

The Public Servants Transfer of Immovable Property (Restriction) Ordinance, 2004

JAMMU & KASHMIR

India

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Act 30 of 2004

- Published on 1 January 2004
- Commenced on 1 January 2004
- [This is the version of this document from 1 January 2004.]
- [Note: The original publication document is not available and this content could not be verified.]

The Public Servants Transfer of Immovable Property (Restriction) Ordinance, 2004 (Ordinance No. 30 of 2004) [Promulgated by His High under section 5 of the Jammu and Kashmir Constitution Act, 1996 and published in Government Gazette dated 3rd Baisakh, 2003 (Extraordinary)] An Ordinance to restrict the public servants from transferring immovable property without previous Government sanction. Preamble - Whereas it is expedient to restrict the public servants from retransferring immovable property acquired by them by dishonest means and corrupt practices; Now, therefore, in exercise of the powers reserved under section 5 of the Jammu and Kashmir Constitution Act, 1996 His Highness the Maharajadhiraj is pleased to make and issue the following Ordinance

1. Short title extent and commencement.

(1) This Ordinance may be called the Public Servants Transfer of Immovable Property (Restriction) Ordinance, 2004. (2) It shall extend to the whole of the State. (3) It shall come into force at once.

2. Interpretation.

(1) In this Ordinance "public servant" includes - (i) every person holding or exercising any civil office under the Government of Jammu and Kashmir whether for the time being on foreign service or not; (ii) every officer or servant employed by the Municipal or Town Area Committee whether for the whole or part of his time; but shall not include a menial. (2) The expression "transfer" includes sale, gift, bequest, grant of occupancy rights and exchange and also benami transaction.

3. Transfer of immovable property by Public Servant without Government sanction void.

(1) No public servant shall transfer any immovable property unless he has obtained in writing the sanctions of the Government or of any officer authorised by the Government in this behalf to such transfer prior to the making thereof. (2) Notwithstanding anything contained in any law to the contrary, any transfer effected by a public servant without the previous sanction as provided in sub-section (1) shall be void and no person shall be deemed to have acquired any right thereunder.

4. Transfer one year prior to Ordinance to require Government sanction.

(1) A public servant, who has made a transfer of his immovable property within one year prior to the promulgation of this Ordinance, or the transferee to any such transaction, may apply to the Government or to such other officer as may be authorised by the Government in this behalf, within two months from the date this Ordinance comes in force, for sanction as required by section 3 : Provided that the Government may, in suitable cases, extend the period for making such application. (2) If the public servant or the transferee fails to apply for sanction to such transfer as required by sub-section (1) or if the Government or such other officer is of the opinion that the transfer for which sanction is applied for was not bona fide transfer, the Government may declare such transfer as void and, notwithstanding anything contained in any law to the contrary, all such transfers shall be void and no person shall be deemed to have acquired any right thereunder.

5. Jurisdiction of Civil Courts barred.

- Any order passed by the Government under section 4 shall not be called in question in any Court.