



The Jammu and Kashmir Passenger Taxation Act, 1963

Act 12 of 1963

Keyword(s):

Business, Commissioner, Fare, Motor Vehicle, Owner, Passenger, Tax Recovery Officer

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**THE JAMMU AND KASHMIR PASSENGERS TAXATION
ACT, 1963.**

(ACT NO. XII OF 1963.)

[Received the assent of the Sadar-i-Riyasat on 27th March, 1963 and published in Government Gazette dated 27th March, 1963 (Extra.)]

An Act to provide for levying a tax on passengers carried by road in motor vehicles.

Be it enacted by the Jammu and Kashmir State Legislature in the Fourteenth Year of the Republic of India as follows :--

1. *Short title, extent and commencement.*--(1) This Act may be called the Jammu and Kashmir Passengers Taxation Act, 1963.

(2) It shall extend to the whole of the State of Jammu and Kashmir.

¹[(3) It shall come into force on such date as the Government may, by notification, appoint].

2. *Definitions.*--In this Act, unless the context otherwise requires,--

(a) "business" means the business of carrying passengers by motor vehicles ;

²(b) "Commissioner" means any person appointed by the Government to exercise functions of the Commissioner under this Act ;]

(c) "fare" includes sums payable for a season ticket or in respect of the hire of a contract carriage ;

(d) "motor vehicle" means a public service vehicle as defined in the ³[Jammu and Kashmir Motor Vehicles Act, Svt. 1998] ;

(e) "owner" means the owner of a motor vehicle in respect of which a permit has been granted or countersigned under the provisions of the ³[Jammu and Kashmir Motor Vehicles Act, Svt. 1998], and includes--

(i) the holder of a permit in respect of such vehicle ;

(ii) any person for the time being in charge of such vehicle ;

1. Enforced w.e.f. 6th May, 1963 by SRO-181 dated 19th April, 1963.

2. Clause (b) substituted by Act XIX of 1966.

3. Now Motor Vehicles Act, 1988 (Central Act 59 of 1988).

- (iii) any person responsible for the management of the place of business of such owner ; and
- (iv) the Government ;
- (f) "passenger" means any person travelling in a motor vehicle but shall not include the driver or the conductor or any employee of the owner of the vehicle travelling in the *bona fide* discharge of his duties in connection with the vehicle ;
- (g) "prescribed" means prescribed by rules framed under this Act ;
- (h) [Assessing authority] means an officer appointed as such by the Government for purposes of this Act ;
- ²[(hh) "Tax Recovery Officer" means Tax Recovery Officer as defined by clause (mm) of section 2 of the Jammu and Kashmir General Sales Tax, 1962;]
- (i) all words and expressions used but not defined in this Act shall have the same meaning as are assigned to them in the ³[J&K Motor Vehicles Act, Svt. 1998].

3. *Levy of Tax.*--(1) There shall be levied, charged and paid to the Government a tax on all fares in respect of all passengers carried by motor vehicles, at such rate not exceeding 30% of the value of the fare as may be notified by the Government from time to time in this behalf subject to a maximum of two Naya Paise in any one case the amount of tax being calculated to the nearest Naya Paisa.

⁴[x x x]

Explanation.--When passengers are carried by a motor vehicle and no fare has been charged, the tax shall be levied and paid as if such passengers were carried at the normal rate prevalent on the route.

(2) Where any fare charged is a lump sum paid by a person on account of a season ticket or as subscription or contribution for any privilege, right or facility which is combined with the right of such person being carried by a motor vehicle without any further payment or at a reduced charge, the tax shall be levied on the amount of such lump sum or on such amount as appears to the prescribed authority to be fair and equitable having regard to the fare fixed by a competent authority under the ³[Jammu and Kashmir Motor Vehicles Act, Svt. 1998].

1. Substituted by Act XIX of 1981, s. 18.
2. Clause (hh) added by *ibid*.
3. Now Motor Vehicles Act, 1988 (Central Act 59 of 1988).
4. Proviso omitted by Act XIII of 1969.

¹[3-A. *Payment of tax in lump.*--Notwithstanding anything contained in section 3 an owner may, in lieu of tax chargeable under the Act opt to pay by way of composition such sum of money the lump sum as may be determined from time to time by the Government with reference to the seating capacity of Motor Vehicle and notified by it :

Provided that nothing contained in this section shall apply to an owner owning more than one motor vehicle unless he exercises such option in respect of all such vehicles liable to tax.

3-B. *Excess amount of tax collected to be paid to Government.*--An owner who has opted or shall opt to pay the tax in lump sum and has collected or shall collect tax in excess of the amount payable under sub-section (1) shall pay to the Government in the prescribed manner the tax collected in excess.]

4. *Method of collection of tax.*--The tax shall be collected by the owner of the motor vehicle and paid to the Government in the prescribed manner.

²[x x x]

5. *Method of levy.*--Save as otherwise provided by this Act, no passenger shall be allowed to travel by the owner in a motor vehicle unless he is issued a ticket in the prescribed form for the journey, denoting that the tax has been paid.

6. *Keeping of accounts, ³[submission of returns and assessment].*--
(1) An owner may be required to keep such accounts and to submit such returns at such intervals and to such authority as may be prescribed :

⁴[Provided that an owner who has opted to pay the tax in lump sum shall not be liable to keep accounts and to submit returns.]

⁵(2) & (3) Omitted.

³(4) If the assessing authority is satisfied that the tax has not been correctly levied, charged and/or paid in the prescribed manner or the owner has failed to furnish the return within the prescribed period, he shall after giving the owner a reasonable opportunity of being heard, proceed to levy the amount of tax due and recover the same.

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1. Sections 3-A, 3-B inserted by Act XIX of 1981, s. 19.
 2. Proviso omitted by *ibid* s. 20.
 3. Substituted by *ibid*. s. 21.
 4. Proviso added by *ibid*., s. 21.
 5. Sub-sections (2) & (3) omitted by *ibid*.

(5) The tax assessed or any other amount demanded under the Act shall be paid within 15 days of the service of notice of demand issued in the prescribed form.]

¹[7. *Authorities under the Act.*—(1) For carrying out the purposes of this Act, the Government shall appoint one or more persons as the Commissioners under this Act and such other persons to assist him as it thinks fit in this behalf.]

(2) The Commissioner and the persons appointed under sub-section (1) shall exercise such powers and perform such duties as may be assigned to them under this Act.

8. *Registration of owner.*—No owner shall ply for hire his motor vehicle in the State unless he is in possession of a valid registration certificate as provided hereinafter.

9. *Grant of registration certificate.*—(1) A registration certificate shall be granted in the prescribed manner to any owner applying therefor to the prescribed authority on payment of a ²[fee of Twenty-five rupees].

²[(2) Every such registration certificate shall be valid till it is cancelled or suspended.]

(3) No registration certificate shall be granted to any person who has not registered his motor vehicle under the ³[Motor Vehicles Act, Svt. 1998] and if any such registration under that Act is suspended or cancelled, any registration certificate granted under this Act shall be deemed to be suspended or cancelled, as the case may be.

⁴(4) [Omitted.]

(5) If any owner, who has been granted a certificate of registration under sub-section (1) transfers, discontinues or closes his business, he shall inform the prescribed authority within thirty days of his doing so, and the said authority shall cancel the registration certificate from the date of transfer, discontinuance or closing down of the business.

⁵[(5-a) Notwithstanding anything contained in sub-section (5), if the Assessing Authority is satisfied that any owner who has been granted certificate of registration under sub-section (1) has discontinued his business

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1. Substituted by Act VI of 1983.
 2. Substituted by Act XX of 1978.
 3. Now Motor Vehicles Act, 1988 (Central Act 59 of 1988).
 4. Sub-section (4) of Section 9 omitted by Act XIX of 1981, s. 22.
 5. Sub-section 5-a inserted by *it id.*

he may for reasons to be recorded, cancel the certificate of registration after giving the owner a reasonable opportunity of being heard.]

- (6) (i) On the death of an owner any person claiming to be the legal representative of the deceased shall inform the ¹[Assessing authority] of this fact within a period of thirty days.
- (ii) The ¹[Assessing authority] shall thereupon after due enquiry transfer the certificate in the name of the person legally entitled to it.

(7) When any owner transfers any motor vehicle, the transferee shall be liable to pay tax and penalty, if any, remaining unpaid by the transferer up to the date of transfer as if he was the registered owner, and the transferee shall not ply the said motor vehicle without getting himself registered or getting his registration certificate amended, if he is already registered.

10. *Exemptions.*--The Government may, by general or special order and subject to specific condition, if any, ²[exempt either partly or in full, any person or class of persons from the operation of any of the provisions] of this Act, if in its opinion such exemption would be expedient in the public interest.

11. *Supply of time table and table of fares and freights.*--An owner shall, in the prescribed manner, furnish to the ¹[Assessing authority] a table of fares of public service vehicles, a table regulating timings of arrival and departure of motor vehicles and such other particulars connected with the business as the ¹[Assessing authority] may, by order from time to time, require.

12. ³[*Recovery of arrears of tax and other demand.*].--(1) Any arrears of tax or penalty imposed under this Act shall be recoverable as an arrear of land revenue.

(2) Notwithstanding anything contained in sub-section (1), if it is reported to the ¹[Assessing authority] or an officer specially empowered in this behalf by the Commissioner that the tax is due from an owner of a motor vehicle and he has not paid the same within the time allowed to him in this behalf, a notice shall be issued to him in the manner considered feasible by that officer to appear and to show cause why the tax may not be realised from him.

(3) If he appears and satisfies the officer that he had paid the tax, the proceedings will be dropped. But if he does not appear or does not show

1. Substituted by Act No. XIX of 1981, s. 22.

2. Substituted by Act No. XIII of 1984, s. 2.

3. Marginal heading substituted by Act No. XIX of 1981, s. 23.

cause to the satisfaction of that officer that such tax had been paid, the officer may direct that until the tax is paid, the vehicle in respect of which the tax is due shall not ply. ¹[A copy of such order shall be forwarded to the ²[Registering authority] as defined in the ³[Motor Vehicles Act, 1939] and the said authority shall, notwithstanding anything contained in ³[Motor Vehicles Act, 1939,] suspend the permit whereby the vehicle is allowed to ply for the period during which the owner is in default in making the payment of tax or any other amount payable under this Act.]

(4) An order passed *ex-parte* may be set aside by the officer on sufficient cause being shown in that behalf ⁴[within thirty days from the receipt of application requesting to set aside the order] and after such order has been set aside the proceedings may start before the officer from the stage at which the *ex-parte* proceedings were taken.

(5) The provisions of the Code of Civil Procedure, Svt. 1977, shall apply *mutatis mutandis* to the proceedings in respect of service of processes on the asséssee and the ⁵[Assessing authority] and the officers specially empowered by the Commissioner under sub-section (2) shall have the powers of a Civil Court in respect of the summoning of witnesses and the production of documents.

⁶12-A. *Interest on delay in payment of tax etc.*--If any amount of tax, penalty or any other sum payable under this Act, except the amount payable under this section, is not paid within the time prescribed or specified in the notice of demand, as the case may be, the person who is in default shall in addition to such tax, penalty or any other sum, pay interest at 2% per month for each month of default.

Explanation 1.--Interest shall be charged for full month and not for a part thereof.

Explanation 2.--If tax or any other amount payable under the Act is paid by cheque or draft, the date of encashment of the cheque or the draft, shall be treated to be the date of deposit of tax or such other sum.]

13. *Power of entry and inspections.*--(1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary, when required so to do by any ⁵[Assessing authority] in order to enable the said authority to carry out any duty imposed by or under this Act and the said authority may also enter and travel in the motor vehicle for doing so.

(2) A person authorised under sub-section (1) shall wear such uniform or such other distinguishing insignia as may be prescribed, may enter and

1. Words added by Act XIX of 1981, s.23.
2. Substituted by Act XIII of 1984, s. 3.
3. Now Motor Vehicles Act, 1988 (Act No. 59 of 1988).
4. Words inserted by Act XIX of 1981, s. 23.
5. Substituted *ibid*.
6. Section 12-A inserted by *ibid* s. 24.

inspect any place ordinarily used by the owner for garaging a vehicle or keeping accounts of his business for the purposes of seeing or verifying whether the provisions of this Act or any rules framed thereunder are being complied with and countersign any documents during the course of such inspection.

(3) The ¹[Assessing authority] may, in order to ensure that any provision of this Act is not being evaded by the owner of a motor vehicle, inspect and, if necessary, seize the log book from the driver of such motor vehicle and give a temporary acknowledgment therefor to the driver until the log book is returned to him.

²(4) All accounts, registers and other documents of an owner of a motor vehicle shall at all reasonable times be open to inspection by the Commissioner, assessing authority or any other officer authorised by the Commissioner, in this behalf and the Commissioner, assessing authority or the authorised officer may sign such accounts, registers, documents and books.

(5) If the Commissioner, assessing authority or any authorised officer has reasons to suspect that any owner of a motor vehicle is attempting to evade payment of tax under this Act, the Commissioner, assessing authority or the authorised officer, may, for reasons to be recorded, seize such accounts, registers or other documents of the owner as may be necessary for the purpose of any proceeding under this Act and shall grant a receipt for the same. The said accounts, registers and other documents shall not be retained by an officer other than the Commissioner for a period exceeding one month unless prior approval of the Commissioner has been obtained.

(6) For the purposes of sub-sections (4) and (5), the Commissioner, assessing authority or the authorised officer, as the case may be, may enter any place of business of the owner of a motor vehicle.]

14. *Power to seize licence.*—(1) The ¹[Assessing authority] may, if he has reason to believe that the driver of a motor vehicle charged with any offence under this Act may abscond or otherwise avoid the service of summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence.

(2) The ¹[Assessing authority] seizing a licence under sub-section (1) shall give to the person surrendering the licence a temporary acknowledgment therefor and such acknowledgment shall authorise the holder to drive until the licence has been returned to him or the Court has otherwise ordered.

1. Substituted by Act XIX of 1981, s. 17

2. Sub-sections (4), (5) and (6) of section 13 inserted *ibid* s. 25.

15. *Production of tickets.*--A passenger shall, upon demand made during the course of or immediately before or after the journey, produce to any [Assessing authority] the ticket, voucher or document relating to his travel. On his failure to do so he would be chargeable with twice the fare as penalty. In case of his failure to pay the amount determined it shall be recoverable from the driver of the vehicle if it is proved that he allowed the passenger to travel without a ticket for the journey.

16. *Appeals.*--An appeal shall lie to the appellate authority appointed by the Government in this behalf within sixty days of the passing of any order appealed against ; provided that this period may be extended for good cause shown to the appellate authority. The order of the appellate authority shall be final except as provided in section 17 :

Provided that no appeal shall be entertained by such authority unless he is satisfied that the amount of ²[tax assessed and the penalty imposed] has been paid :

Provided further that such authority if satisfied that an owner is unable to pay the ²[tax assessed and the penalty imposed] may, for reasons to be recorded in writing, entertain an appeal without such ²[tax and the penalty] having been paid.

17. *Revisions.*--(1) The Commissioner, of his own motion or on application made to him in the prescribed manner, may call for the record of any proceedings which are pending before or have been disposed of by any other authority subordinate to him under this Act for the purpose of satisfying himself as to the legality or propriety of such proceedings or of any order made therein and may pass such orders in relation thereto, as he may think fit :

Provided that the owner may make such application only within six months from the date of the order required to be revised.

(2) No order shall be made under this section or the next preceding section without giving an owner, or any other person interested, a reasonable opportunity of being heard.

¹17-A. *Penalties imposable.*--If any person--

(a) fails to obtain certificate of registration as required by section 9 of the Act¹ before plying the motor vehicle ; or

1. Substituted by Act XIX of 1981, s. 17.
2. Substituted *ibid* s. 26.
3. Section 17-A inserted *ibid* s. 28.

- (b) fails to furnish any return as required by section 6 of the Act or fails to furnish it within the prescribed time ; or
- (c) fails to deposit the tax within the prescribed period or within the period specified in the notice of demand ;
- (d) fails to comply with the requirements of a notice issued for production of account books or other documents ; or
- (e) obstruct the Commissioner, assessing authority or any other officer authorised by the Commissioner to enter and inspect the motor vehicle or any place of business and/or obstruct from making seizure of accounts, registers or other documents under section 13 ; or
- (f) conceals the tax payable or furnishes incorrect particulars of tax payable in the return ; or
- (g) furnishes wrong particulars in the application for obtaining certificate of registration of the motor vehicles ; or
- (h) does not stop the motor vehicle and keep it stationary as required under section 13 ; or
- (i) contravenes or fails to comply with any other provision of this Act or the rules framed thereunder or any order or direction made under any provisions or rules ;

shall be liable to pay a penalty of one hundred rupees or double the amount of tax involved, if any whichever is higher, if the contravention was attributable to a dishonest or mala fide intention on his part.]

18. *Offences and* ¹[*prosecution*].--(1) Whoever--

- (a) fails to pay the tax due from him within the prescribed period, or
- (b) fraudulently evades the payment of any tax due under this Act, or
- (c) allows any passenger to travel in a motor vehicle without a ticket as prescribed under this Act as required by section 5, or
- ²(d) wilfully fails to apply for registration ³[x x x] or to pay the amount of Tax or fee, or]

1. Substituted by Act XIX of 1981, s. 28.

2. Clause (d) of sub-section (1) of section 18 substituted by Act XIV of 1974, s. 15.

3. Words deleted by Act XX of 1978.

- (e) fails to furnish information under section 9(5)(6), or
- (f) obstructs any officer from making entry and inspection under section 13, or
- (g) contravenes any other provision of this Act or the rules framed thereunder or any order or direction made under any such provisions or rule not specifically provided for in this Act,

shall be liable, on conviction, to a fine which may extend to one thousand rupees, and when the offence is a continuing one, on a subsequent conviction to a fine not exceeding twenty-five rupees for each day of the continuance of the offence.

(2) No Court shall take cognizance of any offence under this Act or the rules framed thereunder, except on a complaint in writing by the ¹[Assessing authority] and no Court inferior to that of a ²[Judicial Magistrate] of the first class shall try any such offences.

(3) The offences specified in sub-section (1) above shall be triable summarily.

19. *Power to compound offences.*—(1) The ¹[Assessing authority] may, at any time, accept from any person, who has committed an offence under section 18, by way of composition of such offence, a sum of money not exceeding one thousand rupees or double the amount of tax involved, whichever is greater.

(2) On payment of such sum of money as may be determined under sub-section (1), the ¹[Assessing authority] shall, where necessary, report to the Court that the offence has been compounded and thereafter no further proceeding under section 18 shall be taken against the offender in respect of the same offence and the said Court shall discharge or acquit the accused, as the case may be.

20. *Bar of proceedings.*—No prosecution shall lie against any person authorised under this Act, for anything done or purporting to have been done in good faith under this Act or the rules made thereunder.

21. *Exclusion of jurisdiction of Civil Courts.*—No Civil Court shall have jurisdiction in any matter which the Government or any ¹[Assessing authority] is empowered by this Act or the rules made thereunder to dispose of or take cognizance of, and regarding the manner in which the

1. Substituted by Act XIX of 1981, S. 28.

2. Substituted by Act XL of 1966 for "Magistrate".

Government or any ¹[Assessing authority] exercise any powers vested in it or him by or under this Act or the rules made thereunder.

22. *Refunds.*--The ¹[Assessing authority] shall, in the prescribed manner, refund to a registered owner, applying in this behalf, any amount of tax paid by such owner in excess of the amount due from him under this Act.

²22-A. *Rectification of mistake.*--(1) The Commissioner, Appellate Authority, Assessing authority or any authorised officer may, either on his own motion or on an application, at time within four years from the date of any order passed by him, rectify any mistake apparent on the face of any order made by him :

Provided that no such rectification which has the effect of enhancing the demand or reducing the refund shall be made unless the affected person is given a reasonable opportunity of being heard.

(2) Where such rectification has the effect of enhancing the demand, the assessing authority shall serve on the affected person a fresh notice of demand [for the extra amount of demand].

23. *Power to make rules.*--(1) The Government may make rules, consistent with this Act, for securing the payment of the tax and generally for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules,--

- (a) prescribing the manner in which and the intervals and the places at which tax shall be paid under section 3 and section 4 ;
- (b) prescribing the authority or authorities for the purpose of carrying out any function under any of the provisions of this Act ;
- (c) prescribing the forms of tickets and receipts under section 5 ;
- (d) prescribing the manner and payment of ³[tax, penalty or any other amount payable under the Act.]
- (e) prescribing the manner of table of fares under section 11 ;
- (f) prescribing the manner in which appeals against assessment may be preferred :

1. Substituted by Act XIX of 1981, s. 28.

2. Section 22-A inserted by *ibid.*, s. 29

3. Substituted by *ibid.*, s. 30.

- (g) prescribing the manner in which revision application may be preferred ;
 - (h) prescribing the manner in which refund under section 22 shall be made ;
 - (i) to provide for any other matter for which rules can be or may be prescribed.
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