

The Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978

JAMMU & KASHMIR

India

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Act 7 of 1978

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The Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978(Act No. 7 of 1978)[Received the assent of the Governor on 9th May, 1978 and published in Government Gazette dated 10th May, 1978.]An Act to provide for the temporary release of prisoners for good conduct on certain conditions.Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-ninth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978.(2)It extends to the whole of the State of Jammu and Kashmir.(3)[It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.] [Enforced vide SRO-482 dated 12-8-1978 w.e.f. 15-8-1978.]

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"District Magistrate" means the District Magistrate of the District within whose jurisdiction the prisoner after his temporary release under this Act, is likely to reside during the period of his release ;(b)"Member of prisoner's family" means the husband, wife, son, daughter, father, mother, brother or sister of the prisoner ;(c)"Prescribed" means prescribed by rules made under this Act;(d)"Prisoner" means a person confined in prison under a sentence of imprisonment;(e)"Superintendent of Jail" means the Superintendent of Jail in which the prisoner is undergoing his sentence of imprisonment.

3. Temporary release of prisoners on certain grounds.

(1)The Government may, in consultation with District Magistrate and subject to such condition and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the Government is satisfied that:-(a)a member of the prisoner's family has died or is seriously ill ; or(b)the marriage of the prisoner's son or daughter is to be celebrated; or(c)the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the prisoner or a member of the prisoner's family is available for undertaking such operation in his absence ; or(d)it is desirable so to do for any other sufficient cause.(2)The period for which a prisoner may be released shall be determined by the Government so as not to exceed:-(a)where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), four weeks ;(b)where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks ; and(c)where the prisoner is to be released on the ground specified in clause (c) of sub-section (1), six weeks.(3)The period of release under this section shall not count towards the total period of the sentence undergone by the prisoner.(4)The Government may by notification authorise any officer to exercise its powers under this section in respect of all or any of the grounds specified therein.

4. Temporary release of prisoners on furlough.

- The Government or any other officer authorised by it in this behalf may in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than five years, and who :-(a)has, immediately before the date of his temporary release, undergone imprisonment for a period of three years, excluding remission ; and(b)has not during such period committed any jail offence and has earned at least three annual good conduct remissions :Provided that nothing herein shall apply to a prisoner who :-(i)is a habitual offender as defined in sub-section (2) of section 2 of the Jammu and Kashmir Habitual Offenders (Control and Reforms) Act, 1956 ; or(ii)has been convicted of robbery or dacoity or such other offences as the Government may, by notification specify.(2)The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year, thereafter.(3)Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) shall count towards the total period of the sentence of a prisoner.

5. Exclusion of certain days in computing period under section 3 and 4.

- For the purpose of calculating the period of temporary release of a prisoner under section 3 and 4, the days of departure from and arrival at the prison shall be excluded.

6. Prisoners not entitled to be released in certain cases.

- Notwithstanding anything contained in sections 3 and 4 no prisoner shall be entitled to be released

under this Act if, on the report of the District Magistrate, the Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

7. Journey expenses of poor prisoners to be borne by the Government.

- If, on the report of the District Magistrate, the Government is satisfied that a prisoner's family cannot bear the expenses of his journey from and to the prison after his temporary release under this Act, the expenses may be borne by the Government to such extent and in such manner as may be prescribed.

8. Liability of prisoner to surrender on expiry of release period and consequences of overstaying.

(1)On the expiry of the period for which a prisoner is released under this Act, he shall surrender himself to the Superintendent of the Jail from which he was released.(2)If a prisoner does not surrender himself as required by sub-section (1) within a period of ten days from the date on which he should have so surrendered, he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.(3)If a prisoner surrenders himself to the Superintendent of the Jail from which he was released within a period of ten days of the date on which he should have so surrendered, but fails to satisfy the Superintendent of the Jail that he was prevented by any sufficient cause from surrendering himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall, after affording the prisoner a reasonable opportunity of being heard, be awarded to him by the Superintendent of the Jail, namely :- (a) a maximum cut of five day's remission for each day of overstay ; (b) stoppage of canteen concession for a maximum period of one month; (c) withholding concession of either interviews or letters or both for a maximum period of three months; (d) the period of temporary release on furlough of the prisoner under section 4, shall not be counted towards his sentence ; (e) warning; (f) reduction from the status and grade of "Convict Watchman" or "Convict Overseer".

9. Penalty for failure to surrender.

- Any prisoner who is liable to be arrested under sub-section (2) of section 8, shall be punishable with imprisonment or either description which may extend to two years or with fine, or with both on a complaint filed by the Superintendent of Jail before a Judicial Magistrate of 1st class having territorial jurisdiction in the matter. Explanation. - The punishment in this section is in addition to the punishment awarded to the prisoner for the offence for which he was convicted.

10. Power to make rules.

(1)The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for:- (a) the execution by the prisoner (including his sureties) of bond

for his good behaviour during the release period and for the surrender on the expiry of such period ;(b)the amount for which and the form and manner in which such bonds shall be furnished ;(c)the forfeiture of the amount of bonds in case of breach of its terms ;(d)the conditions on which and the manner in which prisoner may be released temporarily under this Act;(e)the manner in which the District Magistrate shall be consulted before a prisoner is released ;(f)the extent to which and the manner in which journey expenses of poor prisoners shall be borne by the Government; and(g)any other matter which is to be or may be prescribed.