

# Ladakh Autonomous Hill Development Councils Act, 1997

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## Act 31 of 1997

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Ladakh Autonomous Hill Development Councils Act, 1997(Act No. 31 of 1997)[Received the assent of the Governor on 8th October, 1997 and published in the Government Gazette dated 8th October, 1997.]An Act to provide for establishment of Autonomous Hill Development Councils and in Inter-District Advisory Council in the Ladakh region of Jammu and Kashmir.Be it enacted by the Jammu and Kashmir State Legislature in the Forty-eighth year of the Republic of India as follows: -

## Chapter I Preliminary

### 1. Short title extent and commencement.

(1)This Act may be called the Ladakh Autonomous Hill Development Councils Act, 1997.(2)It extends to the whole of districts of Leh and Kargil in the State of Jammu and Kashmir.(3)It shall be deemed to have come into force with effect from 1st June, 1995.

### 2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Chairman" means Chairman of the Council;(b)"Chief Executive Councillor" means Chief Executive Councillor of the Executive Council;(c)"Constituency" means a Constituency notified under section 5 for the purpose of elections to the Council;(d)"Council" means the Ladakh Autonomous Hill Development Council constituted under sub-section (2) of section 3;(e)"Council area" means the concerned district with respect to which a Council is constituted;(f)"Council Fund" means the fund constituted under section 43;(ff)[ "Deputy Chairman" means the Deputy Chairman of the Council;] [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](g)"district" means the areas which at the commencement of this Act fall within the territorial limits of the districts of Leh or Kargil as the case

may be;(h)"elections" means a general election and includes an election to fill a seat or seats in the Council;(i)"elector" in relation to a constituency means a person whose name is entered in the electoral roll referred to in section 6;(j)"Executive Council" means the Executive Council of the Ladakh Autonomous Hill Development Council constituted under section 29;(k)"general election" means a general election held under sub-section (1) of section 8;(l)"Government" means the Government of the State of Jammu and Kashmir;(m)"Government Gazette" means the Government Gazette of the State of Jammu and Kashmir;(n)"land" means the Khalsa Sarkar land as recorded in the Record of Rights and includes the land falling within the meaning of section 39 of the Jammu and Kashmir Land Revenue Act, Samvat 1996, but shall not include -(i)the demarcated forests as defined under the Jammu and Kashmir Forest Act, Samvat 1987; and(ii)the land which have vested, escheated or may vest or escheat to the State under the provisions of -(a)the Big Landed Estates Abolition Act, Samvat 2007; or(b)the Jammu and Kashmir Agrarian Reforms Act, 1976;(o)"Member" means member of the Council;(p)"prescribed" means prescribed by rules made by the Government under this Act.

## **Chapter II**

# **Constitution of Autonomous Hill Development Councils**

### **3. Constitution of Ladakh Autonomous Hill Development Council.**

(1)There shall be an Autonomous Hill Development Council for each District from such date as the Government may be notification in the Government Gazette, appoint in this behalf:Provided that different dates may be appointed for different districts.(2)Each Council shall be a body corporate by the name respectively of "the Ladakh Autonomous Hill Development Council of (name of the district" and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property subject to the provisions of the Transfer of Property Act, Samvat 1977 and the Alienation of Land Act, Samvat 1995 and to contract and may, by the said name sue and be sued.

### **4. Composition of Council.**

(1)The total number of seats in the Council to be filled by persons chosen by direct election on the basis of adult suffrage from territorial constituencies shall be twenty-six.(2)The Government may nominate not more than four persons from amongst the principal religious minorities and women in the district to be members of the Council.(3)The sitting members of the Legislative Assembly of the State of Jammu and Kashmir and the sitting members of the House of the People representing the Assembly or the Parliamentary Constituency, as the case may be, in which the district is situated, shall be ex-officio members of the Council constituted for the district.(4)[ The sitting members of the Legislative Council of the State, being residents of the district, shall be ex-officio members of the Council constituted for the district.] [Sub-section (4) inserted by Act XIX of 2005 w. e. f 11th November, 2005]

## **5. Territorial Constituencies.**

(1)The Government shall, by notification in the Government Gazette, determine: -(a)the constituencies (which shall be single member constituencies) into which a Council area shall be divided for the purpose of election of members to the Council of that district; and(b)the extent of each constituency.(2)The Government may, from time to time, by notification in the Government Gazette, alter or amend any notification issued under sub-section (1).

## **6. Electoral Roll.**

- So much of the electoral rolls for any Assembly Constituency in force on the last date for filing of nomination for the elections to the Council as related to the areas comprised within a constituency formed under section 5 shall be deemed to be the electoral roll for that constituency for the purposes of this Act.

## **7. Right to Vote.**

(1)Every person whose name, is for the time being entered in the electoral roll of a constituency, shall be entitled to vote at the election of a member of the Council from that constituency.(2)Every person shall give one vote and no more to any one candidate at an election.

## **8. Election to Council.**

(1)A general election subsequent to the first election shall be held for the purpose of constituting a new Council before the expiration of the term of office of the members as specified in section 14 or in the case of its earlier dissolution soon after such dissolution on such day or days within a period of six month as the Government may fix.(2)For the purpose of holding a general election, the Government shall by one or more notifications published in the Government Gazette call upon all constituencies in the district to elect members in accordance with the provisions of this Act and the rules and orders made thereunder.

## **9. Date of elections.**

- The election of members of a Council shall be held in accordance with the rules made under section 60 (including the election to constitute the first Council) on the date or dates as the Government may, by notification in the Government Gazette, direct:Provided that a causal vacancy shall be filled [ordinarily within three months and for reasons to be recorded in writing not later than six month] [Substituted 'as soon as may be' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.] after the occurrence of the vacancy.

## **10. Publication of results of elections.**

- Where an election is held for the purpose of constituting a new Council there shall be notified by the Government Gazette, as soon as may be, after the result of the elections in all the constituencies, other than those in which polls could not be taken for any reason on the date originally fixed under section 8, [upon issue of notification of election results] [Substituted by Act XVII of 2002] the Council shall be deemed to be duly constituted.

## **11. Oath or affirmation by members.**

- Every member shall, before taking his seat, make and subscribe before such person as may be appointed by the Government in this behalf an oath or affirmation according to the prescribed form.

## **12. Disputes regarding elections.**

(1) No election shall be called in question except by an election petition presented in such manner as may be prescribed and before such authority as may be appointed by Government, from time to time, by notification in the Government Gazette: Provided that no person below the rank of a District Judge shall be appointed for the purpose of this section. (2) No election shall be called in question except on any one or more of the following grounds, namely: -(a) that on the date of his election the returned candidate was not qualified or was disqualified, to be chosen to fill the seat in the Council; (b) that a corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent. Explanation. - For the purposes of this section "corrupt practice" shall mean any of the corrupt practices specified in section 132 of the Jammu and Kashmir Representation of the People Act, 1957; (c) that any nomination has been improperly rejected; (d) that the result of the election in so far as it concerns the returned candidate has been materially affected-(i) by any improper acceptance of any nomination; or (ii) by any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent; or (iii) by the improper reception, refusal or rejection of any vote; or (iv) by the reception of any vote which is void; or (v) by any non-compliance with provisions of this Act or of any rules or orders made thereunder. (3) At the conclusion of the trial of an election petition the authority appointed under sub-section (1) shall make an order-(a) dismissing the election petition; or (b) declaring the election of all or any of the returned candidates to be void; or (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidates to have been duly elected. (4) If a petitioner in addition to calling in question the election of a returned candidate makes a declaration that he himself or any other candidate has been duly elected and the authority under sub-section (1) is of opinion that-(a) in fact the petitioner or such other candidate has received the majority of valid votes; or (b) but for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained the majority of the valid votes, the authority as aforesaid shall, after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

### **13. Procedure for election disputes.**

- The procedure provided in the Code of Civil Procedure, Samvat 1977 in regard to suits shall be followed by the authority appointed under section 12 as far as it can be made applicable in the trial and disposal of an election petition under this Act.

### **14. Term of office of the member.**

- Save as otherwise provided under section 19 the term of a member, elected or nominated, shall be five years unless the Council is dissolved under section 52 and shall commence from the date appointed by the Government for the first meeting of the Council after a general election: Provided that the said period of five years may, if circumstances exist which in the opinion of the Government render the holding of election not practicable be extended by the Government by a notification in the Government Gazette for a further period not exceeding one year.

### **15. Vacation of seats.**

- [(1)] [Existing section 15 renumbered as sub-section (1) thereof and thereafter sub-section (2) inserted by Act XVII of 2002] If a person who is already a member of the Council is chosen as Member of Parliament or State Legislature his seat in the Council shall, on the date on which he takes oath as such become vacant.(2)[ Any person who is elected as a member of more than one constituency, shall, by notice in writing signed by him and delivered to the Election Authority as prescribed under rules within a period of fifteen days from the date he is so chosen, intimate in which of the constituency he wishes to serve and thereupon his membership for the constituency in which he does not wish to serve shall become vacant.] [Existing section 15 renumbered as sub-section (1) thereof and thereafter sub-section (2) inserted by Act XVII of 2002](3)[ If for a period of six successive months a member of the Council is, without the permission of the Council, absent from all the meetings thereof, the Election Authority may declare his seat vacant : Provided that in computing of said period of six months no account shall be taken of such absence caused by reasons beyond his control.] [Added by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]

### **16. Qualification of members.**

- A person shall not be qualified to be member of the Council unless he is an elector.

### **17. Disqualification of members.**

- A person shall not be qualified for being chosen as a member of the Council if-(i)he is in the service of the Central or the State Government or in the service of any local authority or body corporate constituted by law;(ii)he is less than 25 years of age;(iii)he has been adjudged by a competent court to be of unsound mind, or he is an undischarged insolvent;(iv)he has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months; or an offence mentioned in section 24 of the Jammu and Kashmir Representation of the

People Act, 1957.

## **18. Casual Vacancy in the Council.**

- If the office of an elected or a nominated member becomes vacant by reason of his death, removal, resignation or otherwise, the vacancy so caused shall be filled by election or nomination, as the case may be, in accordance with the provisions of this Act.(2)The term of office of a member elected or nominated to fill a casual vacancy shall commence from the date of notification of his election or nomination, as the case may be, and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had no occurred.

## **19. Removal of members.**

- The Government may, after affording an opportunity of being heard, by order remove from office any member who-(i)is convicted by any court for an offence involving moral turpitude punishable with imprisonment for a period of more than six months; or(ii)has been adjudged as an insolvent; or(iii)has become physically or mentally incapable of acting as a member; or(iv)has acquired such financial or other interests as is likely to affect prejudicially his functions as a member.

## **20. Appeal against the order of removals.**

- Any member who is removed from his office under section 19 may within 45 days from the date of the order appeal to such authority not below the rank of a District Judge as the Government may appoint in this behalf and thereupon the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to such authority and after giving the applicant an opportunity of being heard, modify, set aside or confirm the order.

## **21. Allowances of members.**

- Every member shall be entitled to such allowances as the Council may with the approval of the Government determine.

# **Chapter III**

## **Powers and Functions of the Council**

## **22. Conduct of Business.**

(1)The Council shall meet for the conduct of business at least once in every [three months] [Substituted for 'six months' by Act XVII of 2002] and shall conduct its business in such manner and in accordance with such procedure as may be determined by regulations with the approval of the Government.(2)The Quorum necessary for the transaction of business at a meeting of the Council shall be ten members and the decisions of the Council shall be by a simple majority of votes

of the members present and in case of a tie the Chairman shall have a casting vote.(3)The ex-officio members of the Council shall have no right to vote in the meetings of the Council.

## **23. Matters under the control and administration of the Council.**

- Subject to the provisions of this Act and any other law for the time being in force in the State [\*\*\*] [Omitted 'and any general or special direction by the Government' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.], the Council shall have executive powers in the district in relation to-(i)allotment, use and occupation of land vested in the Council by the Government under this Act;(ii)formulation of development programme for the district in respect of District Component Schemes as notified by the Government and Centrally Sponsored Schemes and indicate priorities for various schemes and consider issues relating to the speedy development and economic upliftment of the district;(iii)periodical review of the progress and achievements of developmental plans and schemes;(iv)formulation and finalisation of the Budget (Plan and Non-Plan);(v)laying down guidelines for implementation of schemes at gross root level;(vi)special measures for employment generation and the alleviation of poverty;(vii)promotion of co-operative institutions;(viii)supervision and constitution of notified area committees;(ix)formulation of periodical and annual plans for the district;(x)promotion of languages and culture of the area;(xi)management of undemarcated forests;(xii)[ water supplies, irrigation and canals, drainage and embankment, water storage, flood control, protection of water bodies and use of water canals or water courses for purpose of agriculture;] [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](xiii)desert development;(xiv)[ public health and sanitation, health services, hospitals, dispensaries and family welfare;] [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](xv)[ tourism and tourism development authorities] [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](xvi)vocational training;(xvii)construction and maintenance of roads except highways;(xviii)preservation, protection and improvement of livestock and prevention of animal diseases;(xix)cattle ponds and the prevention of cattle trespass;(xx)education;(xxi)works, lands and buildings vested in or in the possession of the Council;(xxii)management of burials and burial grounds, cremation and cremation grounds;(xxiii)preservation of the environment and ecology of the area;(xxiv)local road transport and its development;(xxv)fisheries;(xxvi)small scale and [cottage industries, handicrafts and handlooms;] [Substituted 'cottage industries' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](xxvii)non-conventional energy;[(xxvii-a) science and technology ; [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](xxvii-b) promotion and development of traditional Amchi System of Medicine ;(xxvii-c) food, civil supplies and public distribution ;(xxvii-d) rural development ; and(xxvii-e) power development;](xxviii)any other matter within the executive power of the State which may be entrusted by notification in the Government Gazette to the Council by the Government.

## **24. Power to levy and collect taxes and fee.**

(1)Notwithstanding anything contained in any law for the time being in force the Council shall have the power to-(i)[ collect within the District such taxes and fees payable under any state law or rules and credit the same to the Council Fund except the taxes, toll, levy or duty to be collected under the

following Acts:- [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](a)Goods and Services Tax under the Jammu and Kashmir Goods and Services Tax Act, 2017;(b)Stamp Duty under the Stamps Act, 1977 Samvat (1920 A. D.) ;(c)Excise Duty under the Jammu and Kashmir Excise Act, Samvat 1958 ;(d)Toll under the Jammu and Kashmir Levy of Toll Act, Samvat 1995 ;(e)Passenger Tax under the Jammu and Kashmir Passengers Taxation Act, 1963 ;(f)Taxes under the Jammu and Kashmir Motor Spirit and Diesel Oil (Taxation of Sales) Act, Svt. 2005 (1948 A. D.).(g)Token Tax under the Jammu and Kashmir Motor Vehicles Taxation Act, 1957.](ii)establish toll bars on any road or any bridge vested in it and under its management and levy toll on grass, vehicles, animals and ferries.(2)The Council shall also have powers to impose any of the following taxes and fees, namely: -Taxes:(i)[ taxes on any trade, calling or profession within jurisdiction of the Council; [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](ii)a tax payable by the owner thereof on animals and vehicles kept within the district and plied for hire.](iii)tax on boards;(vi)pilgrim tax;(v)a tax on Gharats, rice husking mills, brick kilns and oil mills;(vi)tax on hawkers and pheriwalas;(vii)such other tax as may be approved by the Government.Fees:(viii)fees on person exposing goods and animals for sale in the market or Melas;(ix)fees for the use of slaughter houses and camping grounds;(x)fees for temporary occupation of village sites, roads and other similar public places or parts thereof in the district;(xi)fees on application for erection or re-erection of buildings;(xii)Adda fee;(xiii)fees for grazing of cattle in the grazing lands vested in the Council;(xiv)fee of cattle ponds;(xv)such other fees as may be approved by the Government.(3)[ the scales of taxes, tolls or rates and terms and conditions for imposition thereof shall be finalized by the Council.] [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]

## **Chapter IV**

### **Conduct of Business**

#### **25. Chairman of the Council.**

(1)[The elected members of the Council,] [Substituted 'The members of the Council' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.] shall at its first meeting after a general election elect from amongst the elected members one member to be the Chairman.(2)On the occurrence of any vacancy in the office of the Chairman by reason of death, resignation, removal or otherwise, the Council shall within one month of the occurrence of such vacancy elect one of the elected members as the Chairman.

#### **26. Term of office of Chairman.**

- The Chairman shall unless earlier removed, hold office as such until he ceases to be a member of the Council.

#### **27. Resignation and removal of Chairman.**

(1)The Chairman may at any time resign from his office by giving a notice in writing to the Council and such resignation shall take effect from such date as may be specified in the notice or if no such



date is specified, from the date of receipt by the Council.(2)The Chairman may be removed from office by a resolution carried by a majority of the total number of [elected members] [Substituted 'members' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.] at a special meeting of the Council called for the purpose upon a requisition made in writing by not less than one-third of such members of the Council.

## **28. Powers, functions and duties of the Chairman.**

- The Chairman shall-(a)preside over the meeting of the Council;(b)be responsible for the maintenance of the records of the Council;(c)exercise such other powers, perform such other functions and discharge such other duties as the Council may, by general or special resolution, direct.

## **28A. [ Deputy Chairman of the Council. [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]**

(1)The Council shall have a Deputy Chairman to be elected by its elected members from amongst themselves in its first meeting after the general election.(2)On the occurrence of vacancy in the office of Deputy Chairman for any reason whatsoever, the Council shall within one month of the date of occurrence of vacancy elect one of its members as Deputy Chairman.

## **28B. Term of office, resignation and removal of Deputy Chairman.**

- The provisions of section 26 and section 27 shall apply in relation to the Deputy Chairman with the substitution of words Chairman with Deputy Chairman , wherever they occur in these provisions.

## **28C. Powers, functions and duties of the Deputy Chairman.**

- The Deputy Chairman shall, -(a)preside over meetings of the Council in absence of the Chairman ;(b)exercise such other powers, perform such other functions and discharge such other duties as the Council may from time to time direct ; and(c)exercise such of the powers, perform such of the functions and discharge such of the duties of the Chief Executive Councillor, as the Chief Executive Councillor may from time to time subject to approval of the Council delegate to him by order in writing.]

# **Chapter V**

## **The Executive Council**

## **29. Composition of the Executive Council.**

(1) There shall be an Executive Council consisting of - (a) the Chairman who shall be the Chief Executive Councillor; (aa) [the Deputy Chairman of the Council ;and] [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.] (b) [three] [Substituted 'four' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.] members to be nominated by the Chief Executive Councillor from amongst the members of the Council: Provided that at least one member shall be nominated from amongst the principal religious minorities in the district. (2) Any casual vacancy occurring in the Executive Council shall be filled up in the same manner as provided in sub-section (1).

## **30. Term of office of Chief Executive Councillor and members of the Executive Council.**

(1) The Chief Executive Councillor shall hold office until - (a) he ceases to be the Chairman; or (b) he resigns his office in writing under his hand addressed to the Council in which case the resignation shall take effect from the date of its acceptance. (2) A member of the Executive Council shall hold office at the pleasure of the Chief Executive Councillor or until - (a) he ceases to be member of the Council; or (b) he resigns his office in writing under his hand addressed to the Chief Executive Councillor in which case the resignation shall take effect from the date of its acceptance.

## **31. Discharge of the functions of the Council.**

(1) The executive powers of the Council shall vest in the Executive Council. (2) The Executive Council shall be collectively responsible to the Council. (3) All orders or instruments made or executed by the Executive Council shall be deemed to have been made or executed by or under the authority of the Council. (4) The manner of transaction of business of the Executive Council shall be such as may be determined by the Council by regulations with the approval of the Government.

## **32. Powers of the Executive Council.**

- The Executive Council shall refer to the Council for approval the following matters namely: - (a) all proposals for making regulations under this Act; (b) plan and non-plan budget; (c) five year plan.

## **33. Powers of the Chief Executive Councillor.**

(1) The Chief Executive Councillor shall exercise - (a) general superintendence and control over all employees of the Council; (b) such other powers, perform such other functions and discharge such other duties as the Council may, by general or special resolution, direct. (2) The Chief Executive Councillor may for convenient transaction of business of the Executive Council allocate among its members such business and in such manner as he thinks fit.

### **34. Meeting of the Executive Council.**

- The Chief Executive Councillor shall preside over the meeting of the Executive Council. The Executive Council shall meet not less than once in every month for the transaction of business at such place and at such time as the Chief Executive Councillor may direct:[Provided that in absence of the Chief Executive Councillor, the Deputy Chairman shall preside over meetings of the Executive Council.] [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]

### **34A. [ Committees. [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]**

- The Council may, from time to time, appoint from amongst its members such number of committees for the efficient discharge of its duties/functions as may be necessary and may also appoint any professional, technocrat or academician of high repute to assist any such Committee on such terms and conditions as may be fixed by it subject to the regulations made in this behalf.]

### **35. Salary and allowances of the [[Chief Executive Councillor, the Deputy Chairman] [Substituted for 'Chief Executive Councillor' by Act XVII of 2002] and members of the Council].**

- The [[Chief Executive Councillor, the Deputy Chairman] [Substituted for 'Chief Executive Councillor' by Act XVII of 2002] and members of the Council] shall be the whole time functionary and shall be paid out of the Council Fund such salary and allowances and shall be entitled to such leave of absence for such period or periods on such terms and conditions as may be prescribed.

### **36. Quorum for meeting of the Executive Council.**

- The quorum necessary for the transaction of business at a meeting of the Executive Council shall be three members.

### **37. Special powers of the Chief Executive Councillor.**

- If the Chief Executive Councillor is of the opinion that immediate action or execution of any work is required in the interest of maintaining essential service or the prevention of extensive damage to any service or property of the Council, he may take such action or execute such work without the approval of the Executive Council and direct that expenses for such action or execution shall be paid from the Council Fund:Provided that the Chief Executive Councillor shall report forthwith to the Council or to the Executive Council, as the case may be, of the action taken or works executed and reasons therefor.

## **Chapter VI**

### **Officers and Servants of the Council**

#### **38. Chief Executive Officer.**

(1)Deputy Commissioner of the district shall be the Chief Executive Officer of the Council.(2)The Chief Executive Officer shall have the right to be present at the meeting of the Council, the Executive Council and take part in the proceedings of such meetings but shall not have the right to vote.(3)All Employees of the Council shall be subordinate to the Chief Executive Officer.

#### **39. Secretary to the Council.**

(1)The Council may with the approval of the Government appoint a Secretary for the Council.(2)The salary, allowances and other conditions of service of the Secretary shall be such as the Council may by regulation, determine.

#### **40. [ Government employees to be employees of the Council. [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]**

(1)All Government employees in the District except the judicial employees and police personnel shall be deemed to be the transferred employees on such terms and conditions, to be notified by the Government from time to time :Provided that the terms and conditions of service of an employee of the Government transferred to the Council shall not be varied to his disadvantage.(2)The Chief Executive Officer may with the prior approval of the Executive Council take action against any employee transferred to it under sub-section (1), under rules governing their service conditions, including instituting a departmental inquiry and taking disciplinary action in accordance with such rules.(3)The Chief Executive Officer may with prior approval of the Executive Council transfer any employee transferred to Council under sub-section (1) within the District.(4)The Chief Executive Officer shall be the reporting authority for all District Level Officers/Officials transferred under sub-section (1).]

#### **41. Power of the Council to make recruitment to certain posts.**

(1)Notwithstanding anything contained in any other law for the time being in force, the Council may by regulation regulate-(a)the recruitment and promotion in respect of persons appointed to the district cadre post in that district;(b)the recruitment to the posts borne on the Divisional or State Cadre.(2)For purpose of sub-section (1) the Council shall establish a Recruitment Board and Departmental Promotion Committee in such a manner as may be prescribed.

## **Chapter VII**

### **Transfer of Land to the Council**

#### **42. Transfer of land to the Council.**

(1)Save as otherwise provided in this Act, all land within the district, on the constitution of the first Council, shall stand transferred to such Council.(2)The Government may delegate or confer all or any of the powers, which it is empowered to delegate or confer under the law in force in the State, to the Council or any officer of the Council, [for the efficient use and management of the land for public purpose.] [Substituted 'for the efficient use and management of the land' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](3)Nothing in this section shall preclude the powers of the Government from acquiring or requisitioning under any law for the time being in force, any land which has been transferred to or acquired by the Council, if such land is required for a public purpose or in the interest of the defence of the country.(4)[ Subject to such restriction or conditions as the Government may think fit and proper, all properties of the nature specified below and situated in the District shall vest in and belong to the Council with all other properties which may become vested in the Council and shall be under the direction, management and control of the Council and shall be held and applied for the purpose of this Act-(a)all public buildings constructed and maintained out of the fund of the Council ;(b)all public roads which have been constructed or maintained out of the fund of the Council and stones and other materials thereof and also trees, erections, materials, implements and things for such roads.]

## **Chapter VIII**

### **Fund and Audit**

#### **43. Constitution of the Council Fund.**

(1)There shall be a fund to be called "the Council Fund" to be held by the Council in trust for the purposes of this Act and-(a)all revenues raised under the provisions of this Act;(aa)[ all taxes and fees that are assigned to be collected by the Council under section 24.] [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.](b)the loans realised by the Council with the approval of the Government;(c)the allocations made from the Plan and Non-Plan Budget; and(d)loans, advances and grants made by the Central or State Government;shall be credited into the Council Fund.(2)The Council Fund shall be operated through the Government treasuries.(3)No payment shall be made out of the Council Fund unless such expenditure is covered by the current Budget grant.(4)The moneys credited to the fund shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act.(5)[The Council, with the approval of the Government may make rules] [Substituted 'The Government may make the rules' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]for management of the Council Fund and for the procedure to be followed in respect of payment of moneys into the said fund, withdrawals of moneys therefrom, the custody of moneys therein and any other matter incidental thereto or connected with or ancillary to the matters aforesaid.(6)The accounts of the Council shall be kept in such form as

may be prescribed.

#### **44. [ Allocation of funds by the Government. [Substituted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]**

(1)The Government shall allocate the Council all funds of the District under : (a) any budget head of the State, revenue or CAPEX ; and (b) Centrally Sponsored Schemes and other Central Government Schemes, which do not involved direct and designated flow of funds to executing agencies/beneficiaries, shall be transferred directly by the State Government to the Council Fund. (2)The allocation sanctioned in the Budget of the Council which remains unspent at the close of the financial year shall be carried forward as an additional resource available for the Budget of the following year. (3)The funds shall be released by the Government as per normal budgeting procedure.] [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]

#### **45. Review and inspection.**

(1)The Government shall periodically review the utilization of the Plan and Non-Plan Funds allocation to the Council and the physical targets achieved. (2)The Government may by order empower any officer not below the rank of an [Additional Secretary] [Substituted for 'Deputy Secretary' by Act XVII of 2002] to the Government to inspect and examine the Council Office or any service or work under the control of the Council and report thereon and any officer so empowered may, for the purpose of such inspection or examination require the Council or Chief Executive Councillor- (a) to produce or supply any record, correspondence, plan estimate, accounts or statistics; and (b) to furnish or obtain any report. (3)The Government may, on receipt of report or information under sub-section (2), make such orders and issue such directions to the Council as it considers necessary or expedient to carry out the purposes of this Act.

#### **46. Audit of accounts.**

- Subject to the provisions of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1972 and the rules and the orders made thereunder, the audit of the accounts of the Council shall be entrusted by the Government to the Comptroller and Auditor General of India who may submit to the Government such report thereon, as he may deem fit. The Government shall transmit the report to the Council for discussion and consideration. The Council shall return the report to the Government with comments, if any. The Government shall lay such reports with the comments of the Council before the State Legislature.

#### **47. Budget.**

(1)The Council shall at such time and in such manner as may be prescribed, prepare in each financial year a draft budget of its estimated receipt and disbursement for the year and submit to the Government by the 1st October of the current financial year. The budget shall provide for sufficient grant in the form of imprest for meeting unforeseen expenditure such as refunds, satisfying court

decrees or orders and such other cases as may be prescribed.(2)The Government may return the budget as approved with modification or without modification to the Council. If the approval of the Government is not received by the Council before such period as may be prescribed, the Budget shall be deemed to have been approved by the Government.(3)No expenditure shall be incurred nor any financial liability created unless the Budget is approved by the Government.

#### **48. Formulation of District Plan.**

(1)The Council shall formulate the District Plan in accordance with the guidelines as may be laid down by the Planning Commission and the Government and communicated by the Government to the Council.(2)The Centrally Sponsored Schemes under execution in the district or to be executed in future shall from part of the Plan Budget of the Council.

#### **49. Council to be the District Planning and Development Board.**

- Notwithstanding anything contained in the Jammu and Kashmir Panchayati Raj Act, 1989, the Council shall be deemed to be the District Planning and Development Board for the District for performing the functions and exercising the powers under that Act.

### **Chapter IX**

#### **Inter-District Advisory Council**

#### **50. Constitution of inter-District Advisory Council.**

- The Government may in consultation with the Councils of Leh and Kargil by notification in the Government Gazette constitute an Advisory Council to be called the inter-District Advisory Council consisting of such number of persons as it may think fit for advising the Council -(a)on matters of common interest to both the districts;(b)on the measures to be adopted for resolving differences between the Councils; and(c)on the measures to be taken for preservation of communal harmony in the Ladakh region.

### **Chapter X**

#### **Miscellaneous**

#### **51. Power to issue directions.**

- In the discharge of its functions, the Council shall be guided by such instructions or directions as may be given to it by the Government from time to time for proper implementation of the objects of this Act.

### **51A. [ Panchayats to follow directions of the Council. [Inserted by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.]**

- All panchayats in the district at all levels shall follow directions issued by the Council from time to time under the provisions of this Act.

### **51B. Chairman of Tourism Development Authorities.**

- Notwithstanding anything to the contrary contained in any law for the time being in force, the Chief Executive Councillor shall be the Chairman of all Tourism Development Authorities within the district.]

## **52. Dissolution of the Council.**

(1) If, in the opinion of the Governor, the Council-(i) has shown incompetence to perform, or has made default in the performance of the duties imposed on it by or under this Act or any other law for the time being in force; or (ii) has exceeded or abused its powers, the Governor may by order to be published in the Government Gazette, stating the reasons therefor, dissolve the Council and direct that it be reconstituted within such period not exceeding six months as may be specified in the order. (2) The Governor shall, before making any order under sub-section (1), give to the Council a notice, containing the charges and opportunity of making representation within the period prescribed in the notice to the Governor in respect of the same.

## **53. Effect of dissolution.**

- When an order of dissolution has been passed under section 52, with effect from the date of the order-(a) all the members of the Council shall vacate their offices; (b) all the powers, duties and functions of the Council and Executive Council shall be exercised, discharged and performed by such authority or authorities or such person or persons as may be appointed by the Governor in this behalf; and (c) all property vested in the Council shall until it is reconstituted vest in the Government.

## **54. Members of the Council to be public servants.**

- The [Chief Executive Councillor, the Deputy Chairman] [Substituted 'Chief Executive Councillor' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.], and other members of the Council and the officers and other employees of the Council shall be deemed to be public servants within meaning of section 21 of the Ranbir Penal Code.

## **55. Interpretation.**

- If any question arises as to the interpretation of any of the provisions of this Act or the rules made thereunder, the same shall be referred to the Government whose decision thereon shall be final.



## **56. Validation.**

- No act or proceeding of the Council or the Executive Council shall be deemed to be invalid merely by reason of existence of any vacancy in the Council or the Executive Council, as the case may be, or because of any defect or irregularity in the constitution thereof or any irregularity in the procedure adopted.

## **57. Protection of action taken in good faith.**

- No suit or other legal proceeding shall lie against the Council, the Chief Executive Councillor, the [Chief Executive Councillor, the Deputy Chairman] [Substituted 'Chief Executive Councillor' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.], members of the Executive Council, any member, officer or any employee thereof for anything in good faith done or intended to be done in pursuance of this Act or rules or regulations made thereunder.

## **58. Saving.**

- Nothing in this Act shall affect the application of any law, whether made before or after this Act, to the district, unless such law specifically provided for exclusion of the district from such application. Explanation. - For the purposes of this section "Law" shall include any enactment, ordinance, regulation, order, rule, scheme, notification or other instrument having the force of law.

## **59. Power to make rules for conduct of election.**

- The Government may make rules to regulate all or any of the following matters for the purpose of holding of elections of members under this Act, namely: -(a)the manner of the splitting up of electorals for Assembly Constituencies into parts for the purpose of constituting one or more such parts into electoral rolls for a constituency and the officer or authority by whom such splitting up is to be carried out;(b)the drawing up of the programme of election;(c)the appointment of returning officers, presiding or polling officers for election;(d)the nomination of candidates and the scrutiny of such nomination;(e)the deposits to be made by candidates and the time and the manner of making such deposits;(f)the withdrawal of candidatures;(g)the appointment of agents of candidates;(h)the time and manner of holding of election;(i)the general procedures at the elections including the time, place and hours of poll and the method by which votes shall be cast;(j)the fee to be paid on an election petition;(k)any other matter relating to elections or election disputes in respect of which the Government deems it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient provision and the provision is, in the opinion of the Government, necessary.

## **60. Power to make rules.**

(1)Without prejudice to the powers to make rules under any other provisions of this Act, the Government may, by notification in the Government Gazette, make rules for the purpose of carrying

out the provisions of this Act.(2)In particular and without prejudice to the generality of foregoing powers, such rules may provide for -(i)the form in which an oath or affirmation has to be subscribed by a member under section 11;(ii)the form in which an election petition shall be presented under sub-section (1) of section 12;(iii)the taxes which the Council shall collect under clause (i) of sub-section (1) of section 24;(iv)the salaries, allowances and terms and conditions of the [Chief Executive Councillor, the Deputy Chairman] [Substituted 'Chief Executive Councillor' by Jammu and Kashmir Act No. 19 of 2018, dated 6.10.2018.] under section 35;(v)the manner in which Recruitment Board and Departmental Promotion Committee may be constituted under sub-section (2) of section 41;(vi)the management of the Council Fund and the procedure to be followed in respect of payment into and withdrawal from the Council Fund under sub-section (5) of section 43;(vii)the form in which accounts of the Council shall be kept under sub-section (6) of section 43;(viii)the time and the manner in which a draft budget shall be prepared and the grant of imprest for such other cases under sub-section (1) of section 47;(ix)the period before which the approval of the Government has to be given for purposes of sub-section (2) of section 47;(x)the period within which representation should be made under sub-section (2) of section 52;(xi)any other matter for which rules have to be made under this Act.

## **61. Power to make regulations.**

(1)The Council shall have power, subject to the provisions of this Act and the rules made thereunder to make, with the previous approval of the Government, regulations and bye-laws to be applicable within the district with respect to all or any of the matters required to be provided by regulations or bye-laws under any of the provisions of this Act.(2)All regulations and bye-laws made under sub-section (1) shall have effect upon their publication in the Government Gazette.

## **62. Repeal and saving.**

(1)The Ladakh Autonomous Hill Development Councils Act, 1995 (President's Act No. 1 of 1995) is hereby repealed.(2)Notwithstanding such repeal, anything done, any action taken or any scheme framed under the said Act shall be deemed to have been done, taken or framed under this Act.