

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

“Muzaffarabad”
Dated: 09.02.2016

No. LD/Legis-Act/136-48/2016. The following Act of Assembly received the assent of the President on the 08th day of February 2016, is hereby published for general information.

[Act XII of 2016]

**An
ACT**

to provide a law for the establishment of the Azad Jammu and Kashmir Power Foundation

Whereas it is expedient to make provisions for the establishment of the Azad Jammu and Kashmir Power Foundation to promote the cause of welfare of officers and staff of the department of the Government relating to power generation and distribution department in Azad Jammu and Kashmir and to finance the development activities for their welfare and for the matters incidental or ancillary thereto;

It is enacted hereby as follows:-

1. **Short title, Application and Commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Power Foundation Act, 2016.
 - (2) It shall apply to all members of the Azad Jammu and Kashmir Power Foundation.
 - (3) It shall come into force at once and shall be deemed to have taken effect from 08.09.2015.
2. **Definitions.**- In this Act unless there is anything repugnant in the subject or context:-
 - (a) ‘Act’ means the Azad Jammu and Kashmir Power Foundation Act, 2015;
 - (b) ‘Beneficiaries’ means all the members of the Foundation including their dependents;
 - (c) ‘Board’ means the Board of Directors of the Foundation;
 - (d) ‘Department’ means department of the Government declared under prevalent Rules of Business for power generation and distribution;
 - (e) ‘Dependents’ means dependent spouse, dependent parents, minor sons and unmarried daughters of the Member;
 - (f) ‘Member’ means a person who regularly contributes towards the Power Foundation Fund;
 - (g) ‘Foundation’ means the AJ&K Power Foundation established under Section 3 of the Act;

- (h) 'AJ&K Power Foundation Fund' means the capital received through various sources for undertaking activities of the Foundation;
- (i) 'Government' means the Azad Government of the State of Jammu and Kashmir (GoAJK); and
- (j) 'Prescribed' means prescribed by the rules.

3. **Establishment of the Foundation.**- (1) There shall be established a Foundation to be known as the Azad Jammu and Kashmir Power Foundation.

(2) The Foundation shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose off property, both movable and immovable, and shall by the said name sue and be sued.

(3) The head office of the Foundation shall be at Muzaffarabad. The Foundation may establish sub-offices at such other places wherever it deemed necessary.

4. **Aims and Objectives.**- The aims and objects of the Foundation are:

- (a) To extend and improve medical facilities for the Beneficiaries;
- (b) to approved, whether as a loan or stipend, grants to the daughters and sons of the deserving Member for the purpose of education at approved institution;
- (c) to provide grants in case of marriages of the daughters and sons of the deserving member;
- (d) to arrange for jobs for the retired Member;
- (e) to provide grants/loans to the Member for construction of low-cost houses of various categories on terms and conditions to be decided by the Board;
- (f) to plan housing colonies/schemes and provide residential plots to the beneficiaries in these housing schemes at such terms and conditions as the Board may decide;
- (g) to provide rest house/center which the Beneficiaries may use for rest and recreation, at such terms and conditions as the Board may decide;
- (h) to provide lump sum grants at a rate to be decided by the Board in case of death, disability or injury to any of the Members during the execution of his/her job or duty;
- (i) to provide any other facility or help which the Board may decide from time to time and which comes under the board terms of 'Welfare' of the Beneficiaries.

5. **Eligibility for Membership.**- (1) All the employees of the Department shall be eligible to become Member of the Foundation on payment of the contribution/subscription fee as prescribed in Section 26 of the Act.
- (2) Membership shall cease on the death or dismissal from service or on joining some other line of career or department or failure in payment of prescribed subscription for a period of six months.
- (3) The retired employees of the Department can also become members of the Foundation, subject to the conditions laid down by the Board.
- (4) The membership or interest in the Foundation shall not be transferable.
6. **AJ&K Power Foundation Fund.**- (1) There shall be established a Fund which shall constitute the capital of the Foundation raised from the following:
- (a) grant-in-aid provided by the Government;
 - (b) monthly contribution/subscription of the Members towards the Foundation;
 - (c) Benevolent Fund (Gazetted or Non-Gazetted) of the Employees of the Department;
 - (d) Donations received from the philanthropists; and
 - (e) Profits from the projects and deposits of the Foundation.
7. **Administration of the Foundation.**- (1) The Foundation shall be administered by the Board of Director, hereinafter referred to as the Board, consisting of the following members by virtue of their offices, namely:-
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| (i) | Minister of Electricity | Chairman |
| (ii) | Chief Secretary | Vice-Chairman |
| (iii) | Secretary Electricity | Member |
| (iv) | Secretary Finance, or his nominee | Member |
| (v) | Secretary Law & Justice, or his nominee | Member |
| (vi) | Secretary Industries, or his nominee | Member |
| (vii) | Chief Engineer Electricity Department | Member |
| (viii) | Managing Director Power Development
Organization (PDO) | Member |
| (ix) | Managing Director, of the Foundation | Member/Secretary |
- (2) The Chairman may convene meeting of the Board at such time and place as he may deem proper and convenient.
- (3) The Chairman or in his absence the Vice-Chairman shall preside over the meeting.
- (4) Five members shall form a quorum of a meeting be one of the five members.

(5) The Chairman shall have the possession, management of the Board:

Provided that Chairman or Vice-Chairman shall and control of the Foundation and its undertakings, properties and assets.

8. **Powers and Duties of the Board.**- (1) The Board shall have the powers and discretion to utilize, apply and invest the corpus of the Foundation and its income in such manner as it may consider proper. Without prejudice to the generality of these powers the Board may:

- (i) Purchase, sell, endorse, transfer, negotiate or otherwise deal in securities of the Government and any other securities of any description;
- (ii) raise loans for its various enterprises and undertaking any may for this purpose pledge, hypothecate or otherwise charge the corpus and the properties of the Foundation;
- (iii) enter into contract, engagement, arrangements and execute necessary documents;
- (iv) open current or fixed overdraft, loan, cash, credit and other accounts with any bank or banks as may be necessary and to pay into and draw out money from such accounts;
- (v) subject to law make, draw, endorse, sign, accept negotiate and give all cheques, orders, bills of exchange, government securities, promissory notes and other negotiable instruments;
- (vi) the Board may constitute committees or sub-committees to transact business and may delegate any of its powers to any such committee or sub-committee or any member or officer of such committees or sub-committees;
- (vii) the Board may delegate any of its powers to any member or members or to any officer or employee in the employment of the Board or any of its undertakings and for this purpose may execute or authorized execution of any powers of attorney or other instruments;
- (viii) the Board shall have powers to create posts, appoint, remove or suspend such officers and servants for permanent, temporary or special services to work for remuneration or gratuity, as the Board may from time to time think fit and may determine their powers and duties in its discretion;
- (ix) the Board shall at all times conform to and abide by rules framed under Section 13 of the Charitable Endowments Act, 1890;

9. **Powers and Duties of the Chairman.**- (1) The Chairman of the Board shall have the following powers and functions,-

- (i) he may exercise the powers vested in him under the scheme of administration i.e. to act as Chairman of the Board;
- (ii) he may preside the meetings of the Board or Executive Committee or Board of Management, and may exercise a casting vote in the event of tie amongst other members;
- (iii) to ensure through the Managing Director that all policies and decisions of the Board are implemented;
- (iv) to counsel the members of the Board regarding the progress and important developments if any, of the Foundation and its industrial, commercial and welfare schemes;
- (v) to issue letters, directive or instructions or exercise any powers on behalf of the Board and it shall be presumed that he had issued and exercised the same after full consultation with members of the Board and the same shall not be called in question.

10. **The Executive Committee**.- The Executive Committee, hereinafter called the Committee, shall consist of the following:-

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| i. Secretary, Electricity Department | Chairman |
| ii. Chief Engineer, Electricity Department | Vice-Chairman |
| iii. Managing Director PDO/DG Power Purchase Committee | Member |
| iv. Managing Director (M.D), appointed by the Government,
(the M.D will be a serving or retired officer of the
Department of the minimum rank of grade 20) | Managing Director/
Secretary |
| v. Director CM&O, Electricity Department | Member |
| vi. Director Commercial, Electricity Department | Member |
| vii. Director Inventory Control/Inspection Electricity Department | Member |
| viii. S.E Electricity Circle Muzaffarabad | Member |
| ix. S.E Electricity Circle Rawalakot | Member |
| x. S.E Electricity Circle Kotli | Member |
| xi. S.E Electricity Circle Mirpur | Member |
| xii. Legal Officer Electricity Department | Member |
| xiii. President Non-Gazetted Technical Employees Association. | Member |
| xiv. A nominee by Accountant General, GoAJK | Member |

11. **Powers and Duties of the Committee**.- The Committee shall exercise all the powers vest by the Board for effective control, management, supervision and direction of all industrial, commercial and welfare activities of the Foundation subject to the limitations given below:

- (i) Approval of annual and revised budget estimates of the Foundation along with performance report pertaining to the industrial, commercial and welfare projects or schemes;
 - (ii) approval of audited annual accounts of the Foundation;
 - (iii) approval of investment in any new industrial, commercial or welfare project or scheme;
 - (iv) approval of de-investment in and disposal of any existing industrial, commercial and welfare project or scheme;
 - (v) appointment or removal of any member of the Committee and determination of term and conditions of appointment of any member of the committee;
 - (vi) to approve the grants, scholarship or loans at priority basis to the Dependents for education; and
 - (vii) the powers of the Committee shall include not only the powers specified above but also all other residual powers which are not expressly conferred on the Chairman of the Board or the Managing Director.
12. **Proceedings**.- All proceedings of the Foundation, Executive Committee and actions of the Managing Director shall be open and available for public inspection including members, media etc.
13. **Budget estimates and performance report**.- (1) The Committee shall scrutinize and approve the annual and revised budget estimates of the Foundation and performance report pertaining to the commercial or welfare projects or schemes before these are put up to the Board for final approval.
- (2) The Committee shall scrutinize and approve the audited annual accounts of the Foundation before these are presented before the Board for final approval.
14. **Investment**.- The Committee shall examine, sponsor, initiate and recommend proposals for investments of the funds for approval of the Board for:
- (i) Acquiring any industrial, commercial or welfare project or scheme;
 - (ii) establishing any new industrial, commercial or welfare project scheme;
 - (iii) participating by taking controlling interest or entering into any profit sharing arrangement with any industrial, commercial, or welfare project or scheme;
 - (iv) the Committee shall examine, initiate and recommend proposals for disposal of de-investment from any industrial, commercial or welfare scheme to the Board for approval;

- (v) the Committee shall invest available funds of the Foundation in promissory notes, debentures, shares of any non-speculative enterprise or fixe deposits in banks, provided however, the investment in shares shall not be with the intention of dealing in shares business but with the avowed object of acquiring/controlling interest or by way of any profit sharing arrangement or for acquiring managing agency for seeking participation in the management of the company;
- (vi) the Committee shall vary the investment from time to time and sell, assign, renew, re-invest, transfer or otherwise dispose of or deal with all or any of the said securities from time to time;
- (vii) the Committee shall direct and authorize any of its members and/or officers to jointly operate any bank account and to make, draw, endorse cheques, drafts, bills of exchange, promissory notes and other negotiable instruments.

15. **Borrowing**.- (1) The Committee shall be the sole competent authority to borrow loans, from the Government agencies or industrial or commercial banks or other agencies on such terms and conditions as may be most beneficial to the Foundation.

(2) The committee shall secure the loans in such a manner as may be execute demand promissory notes, letter of hypothecation, mortgage documents, memorandum of deposit of title deeds, irrevocable general power of attorney, letter of guarantee, letter of undertaking and any other document or documents. The Board may authorize any Member, Managing Director or any other Officers to execute all or any of these documents;

(3) The Committee may give guarantee for such purposes for such period, to such parties and on such terms and conditions as in their opinion may be most beneficial to the Foundation;

(4) The Committee shall give loans or advances in any emergency to such of the projects are owned by the Foundation wholly or partly and to such of the companies in which the Foundation may be interested as shares holder or subscriber, on such terms and conditions regarding interest, security and repayment as may be determined by the Committee.

16. **Contracts**.- The Committee may enter into all contracts of any business, commercial or other nature and may authorize any member or members and/or Managing Director or any other Officer to execute such contract, or rescind the same for any reason whatsoever.

17. **Power regarding establishment.**- (1) The Committee shall recommend the creation of all necessary posts to and determine the required establishment and may review the authorized establishment from time to time in the central organization, industrial, commercial and welfare projects and may fix the scales of pay and allowance for various categories of posts excluding the members of the Committee.
- (2) The committee may recommend to appoint the officer of welfare projects (including commercial and industrial projects) and the central organization except the members of the Committee and fix terms and conditions of service of all employees except those of the members of the Committee and may vary, modify and revise rules and terms and conditions of service from time to time.
- (3) The Committee may terminate the services or discharge, remove or dismiss all or any of the officers serving in the welfare projects (including commercial and industrial projects) and the central organization except the members of the Committee.
- (4) The Committee may approve and grant promotion and upgrading to any Officer or Officers serving in the welfare projects (including commercial and industrial projects) and the central organization except the members of the Committee.
18. **Meeting of Executive Committee.**- (1) The Committee shall hold meetings at least once a quarter. In addition informal meetings of the Committee shall be held as and when required to acquaint the members regarding progress of various welfare activities.
- (2) The Chairman shall preside at all meetings of the Committee and in the absence of Chairman, the Vice-Chairman shall preside.
- (3) Seven members shall constitute a quorum for a meeting of the Committee provided that the Managing Director shall be one of the seven members forming the quorum.
- (4) The Chairman of Committee will exercise a casting vote in case of a tie.
19. **Powers to constitute Board of Management and Delegation of powers.**- (1) The Committee may constitute separate Boards of Management or appoint an officer as the Manager for all industrial, commercial and welfare projects wholly owned by the Foundation. Unless otherwise determined the Members of the Committee shall be ex-officio Directors of the Boards of Management.
- (2) The Committee may delegate all necessary powers to control day to day administration and management of industrial, commercial and welfare projects to the respective Boards of Management/Managers. The powers so delegated shall include inter alia:

- (i) To efficiently manage and exercise overall necessary powers to control and supervision of the business affairs, transaction books, properties and effectives;
- (ii) to keep the operation of the projects under constant review and ensure renovation, balancing and modernization of machinery wherever necessary;
- (iii) to consider the progress maintenance of plant, machinery, building, spare parts and tools;
- (iv) to prepare the annual and revised estimates for the approval of the Executive Committee;
- (v) to prepare and scrutinize the audited annual accounts before these are put up to the Committee of the Foundation;
- (vi) to sanction expenditure within the financial resources of the projects and receive or pay all sum payable to or on behalf of the respective industrial, commercial or welfare projects and give valid discharge subject to the limitation of the approved budget; and
- (vii) to assign duties and powers to the General Manager or other Officers of the project to conduct day to day administration of the Project.

20. **Special Powers of the Managing Director** .-

- a) The powers vested in the Committee may, in case of an urgency or when he deem it very necessary to do so or where the Committee cannot meet due to lack of quorum, be exercised by the Managing Director:

Provided that the decision or actions taken by the Managing Directors shall be subject to rectification by the Committee in its subsequent meeting;

- (b) in case of urgency Managing Directors may provide a loan/grant to a Beneficiary maximum to the amount of Rs. 10,000/- under the aims and objectives of the Foundation with the condition that the decisions or action taken shall be subject to rectification by the Executive Committee in its subsequent meetings;
- (c) in an urgency any individual Member may act on behalf of the Committee subject to the condition the Managing Director or Committee cannot be contacted with due efforts in time but such acts shall be subject to rectification by the Committee in its subsequent meetings.

21. **Officiating Arrangement**.- (1) Whenever the Managing Director is away from his place of duty, abroad on duty or otherwise or is absent on leave due to some reason,

then the Senior Member shall act as the Managing Director in his place in addition to his duties.

(2) Whenever any Member is away from his place of duty, aboard on duty or otherwise or is absent on leave due to sickness or some reason, then the Managing Director may determine which other Member or officer shall act in place of that member and may vary such arrangement from time to time as he may deem fit.

22. **Assignment of Duties to Members and Officers.**- The Committee may lay down specific responsibilities and duties of the member and officer of the central organization from time to time.

23. **The Managing Director** .- (1) The Government shall appoint a Managing Director of the Foundation on the recommendation of the Board.

(2) The term of office of the Managing Director shall be three years, which may be extended once for a period not exceeding one year.

(3) The Government may remove the Managing Director on the ground of inefficiency, unsuitability or misconduct after giving him an opportunity of being heard.

24. **Powers and Duties of the Managing Director** .- (1) The Managing Director shall be the Chief Executive of the Foundation and shall perform such functions as may be assigned to him.

(2) The Managing Director shall have the powers to control, direct and supervise all the activities, industrial, commercial welfare or otherwise of the Foundation. He shall be responsible for the coordination and implementation of all decisions and policies made by the Board and the Committee.

(3) The Managing Director may, with the approval of the Board, deal with the Government for the purpose of making any representation and for taking all necessary action to obtain any concession, privilege, or right from the Government or any authority in respect of the Foundation.

(4) In case of urgency or when quorum is not available for the meeting the Managing Director may, under the supervision of the Chairman of the Committee, exercise the powers exercisable by the Committee:

Provided that the decision or actions taken in pursuance of this sub-section by the Managing Director shall be placed before the next meeting of the Committee for rectification.

(5) The Managing Director shall lay down performance targets for projects.

(6) The Managing Director shall take all possible steps to ensure that the funds of the Foundation are spent on the purpose for which they are provided.

- (7) All meetings of the Foundation shall be convened by the Managing Director under the direction of the Chairman of the Executive Committee.
- (8) The Managing Director shall conduct the official correspondence of the Foundation under the authority of the Chairman.
- (9) The Managing Director shall perform such other duties as may be assign to him by the Committee or the Board.
- (10) He will keep apprised the members of the Board of the progress and important developments if any, of the Foundation and its industrial, commercial and welfare schemes.
25. **Contributions.**- (1) The members of the Foundation shall contribute a subscription to the Foundation every month as may be notified from time to time.
- (2) The Board on the recommendations of committee may change subscription rates as and when deem necessary.
26. **Head Office.**- The head office of the Foundation shall be at Muzaffarabad however the Foundation may establish sub-offices at such other places as may be deemed necessary.
27. **Framing of Regulations.**- (1) The Committee shall have the power to frame, repeal or amend regulations in accordance with the provision of this Act and the Rules made thereunder. Such regulations shall be put up to the Board for deliberation and approval in the next meeting of the Board.
28. **Power to make Rules.**- The Government may make rules to carry out the purposes of this Act.

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(Ch. Muhammad Nawaz)
Section Officer (Legislation)