



## The Jammu and Kashmir Laws Amendment Act, 1992

Act 3 of 1992

**Keyword(s):**

**Amendment to, Evidence Act, General Clauses Act, Transfer of Property Act, Representation of Peoples Act, General Sales Tax Act, Public Safety Act**

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JAMMU AND KASHMIR LAWS (AMENDMENT) ACT, 1992.

(President's Act No. 3 of 1992).

[Enacted by the President on 17th July, 1992 and published in the Jammu and Kashmir Government Gazette (Extra) dated 17th July, 1992.]

**An Act further to amend certain Jammu and Kashmir Acts.**

Enacted by the President in the Forty-third Year of the Republic of India.

In exercise of the powers conferred by section 3 of Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992 (21 of 1992) the President is pleased to enact as follows :--

CHAPTER I.

**Preliminary.**

1. *Short title and commencement.*--This Act may be called the Jammu and Kashmir Laws (Amendment) Act, 1992.

(2) It shall come into force at once.

CHAPTER II.

**Amendment to the Evidence Act, Samvat 1977.**

2. *Insertion of new section 114-D in Jammu and Kashmir Act XIII of Samvat 1977.*--After section 114-C of the Evidence Act, Samvat 1977 (hereinafter referred to as the Evidence Act), the following shall be inserted, namely :--

“114-D. *Presumption of criminal conspiracy against the person whose release has been sought, Jammu and Kashmir Act XII.*--In a prosecution for criminal conspiracy under section 120-B of the Jammu and Kashmir State Ranbir Penal Code, Samvat 1989 to commit the offences of kidnapping or abduction punishable under Chapter XVI of the said Code and to commit any of the offences in continuation thereof, where it is proved that the person or persons demanding release of a detained person in lieu of release of the kidnapped or abducted person and the detained person are associated for achieving a common cause or design by illegal acts, or acts which are not illegal, by illegal means, the court shall presume the detained person is a conspirator in committing the offence or offences”.

3. *Repeal and saving Governor's Act No. XV of 1990.*--(1) The Evidence (Amendment) Act, 1990, being Governor's Act No. XV of 1990, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Evidence Act, shall be deemed to have been done or taken under the provisions of this Chapter.

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### CHAPTER III.

#### **Amendment to the General Clauses Act, Samvat 1977.**

4. *Amendment of Jammu and Kashmir Act XX of Samvat 1977.*--In clause (24) of section 3 of the General Clauses Act, Samvat 1977 (hereinafter referred to as the General Clauses Act) after the word "Judicature", the following shall be inserted, namely :--

"and every person appointed as advisor to the Governor consequent upon the issuance of a Proclamation under section 92 of the Constitution of Jammu and Kashmir or under Article 356 of the Constitution of India."

5. *Repeal and saving Governors Act No. IX of 1990 and No. XIV of 1990.*--(1) The General Clauses (Amendment) Act, 1990 and the General Clauses (Second Amendment) Act, 1990, being Governor's Acts No. IX of 1990 and XIV of 1990, are hereby repealed.

(2) Notwithstanding such repeal, anything done or action taken by any person by virtue of the General Clauses Act, as amended by the said Governor's Acts, shall be deemed to have been done or taken by that person by virtue of the provisions of this Chapter.

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### CHAPTER IV.

#### **Amendment to Transfer of Property Act, Samvat 1977.**

6. *Amendment of section 140 of Jammu and Kashmir Act XLII of Samvat 1977.*--After clause (g) of section 140 of the Transfer of Property Act, Samvat 1977 (hereinafter referred to as the Transfer of Property Act), the following clause shall be inserted, namely :--

"(h) A transfer of immovable property in favour of Shri Mata Vaishno Devi Shrine Board constituted under the Jammu and Kashmir Shri Mata Vaishno

Devi Shrine Board Act, 1988 (Jammu and Kashmir Act No. XVI of 1988) for the fulfilment of the objectives of the said Act".

7. *Repeal and saving Governor's Act No. IV of 1990.*--(1) The Transfer of Property (Amendment) Act, 1990, being Governor's Act No. IV of 1990, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Transfer of Property Act, as amended by the Governor's Act, shall be deemed to have been done or taken under the provisions of this Chapter.

## CHAPTER V.

### Amendments to the Levy of Tolls Act, Samvat 1995.

8. *Amendment of section 8 of Jammu and Kashmir Act VIII of Samvat 1995.*--In section 8 of the Jammu and Kashmir Levy of Tolls Act, Samvat 1995 (hereinafter referred as the Levy of Tolls Act) :--

(a) in sub-section (1), for the figures and word "100 rupees", the figures and word "5000 rupees" shall be substituted.

(b) sub-section (2) shall be omitted.

9. *Substitution of sections 13 and 14.*--For sections 13 and 14 of the Levy of Tolls Act, the following shall be substituted, namely :--

"13. *Offence by whom punishable.*--(1) The officer-in-charge of the toll-gate or station may, by order, impose fine on any person guilty of an offence under section 8.

(2) Before passing an order under sub-section (1), such officers shall give the person in the default an opportunity of being heard.

(3) The fine imposed under sub-section (1) may on a requisition being made in this behalf by the officer inflicting fine, be realised by a Magistrate having jurisdiction as if it had been inflicted by himself.

14. *Appeal and revision.*--(1) Any person aggrieved by an order passed under sub-section (1) of section 13 may, within a period of three months from the date of such order, prefer an appeal before the Deputy Excise Commissioner (Executive) of the Province where such order has been passed by an officer below the rank of Deputy Commissioner and in any other case, before the Excise Commissioner.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-sections (3) and (4) be final.

(3) The Excise Commissioner may, at any time, call for and examine the record of any order passed by the Deputy Commissioner under sub-section (1), for the purpose of satisfying himself as to the legality of such order and may pass such order in reference thereto, as he may deem fit.

(4) The Government may, at any time, call for and examine the record of any order passed by the Excise Commissioner under sub-section (1) for the purpose of satisfying itself as to the legality of such order and may pass such order in reference thereto as it may deem fit :

Provided that no order under sub-section (3) or sub-section (4), which is prejudicial to any person, shall be passed without giving such person an opportunity of being heard."

10. *Repeal and saving Governor's Act No. XI of 1990.*--The Levy of Tolls (Amendment) Act, 1990, being Governor's Act No. XI of 1990, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Levy of Tolls Act, as amended by the said Governor's Act, shall be deemed to have been done or taken under the corresponding provisions of this Chapter.

## CHAPTER VI.

### Amendments to the Jammu and Kashmir Representation of the People Act, 1957.

11. *Amendment of section 3 of the Jammu and Kashmir Act IV of 1957.*--In the Jammu and Kashmir Representation of People Act, 1957 (hereinafter referred to as the Representation of the People Act), for clause (b) of sub-section (1) of section 3, the following clause shall be substituted, namely :--

"(b) A Deputy Election Commissioner nominated by the Chief Election Commissioner."

12. *Amendment of section 3-A.*--In the Representation of the People Act, in section 3-A in sub-section (1), the following provisos shall be added at the end, namely :--

"Provided that when the Legislative Assembly stands dissolved the five members of the dissolved Legislative Assembly earlier nominated by its

Speaker shall cease to be Associate Members of the Commission and in their place three Associate Members shall be nominated by the Governor in consultation with the Chairman of Legislative Council, from amongst the members of Legislative Council, and two Associate Members shall be nominated by the Governor in consultation with the Speaker of the Lok Sabha from amongst the members of the Lok Sabha elected from the State of Jammu and Kashmir :

Provided further that where the Delimitation Commission is constituted during a period when the Legislative Assembly stands dissolved, the five Associate Members of the Commission shall be nominated by the Governor in the same manner as prescribed in the preceding proviso :

Provided also that where for any reason election to the House of the People for electing Members from the State is not held, the Commission shall have only three Associate Members referred to in the first proviso”.

13. *Repeal and saving, Governor's Act XVI of 1990.*--(1) The Jammu and Kashmir Representation of the People (Amendment) Act, 1990, being Governor's Act No. XVI of 1990, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Representation of the People Act, as amended by the said Governor's Act shall be deemed to have been done or taken under the provisions of this Chapter.

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## CHAPTER VII.

### Amendment to the Jammu and Kashmir General Sales Tax Act, 1962.

14. *Insertion of section 8-C in Jammu and Kashmir Act XX of 1962.*-- After section 8-B of the Jammu and Kashmir General Sales Tax Act, 1962 (hereinafter referred to as the General Sales Tax Act), the following shall be inserted, namely :--

“8-C. *Special provision in the interest of industrial development.*-- Notwithstanding anything to the contrary contained in sections 7 and 8, the Government may, if satisfied that it is necessary and expedient so to do in the interest of industrial development of the State, defer the payment of admitted or assessed tax by such class of industries on the sale of their finished products for such period and subject to such conditions as may be prescribed”.

15. *Repeal and saving, Governor's Act No. XVIII of 1990.*--(1) The Jammu and Kashmir General Sales Tax (Amendment) Act, 1990, being Governor's Act No. XVIII of 1990, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the General Sales Tax Act, as amended by the said Governor's Act, shall be deemed to have been done or taken under the provisions of this Chapter.

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### CHAPTER VIII.

#### **Amendment to Jammu and Kashmir Public Safety Act, 1978.**

16. *Amendment of section 10 of Jammu and Kashmir Act VI of 1978.*-- In clause (b) of section 10 of the Jammu and Kashmir Public Safety Act, 1978 (hereinafter referred to as the Public Safety Act), the words "in the State" shall be omitted.

17. *Repeal and saving, Governor's Act No. 1 of 1990.*--(1) The Jammu and Kashmir Public Safety (Amendment) Act, 1990 being Governor's Act No. 1 of 1990 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Public Safety Act, as amended by the said Governor's Act shall be deemed to have been done or taken under the provision of this Chapter.

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