



The Jammu and Kashmir Urban Property (Ceiling) Act, 1971

Act 12 of 1971

Keyword(s):

Ceiling Limit, Competent Authority, Court, Urban Property

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**THE JAMMU AND KASHMIR URBAN PROPERTY (CEILING)
ACT, 1971.**

(ACT NO. XII OF 1971)

CONTENTS

SECTION	SECTION
1. Short title, extent and commencement.	urban property in excess of ceiling limit is needed for a public purposes.
2. Definitions.	
3. Ceiling limits.	12. Power of Government to acquire urban property in excess of the ceiling limit.
4. Restriction on ownership of urban property in excess of ceiling limits.	13. When urban property in excess of the ceiling limit may be transferred.
5. Persons owning urban property in excess of ceiling limit to file statements.	14. Restrictions of registration of transfers of urban property.
6. Competent authority to determine value of property in certain cases.	15. Ceiling limit on future acquisition by inheritance, request or by sale in execution of decrees, etc.
7. Preparation of draft statement as regards urban property in certain cases.	16. Power of competent authority.
8. Final statement.	17. Appeal against orders of the competent authority.
9. Government to acquire urban property in excess of the ceiling limit.	18. Powers of revision.
10. Notice to be given to competent authority before urban property in excess of ceiling limit is transferred.	19. Penalty for concealment etc. of particulars of urban properties.
11. Competent authority to obtain orders of Government whether	20. Offences and punishments.
	21. Act not to apply to certain urban properties.
	22. Power to make rules.

**THE JAMMU AND KASHMIR URBAN PROPERTY (CEILING)
ACT, 1971.**

(ACT NO. XII OF 1971)

[Received the assent of the Governor on 11th October, 1971, and published in Government Gazette dated 13th October, 1971 (Ext.).]

An Act to provide for the imposition of a ceiling on urban property, and for the acquisition of urban property in excess of the ceiling limit with a view to utilize such excess urban property for public purposes and for matters connected therewith.

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

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Urban Property (Ceiling) Act, 1971.

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

(3) It shall come into force on such date as the Government, may be notification in the Government Gazette, appoint.

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

(a) “ceiling limit” means the ceiling limit specified in section 3 ;

(b) “competent authority” means any person or authority authorised by the Government by notification in the Government Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification ;

(c) “Court” means a principal Civil Court of original jurisdiction unless the Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act ;

(d) “family” means a Hindu undivided family ;

(e) “prescribed” means prescribed by rules made under this Act ;

(f) “urban property” means all land and buildings (including any rights therein) situated—

(a) in any area which is comprised within the jurisdiction of a Municipality and within the jurisdiction of such Notified Area

Committee, Town Area Committee, Cantonment or any other body, as may be specified by the Government by notification.

- (b) in any area within such distance, not being more than eight Kilometres, from the local limits of any municipality or any notified area committee, town area committee, cantonment or other body, specified under sub-clause (a) as the Government may, having regard to the extent of, and scope for, urbanization of that area and other relevant considerations, specify in this behalf by notification in the Government Gazette ;

but does not include any plant, machinery or other fixture affixed to the land or contained in a building for the purpose of trade, commerce, business, industry or such other similar activities ;

- (g) any reference to a person shall be construed as including a reference to a Hindu undivided family.

3. *Ceiling limit.*--(1) (a) In the case of every person not being a family and in the case of every family consisting of not more than five members, the ceiling limit shall be so much urban property as does not exceed in value five lakh rupees.

(b) The ceiling limit in the case of every family consisting of more than five members shall be so much urban property as does not exceed in value five lakh rupees increased by so much urban property as does not exceed in value fifty thousand rupees for every member of the family in excess of five ; so, however, that the value of all the urban properties owned by such family shall, in no case, exceed seven and half lakh rupees.

(2) If, on or after the 1st day of September, 1971, any person has transferred any urban property owned by such person--

- (a) directly or indirectly to his or her spouse, otherwise than for adequate consideration or in connection with an agreement to lie apart, or
- (b) to the minor child of such person, not being a married daughter, otherwise than for adequate consideration, or
- (c) to another person or any association of persons otherwise than for adequate consideration for the immediate or deferred benefit of such person, his or her spouse or minor child (not being a married daughter) or both, or
- (d) to another person or any association of persons otherwise than under an irrevocable transfer,

then, the property so transferred shall, for the purposes of this section, be deemed to be owned by such person.

(3) Where, in the case of a person being the member of a family, any urban property having been the separate property of such person has, on the 1st day of September, 1971, or at any time thereafter, been converted by such person into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family, then, the property so converted shall, for the purposes of this section, be deemed to be owned by such person and not by the family.

(4) Where a firm or society or an association of individuals (whether incorporated or not) or a closely-held company owns urban property, then the right or interest of any person in such property on the basis of his share in such firm, society, association or company shall also be taken into account in determining the value of urban property owned by such person.

Explanation.--In this sub-section, "closely-held company" means a private company as defined in the Companies Act, 1956, and includes a public company as defined in that Act the shares of which are not listed in a recognized stock exchange in India in accordance with the Securities Contract (Regulation) Act, 1956, and the rules made thereunder.

(5) Where a person is a beneficiary of a private trust and has share in the income from such trust is known or determinable, the share of such person in the urban property owned by such trust shall be deemed to be in the same proportion as his share bears to his income from the urban property of such trust.

(6) Where property held in trust consists of, either wholly or in part, urban property and the share or shares of the beneficiary thereof are not known or determinable, then, the urban property held in trust shall be deemed to be owned by an individual and the ceiling limit in such a case shall be five lakh rupees.

4. *Restriction on ownership of urban property in excess of ceiling limit.*--Save as otherwise provide in this Act, on and from the commencement of this Act, it shall not be lawful for any person to acquire any urban property in excess of the ceiling limit.

5. *Persons owning urban property in excess of ceiling limit to file statements.*--(1) Every person owning urban property in excess of the ceiling limit at the commencement of this Act shall, within a period of six months of such commencement, file a statement before the competent authority having jurisdiction, specifying the location, value and such other particulars as may be prescribed, of all the urban properties owned by him and also specifying the urban properties within the ceiling limit which he desires to retain.

(2) If the competent authority is of the opinion that any person owns urban property in excess of ceiling limit, then, notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to file within such period as may be specified in the notice the statement referred to in sub-section (1).

(3) The competent authority may, if it is satisfied that it is necessary so to do, extend the date of filing the statement under this section.

(4) The statement under this section shall be filed--

(a) in the case of an individual, by the individual himself, or where the individual is absent from the State, by the individual concerned or by some person duly authorized by him in this behalf; where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and where for any other reason it is impossible for the individual to sign the statement, by any person competent to act on his behalf; and

(b) in the case of a family, by the Karta and where the Karta is absent from the State or is mentally incapacitated from attending to his affairs, by any other adult member of the family.

(5) Subject to any rules made in this behalf, the value of any urban property shall, for the purposes of this section, be estimated to be the price with, in the opinion of the person owning such property it would fetch if sold in the open market at the commencement of this Act.

6. *Competent authority to determine value of property in certain cases.*—After the receipt of the statement filed under section 5, the competent authority shall make such inquiries as it deems fit and if the competent authority is of opinion that the value of the urban properties estimated by the person who has filed the statement has not been estimated correctly, the competent authority may determine in such manner and by such means as may be prescribed, the value of the property :

Provided that the competent authority shall, before making a final determination of the value of the urban property, give to the person concerned an opportunity of being heard in the matter.

7. *Preparation of draft statement as regards urban property in excess of ceiling limit.*—(1) On the basis of the statement filed under sub-section (1) of section 5 and on the basis of the value, if any, determined under section 6, the competent authority shall prepare a draft statement in respect of the person who has filed the statement under section 5.

(2) Every statement prepared under sub-section (1) shall contain the following particulars, namely :--

- (i) the name and address of the person ;
- (ii) particulars of all urban property owned by such person and the total value thereof ;
- (iii) particulars of urban property which such person desires to retain within the ceiling limit , and
- (iv) such other particulars as may be prescribed.

(3) The draft statement shall be served on the person concerned together with a notice stating that any objection to the draft statement shall be preferred within thirty days of the service of such notice.

(4) The competent authority shall duly consider any objection received within the period specified in the notice referred to in sub-section (3) from the person on whom a copy of the draft statement has been served under that sub-section and the competent authority shall, after giving the objector a reasonable opportunity of being heard, pass such orders as it deems fit.

8. *Final statement.*--After the disposal of the objections, if any, preferred under sub-section (4) of section 7, the competent authority shall make necessary alterations in the draft statement in accordance with the orders passed on the objections aforesaid and shall declare the urban property owned by the person concerned in excess of the ceiling limit and cause a copy of the draft statement as so altered to be served on the person concerned.

9. *Government to acquire urban property in excess of the ceiling limit.*--At the expiration of a period of three years from the commencement of this Act, the Government shall acquire under the law relating to acquisition of immovable property in force at the time of acquisition of property under this Act every urban property declared to be in excess of the ceiling limit such section 8 with a view to utilizing such excess urban property for public purpose.

10. *Notice to be given to competent authority before urban property in excess of ceiling limit is transferred.*--During a period of three years from the commencement of this Act, no person owning urban property in excess of the ceiling limit shall transfer by way of sale, gift, exchange or otherwise any urban property declared under section 8 to be in excess of the ceiling limit unless notice of the intended transfer is given to the competent authority within such time and in such manner as may be prescribed.

11. *Competent authority to obtain orders of Government whether urban property in excess of ceiling limit is needed for a public purpose.*--After the

receipt of the notice under section 10, the competent authority shall, within a period of 120 days of such receipt, obtain the order of Government as to whether the property is needed for a public purpose and if so needed, shall intimate the person who has given the notice, accordingly.

12. *Power of Government to acquire urban property in excess of the ceiling limit.*--Where intimation has been given under section 11 that any urban property in excess of the ceiling limit is needed for a public purpose, the Government shall, as soon as may be after such intimation has been given, acquire such property.

13. *When urban property in excess of the ceiling limit may be transferred.*--Where, within a period of 120 days of the receipt of the notice under section 10, the competent authority does not intimate that the urban property in excess of the ceiling limit is needed for a public purpose, such person shall be free to transfer such property in any mode whatsoever.

14. *Restrictions on registration of transfers of urban property.*--Notwithstanding anything contained in any law for the time being in force, no document relating to any transfer of urban property, either by sale, gift, exchange or otherwise shall be registered by any registering officer appointed under the Registration Act, Svt. 1977, unless--

- (a) the transferor makes a declaration in writing before such officer that the property intended to be transferred has not been declared to be in excess of the ceiling limit under section 8 and in a case where such property has been so declared he produces to the satisfaction of such officer a certificate from the competent authority that such property is not needed for a public purpose ; and
- (b) the transferee makes a declaration in writing in such form as may be prescribed, and files before such officer as to the total value of urban property owned by him and further makes a declaration in writing before such officer that the value of urban property already owned by him together with the value of urban property to be transferred to him will not exceed the ceiling limit.

15. *Ceiling limit on future acquisition by inheritance, bequest or by sale in execution of decrees, etc.*--(1) If, on or after the commencement of this Act, any person acquires, by inheritance, settlement or bequest from any other person, or by sale in execution of a decree or order of a civil court or of an award or order of any other authority, any urban property which together with the urban property, if any, already owned by him exceeds in the aggregate the ceiling limit, then he shall, within three months of the date of such acquisition, file a statement before the competent authority, specifying the location, value and such other particulars as may be prescribed, of all the urban properties

owned by him and also specifying the urban properties within the ceiling limit which he desires to retain.

(2) The provisions of sections 5 to 13 (inclusive) shall, as far as may be, apply to the statement filed under this section and to the urban property owned by such person in excess of the ceiling limit.

16. *Power of competent authority.*--The competent authority shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, Svt. 1977, in respect of the following matters namely--

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document ;
- (c) receiving evidence on affidavits ;
- (d) requisitioning any public record or copy thereof from any Court or office ;
- (e) issuing commissions for the examination of witnesses or document ; and
- (f) any other matter which may be prescribed.

17. *Appeal against order of the competent authority.*--(1) Any person aggrieved by an order made by the competent authority under this Act may, within thirty days of the date on which the order is communicated to him, prefer an appeal to such authority as may be prescribed (hereinafter referred to as the appellate authority) :

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order thereon as it deems fit.

(3) Every order passed by the appellate authority under this section shall be final.

18. *Powers of revision.*--The Government may, at any time, either on its own motion or on an application made to it in this behalf, call for the record of any proceedings which are pending before or have been disposed of by a competent authority or appellate authority under this Act, for the purpose of satisfying itself

as to the legality or propriety of such proceedings or of any order made therein and may pass such orders in relation thereto, as it may consider fit :

Provided that the Government shall not pass any order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

19. *Penalty for concealment, etc. of particulars of urban properties.*--(1) If the competent authority, in the course of any proceedings under this Act, is satisfied that any person has concealed the particulars of any urban property owned by him or has furnished inaccurate particulars of such property, it may, after giving such person an opportunity of being heard in the matter, by order in writing, direct that such person shall pay by way of penalty a sum which shall not be less than, but which shall not exceed twice, the amount representing the value of the urban property in respect of which the particulars have been concealed or in respect of which inaccurate particulars have been furnished.

(2) Any amount recoverable under this section may be recovered as if it is an arrear of land revenue.

20. *Offences and punishments.*--(1) If any person acquires by purchase any urban property which by itself or together with the urban property already owned by him exceeds the ceiling limit, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) If any person who is under an obligation to file a statement under this Act refuses or wilfully fails to file the statement within the time specified for the purpose, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(3) If any person who having been convicted under sub-section (2) continues to refuse or wilfully fails to file the statement, he shall be punishable with fine which may extend to five hundred rupees for each day after the previous date of conviction during which he continues so to offend.

(4) If any person who is under an obligation to file a statement under this Act files a statement which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(5) If any person contravenes the provisions of section 10, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(6) If any person who is under an obligation to file a declaration under section 15 makes any such declaration which he thinks or has reason to believe to be false he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may not be less than one thousand rupees.

21. *Act not to apply to certain urban properties.*--Nothing in this Act shall apply to--

(a) any urban property owned by--

(i) the Central Government or the State Government or any local authority or any corporation established by or under a Central or State Act or any Government company as defined in section 617 of the Companies Act, 1956 ;

(ii) any public charitable or religious trust ;

(iii) any widely-held company ;

(iv) any co-operative society (registered under any law relating to co-operative societies) other than a co-operative housing society engaged in any business or industry ; and

(v) any club formed by association of individuals on mutual non-profit basis ; or

(vi) any building or class of buildings which the Government may, by special or general order, specify.

(b) any urban property, being a building built for the accommodation of the poorer sections of the society in accordance with the schemes approved by the Government.

Explanation : In this section "widely-held company" means a company (not being a private company) as defined in the Companies Act, 1956, the shares of which are listed, in a recognised stock exchange in India in accordance with the Securities Contract (Regulation) Act, 1956 and the rules made thereunder.

22. *Power to make rules.*--(1) The Government may, by notification in the Government Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :--

(a) the particulars which the statement to be filed under sub-section (1) or sub-section (2) of section 5 shall contain ;

- (b) the method of determining the value of the any urban property under sub-section (5) of section 5 ;
 - (c) the manner in which and the means by which the competent authority may ascertain the value of urban property under section 6 ;
 - (d) the particulars which the draft statement shall contain under sub-section (2) of section 7 ;
 - (e) the time within which and the manner in which notice of the intended transfer of urban property may be given to the competent authority under section 10 ;
 - (f) the particulars which the statement to be filed under sub-section (1) of section 15 shall contain :
 - (g) the authority to which appeal may be preferred under section 17 and the form and manner in which appeals may be filed under that section ;
 - (h) any other matter which has to be or may be prescribed.
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