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AZAD GOVERNMENT OF THE STATE OF JAMMU & KASHMIR

Law, Justice, Parliamentary Affairs and Human Rights Department

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"Muzaffarabad"

Dated: 07-04-2014.

No. LD/Legis-Act/301-313/2014. The following Act of Assembly received the assent of the President on the 1<sup>st</sup> day of April, 2014, is hereby published for general information.

**[Act XVII of 2014]**

**An**

**Act**

to provide a law for taking over the possession, management, control and to establish the Muzaffarabad Physical Rehabilitation center in Azad Jammu and Kashmir

**Whereas** the possession, management and control of Muzaffarabad Physical Rehabilitation Center is required to be transferred to the Government for its durable management, functioning and establishment under AJ&K laws;

It is hereby enacted as follows:-

**1. Short title and Commencement.** - (1) This Act may be called the Muzaffarabad physical and Rehabilitation Center Act, 2014.

(2) It shall come into force at once and shall be deemed to have taken effect from 23.09.2013.

**2. Definitions.**- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby assigned to them, that is to say,-

- (a) "Board" means the Board constituted under Section 6;
- (b) "Centre" means the Muzaffarabad Physical Rehabilitation Center;
- (c) "Chairman" means the Chairman of the Board of Directors;
- (d) "Director" means the Director of the Centre;
- (e) "Department" means the Health Department of the Government;
- (f) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (g) "Member" means a member of the Board of Directors and includes the Chairman;
- (h) "Prescribed" means prescribed by rules;
- (i) "Regulations" mean regulations made under this Act;
- (j) "Rules" mean rules made under this Act;
- (k) "Scheduled Bank" means a bank included in list of banks maintained under the Bank of Azad Jammu and Kashmir Act 2005 (Act VI of 2005)

**3. Establishment.**- (1) There shall be established a Center for treatment and rehabilitation of orthotic and prosthetic patients to be called as Muzaffarabad Physical Rehabilitation Center. The Centre shall be a corporate/autonomous body having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall sue and be sued by its own name.

(2) As from the commencement of this Act, the Muzaffarabad Physical Rehabilitation Center already established by International Committee of Red Cross shall stand transferred with all assets and liabilities to the Center established under this Act.

**4. Functions of the Centre.**- The functions of Centre shall be to,-

- (a) provide treatment and rehabilitation services/appliances to patients needing orthotic and prosthetic devices, on the basis of internationally accepted standards and, subject to any law for the time being in force, coordinate with the non-governmental organizations, institutes and organizations of national and international repute in the relevant field;
- (b) manage the affairs of the Centre with excellence; and
- (c) develop and regulate the establishment of similar Centers both in public and private sectors providing the required facilities to the patients needing orthotic and prosthetic devices with a view to maintain high standards of services provided to them.

**5. Management.**- (1) The general control and administration of the Centre and its affairs shall be vested in the Board, which shall exercise all powers and do all acts and things that may be exercised or done by the Centre in accordance with the provisions of this Act.

(2) The Board, in discharging its functions, shall be guided by such directions as the Government may, from time to time, providing Physical Rehabilitation Services without discrimination.

(3) If the Board fails to obey any direction as aforesaid, Government may remove all the members including the Chairman and the Director, and notwithstanding anything to the contrary contained in section 6, make temporary arrangements to run the Centre as it deems fit, until fresh members are appointed in accordance with the provisions of this Act.

**6. Constitution of the Board.**- (1) For proper administration and control of the Centre and all its affairs, the Government shall constitute a Board consisting of,-

|       |   |                         |
|-------|---|-------------------------|
| (i)   | The Health Minister   | Patron in Chief         |
| (ii)  | The Secretary Health,<br>Azad Govt. of the state of J&K                                     | Chairman                |
| (iii) | An eminent person of scientific and medical repute in the field of rehabilitation Sciences. | Member Technical        |
| (iv)  | A representative of a major donor / ICRC  | Member                  |
| (v)   | A representative Department of Finance  | Member                  |
| (vi)  | Two co-opted members (donors from public / private sector / and or eminent personality)     | Member                  |
| (vii) | The Director, as appointed by the Government in accordance with Section 12.                 | Member/Secretary Board. |

co-opted members shall be appointed by the Government on recommendation by the Board.

Explanation: "eminent personality" means a person who, through his influential standing in the community, can mobilize resources for the benefit of the Centre.

(2) Non- official members shall hold office for a term of two years and shall be eligible for re-appointment.

(3) The members shall hold office until the Government appoints their successors in accordance with the provisions of this Act.

(4) The members, other than ex-officio members, shall:

- (a) Receive such salary and allowances as Government may determine;
- (b) Perform such duties and functions as are assigned to them by or under the provisions of this Act or rules made thereunder.

(5) Members of Board may be a foreign national.

**7. Disqualification.**- No person shall be or shall continue to be the Chairman or a Member who,-

- (a) Is or at any time has been convicted of an offence involving moral turpitude; or

- (b) Is or at any time has been adjudicated insolvent; or
- (c) Is found to be or becomes of unsound mind.

**8. Removal of the Chairman and Members.**- The Government may, by order in writing, remove the Chairman or a Member of the Board if he,-

- (a) Refuses or fails to discharge or becomes, in the opinion of the Government, incapable of discharging his responsibilities under this Act; or
- (b) Has, in the opinion of Government, abused his position as Chairman or member as the case may be; or
- (c) has knowingly acquired or continue to hold, without the permission in writing of Government, directly or indirectly, or through a partner, any share or interest in any contract or employment with, by or on behalf of the Centre, or in any property, which in his knowledge, is likely to benefit or has benefited him as a result of the operations of the Centre; or
- (d) is absent from three consecutive meetings of the Board without the leave of Government in the case of Chairman, or of the Chairman, in the case of a Member.

**9. Resignation by Chairman or Member.**- Notwithstanding anything contained in this Act, the Chairman or a Member may, at any time before the expiry of his term, upon three months notice, resign from his office.

**10. Meetings of the Board.**- (1) The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations:

- (a) Provided that at least one meeting shall be held after every two months;
  - (b) Provided further that until regulations are made in this regard, such meetings shall be held at such time and place as may be determined by the Chairman.
- (2) The quorum necessary for transacting business at a meeting of the Board shall be half of the total number of members of the Board in addition to the Chairman.
- (3) All decisions in the meeting shall be taken by a majority of votes. Each Member, including the Chairman, shall have one vote, but in the event of equality of votes, the Chairman shall have a second or casting vote.
- (4) The meetings of the Board shall be presided over by the Chairman, or in his absence, by Deputy Chairman or any other Member duly elected for this purpose by Members present in the meeting.
- (5) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Board.

**11. Functions of the Board.**- (1) Subject to section 5, the Board shall,-

- (a) approve all plans, policies and programs of the Centre;
  - (b) examine and approve training and research programs of the Centre;
  - (c) examine and approve the annual evaluation report of the Centre for submission to the Government;
  - (d) approve the annual development and non-development budget of the Centre; and
  - (e) Perform such other functions as may be assigned to it by the Government.
- (2) The Board may constitute Committees to carry out the purposes of this Act, as it deems necessary.

**12. Director.**- (1) The Government, on the recommendation of the Board, shall appoint a person, having sufficient experience of Management in health services and physical rehabilitation, to be the Director of the Board, on such terms and conditions as it may determine.

- (2) In the performance of his functions, the Director shall work within the framework of the general policy and guidelines laid down by the Board.

(3) The Director shall report to the Chairman on all important matters including financial or administrative matters and the Chairman shall take action accordingly.

**13. Appointment of officers, advisors, etc.**- (1) The Board may, appoint such officers, advisors and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it determines.

(2) The Board may employ such officers, experts, advisors, consultants and other persons as may be recommended, on such terms and conditions as may be determined by the Board. Such terms and conditions shall not be less favorable than those available to the concerned persons in their employment with the Government.

(3) The Chairman, in case of urgency, may appoint such officers, advisors, consultants and other employees as may be necessary:

Provided that every appointment made under this sub-section shall be reported to the Board without unnecessary delay and shall not continue beyond six months, unless approved by the Board.

**14. Center Fund.**- (1) There shall be a fund to be known as the "Centre Fund", which shall be utilized by the Board to meet expenditure that arise in connection with its affairs under this Act, including salaries and other remunerations of the Members and employees of the Board.

(2) The Centre Fund shall consist of,-

(a) Grant-in-aid made by the Government;

(b) Donations received from any source, including charitable institutions, philanthropists and international donor organizations;

(c) Income generated through investment of the Centre Fund; and

(d) Any other sum received by the Centre.

**15. Custody and investment of the Centre Fund.**- (1) The Board may keep the Centre Fund in any Scheduled Bank approved by it.

(2) Nothing in sub-section (1) shall be deemed to preclude the Board from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trust Act, 1882 (Act No. II of 1882), or placing them in fixed deposit with a Bank approved by the Board or in such other manner as may be approved by it.

**16. Maintenance of accounts.**- The Board shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including the profit and loss account and balance sheet, in such a manner as may be prescribed by regulations.

**17. Audit.**- (1) Audit of accounts of the Center shall be caused in following manners:-

(i) The Auditor General of Azad Jammu and Kashmir shall cause audit of the accounts of the Center in respect of funds provided by the Government; and

(ii) All donor provided funds of the Center shall be audited by an auditor who is a Chartered Accountant within the meaning of the Chartered Accountant Ordinance, 1961 (X of 1961), of Pakistan at such time and in such manner as may be prescribed.

**18. Delegation of powers.**- The Board may by general or special order delegate to the Chairman, Member, Director or any other employee of the Board any of its powers, duties or functions under this Act or the rules, subject to such conditions as may be deemed expedient.

**19. Annual Report.**- The Board shall, as soon as possible at the end of every financial year, submit an Annual report to Government on the conduct of its affairs for that year and on its proposals for the next financial year.

**20. Public servant.**- The Chairman, Members, officers, advisors or other employees of the Board shall, while acting or purporting to act in pursuance of the provisions of this Act, or the rules or

regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Azad Penal Code 1860, (Act XLV of 1860).

**21. Power to make rules.**- The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**22. Power to make regulations.**- The Board may make regulations consistent with the rules carrying out the purposes of this Act.

**23. Removal of difficulties.**- If any difficulty arises in giving effect to any provisions of this Act, the Government may give directions that are not inconsistent with the provisions of this Act, as it may consider necessary for the removal of the difficulty.

**24. Savings.**- Notwithstanding any judgment of Supreme Court or High Court, all actions taken, decisions made, orders passed, notifications issued, proceedings initiated, powers exercised, powers conferred etc. which have been visualized by this Act, shall be deemed to have been validly taken, made, passed, issued, initiated, exercised and conferred under this Act.

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**(Sardar Rashid Kaleem)**  
**Deputy Secretary Law**