

The Jammu and Kashmir Prohibition of Smoking and Non-Smokers Health Protection in Public Service Vehicles Act, 1997

JAMMU & KASHMIR

India

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Act 20 of 1997

- Published in Gazette 20 on 2 June 1997
- Assented to on 2 June 1997
- Commenced on 2 June 1997
- [This is the version of this document from 2 June 1997.]
- [Note: The original publication document is not available and this content could not be verified.]

Jammu And Kashmir Prohibition Of Smoking And Non-Smokers Health Protection In Public Service Vehicles Act, 1997[Act No. 20 of 1997][02nd June, 1997]An Act to provide for prohibition of smoking in public service vehicles in the State and to make provisions for other matters connected therewith or incidental thereto.Be it enacted by the Jammu and Kashmir State Legislature in the Forty Eighth Year of the Republic of India as follows:-

1. Short title, extent and commencement

(1)This Act may be called the Jammu and Kashmir Prohibition of Smoking and Non-Smokers Health Protection in Public Service Vehicles Act, 1997.(2)It extends to the whole of the State of Jammu and Kashmir.

2. Definitions

In this Act, unless the context otherwise requires:-(a)"advertisement" means and includes a notice, circular, pamphlet, display in public service vehicles by visible representation made by means of any light, sound, gas smoke, or any other means which has, directly or indirectly, the efforts of promoting smoking and the expression "advertise" shall be construed accordingly;(b)"Authorised Officer" means an officer authorised under section 4;(c)"Government" means the Government of Jammu and Kashmir;(d)"public service vehicle" means a vehicle as defined under clause (25) of section 2 of the Motor Vehicles Act, 1988 (81 of 1988);(e)"Smoking" means smoking of tobacco in

any form, whether in the form of cigarettes, cigars, beedis or otherwise or with the aid of pipe, wrapper or any other instrument.

3. Power of Government to authorise officers to act under this Act

(1)The Government may, by notification in the Government Gazette, authorise one or more officers, who shall be competent to act under this Act.(2)Every officer authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the State Ranbir Penal Code Samvat 1989.

4. Prohibition of smoking in public service vehicles

Without prejudice to the provisions of the Motor Vehicles Act, 1988 (81 of 1988) no person shall smoke in a public service vehicle.

5. Prohibition of advertisement of cigarettes etc

Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any public service vehicle which may promote, directly or indirectly, smoking, or the sale of cigarettes and beedies etc.

6. Penalties

Any person, who contravenes the provisions of:-(i)section 4 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees;(ii)section 5 shall be punishable with fine which may extend to five hundred rupees in case of second or subsequent offence,shall be punishable with a minimum fine of five hundred rupees but which may extend to one thousand rupees.

7. Ejection of violators of this Act from the public service vehicle

Any authorised officer or any Police Officer not below the rank of Sub-Inspector of Police or Traffic Department may eject any person from public service vehicle who contravenes the provisions of this Act.

8. Court competent to try offence under this Act and take cognizance of offences

(1)No court other than the court of Judicial Magistrate, Ist class shall take cognizance of, and try any offence under this Act.(2)No court shall take cognizance of any offence under this Act except on a complaint in writing of an authorised officer with respect to offence under section 4 and on a report in writing of a Police Officer, not below the rank of Assistant Sub-Inspector, with respect to the

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offence under section 6.

9. Certain offences to be cognizable and bailable

Notwithstanding anything contained in the code of Criminal Procedure, Samvat 1989, offences under section 6 shall be cognizable and bailable.

10. Offences under the Act to be tried summarily

All offences under this Act shall be summarily in the manner provided for summary trial under the Code of Criminal Procedure, Samvat 1989.

11. Power to delegate

The Government may, by notification in the Government Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified by the said notification.

12. Composition of offences

The Government or any person, authorised by it by general or special order in this behalf, may either before or after the institution of the proceedings compound any offence made punishable by or under this Act.

13. Power to make rules

(1)The Government may make rules to provide for or regulate any matter in respect of which this Act makes no provision or makes insufficient provision and provisions is, in its opinion necessary.(2)Any rule made by the Government shall be subject to previous publication thereof in the Government Gazette.(3)Every rule made under this Act shall be laid as soon as may be after it is made before the two Houses of the State Legislature and if the Legislature suggests any modification in the rule or directs that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be. However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.