

# **The Jammu and Kashmir Alienation of Land Act, 1995 (1938 A.D.)**

JAMMU & KASHMIR

India

## **The Jammu and Kashmir Alienation of Land Act, 1995 (1938 A.D.)**

### **Rule**

### **THE-JAMMU-AND-KASHMIR-ALIENATION-OF-LAND-ACT-1995-1938-A of 1938**

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The Jammu and Kashmir Alienation of Land Act, 1995 (1938 A.D.)(Act No. 5 of Samvat 1995)Last Updated 17th August, 2019Received the assent of his Highness the Maharaja Bahadur on 18th May, 1938/5th Jeth, 1995, and published in Government Gazette dated 24th Har, 1995.Whereas it is expedient to consolidate and re-enact the law relating to the transfer of agricultural land in the State ; it is hereby enacted as follows :--Preliminary

#### **1.**

(1)This Act may be called the Jammu and Kashmir Alienation of Land Act No. V of 1995.(2)It extends to the whole of the Jammu and Kashmir State.(3)It shall come into force from the date on which, after receiving the assent of His Highness the Maharaja Bahadur, it is published in the Government Gazette.(4)The Jammu and Kashmir Alienation of Land Regulations Nos. 6 and 7 of 1990 and the Jammu Alienation of Land Amendment Regulation No. IV of 1993 shall be repealed from the date this Act comes into force.

#### **2.**

In this Act, unless there is anything repugnant to the subject or context,--(1)All expressions shall , unless otherwise defined in this Act, have same meaning as assigned to them in section 2 of the Jammu and Kashmir Tenancy Act, 1980, or in section 3 of the Jammu and Kashmir Land Revenue Act, Svt, 1996;Provided that the expressions ``Record of Rights" and ``Annual Record" shall have the meanings assigned to them in Chapter IV of the Jammu and Kashmir Land Revenue Act, Svt,

1996.(2)The expression ``land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes--(a)the sites of buildings and other structures on such land,(b)a share in the profit of an estate or holding,(c)any dues or any fixed percentage of the land revenue payable by an inferior land-owner to a superior land-owner,(d)a right to receive rent,(e)any right to water enjoyed by the owner or occupier of land as such, and(f)any right of occupancy.(3)[ the expression "permanent alienation" includes sale, gift, bequest, grant of occupancy rights and exchange other than an exchange made for the purpose of consolidation of holdings ;] [Section 2 (3) substituted by Act No. XX of Samvat 1997.](4)the expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorises him to retain such possession until payment of the mortgage money, to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgaged money or partly in lieu of interest and partly in payment of the mortgage money ; and(5)the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage money or interest at a certain time the land will be absolutely transferred to the mortgagee.

### 3.

Notwithstanding any thing contained in sections 60 and 61 of the Jammu and Kashmir Tenancy Act, when a landlord makes a claim to exercise the rights thereby conferred upon him the provisions of this Act shall apply thereto.

### 4.

Transfer of land in favour of any person who is not a State Subject, is prohibited.Note. - The term ``State Subject" has the same meaning as assigned to it in the Judicial Department Notification No. 1-L/st, dated 20th April, 1927.

### 4A. [ [Section 4-A substituted by Act No. VII of 1975, s.2.]

Notwithstanding anything contained in this Act, it shall be lawful for a person to transfer land in the form of a simple mortgage in favour of--(i)the Jammu and Kashmir Bank Ltd ; or(ii)the Industrial Development Bank of India ; or(iii)A Bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 ;and having an office for transacting the business of banking in the State ; or(iv)the Industrial Credit and Investment Corporation of India ; or(v)the Housing and Urban Development Corporation Ltd., New Delhi ;(vi)the Jammu and Kashmir State Financial Corporation established under the State Financial Corporation Act, 1951 ; or(vii)the Unit Trust of India ; or(viii)the life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 ; or(ix)the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 ;(x)[ The Jammu and Kashmir Scheduled Castes and other backward classes Development Corporation, Ltd, registered under the Companies Act 1956] ; [or] [Substituted for colon (:) by Act No. XII of 2013, s.3, w.e.f. 25-04-2013.](xi)[ the Jammu and Kashmir Development Finance Corporation Limited] [Clause (xi) inserted Act No. XII of 2013, s.3,

w.e.f. 25-04-2013.] :Provided that in any suit based on such mortgage the mortgaged land shall be sold only to a permanent resident of the State who is a member of an agricultural class for purpose of this Act].Permanent Alienation of Land

## 5.

(1)A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation,--(a)where the alienor is not a member of any agricultural class ; or(b)where the alienor and alienee are members of an agricultural class :Provided that (i) in the Province of Kashmir and (ii) in the District of Ladakh and in the Bunji Illaqa, no member of an agricultural class shall have the power to alienate within a period of 1[fourteen years] from (i) 2nd October, 1934 (17th Assuj, 1991 and (ii) the passing of this Act respectively, more than one fourth in the aggregate of the area shown against his name on 2nd October, 1934 (17th Assuj, 1991 or at the time of passing of this Act, as the case may be :Provided further that, before the expiry of the said [fourteen years] [Substituted by Ordinance II of Samvat 2003 for 'twelve', ('Twelve' was substituted for 'ten' by Ordinance VII of Samvat 2001).] the Government shall cause an enquiry to be made to find out whether this restriction on alienation should or should not continue or should be altered and if so in what respects.(2)Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by the [Deputy Commissioner] [Substituted by Act No. III of Samvat 2008 for 'Wazir Wazarat'.] :Provided that:-(i)sanction may be given after the act of alienation is otherwise completed ; and(ii)sanction shall not be necessary in the case of--(a)a sale of a right of occupancy by a tenant to his landlord, or(b)a gift made in good faith for a religious or charitable purpose, or