

The Jammu and Kashmir Separation of Judicial and Executive Functions Act, 1966

JAMMU & KASHMIR

India

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Act 40 of 1966

- Published on 28 October 1966
- Commenced on 28 October 1966
- [This is the version of this document from 28 October 1966.]
- [Note: The original publication document is not available and this content could not be verified.]

The Jammu and Kashmir Separation of Judicial and Executive Functions Act, 1966 Act No. 40 of 1966 [Received the assent of the Governor on 28th October, 1966 and published in Government Gazette dated 29th October, 1966 (Extraordinary).] An Act to provide for the separation of Judicial and Executive functions in the State. Be it enacted by the Jammu and Kashmir State Legislature in the Seventeenth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Jammu and Kashmir Separation of Judicial and Executive Functions Act, 1966. (2) It extends to the whole of the State of Jammu and Kashmir. (3) It shall come into force on such [date] [Enforced in the whole State w.e.f. 15th August, 1968 except the Sessions Division of Poonch by S.R.Os. 253 and 297 of 1968.] as the Government may, by notification, specify in this behalf; and different dates may be specified for different areas.

2. Amendment of the Code of Criminal Procedure and other laws.

- The Code of Criminal Procedure, Samvat 1989 and other State laws specified in the Schedule appended to this Act (hereinafter referred to as the 'Schedule') are amended to the extent and in the manner mentioned therein.

3. Amendments not to render invalid notifications, orders, etc., issued before commencement of the Act.

- The provisions of this Act which amend the Code of Criminal Procedure, Svt. 1989 and any other law specified in the Schedule so as to alter the manner in which, the authority by which, or the law

under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, bye-laws, rule or regulations duly made or issued or any thing duly done before the commencement of this Act; and any such notification, order, commitment, attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been duly made, issued or done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

4. Functions exercisable by Judicial and Executive Magistrates in respect of Central Laws.

- Where under any Central law which extends or which is hereafter extended to the State (hereinafter referred to as the Central laws in force in the State) the functions exercisable by a Magistrate relate to matters which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment, or penalty, or detention in custody pending investigation, inquiry, or trial, or would have the effect of sending him for trial before any Court, such functions shall subject to the provisions of this Act and the Code of Criminal Procedure, Samvat 1989, as amended by this Act, be exercisable by a Judicial Magistrate; and where such functions relate to matters which are administrative or executive in nature, such as the grant of a licence the suspension or cancellation of a licence, sanctioning a prosecution' or withdrawing from a prosecution; they shall, subject as aforesaid, be exercisable by an Executive Magistrate.

5. Saving.

(1) Save as provided in this section, nothing in this Act shall be deemed to affect-(a) the validity, invalidity, effect or consequence of anything done or suffered to be done before the date on which the provisions of this Act come into force; (b) any right, privilege, obligation or liability already acquired, accrued or incurred before such date; (c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date; (d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment: and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of this Act, and the relevant laws as amended by this Act. (2) All legal proceedings pending before a Magistrate or Court on the date on which this Act comes into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of this Act or the relevant laws as amended by this Act, stand transferred to the Magistrate or Court having jurisdiction under the provisions of this Act or the relevant laws as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate and Court shall have all the powers and jurisdiction thereof as if they had been, originally instituted before such Magistrate or in such Court, including the power of the succeeding Magistrate under section 350 of the Code of Criminal Procedure, Samvat 1989.

6. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government, in consultation with the High Court, may be order do anything (including the specification of the appropriate Magistrate, whether Judicial or Executive, having jurisdiction under any Central law in force in the State) not inconsistent with such provisions and for the furtherance of the purposes of this Act which appear to it to be necessary or expedient for the purpose of removing the difficulty.

Schedule

Omitted as it contains amendments which have been made in the concerned Acts.