

# Jammu and Kashmir Accountability Commission Rules, 2005

JAMMU & KASHMIR

India

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### Rule

### JAMMU-AND-KASHMIR-ACCOUNTABILITY-COMMISSION-RULES-2005 of 2005

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Jammu and Kashmir Accountability Commission Rules, 2005Published vide Law Department Notification SRO 281 dated 5th October, 2005[As amended by SRO 320, dt. 17.10.2011]In exercise of the powers conferred by section 30 of the Jammu and Kashmir Accountability Commission Act, 2002 (Act No. XXXVIII of 2002), the Government hereby makes the following rules, namely:

### 1. Short title and commencement

(1) These rules may be called the Jammu and Kashmir Accountability Commission Rules, 2005.(2)They shall come into force on the date of their publication in the Government Gazette.

### 2. Definitions

In these rules, unless there is anything repugnant in the subject or the context:-(i)"Act" means the Jammu and Kashmir Accountability Commission Act, 2002 (Act No. XXXVIII of 2002);(ii)"Chairperson" means the Chairperson of the Jammu and Kashmir Accountability Commission, appointed under sub-section (1) of section 4;(iii)"Commission" means the Jammu and Kashmir Accountability Commission established under section 3 of the Act;(iv)"Complainant" means a person who is entitled to file a complaint under section 11 of the Act;(v)"Form" means the Form appended to these rules;(vi)"Member" means a Member of the Accountability Commission appointed under sub-section (1) of section 4 of the Act;(vii)"Registrar" means the Registrar referred to under rule 23 and includes Additional Registrar, Deputy Registrar and Assistant Registrar;(viii)"Schedule" means the Schedule appended to these rules;(ix)"Secretary" means the Secretary of the Commission, appointed under section 25 of the Act;(x)All other words and expressions used in these rules but not specifically defined shall have the same meaning as assigned

to them under the Act.

**2A. [ Headquarters of the Commission Notwithstanding anything to the contrary contained in any rule, regulation or order issued in this behalf, the Commission shall have its offices both at Srinagar and Jammu and shall move from Srinagar to Jammu and vice-versa oh annual Darbar Move of Offices.] [Inserted by SRO 384, dated 29th October, 2007.]**

### **3. Competent Authority**

For purposes of sub-clause (iii) of clause (6) of section 2 of the Act, the competent authority shall:(i)in the case where appropriate disciplinary action is recommended by the Commission, be the authority by which public functionary was appointed or which has the competence to remove such public functionary from office: Provided that in the case of public functionary who is/or was on deputation to any foreign service, the Head of the establishment in which such public functionary has been working or had worked shall be consulted if the cause of grievance or the allegation arises out of any administrative action taken by or with the approval of such public functionary during the period of his deputation or transfer to such foreign service; or(ii)in a case where the remedial action or the redressal of the grievance is recommended by the Commission be the Head of the Department or the Head of the concerned Administrative Department in which the public functionary has been working or had worked where the cause of action arose.Explanation. For the purposes of these rules, 'foreign service' shall include service on deputation or transfer to another service, any local authority, any Corporation, any Government Company or any Company or Society established under law for the time being in force.

### **4. Members of the Commission**

The Commission may have not more than two members:Provided that it shall not be necessary to appoint any such member unless the Governor is satisfied that such appointment is necessary or expedient in the public interest.

### **5. Form and contents of the complaint**

(1) Every complaint shall be made as far as possible in Form 'A' prescribed in the Schedule duly signed and supported by an affidavit as prescribed by rule 6.(2)The complaint regarding allegations and grievances may be presented before such officer as may be notified by the Secretary in consultation with the Chairperson.(3)The complaint may be presented in person or sent by registered post. Such complaint shall be provisionally registered/entered in separate Register, maintained by the Registry at Jammu and Srinagar.(4)Every complaint shall be accompanied by three copies for the Commission and such other numbers of copies as the Public functionaries complained of are.

## **6. Contents of affidavit**

(1) Every affidavit shall be drawn up clearly and legibly. It shall be sworn in before a Judicial Magistrate, an Executive Magistrate, Notary public or before any Gazetted officer duly authorized to administer oath.(2)Every person making an affidavit shall state his full name, surname, age, profession or trade and place of residence and shall give such other particulars as will make it possible to identify or locate him clearly.(3)Every affidavit shall conclude as follows:I do hereby swear in the name of God/Solemnly affirm \_\_\_\_\_ that this is my name and signature/thumb-impression \_\_\_\_\_ and that the contents of this affidavit are true. I further swear that what is stated in the paragraph (give number) is true to my information and is believed by me to be true.

## **7. Registry of the Commission**

(1) The Commission shall have a registry in its office both at Jammu and Srinagar and each registry shall be headed by an Additional Registrar or Deputy Registrar as the Chairperson may authorize in this behalf.(2)All complaints addressed to the Commission shall be filed or sent by post in the Registry of the Commission.(3)The complaints relating to actions, allegations and grievances pertaining to Kashmir Division shall be filed in the Srinagar wing of the Commission and such complaints pertaining to Jammu Division be filed in the Jammu wing of the Commission.(4)The Commission may, on application made or of its own, entertain a complaint relating to one Division at another Division or transfer one pending complaint from one Registry to another.

## **8. Scrutiny and registration of regular complaints**

(1) On receipt of the complaint the Registrar shall examine the complaint, affidavit and accompanied documents and report as to whether it has been filed in accordance with the Act and the rules.(2)If the Registrar is of the opinion that the complaint is not in conformity with the provisions of the Act or the rules or is otherwise defective, he shall issue notice to the complainant in Form 'B' to remove the defects within the specified period stipulated in the notice. The Registrar may extend the time specified in the notice for sufficient cause.(3)When the complainant is directed to remove the defects within the specified period stipulated in the notice and if the defects are not removed within such time or extended time, the complaint may be dismissed for default of the complainant by orders of the Commission.(4)All the complaints shall be placed before the Commission for appropriate orders. However, the complaints regarding which the complainant has been directed to remove the defects shat' be placed only after the expiry of the period of time stipulated in the notice or the extended period.(5)Every person making the complaint shall be informed of the substance of the orders passed under the preceding rule, if no further action on the complaint is to be taken.

## **9. Acknowledgement of complaint**

After the complaint is registered, the Registrar or any other officer empowered in this behalf by

the Secretary shall send to the complainant an acknowledgement of the complaint in Form 'C', prescribed in the Schedule informing him that his complaint is registered and giving him the number of the complaint.

## **10. Notice**

On registration of regular complaint, a notice in the Form 'D' shall be issued to the public functionary and the competent authority for compliance.

## **11. Authentication of orders passed by the Commission**

Any order passed by the Commission under the Act or the rules and executed in the name of the Commission shall be authenticated by such person and in such manner as the Commission may, by general or special order, from time to time, specify.

## **12. Administering oath**

The Commission or any officer duly empowered by the Commission, may administer oath to any person examined by it during any enquiry.

## **13. Interpretation**

(1) The Commission may, in any special case, appoint an interpreter(s) who will be paid at such rate as may be fixed by the Government from time to time.(2)The interpreter shall take oath in the following form:I do hereby swear in the name of God /Solemnly affirm \_\_\_\_\_ that I will tell and explain all question put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

## **14. Furnishing of information and production of document**

(1) Where the Commission requires any public servant or any other person to furnish information or to produce documents under sub-section (1) of section 14, the Registrar or any officer authorized by the Registrar shall issue a notice in Form 'E' prescribed in the Schedule to the officer or authority in whose custody the file or the document is stated to lie or in whose custody that file would ordinarily be.(2)If the file is not produced or sent, within the period prescribed by the officer or authority concerned, the Registrar shall, in writing, direct the Head of the Department concerned to produce the same.(3)If the file is not received within 15 days after Registrar's notice referred to under sub-rule (2) above, the complaint shall be put up before the Commission for orders.(4)Without prejudice to the provisions of the Act and the rules, the Commission may direct the competent authority to initiate disciplinary proceedings against such public servant or other person who refuses or fails to produce any document in his custody or power within the time stipulated in the notice issued under sub-rule (1).

## **15. Consequences of refusal of a party to produce document**

Where any party to an investigation before the Commission refuses, without any lawful excuse, to produce any document or documents in his custody or power, the Commission may decide the matter against him in the absence of such documents and may also strike out the complaint or defence, as the case may be, or may make such other order as it thinks fit.

## **16. Rehearing of a complaint**

If a case is closed for default of complainant or if it is ordered to be filed or is decided ex-parte against the public functionary, the Commission may, if sufficient cause is shown to it, reopen the case and rehear it on merit: Provided that no case shall be reopened after the expiry of a period of three months from the date of closure, filing or ex-parte decision of the case.

## **17. Confidentiality of information and evidence**

The information and evidence referred to in section 19 shall be kept confidential in the custody of the Registrar or such other officer of the Commission as the Chairperson may authorize in this behalf.

## **18. Certified copy**

(1) The Commission may, subject to the provisions of the Act and the rules issue to any person a certified copy of any order, information or evidence other than the copy of the report of the preliminary enquiry and the information or evidence obtained in connection with such preliminary enquiry or investigation. (2) The Registrar may authenticate such copies for issue if the Commission orders for supply of such a certified copy. (3) The party concerned will have to deposit necessary cost of the supply of such certified copy as may be fixed by the Commission.

## **19. Secretary and other staff of the Commission**

(1) The Government shall, after consultation with the Chairperson, appoint an officer not below the rank of District and Sessions Judge [or an IAS officer or Member of the Jammu and Kashmir Legal (Gazetted) Service in the cadre of Special Secretary] [Substituted for "or an IAS officer" vide SRO 320, dt. 17.10.2011.] to be the Secretary of the Commission. (2) The other officers and employees of the Commission shall be such as the Government may from time to time determine, in consultation with the Commission. (3) The Governor may specify the minimum qualification and the method of recruitment for employees of the Commission whether directly appointed, sent by transfer or on deputation. (4) The officers and officials on deputation or by transfer from any Government Department shall be deputed to the Commission with its prior consent.

## **20. Salary and other allowances of the employees of the Commission**

(1) A Government employee who is transferred to the Commission or whose services have been lent to it shall be entitled to the salary and other allowances in the pay scale held by him in his parent Department. (2) The employees of the Commission, other than those specified in sub-rule (1), shall be entitled to the salary and other allowances according to pay scale of their appointment.

## **21. Travelling allowances**

When any person, not in the service of the Government is required by the Commission to appear before it as a witness, he shall be paid travelling allowance for journey calculated under the ordinary rules for the journey or as the government servant on tour and daily allowance, and for this purpose the Commission may declare by special order the grade to which such person shall be considered to belong according to his status in life, and its decision shall be final.

## **22. Authority competent to grant leave**

(1) The power to grant or refuse leave to the Chairperson and to revoke or curtail the leave granted to him shall vest in the Governor. (2) The power to grant or refuse leave to any Member or gazetted officer serving with the Commission and to revoke or curtail the leave granted to him shall vest in the Chairperson. (3) The power to grant or refuse leave to any other officer and employee of the Commission or to revoke or curtail the leave granted to him shall vest in the Secretary.

## **23. Functions of the Secretary**

(1) The Secretary shall be ex-officio Registrar of the Commission as well and shall discharge such duties and carry out the directions issued by the Commission from time to time. (2) The Secretary shall be over all incharge of the administration over the employees of the Commission and shall ensure efficient performance by the employees of the Commission.

## **24. Financial powers**

The Commission shall have, (i) full powers to incur non-recurring expenditure on contingency and purchase of stores other than works; (ii) the power to make local purchase of stationery as available to Hon'ble Chief Justice; and (iii) full powers to purchase books up to the limit of budget provision.

## **25. Procedure in matters not provided in the rules**

The Commission shall have the power to regulate its own procedure in respect of any matter for which no provision is made in these rules.

## 26. Repeal

(1) The Jammu and Kashmir Accountability Commission Rules, 2003 are hereby repealed. (2) Notwithstanding such repeal any act or anything done under the said rules shall be deemed to have been done under these rules and may be continued and completed under the correspondence of these Rules. Form 'A' (See Rule 5) Before the Accountability Commission, Jammu/Srinagar. Name and Address of the Complainant \_\_\_\_\_  
(Complainant) Vs. Name and address of the public functionary

1. \_\_\_\_\_

2. \_\_\_\_\_ (Respondent)

Complaint under section \_\_\_\_\_ of the J&K Accountability Commission Act, 2002. Sir, The complainant submits as under:

**1. That the complainant is an aggrieved person in this complaint relating to grievances.**

Or The complaint is not mala fide and is being filed relating the actions or allegations against the respondent/s (in such a case the complainant need not be an aggrieved person).

**2. That the respondent/s are public functionary/ies as defined in section 2(16) of the J&K Accountability Commission Act.**

**3. Para-wise detailed grievance/allegation with full particulars.**

**4. That with respect to the grievance/action/allegation detailed in this complaint no earlier complaint was filed or action initiated.**

Or The complainant had filed a complaint/civil suit/petition earlier which is pending/has been disposed of/ deferred, before/ (name of the authority) \_\_\_\_\_.

**5. (If the earlier complaint/petition has been disposed of, a copy of the order passed on it be enclosed).**

**6. (If the earlier complaint/petition is pending, the reasons for filing the new complaint).**

**7. That an affidavit duly sworn before the Competent Authority is being filed in support of the averments made in the complaint.**

It is prayed that appropriate action be initiated against the public functionary/ies who may be dealt with according to law and report be submitted to the Competent Authority alongwith recommendations for action under the Act. Complainant List of witnesses:

1. \_\_\_\_\_ .

2. \_\_\_\_\_ .

List of documents if any:

1. \_\_\_\_\_ .

2. \_\_\_\_\_ .

Form 'B'[See Rule 8(2)] To (Give name and address of complainant). Your complaint addressed to the Accountability Commission dated \_\_\_\_\_ is defective on account of the following defects: (a).....(b).....(c)..... It will not be registered unless the defects are rectified. They should be rectified on or before \_\_\_\_\_ (date). Registrar/Additional Registrar Accountability Commission Dated: Form 'C'[See Rule 9] To (Give name and address of complainant). Your complaint addressed to the Accountability Commission of Jammu and Kashmir, dated \_\_\_\_\_ is received in this office on \_\_\_\_\_. It is registered as complaint No. \_\_\_\_\_ of \_\_\_\_\_ 200 \_\_\_\_\_. In all further correspondence this number should be invariably mentioned. Registrar/Additional Registrar Accountability Commission Dated: Form 'D' Office of the Chairperson, Jammu and Kashmir Accountability Commission, Jammu/Srinagar. Summons/Notice to Public Functionary (Under Section 13). (Rule 10)

a complaint has been made against you in this Commission for initiating proceedings under the Jammu and Kashmir Accountability Commission Act, 2002 making allegations, defined in sub-section (3) of Section 2 of the Act; and Whereas, after pursuing the complaint and accompanying documents, the Commission is satisfied that the complaint contains prima facie allegations which are required to be inquired into and the Commission proposes to conduct an inquiry into the allegations made against you; and Whereas, your presence is necessary before the Commission in your own interests for the purposes of representing your case. You are, therefore, required to appear personally or through a duly authorized person before the Commission on \_\_\_\_\_ at 8 a.m./10 a.m. in the office of the Commission at Jammu/Srinagar. In case after the service of the summons/notice, you decide to defend yourself and represent your case, you are directed to submit your statement of defence alongwith accompanying documents and a list of witnesses upon which you intend to rely upon. Take notice that in default of appearance before the Commission on the date and time fixed, it shall be legally presumed that you have nothing to contradict the allegations leveled against you and the Commission, without holding further inquiry, will submit its report to



the competent authority with the proposed action be taken against you. Given under my hand and the seal of the Commission on the \_\_\_\_\_ day of \_\_\_\_\_ 2005. Registrar/Additional Registrar J&K Accountability Commission, Jammu/Srinagar. Form 'E' [See Rule 14 (1)] Summons to Produce Document Under Sub-Section (1) of Section 14 of the Act in the Office of the Accountability Commission of Jammu and Kashmir at Jammu/Srinagar Complaint No. \_\_\_\_\_ of \_\_\_\_\_ Whereas a complaint has been made before the Accountability Commission by \_\_\_\_\_ (name and address of the complainant), against \_\_\_\_\_ (public functionary's name and designation) containing a grievance/all allegations in respect of and it appears to the Accountability Commission desirable for the purpose of inquiry/ investigation that the following document(s) should be produced before it by \_\_\_\_\_ (date period) any: (1).....(2).....(3)..... You are hereby summoned to attend and produce or cause to be produced through your servant, clerk or agent, the said document(s) before it in his case on \_\_\_\_\_ next at 11 O'clock in the forenoon. Given under my hand and seal of the office. Registrar/ Additional Registrar Accountability Commission Dated.....