

The Jammu and Kashmir Collection of Statistics Act, 2010

JAMMU & KASHMIR

India

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Act 18 of 2010

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The Jammu and Kashmir Collection of Statistics Act, 2010 Act No. 18 of 2010 [Received the assent of Governor on 23rd October, 2010 and published in the Government Gazette dated 25th October, 2010.] An Act to facilitate the collection of statistics on economic, demographic, social, educational, scientific and environmental aspects and for matters connected therewith or incidental thereto. Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-first Year of the Republic of India as follows : -

Chapter 1 Preliminary

1. Short title and commencement.

(1) This Act may be called the Jammu and Kashmir Collection of Statistics Act, 2010. (2) It extends to the whole of the State of Jammu and Kashmir. (3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Act" means the Jammu and Kashmir Collection of Statistics Act, 2010 ; (b) "agency" includes a person or persons engaged by the appropriate Government, directly or by outsourcing, for collection of statistics ; (c) "appropriate Government" means -(i) any Department of the Government ; or (ii) any Municipal Corporation, Municipal Council, Municipal Committee or Halqa Panchayat. In relation to the collection of statistics under a direction issued by it under section 3 ; (d) "Government" means the Government of Jammu and Kashmir ; (e) "informant" means any person, who supplies or is required to supply statistical information and includes an owner or occupier or person in charge or his authorized

representative in respect of persons or a firm registered under the Jammu and Kashmir State Partnership Act, Samvat 1996 or a Cooperative Societies Act, 1989 or the Jammu and Kashmir Self-Reliant Co-operatives Act, 1999 or a company registered under the Companies Act, 1956 or a societies registered under the Jammu and Kashmir Societies Registration Act, Samvat 1998 or any association recognized or registered under any law for the time being in force ;(f)"information schedule" means any book, document, form, card, tape, disc or any storage media or any other electronic gadget on which information required is entered or recorded or is required to be entered or recorded for statistical purposes under this Act ;(g)"prescribed" means prescribed by rules made under the Act ;(h)"sampling" means a statistical procedure by which information relating to a particular field of inquiry is derived by applying statistical techniques to information obtained in respect of a proportion of the total number of persons or units concerned relevant to the field of inquiry ;(i)"statistical survey" means a census or a survey, whereby information is collected from all the informants in the field of inquiry or from a sample thereof, by the Government under this Act, or any other relevant Act, wholly or primarily for the purposes of processing and summarizing by appropriate statistical procedures ;(j)"statistics" means statistics derived by collecting, classifying and using statistics, specially in or for large quantities or numbers by the Government from statistical surveys, administrative and registration records and other forms and papers, the statistical analysis of which are, whether in a published or unpublished form ; and(k)"statistics officer" means any officer appointed under section 4 for the purposes of any direction issued under section 3 of this Act.

Chapter II

Collection of Statistics

3. Collection of statistics.

- The Government may, by notification in the Government Gazette, direct that the statistics on economic, demographic, social, educational, scientific and environmental aspects shall be collected through a statistical survey or otherwise and thereupon the provisions of this Act shall apply in relation to those statistics :Provided that nothing contained in this section shall be deemed to authorize the Government to issue any direction under this Act with respect to the collection of statistics relating to any matter following under any of the entries specified in List I (Union List) in the Seventh Schedule to the Constitution of India, as applicable to the State.

4. Power of Government to appoint Statistics Officer, etc.

(1)The Government may appoint or cause to be appointed an officer to be the statistics officer for any geographical unit for the purpose of collecting any statistics directed by it.(2)The Government may appoint any agency or persons working in such agencies to take, or aid in, or supervise the collection of the statistics within any specified geographical unit and such agencies or persons, when so appointed, shall be bound to serve accordingly.(3)The Government may employ on contract basis any agency or company or organization or association or person, on such terms and conditions and on such safeguards as may be prescribed, for the purpose of collecting the statistics directed by

it.(4)The Government may delegate to any statistics officer, as it think fit, the power of appointing agencies or persons working in such agencies or employing on contract basis any agency or company or organization or association of persons conferred on it by subsections (2) and (3) within the geographical unit for which such statistics officer is appointed.(5)The Government may, by order, specify the form, the particulars required or the interval within which, and the statistics officer to whom, the statistical information by the informants shall be furnished.(6)The Government may, by order published in the Government Gazette, delegate to any statistics officer, as it thinks fit, any power conferred under sub-section (5) for the purpose of the collection of statistics under a direction issued by it under section 3.

5. Power of statistics officer to call for information.

- The statistics officer may, for the purpose of collection of statistics on any specified subject in any geographical unit for which the said officer was appointed -(a)serve or cause to be served on any informant a notice in writing asking him to furnish the information specified under sub-section (5) of section 4 or cause a information schedule to be given to any informant for the purpose of its being filled up ; or(b)cause all questions relating to the subject to be asked from any informant ; or(c)seek information through tele fax or telephone or e-mail or in any other electronic mode or in a combination of different modes for different sets of information so specified.

6. Duty of informants.

- The informants who are asked to furnish any information under the provisions of this Act shall be bound to furnish the information so asked in the prescribed manner to the best of knowledge or belief; and in cases where only a portion of a particular class or group of persons or units is asked to furnish information because of any sampling procedure, it shall not be a defence in failure on the part of any informant to furnish that information, if so asked.

7. All agencies to assist.

- Every agency shall render such help and assistance and furnish such information to the statistics officer or a person or an agency authorized by him in writing, as he may require for the discharge of his functions, and shall make available for inspections and examination of such records, plans and other documents, as may be necessary.

8. Right of access to records or documents.

- The statistics officer or any person authorized by him in writing in this behalf shall, for the purposes of collection of any statistics under this Act, have access to any relevant record or document in the possession of any informant required to furnish any information under this Act, and may enter at any reasonable time any premises where he believes such record or document is kept and may inspect or take copies of relevant records or document or ask any question necessary for obtaining any information required to be furnished under this Act.

Chapter III

Disclosure of information in certain cases and restrictions of their use

9. Security of information.

(1)Any information furnished to the statistics officer or to any person or agency under this Act shall only be used for statistical purposes.(2)No person other than a person engaged in the work of collection of statistics under this Act or preparation of statistics resultant to such collection shall be permitted to see any information schedule or any answer to a question asked, except for the purposes of a prosecution under this Act.(3)No information contained in any information schedule and no answer to any question asked shall, except for the purposes of a prosecution under this Act, be separately published, or disclosed without suppressing the identification of informants to any agency.(4)All statistical information published by any agency shall be arranged in such a manner so as to prevent any particulars becoming identifiable by any person (other than the informant by whom those particulars were supplied) as the particulars relating to the informant who supplied it, even through the process of elimination, unless -(a)that informant has consented to their publication in that manner ; or(b)their publication in that manner could not reasonably have been foreseen by the concerned agency or any employee thereof.(5)For the purposes of sub-section (4), the Government may make such rules or make such arrangement, as it may consider necessary.

10. Appropriate Government authorized to disclose certain information.

- Notwithstanding the provisions contained in section of this Act, the Government may disclose the following information, namely : -(a)information supplied by informant in respect of which disclosure is consented to in writing by the informant or by any person authorized by the said informant ;(b)information otherwise available to the public under any Act or as a public document ;(c)information in the form of an index or list of the names and addresses of informants together with the classification, if any, allotted to them and the number of persons engaged.

11. Disclosure of information schedules for bona fide research or statistical purposes.

(1)Notwithstanding the provisions contained in section 9 of this Act, the Government may disclose individual returns or formats or information schedules to any other agency or person or institution or university solely for bona fide research or statistical purposes pursuant to their functions and duties.(2)No individual return or information schedule shall be disclosed pursuant to this section unless -(a)the name and address of the informant by whom the schedule or related information was supplied is deleted ;(b)every agency or person or institution or university involved in the research or statistical project makes a declaration to use the schedules disclosed to them only for bona fide research or statistical purposes ; and(c)the Government making such disclosure is satisfied that the security of the schedules and any information contained therein shall not be impaired.(3)The

published results of any research or statistical project shall not divulge any more information than what the agency authorized for collection of statistics could publish under this Act.(4)Every agency or person or institutions or university to whom any individual return or information schedule is disclosed under this section shall comply with directions given by the agency authorized for collection of statistics making the disclosure relating to the schedules and any information contained therein.

12. Disclosure of historical documents.

- Notwithstanding anything contained in section 9 of this Act, the Government may release such documents relating to information schedules, which in its opinion have attained historical importance.

13. Security of recorded information.

- The statistics officer Of any person or agency authorized for collection of statistics shall, while copying or recording any statistical information collected pursuant to this Act from individual returns, information schedules, worksheets or any other confidential source by means of cards, tapes, discs, film or any other method, whether using encoded or plain language symbols for processing, storage or reproduction of particulars, take and cause to take such steps as are necessary to ensure that the security provisions of this Act are complied with.

14. Restrictions on use of information.

- Save as otherwise provided under this Act, -(a)no information obtained pursuant to this Act and no copy of the information in the possession of any informant shall be disclosed or used as evidence in any proceedings whatsoever ; and(b)no person who has access to any information because of his official position in the collection of any statistics shall be compelled in any proceedings whatsoever to give oral testimony regarding the information or to produce any schedule, document or record with respect to any information obtained in the course of administering this Act, except in the manner provided under this Act.

Chapter IV

Offences and Penalties

15. Penalty for neglect or refusal to supply particulars.

(1)Whoever -(a)fails to produce any book of accounts, vouchers, documents or other business records ; or(b)neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him ; or(c)neglects or refuses to answer any question or inquiry addressed to him, as may be required under or for the purposes of any provision of this Act and the rules made thereunder, shall be punishable with a fine which may extend to two thousand rupees or,

in the case of a company, with a fine which may extend to ten thousand rupees.(2)The conviction of a person or company for an offence shall not relieve him or it of the obligation under sub-section (1) and if after the expiry of fourteen days from the date of conviction, he or it still fails to give the required particulars or continues to neglect or refuses to fill in and supply the particulars or to answer the question or inquiry, then he or it shall be punishable with a further fine which may extend to five hundred rupees or, in the case of a company, with a fine which may extend to one thousand rupees, for each day after the first during which the failure continues.

16. Penalty for making false statement.

- Whoever, wilfully makes any false or misleading statement or material omission in any information schedule or return filled in or supplied, or in answer to any question asked to him under this Act or the rules made thereunder, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

17. Penalty for mutilation or defacement of information schedule.

- Whoever, destroys, defaces, removes or mutilates any information schedule form, or other document containing particulars collected under this Act shall be punishable with simple imprisonment for a term which may extended to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

18. Penalty for obstruction of employees.

- Whoever, interferes with, hinders or obstructs any employee in the exercise of any power or duty conferred by this Act, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

19. Penalty for other offences.

- Whoever -(a)acts in contravention or fails to comply with any provision of this Act or any requirement imposed under this Act ; or(b)wilfully deceives or attempts to deceive any statistics officer or any agency or any employee thereof, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

20. Penalty for failure to carry out duties and functions by employees.

- If any person employed in the execution of any duty or functions under this Act, -(a)omits without lawful excuse to carry out his duty, or knowingly makes any false declaration, statement or return ;

or(b)pretends performance of his duties or obtains or seeks to obtain information which he is not authorized to obtain ; or(c)fails to keep or violates, the secrecy of the information gathered or entered in the information schedules collected pursuant to this Act and except as permitted under this Act or the Jammu and Kashmir Right to Information Act, 2009 or divulges the contents of any schedule filled in or any information furnished by any informant under this Act, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

21. Penalty for impersonation employee.

- Whoever, not being authorized to collect statistics under the provisions of this Act, by words, contact or demeanor, pretends that he is authorized to do so, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

22. General penalty.

- Whoever, commits an offence under this Act for which no penalty is prescribed elsewhere than in this section, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or in the case of a company, with a fine which may extend to ten thousand rupees or with both.

23. Offences by companies.

(1)Where an offence under this Act has been committed, by a company, every person who at the time the offence was committed, was incharge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent, or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.Explanation : - For the purpose of this section, -(a)"Company" means anybody corporate and includes a firm or other association or individuals ; and(b)"Director", in relation to a firm, means a partner in the firm.

24. Cognizance of offences.

- No court shall take cognizance of any offence under this Act except on a complaint made by the Government or statistics officer or any other officer authorized in this behalf by the Government.

25. Sanction for prosecution for offence.

- No prosecution for an offence committed by any informant shall be instituted except by or with the sanction of the statistics officer and no prosecution for an offence committed by persons other than informants shall be instituted except by or with the consent of the appropriate Government.

26. Power of court to try cases summarily.

- Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989, all offences under this Act shall be tried in a summary way by a Judicial Magistrate of the First Class and the provisions of Chapter XXII of the said Code shall, as far as may be, apply to such trial: Provided that when in the course of, a summary trial under this section it appears to the Magistrate that the nature of the case is such that it is, for any reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

27. Power in respect of core statistics.

- Without prejudice to the provisions contained in this Act, the Government may by notification in the Government Gazette, declare from time to time, any subject for the collection of statistics of high importance as core statistics and make such arrangement, as it may consider necessary, for regulating the collection and dissemination of statistics on the subject so declared.

Chapter V

Miscellaneous

28. Power to give directions.

- The Government may give directions to any local Government as to the carrying into execution of this Act in Municipal Corporations or Municipal Councils, Municipal Committee or Halqa Panchayats, as the case may be.

29. Public servants.

- Any statistics officer and any person authorized for the collection of statistics or preparation of official statistics under the provisions of this Act shall be deemed to be a public servant within the

meaning of section 21 of the State Ranbir Penal Code, Samvat 1989.

30. Bar of jurisdiction.

- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Government or the statistics officer or the agency is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

31. Protection of action taken in good faith.

- No suit or other legal proceedings shall lie against the Government, appropriate Government or agency or any statistics officer or other officer or employees in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules or directions issued thereunder.

32. Overriding effect.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force except in relation to the conduct of human population census as per the directions, if any, issued under the Census Act, 1948.

33. Power to make rules.

(1)The Government may, by notification in the Government Gazette, make rules for carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the Government may make rules for all or any of the following matters, namely : -(a)principles for coordinating as effectively as possible to achieve the objectives of section 3 including nomination and registration of statistics officers by the Government and also to avoid unnecessary duplication in the collection of statistics ;(b)the terms, conditions and safeguards under which any person or agency or company or organization or association may be engaged by the Government for the purpose of collection of statistics under sub-section (3) of section 4 ;(c)principles for prescribing the form and manner in which the information may be required to be furnished ;(d)principles for prescribing the manner in which the right of access to documents and the right of entry conferred by section 8 may be exercised ; and(e)any other matter is to be, or may be, prescribed under this Act.

34. Repeal and saving.

(1)The Jammu and Kashmir Collection of Statistics Act, 1961 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.(3)All rules made under the said Act shall continue to be in force and operate till new rules are made under this Act.