

Jammu and Kashmir Accountability Commission Regulations, 2005

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-ACCOUNTABILITY-COMMISSION-REGULATIONS of 2005

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Jammu and Kashmir Accountability Commission Regulations, 2005(Notification No. I of 2005, Dated 2-12-2005)In exercise of the powers conferred by Section 31 of the Jammu and Kashmir Accountability Commission Act, 2002 (Act No. XXXVIII of 2002), the Accountability Commission hereby makes the following Regulations, namely:

1. Short title and commencement

(1) These Regulations may be called the Jammu and Kashmir Accountability Commission Regulations, 2005.(2)They shall come into force on the date of their publication in the Government Gazette.

2. Definitions

(1) "Act" means the J&K Accountability Commission Act, 2002 (Act No. XXXVIII of 2002).(2)"Certified copy" shall have the same meaning as is assigned to it in section 76 of the Jammu and Kashmir Evidence Act, 1977 (XII of 1977).(3)"Chairperson" means the Chairperson of the Accountability Commission.(4)"Form" means the Form prescribed in the Rules or in these Regulations.(5)"High Court" means the High Court of Jammu and Kashmir.(6)"Public Prosecutor" means any person appointed as such under the Act, Rules and these Regulations and includes any other person authorized by or under any law for the time being in force, to practice in the Court, and includes any other person appointed or permitted by the Commission to act as such in the proceedings before the Commission.(7)"Registrar" includes the Additional Registrar, Deputy

Registrar and Assistant Registrar of the Commission.(8)"Rules" means the J&K Accountability Commission Rules.(9)"Secretary" means the Secretary of the Accountability Commission appointed under section 25 of the Act.(10)"Schedule" means the Schedule appended to these Regulations.(11)Words and expressions used in these Regulations but not defined herein shall have the same meaning as are assigned to them in the Act or the rules made thereunder.

3. Sittings of the Commission

(1) The Accountability Commission shall have its offices both at Jammu and Srinagar where it will hold sittings as per the orders and directions of the Chairperson of the Commission.(2)When the Commission comprises of more than one member, the sittings of such members of the Commission and the nature of cases to be heard by them shall be regulated by the Chairperson, either by a general order or by special assignment of cases.(3)The Headquarter of the Commission shall be at such place and for such period as may be specified by the Chairperson.(4)The Commission shall follow the High Court Calendar and the office timings, both at Jammu and Srinagar.(5)The Commission shall hold its sittings at places other than Jammu and Srinagar, as per orders of the Chairperson as and when required.

4. Delegation of Powers

The Chairperson may by a general or special order in writing direct that any power conferred or duty imposed on him under the Act for the purposes of receiving, processing and registering of the complaints, may be exercised or discharged by such of the officers and employees of the Commission as may be specified in the order/direction.

5. Filing of the complaints

(1) All the complaints shall be filed in the Registry of the Commission before the Registrar or such other officer as is empowered by the Chairperson to receive the complaints under the Regulations.(2)On receipt of a complaint, the Registry shall examine as to whether or not the complaint has been filed in accordance with the Act and the Rules or otherwise it suffers from any defects. The defects found shall be notified by the Registrar to the complainant in the prescribed Form with the direction to rectify the same within a specified time. If within the specified time the defects are not rectified, the complaint shall be put up before the Commission for appropriate orders.(3)If the complaint is properly filed and does not suffer from any defect, the same shall be regularly registered and placed before the Commission for appropriate orders regarding inquiry or investigation.(4)On perusal of the complaint, the reports of the Registry, the Commission may direct holding of inquiry or investigation by any officer of the Inquiry and Investigation Wing of the Commission or any other officer or agency, as specified in section 26 of the Act.(5)For the purposes of holding preliminary inquiry, a regular inquiry or investigation, the Commission may direct issuance of notice to the public functionary in the prescribed Form, affording him an opportunity to rebut the allegations made. Where the Commission directs the issuance of notice, the complainant shall furnish Registered or Speed Post Envelopes for the service of the respondents and the competent authority.

6. Procedure regarding holding of preliminary inquiry

(1) On receipt of the complaint or the grounds of allegations, the Accountability Commission shall afford an opportunity to the public functionary concerned to submit his statement of defence within a period specified in the order. If upon consideration of the statement of defence and the report of the Competent Authority, the Commission considers that further inquiry or investigation is required to be conducted, it shall afford to the public functionary a further opportunity of time prescribed by the Commission not exceeding two months to submit his defence, if any, and thereafter issue appropriate directions to the complainant and the Public Prosecutor for production of evidence in support of the allegations levelled against the public functionary within a specified time. (2) The evidence in support of the allegations may be submitted in the form of affidavits which shall be treated as examination-in-chief and the copies thereof shall be furnished to the public functionary. (3) On submission of the evidence in the form of affidavits, the Commission shall inquire from the public functionary as to whether he desires to cross-examine any person who has filed affidavit against him and, if he so desires, afford him an opportunity of cross-examination. (4) The complainant or the Public Prosecutor shall be under obligation to produce such person before the Commission for cross-examination by the public functionary. After cross-examination, if so desired, is complete, the Commission shall afford an opportunity to the Public functionary to lead evidence in his defence. The defence evidence shall also be submitted in the form of duly sworn affidavits within the time specified by the Commission and the other side shall be afforded opportunity to cross-examine, if so desired, any such person who has filed affidavit on behalf of the public functionary. (5) The complainant, the Public Prosecutor or public functionary may seek the assistance of the Commission for production of any person as their witness or summoning of any record from any office in support of their respective cases. If the request is found to be genuine, the Commission may summon such person as witness or the record at the expenses of the party applying for it. (6) After the evidence is complete, the parties shall be afforded an opportunity to address arguments in support of their contentions on a date and time specified by the Commission. No case shall be adjourned for the purpose of addressing arguments, unless sufficient grounds are made out for adjournment to the satisfaction of the Commission, and the case once adjourned shall not be adjourned again.

7. Procedure in contempt matters

To deal with a contempt matter under section 20 or proceedings under section 22 of the Act, the Commission shall hold summary inquiry and if prima facie finds the person guilty for contempt, afford him an opportunity to lead evidence in defence, if any, within a period of two weeks. Every petition for contempt shall be disposed of as expeditiously as possible and within a period of two months from the date of appearance of the contemnor before the Commission.

8. Utilisation of services of other persons

(1) For the purposes to exercise powers under section 26 of the Act, the Chairperson may authorize Registrar or any other officer of the Commission to utilize the services of any officer or investigating agency of the State or any other person or agency. (2) For the purposes of holding

inquiry and investigation, the Chairperson may authorize any of the officers to exercise the powers vested in a police officer under the Code of Criminal Procedure.(3)The Chairperson may authorize the Registrar or any other officer of the Commission to exercise the powers vested in the Commission under section 14 of the Act.(4)No fee shall be chargeable on any complaint filed before the Commission.

9. Procedure in suo moto actions

In cases where the Commission intends to take suo moto action, the substance of the allegations shall be examined by the Registrar of the Commission and reported to the Commission. After examining the report of the Registrar, the Commission may decide to issue process for investigation of the allegations in the same manner prescribed for inquiry and investigation with respect to the complaints. In all such matters, the Public Prosecutor shall assist the Commission.

10. Procedure for service of notice on the public functionary and the Competent Authority for taking an action or for safe custody of the documents

(1) A summons/notice in Form-D, prescribed in the Schedule appended to the rules, shall be served upon the public functionary along with a copy of complaint or the substance of the allegations and copies of the accompanying documents to be relied upon in support of the substance of the allegations during the inquiry and investigation.(2)Every summons/notice under Sub-Regulation (1) shall be sent to the concerned by registered post, speed post or courier service. If the summons/notice and the copies of the documents sent under Sub-Regulation (1) are not returned, served or unserved within a reasonable time to the Commission, it shall be presumed that such summons/notice and the documents have duly been served upon the public functionary or the Competent Authority, as the case may be.

11. Procedure for obtaining a copy of record, judgement or order

Any person entitled to obtain certified copy of any record under the Act and the Rules, may apply to the Registrar or any other officer of the Commission, as may be specially authorized by the Chairperson and the requisite copy will be supplied on payment of the copying fee as prescribed hereunder :-(i)For every copy of judgment/order up to ten pages consolidated copying fee of Rs. 20/- will be charged and Rs. 50/-if the judgment/order is of more than ten pages;(ii)For obtaining a certified copy of any record, judgment/order urgently, the copying fee shall be double the aforesaid amount;(iii)An application for obtaining certified copy shall be accompanied by stamps of requisite denomination;(iv)Ordinary certified copy shall be supplied within seven working days from the date the application is made in this behalf. Urgent certified copy shall be supplied within 48 hours; and(v)An application for obtaining certified copy shall be filed before the Registrar or any other officer duly authorized by the Commission for that purpose. On receipt of the application the Registrar or the authorized officer as the case may be shall make an endorsement on the application showing the date of filing of the application, the amount of the copying fee deposited with the

Commission and the expected date for delivery of the copy. The date for the supply of the copy shall also be notified to the applicant.

12. Inspection of records

(1) Record of pending cases will be open to the inspection by the parties or their authorised agents or Advocate or Vakil of the Court who is duly authorised to act in the case: Provided that the inspection of record shall not be permitted on the date fixed for hearing. (2) The inspection of the records of decided cases will be allowed only under the orders of the Chairperson or in his absence the next Senior Member. (3) An application for the inspection of record shall be made by a petition duly stamped with a court fee of Rs. 5/-. (4) Every application for inspection shall specify clearly: (a) the particulars of the record or paper of which inspection is desired; (b) the party or the person on whose behalf the application is made; (c) the name of the person by whom inspection is to be made; (d) any other particulars necessary to be incorporated. (5) No mark shall be made on any record or paper inspected and no one shall be allowed on any account, to take notes.

13. Staff of the Commission

(1) The strength and composition of the staff of the Accountability Commission shall consist of such officers as are specified in Annexure-A and such other officers/employees as the Governor may determine from time to time in consultation with the Commission. (2) The appointments to the posts specified in the Schedule-A shall be made: (a) By direct recruitment; (b) By promotion; and (c) By deputation, as prescribed in the Schedule against each post. (3) The staff of the Commission shall be subject to exclusive administrative and disciplinary control and directions of the Commission. (4) The Jammu and Kashmir Civil Services Classification and Control (Appeal) Rules, 1956 and the orders of the Commission, issued from time to time, shall apply to the recruitment, posting and promotion to the posts of the staff of the Commission. (5) The conditions of service of a person on the staff of the Commission shall be governed by the J&K Civil Services Regulations, J&K Civil Services Classification and Control (Appeal) Rules, 1956 and the orders of the Commission issued from time to time in respect of Government servants holding corresponding appointments. Annexure 'A'

S. No	Category of Post	No of Posts	Method of recruitment	Minimum Qualification
1	2	3	4	5
Administrative Wing				
1.	Secretary	1	By deputation from Government or High Court or by direct recruitment if retired.	Who is or has been IAS Officer or Distt. & Sessions Judge.
2.	Deputy Secretary	1		

			By deputation from Government	
3.	Accounts Officer	2	By deputation from Finance Department	
4.	P.A./Sr.Stenographer	2	By deputation or by direct recruitment	Who is or has been P.A./Stenographer in Government of J&K or Judicial services of the State.
5.	S.O.	2	By deputation.	
6.	Head Assistant	2	By deputation.	
7.	Account Assistant	4	By deputation.	
8.	Sr. Assistant	2	By deputation.	
				In case of direct appointees must be graduates with knowledge of typewriting having not less than 35 words speed per minutewith
9.	Jr. Assistant	10	75% by deputation or by direct recruitment and 25% by promotion from Class IV Employees	six months certificate course in Computer Applications from a recognized institute and by promotion from Class IV employee having 10+2 qualification type knowing with six months certificate course in Computer Applications.
10.	Computer Operator	4	By direct recruitment	Must possess three years Diploma Engineering.
11.	Librarian	2	By direct recruitment	Must be B.Lib.
12.	Telephone Operator/ Receptionist	2	By direct recruitment	As prescribed by the Government of J&K.
13.	Drivers	7	75% by direct recruitment and 25% by promotion from	As prescribed by the Government of J&K.

			category No. 16 who possess valid driving licence.	
14.	Despatch Rider	2	By direct recruitment	As prescribed by the Commission.
15.	Jamadar	1	By deputation from Government or judicial services or by promotion from category 16.	do.
16.	Orderlies	25	By direct recruitment	As prescribed by the Government of J & K.
17.	Home Orderlies	4	By direct recruitment	As prescribed by the Government of J & K
18.	Chowkidars	4	By direct recruitment	As prescribed by the Government of J & K
19.	sweeper	2	By direct recruitment	As prescribed by the Government of J & K
20.	gardeners	2	By direct recruitment	As prescribed by the Government of J & K
Legal Wing +				
1.	Principal Secretary to Chairpersons	1	By deputation from the J&K High Court if in service and by direct recruitment if retired.	Must be or has been a Distt. & Sessions Judge.
2.	Deputy Registrar	2	By deputation from the J&K High Court if in service and by direct recruitment if retired.	Who is or has been a Deputy Registrar in J&K High Court.
3.	Asstt. Registrar	2	By direct recruitment	Must be a Law Graduate having at least 5 years of experience at the Bar.
4.	Public Prosecutor	2	By direct recruitment	Must be a Law Graduate having at least 5 years of experience at the Bar.
5.	Asstt. Public Prosecutor	2	By direct recruitment	Must be a Law Graduate having at least 5 years of

				experience at the Bar.
6.	Judgement Writers	4	By deputation from High Court or by direct recruitment.	Who is or has been a Judgement Writer in J&K Judicial Services.
7.	Court Officers/ Master	2	By deputation from High Court or by direct recruitment.	Who is or has been a Judgement Writer in J&K Judicial Services.
8.	Translators	2	By deputation from High Court or Government.	
9.	Copyist	2	By deputation or by direct recruitment.	Who is Jr. Asstt. if in service or who is eligible to be appointed as Jr. Asstt.

Investigation Wing

1.	Addl. DG/IGP	1	By deputation
2.	DIG	2	By deputation
3.	SPs	4	By deputation
4.	DSPs	4	By deputation
5.	Inspectors	6	By deputation
6.	Sub-Inspectors	12	By deputation
7.	ASIs	12	By deputation
8.	Head Constables	24	By deputation
9.	Constables	40	By deputation
10.	Police Clerks	6	By deputation
11.	Police Drivers	7	By deputation

Technical Wing

1.	Superintending Engineer	1	By deputation
2.	Executive Engineer	2	By deputation

TABLE END
 Notifications, Circulars, Orders, ETC.
 Date of commencement of Accountability Commission Act, 2002
 SRO No. 17, dated 21st January, 2003
 In exercise of the powers conferred by sub-section (3) of section (1) of the Jammu and Kashmir Accountability Commission Act, 2002 (Act No. XXXVIII of 2002), the Government hereby appoints 25th January, 2003 as the date on which the said Act shall come into force.
 Appointment of Accountability Commission
 SRO 154 dated 2nd June, 2005
 In exercise of the powers conferred by sub-section (1) Section 3 of the Jammu and Kashmir Accountability Commission Act, 2002 (Act NO. XXXVIII of 2002), the Government hereby establish the 'Accountability Commission' to exercise the powers conferred upon and to perform the functions assigned to it under the said Act.
 Warrant of appointment of Chairperson
 SRO 255, dated

16-08-2011, Department of Law, Justice and Parliamentary Affairs In exercise of the powers vested in me under section 4 of the J&K Accountability Commission Act, 2002, I, N.N. Vohra, Governor of Jammu and Kashmir hereby appoint Shri Justice (Retd) Yash Paul Nargotra as Chairperson of the Jammu and Kashmir Accountability Commission for three years with effect from the date he assumes charge of his office or until he attains the age of seventy years, whichever is earlier. Warrant of appointment of Members SRO 256, dated 16-08-2011, Department of Law, Justice and Parliamentary Affairs In exercise of the powers vested in me under section 4 of the J&K Accountability Commission Act, 2002, I, N.N. Vohra, Governor of Jammu and Kashmir hereby appoint Shri Justice (Retd) Hakim Imtiyaz Hussain as Member of the Jammu and Kashmir Accountability Commission for three years with effect from the date he assumes charge of his Office or until he attains the age of seventy years, whichever is earlier.