

The Jammu and Kashmir Public Men and Public Servants Declaration of Assets and other Provisions Act, 1983

JAMMU & KASHMIR

India

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Act 5 of 1983

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The Jammu and Kashmir Public Men and Public Servants Declaration of Assets and other Provisions Act, 1983(Act No. 5 of 1983)[Received the assents of the Governor on 18th March, 1983 and is hereby published for general information]:-An Act to provide for declaration of assets of public men and public servants and to regulate the conditions of service of the public servants and also for matters connected therewith.Be it enacted by the Jammu and Kashmir State Legislature in the Thirty fourth Year of the Republic of India follows:-

1. Short title and extent.

(1)This Act may be called the Jammu and Kashmir Public Men and Public Servants Declaration of Assets and other Provisions Act, 1983.(2)It extends to the whole of the Jammu and Kashmir State.Chapter-I

2. Definitions.

- In this Act, unless the context otherwise requires:-(a)'assets' includes all properties both movable and immovable;(b)'family member' means the wife or husband as the case may be, and includes father, mother, step father, step mother, grand father, grand mother, brother, sister, children, Step Children, adopted daughter, adopted son and any other person related whether by blood or marriage, if wholly dependent on the public man or the public servant, as the case may be;(c)'prescribed authority' in relation to-(i)a public man referred to in sub-clause (i) and (ii) of clause (e) of this section means the speaker or the Chairman as the case may be,(ii)a public man referred to in sub-clause (iii) and (iv) of clause (e) of this section means the Government;(iii)(a)a

public servant of Gazetted rank means Government; and (b) other public servants holding any post means the Head of the Department concerned; (d) 'property' means movable and immovable property and includes bank deposits, securities, debentures and shares; (e) 'Public man' means a person who is—(i) a member of either House of the State Legislature; (ii) a member of the Council of Ministers (including a Minister of State); (iii) a member of the Municipal Council or Town Area Committee or an elected member of a Notified Area Committee; (iv) a Chairman of the Municipal Council or Town Area Committee or Notified Area Committee. (f) 'public servants' means the public servant as defined in section 21 of the State Ranbir Penal Code but does not include a public man as defined in this Act; (g) 'return' means the inventory of assets; (h) 'transfer' includes sale, gift, bequest and exchange.

Chapter-II Declaration of Assets by Public Men

3. Declaration of assets and submission of annual returns by public men.

(1) Every public man shall submit to the prescribed authority a return of all the assets possessed by him and his family members within three months after he becomes a public man. (2) It shall be incumbent on the part of every public man to submit annual returns of the assets held by him and his family members in the month of January every year and shall state the reasons for increase if any, in the assets and source thereof. The annual return shall be in such form as may be prescribed by rules framed under this Act: Provided that in the case of a person who was a public man on 21st January, 1983, it shall also be incumbent for him to submit a return within four months from the said date of all the assets possessed by him and his family members at the time of his becoming such public man and of the assets possessed by him and his family members on the said date.

4. Custody and availability of returns.

- The returns after scrutiny shall be kept under the custody of the prescribed authority who shall maintain it in such manner as may be prescribed.

5. Penalty for non-submission of return.

- If any public man without any reasonable cause which he may be required to show, fails to submit the return annually he shall cease to be member of the State Legislature and the Council of Ministers or Municipal Council, Town Area Committee and Notified Area Committee and to be a Chairman of the Municipal Council or Town Area Committee or Notified Area Committee as the case may be.

6. Penalty for submission of false returns.

- If any public man submits a false return, he shall be liable to punishment under section 193 of the State Ranbir Code, Samvat, 1989.

7. Disqualification for being guilty for corrupt practices.

- A public man shall be disqualified for being chosen as, and for being a member of the State Legislature or a Municipal Council or a Town Area Committee or a Notified Area Committee, if from the scrutiny of his returns it is found that his action or conduct as such public man has caused loss to the State Exchequer or has in any way abused or misused his position as such public man in the matter of acquisition of any property or by undue pecuniary gain to himself or to his family members.

8. Decision on the question of disqualification.

- For purposes of sections 5 and 6 if any question arises as to whether a public man has become subject to any disqualification mentioned in these sections the question shall be decided-(a)in the case of public man referred to in sub-clauses (i) and (ii) of clause (e) of section 2, in accordance with the provisions contained in section 70 of the Constitution of Jammu and Kashmir;and(b)in the case of other public man, by the prescribed authority after giving the public man an opportunity of being heard.

9. Declaration of assets and submission of annual returns by Public Servants.

(1)Every public servant shall submit to the prescribed authority a return of all the assets possessed by him and his family members within three months after he becomes a public servant.(2)It shall be incumbent on the part of every public servant to submit annual returns of the assets held by him and his family members in the month of January every year and shall state the reasons for increase, if any, in the assets and source thereof. The annual return shall be in such form as may be prescribed by rules framed under this Act;Provided that where-(a)a public servant has submitted his annual return before 21st January, 1983 for the year 1982 as so required under any rule for the time being in force, such return shall be deemed to be an annual return submitted under this section;(b)a public servant has not submitted such annual return on or before 21st January, 1983, he shall submit it within two months after the said date.[Explanation. - For the purpose of this chapter the words 'public servant' does not include a public servant of class III and class IV Category]
[Substituted by Act XXIX of 1997.]

10. Custody and availability of returns.

- The returns after scrutiny shall be kept under the custody of the prescribed authority who shall maintain it in such manner as may be prescribed.

11. Penalty for non-submission of returns.

- If any public servant without any reasonable cause which he shall be required to show, fails to submit the returns annually, he shall be guilty of committing criminal misconduct as specified in

clause (e) of sub-section (1) of section 5 of the Prevention of Corruption Act, Samvat 2006, and shall be punishable under the said Act. Chapter-IV Restriction on Property and Trade

12. Restriction to acquire and transfer property.

(1) No public servant shall in his own name or in the name of any of his family member acquire or transfer [any immovable property] [Substituted by Act XXIX of 1997 (S.B.).] unless he has obtained permission in writing, from the prescribed authority; [Provided that the acquisition or transfer of movable property shall be brought to the notice of the prescribed authority where the value of such property exceeds the limit prescribed by the Government.] [Substituted by Act XXIX of 1997 (S.B.).] (2). Notwithstanding anything contained in any other law, any transfer effected by a public servant without the previous permission as provided under sub-section (1) shall be null and void and no person shall be deemed to have acquired any right therein.

13. Restriction on trade and business.

- No public servant, whether on leave or in active service shall practise any profession or carry on any trade or business, directly or indirectly or undertake any other employment without the previous permission in writing of the prescribed authority.

14. Penalty for contravention of section 12.

- Any public servant who contravenes the provisions of section 12 of this Act, shall be guilty of committing criminal misconduct and shall be punished under section 5 of the Prevention of Corruption Act, 2006.

15. Penalty for contravention of section 13.

- Any public servant who contravenes the provisions of section 13 of this Act, shall be liable to punishment under section 168 of State Ranbir Penal Code. Chapter-V Miscellaneous.

16. Power to make rules.

(1) The Government may, by notification in Government Gazette, make rules for the purpose of carrying into effect the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing provisions of this Act, such rules may provide for all or any of the following matters, namely:-(a) the form in which receipt shall be furnished by the prescribed authority in respect of receipt of a return; [(a-1) the value and other details of the movable property which a public servant shall be required to bring to the notice of the prescribed authority.] [Inserted by Act XXIX of 1997.] (b) any other matter which is to be or may be prescribed; (c) every rule under this Act, shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or more successive sessions, and if before the expiry of the said period both Houses agree in making any modification in

the rule or both Houses agree that rules should not be made, rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be.

17. Repeal and saving.

(1)The Jammu and Kashmir Public Men and Public Servants Declaration of Assets and other Provisions Ordinance, 1983 (1 of 1983) is hereby repealed.(2)Notwithstanding such repeal, anything done, any action taken including any rules or order made, notification issued under the said Ordinance, shall be deemed to have been done, taken, made or issued under this Act as if this Act had come into force on the 21st of January, 1983.