payment of the claim
a	b	c	d	e

**FORM IX**

**AFFIDAVIT TO BE SWORN BY A CANDIDATE AT COUNCIL ELECTION**

I \_\_\_\_\_ (name), having been a candidate in the election to the Council make oath and say (declare on solemn affirmation) that;

1. In the afore-mentioned election, all expenses incurred all moneys, securities or things of value received, all payments made, all claims settled and all accounts maintained in the course of or in connection with, the election were incurred, received, made, settled and maintained by me or within my knowledge and under my control and direction.
2. All information given and all entries made in the return of election expenses and all vouchers, bill and other documents lodged by me with that return are, within my knowledge and brief, true and genuine.

Signature of candidate.

Sworn/declared on, solemn affirmation before me \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_  
by \_\_\_\_\_ who is personally known to me/who has  
been identified by \_\_\_\_\_ who is  
personally known to me.

Signature.

**FORM X**

NOTICE UNDER SECTION 55 OF THE AZAD JAMMU &

KASHMIR COUNCIL

(ELECTION) ACT, 1976

**Election to the Council**

Before the Election Tribunal \_\_\_\_\_ (Place)

In the matter of Election Petition No. \_\_\_\_\_ of

20 \_\_\_\_\_ Petitioner

**Versus**

\_\_\_\_\_ Respondent

I, \_\_\_\_\_ (Name), respondent, do hereby give notice under section 55 of the Council (Election) Act, 1976, that I do not intend to contest the aforesaid petition.

Place \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Respondent \_\_\_\_\_

**ILLUSTRATION**

[See paragraph 32]

Let it be assumed that there are ten members to be elected and there twenty candidates, A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P,Q,R,S and T.

**First Count**

*Arrangement and counting of voting papers.*—The voting papers having been examined, the papers that are invalid being rejected, the valid papers arranged in separate parcels under the names of the candidates marked with figure 1. Each separate parcel is counted, and the result of the count may supposed to be as follows: —

Papers	Valid
A	6
B	4
C	3
D	3
E	3
F	2
G	2
H	2
I	2
J	2
K	2
L	1
M	1
N	1
O	1
P	1
Q	1
R	1
S	1
T	1

Total: -  
40

Each valid voting paper is deemed to be of the value of 100, and the value of the votes obtained by the respective candidates are as shown in the first count in the Result Sheet.

### The Quota

*Ascertainment of quota.*—It is found that the full total values in all the parcels is 4,000. This total is divided by 11 (i.e the number which exceeds by one, the number of vacancies to be filled), and 364 (the quotient 363—disregarding the fractional remainder increased by 1) is the ‘Quota’, the value sufficient to secure the return of a candidate.

*Candidate with quota/deemed to be elected.*— A’s and B’s values each exceed the quota and they are thus deemed to elected.

### Second Count

*Transfer of Surplus.*— A and B both have surpluses which have to be transferred.

*Largest surplus first.*— A’s surplus of 226, being the largest is first transferred. This surplus rises from original votes, and therefore, the whole of A’s papers are divided into sub-parcels according to the next available preferences thereon, a separate parcel being made of the non-transferable papers (any papers showing a second surplus for B—who having a surplus, is deemed to be elected being placed in the sub-parcel of the candidate for whom a third preference is indicated or in the sub-parcel of non-transferable papers if a third preference is not indicated).

The result is found to be as follows:-

A next available preference is indicated for C on -----	2 papers
A next available preference is indicated for D on -----	1 paper
A next available preference is indicated for F on -----	1 paper
A next available preference is indicated for L on -----	1 paper
	<hr/>
Total of transferable papers -----	5 papers
Total of non-transferable papers -----	1
	<hr/>
Total of Papers---	6
	<hr/>

The value of the papers in the sub-parcel are:—

to C -----	200
to D -----	100
to F -----	100
to L -----	100
<hr/>	
Total value of transferable papers -----	500
Total value of non-transferable papers -----	100
<hr/>	
Value Total ...	600
<hr/>	

*Value at which paper is to be transferred.*—The surplus is less than the total value of the transferable papers. The surplus is therefore transferred as follows:—

All the transferable papers are transferred, but at reduced value, which is ascertained by dividing the surplus by the number of transferable papers. The reduced value of all papers, when added together, with the addition of any value lost as the result of fractions being disregarded, equals the surplus.

236 (the surplus) 47

In this case the new value of each paper transferred is 5 (the number of transferable papers).

the residue of the value of the five transferable papers, namely, 264 together with the non-transferable paper at its original value of 100 being required by A to constitute his quota. The loss of value owing to fractions being disregarded, as shown in the Result Sheet is I.

The value of the sub-parcels transferred are: —

C-94 (i.e.2 papers at the value of 47).

D-47 (i.e.1 paper at the value of 47).

F-47 (i.e.1 paper at the value of 47).

L-47 (i.e.1 paper at the value of 47).

The operations involved are summarized in the following table:—

Transfer of A's surplus;

Value of surplus -----	236
Number of transferable papers -----	5
Number of non-transferable papers-----	1



Original value of each paper A's parcel -----	100
Value of transferable papers -----	500
Value of non-transferable papers -----	100
New value of each paper transferred:—	
Surplus -----	236-47
<hr/>	
Number of transferable papers -----	5
<hr/>	

Name of candidates indicated as the next available preference .	No. of papers to be trans- ferred.	Value of sub-parcel to be transferred
C -----	2	94
D -----	1	47
F -----	1	47
L -----	1	47
		<hr/>
	Total	5      235
<hr/>		
Number of non-transferable papers	1	—
Loss of value owing to disregard of fractions	—	1
		<hr/>
	Total	6      236
<hr/>		

The result of this operation is as shown on the Result Sheet under the heading Second Count.

### Third Count

*Transfer of Surplus arising at prior count.*—C now has surplus, which it is necessary to transfer, but B's surplus, having arisen at a prior count, is first transferred.

B's surplus of 36 is transferred in a similar manner to A's but as there are no non-transferable papers, the value at which these papers are transferred is  $36/4=9$

The surplus is distributed according to next available preferences, as follows:—

D-(1x9)-9  
C-(1x9)-9  
L-(1x9)-9  
M-(1x9)-9

Loss of value owing to disregard of fraction Nil.

---

36

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#### Fourth Count

*Transfer of surplus only sub-parcel last received examined.*—C's surplus of 30 is next to be transferred. In this case only the last sub-parcel received by C is taken into account. This sub-parcel consists of two papers transferred from A at the value of 47 each.

Surplus less than total value of the transferable papers.—The details are as follows:-

Value of C's surplus .....	30
Number of papers in sub-parcel .....	2
Number of transferable papers .....	2
Value of each paper .....	47
Value of transferable papers .....	94
New value of each paper transferred .....	30
	<hr/>
	2-15
	<hr/>

A next available preference is shown for M on 1 paper and

A next available preference is shown for N on 1 paper.

The papers are transferred at the value of 15 and this value is credited to M and N respectively, as shown on the result sheet.

#### Fifth Count

*Exclusion of a candidate.*—No candidate now has a surplus, and one candidate has to be excluded. At the end of the fourth count, the lowest value credited to any candidate is 100. There are, however, six candidates to whom this value is credited. Viz, O.P.Q.R.S.T who are also credited with equal values at all counts. One of these candidates has to be excluded. Two alternatives can be followed to do so.

*Alternative 1.*—The Returning Officer draws lots and O is excluded. In this way.

*Alternative II.*—The Returning Officer accordingly arranges the papers of these six candidates according to the next available preference recorded thereon for continuing candidates (including candidates O, P, Q, R, S, T).

The result of this arrangement is as follows:-

- On O's paper the next available preference is indicated for T.
- On P's paper the next available preference is indicated for S.
- On Q's paper the next available preference is indicated for R.
- On R's paper the next available preference is indicated for Q.
- On S's paper the next available preference is indicated for P.
- On T's paper the next available preference is indicated for M.

The value are therefore:-

for	M	100
for	O	Nil
for	P	100
for	Q	100
for	R	100
for	S	100
for	T	100

Thus the smallest value of next available preference indicated for candidates O,P,Q,R,S,T, is that shown for O. i.e. nil.

*Transfer at original value.*-O is accordingly excluded, O's parcel consists of one original paper which is transferred to T at its value of 100 (there are no sub-parcels).

### **Sixth Count**

*Determination by lot.*—No candidate has a surplus, and there are now four candidates equal and lowest. As a result of similar procedure it is found that the values of the next available preference are in this case equal for each of the candidates in question; the Returning Officer, therefore, determines by lot which of the candidates P,Q,R,S is to be excluded.

The slip of paper containing the name of S is drawn first, R is thus excluded and the value of this paper (100) is transferred to P.

### **Seventh Count**

Similarly R is excluded, and the value of his original vote (100) is transferred to Q the next available preference.

### **Eighth Count**

No candidate has a surplus, N is lowest, and is excluded. N's parcel of original votes contains 1 paper on which a next available preference is indicated for M. The value of this paper is 100, its original value.

*Transfer of sub-parcel containing transferred votes.*—The sub parcel first received contains 1 paper which N received at value of 15, and on which the next available preference is indicated for M.

The papers are transferred as follows:-

To N 1 paper at the value of 100.

To M 1 paper at the value of 15.

Each of these transfers is carried out separately, but the combined result is shown on the Result Sheet under the heading Eighth Count.

### **Ninth Count**

There is still no surplus, M being credited with the lowest value has to be excluded.

His parcel contains 1 original paper, on which the next available preference is expressed for E; this paper is, therefore, transferred to E at the value of 100. The value of E's votes now exceeds the quota, and he is declared elected.

M has also three sub-parcels, as follows:-

- (a) Sub-parcel received first, containing 1 paper at the value of 9. This paper bears a next preference for E, but as E is now elected, this paper is not given to E but is transferred to the next available preference after E, which is 1.
- (b) Sub-parcel received second containing 1 paper at the value of 15. The next available preference on this paper is for P.
- (c) Sub-parcel received third, containing 1 paper at the value of 15. This paper bears a next available preference for T.

### **Tenth Count**

Thus, the transfers in this count are as follows:-

To E 1 paper at the value of 100.

To I 1 paper at the value of 9.

To P 1 paper at the value of 15.

To T 1 paper at the value of 15.

E's surplus of 36 must now be transferred. This arises from the last sub-parcel E received, which contains 1 paper at the value of 100. This paper is therefore, transferred at the value of 36; the next available preference expressed on it is for T.

### **Eleventh Count**

L is now lowest.

His parcel of original votes contains one paper, on which F is indicated as next preference.

This paper is transferred to F at the value of 100.

The sub-parcel first received contains one paper received at the value of 47, indicating no further available preferences.

This paper is not-transferable at its value of 47.

In the sub-parcel next received, the paper contained therein indicates J as the next available preference.

This paper is transferred to J at its value of 9.

### **Twelfth Count**

*Two candidates equal and lowest, Regard has to total value of original votes.*—There is still no surplus. Two candidates are lowest, and are equal, K and Q being each credited with the value of 200. Regard is, therefore, had to the total value of original votes credited to these candidates K had 200 and Q 100.

Q is, therefore, excluded.

- (a) On examination of Q's parcels, it is found that in the parcel of original votes there is one paper on which no preference is indicated for continuing candidate. (This paper indicated a next preference for R who has been already excluded).
- (b) The sub-parcel received by Q from R on exclusion at the value of 100 indicates K as next available preference.

The value of 100 is added to the value of the non-transferable papers not effective in respect of the parcel.

The value of 100 is credited to K in respect of sub-parcel.

### **Thirteenth Count**

Regard had to first count at which values were unequal. There are now three candidates lowest, viz; G.I.J, the value in each case being 209.

The values were equal at the first count, and regard is, therefore, had to the first count at which they had unequal values:-

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	First count	Third count	Ninth count	
G	.....	200	209	209
I	.....	200	200	209
J	.....	200	200	200

---

J is thus lowest and is excluded.

J's parcel of original votes is examined and found to contain 2 papers (original value of each 100).

On one paper the next available preference is indicated for G and on the other paper no preference is indicated for a continuing candidate.

The paper is accordingly transferred to G at a value of 100 and the nontransferable paper set aside at the value of 100.

The sub-parcel contains one paper received at the value of 9, which indicates I as next available preference. This paper is transferred to I at the value of 9.

### **Fourteenth Count**

G and I, having each received votes by transfer on the thirteenth count, are no longer lowest, each has more votes than P, who is lowest with 215.

P is therefore excluded.

His parcel and sub-parcels (two) are similarly examined, and it is found that the next available preference on the original votes was for I.

*Note.*- The next preference was for S, who at this count is not a continuing candidate, having been excluded.

- (a) In the sub-parcel first received, containing one paper (at the sixth count at the value of 100), a next available preference is indicated for T.
- (b) In the next sub-parcel containing one paper received at the value of 15 (ninth count), no further available preference is indicated. The paper at (a) is transferred to T at the value of 100. The paper at (b) is set aside as not effective at the value of 15.

There are now six vacancies remaining to be filled, and there are seven continuing candidates. Two of these candidates, H and K, are lowest, but are equal. Upon examination it is found that at the first count (viz the eighth) at which the value credited to them were unequal, K was lowest, K is, therefore, formally excluded. Thus the number of continuing candidates is equal to the number of vacancies remaining unfilled.

*Last vacancies.*—The remaining vacancies being filled, no further transfer is required.

**RESULT**

Number of valid votes.....	40
Total value of valid votes.....	400

Name of Candidates	1 <sup>st</sup> Count	2 <sup>nd</sup> Count	3 <sup>rd</sup> Count	4 <sup>th</sup> Count
	value of votes	Transfer of A's surplus	Result of B's surplus	Transfer Result of C's surplus
A.....	600	-236	364	364
B.....	400		400	-36
C.....	300	+94	394	394
D.....	300	+47	347	+9
E.....	300		300	356
F.....	200	+47	247	247
G.....	200		200	+9
H.....	200		200	209
I.....	200		200	200
J.....	200		200	200
K.....	200		200	200
L.....	100	+47	147	+9
M.....	100		100	+9
N.....	100		100	156
O.....	100		100	109
P.....	100		100	100
Q.....	100		100	100
R.....	100		100	100
S.....	100		100	100
T.....	100		100	100
Non-transferable Loss due to disregard of fractions.....			1	1
	4000		4000	4000



**SHEET**

Number of valid votes 40 Number of candidates to be elected-10.

Total value of valid votes 4000 Quota (sufficient to secure the election of a candidate).

$$\frac{4,000}{10-1} = 364$$

5 <sup>th</sup> Count		6 <sup>th</sup> Count		7 <sup>th</sup> Count		8 <sup>th</sup> Count	
Result	Transfer of O's votes	Result	Transfer of S's votes	Result	Transfer of R's votes	Result of N's	Transfer
364		364		364		364	
364		364		364		364	
364		364		364		364	
356		356		356		356	
300		300		300		300	
247		247		247		247	
209		209		209		209	
200		200		200		200	+100
200		200		200		200	
200		200		200		200	
200		200		200		200	
156		156		156		156	
124		124		124		124	+15
115		115		115		115	+115
100	-100	—	—	—	—	—	—
100		100	+100	200		200	
100		100		100	+100	200	
100		100		100	-100	—	
100		100	-100	—	—	—	
100	+100	200		200		200	
1		1		1		1	
4,000		4,000		4,000		4,000	

**RESULT**

Name of candidates	9 <sup>th</sup> Count		10 <sup>th</sup> Count		
	Transfer of M's vote	Result of E's surplus	Transfer	Result of L's vote	Transfer
A.....	-	-	364	364	-
B.....	-	-	364	364	-
C.....	-	-	364	364	-
D.....	-	-	356	356	-
E.....	+100	-	400-36	364	-
F.....	-	-	247	247	+100
G.....	-	-	209	209	
H.....	-	-	300	300	
I.....	+9	-	209	209	
J.....	-	-	200	200	+9
K.....	-	-	200	200	
L.....	-	-	156	156	-156
M.....	-139	-	-	-	-
N.....	-	-	-	-	-
O.....	-	-	-	-	-
P.....	+15	-	215	215	-
Q.....	-	-	200	200	-
R.....	-	-	-	-	-
S.....	-	-	-	-	-
T.....	+15	-	215	251	-
Non-transferable Loss due to disregard of fractions.....	-	-	1	-7+100	
	-	-	4,000	4,000	

**SHEET- (Contd.)**

11 <sup>th</sup> Count		12 <sup>th</sup> Count		13 <sup>th</sup> Count		14 <sup>th</sup> Count	
Result	Transfer of K's votes	Result of Q's	Transfer votes	Result of P's votes	Transfer candidates	Result	Name of elected
364	-	364	-	364	-	364	A 1 <sup>st</sup>
364	-	364	-	364	-	364	B 2 <sup>nd</sup>
364	-	364	-	364	-	364	C 3 <sup>rd</sup>
356	-	356	-	356	-	356	D 5 <sup>th</sup>
364	-	364	-	364	-	364	E 4 <sup>th</sup>
347	-	347	-	347	-	347	F 7 <sup>th</sup>
209	-	209	+100	309	-	309	G 9 <sup>th</sup>
300	-	300	-	300	-	300	H 10 <sup>th</sup>
209	-	209	+9	218	+100	318	I 8 <sup>th</sup>
209	-	209	-209	-	-	-	-
200	+100	300	-	300	-	300	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
215	-	215	-	215	-	-	-
200	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
251	-	251	-	251	+100	351	T 6 <sup>th</sup>
47	+100	147	+100	247	+15	262	
4,000		4,000		4,000		4,000	

PASSED BY THE AZAD JAMMU AND KASHMIR  
COUNCIL ON THE

16<sup>TH</sup> DAY OF JANUARY, 1976.