

# **The Jammu And Kashmir (Prevention Of Unfair Means) Examinations Act, 1987**

JAMMU & KASHMIR

India

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### **Act 20 of 1987**

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The Jammu And Kashmir (Prevention Of Unfair Means) Examinations Act, 1987[Act No. 20 of 1987][4th January, 1988]An Act to regulate the conduct of examinations and to provide for the punishment of Unfair means used or committed in such examinations.Be it enacted by the Jammu and Kashmir State Legislature in the Thirty-eighth Year of the Republic of India as follows:-

### **1. Short title, extent and commencement**

This Act may be called the Jammu and Kashmir (Prevention of Unfair means) Examinations Act, 1987.(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.

### **2. Definitions**

In this Act, unless the context otherwise requires,-(a)"board" means the Jammu and Kashmir State Board of Schools Education established under the Jammu and Kashmir Board of School Education Act, 1975;(b)"candidate" means a person appearing or claiming to appear in an examination;(c)"competent authority" means an University or the Board as the case may be;(d)"conduct of examination" includes supervision of examinations, preparation or distribution of question papers, coding, evaluation, processing of examination, results and certification thereof;(e)"examination" means any examination held by an University or the Board;(f)"examination centre" means the premises specified by the Competent authority as such for holding of any examination;(g)"inspection team" means a team of two or more persons appointed and authorised by the competent authority to inspect any examination centre and submit its report to the competent authority about the conduct of examination of each such examination

centre: Provided that the competent authority may appoint any person to perform and discharge the functions of the inspection team; (h) "regulations" means the regulations made by the Board under the Jammu and Kashmir Board of School Education Act, 1975; (i) "statutes" means the statutes made by an University under this Act under which the University is established; (j) "supervisory staff" means any person appointed by the competent authority under any law for the supervision and conduct of an examination and includes such other persons as are appointed by the competent authority to perform the duties and functions connected with the conduct of an examination; (k) "unfair means" in relation to an examination means if a candidate- (i) possesses or keeps accessible in the examination hall any paper, note, book or material connected with the subject of the examination in which he is appearing; (ii) gives assistance or guidance to or receives it from any other candidate or communicates or attempts to communicate with any other candidate or person in or outside the examination hall in respect of any matter connected with the subject or the examination in which he is appearing; or (iii) copies or has copied in the examination hall from any paper, book or note or any other material relevant to the subject of examination in which he is appearing; or (iv) changes his seat with any other candidate or occupies a vacant seat or the seat of any other candidate not allotted to him; or (v) refuses to obey the orders of the supervisory staff; (vi) misbehaves or commits an act of violence or creates disturbance of any kind in and around the examination hall; or organizes a walkout or instigates others to stage a walkout; or (vii) impersonates or misrepresents any other candidate in connection with the examination; or (viii) smuggles an answer book, or part thereof or continuation sheet into the examination hall or takes out or arranges to send out an answer book or part thereof or a continuation sheet or replaces the answer book, its inner sheets, or continuation sheets during or after the examination with or without the connivance of the supervisory staff; or (ix) threatens the supervisory staff on duty in or, outside the examination hall with any injury to his person or to any of his relations or friends; whether by words either spoken or written or by signs or visible representations or otherwise with a view to inducing the supervisory staff or any person on duty in or outside the examination hall to show any concession; or (x) discloses his identity or makes a distinctive mark in the answer book for the purposes of his identification; or (xi) appeals to or approaches the supervisory staff by himself or through any relative, guardian or friend for obtaining any concession in respect of the examination in which he is appearing or has appeared or makes an appeal to the supervisory staff in his answer book; or (xii) uses abusive or obscene or indecent language in the answer book; or (xiii) obtains or attempts to obtain admission to an examination of false representation made on his admission form or forges another person's signatures on his admission form; or (xiv) during the course of examination, writes either on blotting paper, or any other piece of paper a question set in the paper, or any thing connected with or relating to a question set in the paper or solution thereof; (xv) possesses a solution to a question set in the paper through the connivance of any member of the supervisory or menial staff or an outsider; (xvi) leaves the examination hall without delivering the answer book and takes it away with him or intentionally tears off the answer book or any part thereof or continuation sheet or part thereof inside or outside the examination hall; or (xvii) approaches or attempts to influence directly or indirectly, regarding his unfair means misconduct case to a member of the committee for scrutiny of misconduct/unfair means cases; (xviii) forces his entry into a hall for the purpose of taking the examination even after being told that he is not eligible to sit for the examination; or (xix) possesses any lethal weapons or firearm or comes in drunken condition to the examination hall; or (xx) engages in any other act or omission

which has the tendency to disrupt the orderly conduct of the examination;(l)"University" means an university established under any Act passed by the State Legislature.

### **3. Duties of the Supervisory staff**

The supervisory staff shall-(a)be bound, responsible to act and to perform their duties in accordance with and as required by or under the statutes or the regulations, as the case may be;(b)not to allow, connive at or facilitates the commission of any unfair means by any candidate;(c)not to allow any person other than the members of the inspection team, to enter or loiter in or around the examination centre.

### **4. Power of the Competent Authority**

The Competent Authority may appoint any eligible teacher or other official of the University or Board or the Education Department, as the case may be, as a member of the supervisory staff and it shall be obligatory on such person to accept the assignment.

### **5. Penalties**

(1)If any person contravenes, or attempts to contravene or abets the contravention of, any of the provisions of this Act, he shall be punished with imprisonment for a term which may extent to two years or with fine which may extend to rupees two thousand or with both.(2)If any person being under an obligation to perform any duty in connection with the conduct of an examination fails to perform such duty or commits any dereliction of duty, he shall be guilty of offence under sub-section (1) and shall be punished accordingly.(3)If any person obstructs or threatens any member of the inspection team, supervisory staff or any authority, officer or person appointed by the competent authority from performing lawful duty or from entering any centre in the exercise of any power conferred on him/her by or under this Act, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to rupees two thousand or with both.Exception:-The provisions of this section shall not apply to a candidate.

### **6. Offences by companies**

Where an offence under section 5 of this Act is committed by a company engaged in the conduct of examination, every person who at the time the offence was committed was incharge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.Explanation:-For the purpose of this section, "Company" means any body corporate and includes a firm or other association of the individuals.

## **7. Offences to be non-cognizable and non-bailable**

Notwithstanding anything contained in the Code of Criminal Procedure Samvat 1989, all offences under this Act shall be non-cognizable and non-bailable.

## **8. Cognizance of offences and procedure for trial**

Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989:-(i)all offences under this Act shall be triable by a Judicial Magistrate of Ist Class empowered by the Government in this behalf;(ii)no Court shall take cognizance of any offence under this Act except on a complaint lodged by the competent authority or an officer authorised by the competent authority;(iii)all offences under this Act shall be triable in accordance with the procedure laid down under section 259-A of the Code of Criminal Procedure, Samvat 1989.

## **9. Misconduct by a candidate**

If any candidate commits misconduct or uses unfair means he shall be liable to disciplinary action under the statutes and the regulations as the case may be.

## **10. Persons engaged in the conduct of examination to be public servants**

Every person engaged in the conduct of the examination shall be deemed to be public servant within the meaning of section 21 of the Ranbir Penal Code.

## **11. Application of other laws not barred**

The provisions of this Act shall be in addition to and not in derogation of any other law in force on the subject.