

The Prevention of Corruption Ordinance, 2001

JAMMU & KASHMIR

India

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Act 4 of 2001

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The Prevention of Corruption Ordinance, 2001(Ordinance No. 4 of 2001)[Promulgated by His Highness under section 5 of the Jammu and Kashmir Constitution Act, 1996 and published in Government Gazette dated 16th Bhadon 2001.]Preamble. - Whereas it is expedient to make better provisions for the prevention of corruption among public servants.Now, therefore, in exercise of the inherent powers reserved to His Highness by section 5 of the Jammu and Kashmir Constitution Act, 1996, His Highness is pleased to issue the following Ordinance :-

1. Short title, extent and commencement.

(1)This Ordinance may be called the Prevention of Corruption Ordinance, 2001.(2)It shall extend to the whole of the State of Jammu and Kashmir.(3)It shall come into force at once.

2. Definitions.

- In this Ordinance, unless there is anything repugnant in the subject or context,-(a)the expression "public servant" means a person who is, or at any time was, in the service of the State of Jammu and Kashmir; and(b)the expression "property" includes any interest in property, movable or immovable, and the proceeds of sale thereof and any money or investment which for the time being represents the proceeds of sale.

3. Appointment of Commission of Inquiry.

- Whenever it appears to [the Governor] [Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 (for earlier amendment see Act X of 2010).] that there are reasonable grounds for believing that any person acquired any property by unlawful means or is in possession of any property which was so acquired in the same or any other from, [the Governor] [Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 (for earlier amendment see Act X of 2010).] may appoint a Commission to inquire into and report upon the matter as

hereinafter provided.

4. Particulars to be incorporated in the order of appointment.

- The order of appointment shall incorporate, as far as can be ascertained, the following particulars:-(i)the name and address of the public servant;(ii)the period during which he has been or was in the service of the State ;(iii)the property to which the inquiry is to relate and its amount or value;

5. Composition of Commission.

(1)The Commission shall consist of one person or of three persons as [the Governor] [Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 (For earlier amendment see Act X of 2010.)] may decide.(2)Where the Commission consists of only one person, that person; and where the Commission consists of three persons, the President of the Commission shall be either a Judge of the High Court of Judicature, Jammu and Kashmir State, hereinafter referred to as "the High Court" ora person qualified for appointment as such.

6. Powers of Commission.

- The Commission shall have the same powers as the High Court to enforce the attendance of witness, to call for documents, to take evidence on oath, to issue commissions, to punish contempts and generally to do all things necessary for the purposes of the inquiry:Provided that all processes issued by the Commission shall be sent for service or execution to the nearest District Judge who shall thereupon to serve or execute them as if duly issued by himself.

7. Procedure.

- The Commission shall have power-(i)to hold sittings in public or in camera as the ends of justice may require;(ii)to admit or to reject at its absolute discretion any evidence, oral or documentary; and(iii)generally to regulate its procedure in all respects :Provided that the public servant concerned shall in every case be given an opportunity of proving that he acquired the property in question by lawful means.

8. Report of Commission.

(1)Upon the conclusion of the inquiry, the Commission shall submit its report to [the Governor] [Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act. 1965 (For earlier amendment see Act X of 2010.)] through the [Chief Minister] [Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 (For earlier amendment see Act X of 2010.)],(2)If the Commission consists of three persons, and they do not all agree, the report shall embody the opinion of the majority.(3)The report shall state whether and to what extent the public servant concerned has succeeded in proving that the property in question was acquired by him by

lawful means.

9. Orders upon the report.

(1) If it appears from the report that the public servant concerned has not succeeded in proving that he acquired that property in question or a portion thereof, by lawful means, [the Governor] [Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 (For earlier amendment see Act X of 2010.)] may, in either case, - (a) pass such orders (including an order of confiscation) as he thinks fit for the disposal of the property or of that portion, as the case may be; (b) impose upon the public servant any of the penalties specified in rule 30 of the [Kashmir Civil Service Rules] [Now the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956.]; (c) order whether and to what extent the costs of the inquiry should be recovered from the public servant. (2) Any sum recoverable from the public servant as cost under subsection (1) shall be recovered from him under the provisions of the Code of Criminal Procedure as if it were a fine.

10. Protection of action taken under the Ordinance.

- Nothing done or purporting to have been done under this Ordinance shall be called in question in any Court.