

**Bill No. 81 of 2019**

THE JAMMU AND KASHMIR RESERVATION (AMENDMENT)  
BILL, 2019

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BILL

*further to amend the Jammu and Kashmir Reservation Act, 2004.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Jammu and Kashmir Reservation (Amendment) Act, 2019. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 1st day of March, 2019.

XIV of 2004. 2. In section 2 of the Jammu and Kashmir Reservation Act, 2004 (hereinafter referred to as the principal Act), in clause (o),— Amendment of section 2.

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

10 "(ii) the persons residing in the area adjoining Actual Line of Control and International Border; and";

(b) in second proviso, in clause (ix), in the proviso, for the words "Actual Line of Control", the words "Actual Line of Control or International Border" shall be substituted.

Amendment  
of section 3.

**3.** In section 3 of the principal Act, in sub-section (2), for the words "Line of Actual Control", the words "Actual Line of Control or International Border" shall be substituted. 5

Repeal and  
savings.

**4.** (1) The Jammu and Kashmir Reservation (Amendment) Ordinance, 2019 is hereby repealed. Ord. 8 of 2019.

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

## STATEMENT OF OBJECTS AND REASONS

The Jammu and Kashmir Reservation Act, 2004 (the Act) and the rules made thereunder provide for reservation for different categories of beneficiaries including persons living in areas adjoining the Actual Line of Control. But the benefit of reservation was not available or extended to the persons residing in the areas adjoining the International Border.

2. Due to continuous cross border tensions, persons living along the International Border suffer from socio-economic and educational backwardness. This situation often compels departure of these residents to other safer places thereby having an adverse impact on their economic condition and educational status. Therefore, there was a persistent demand from persons residing in the areas adjoining the International Border to bring them within the ambit of the said Act and bring them at par with the persons living in areas adjoining the Actual Line of Control.

3. The President of India issued a Proclamation *vide* No. G.S.R. 1223(E), dated the 19th December, 2018 under article 356 of the Constitution in relation to the State of Jammu and Kashmir declaring thereby that the powers of the Legislature of the State of Jammu and Kashmir shall be exercisable by or under the authority of the Parliament. In view of the urgency to provide the benefits of reservation to the persons living in areas adjoining International Border at par with persons living in areas adjoining Actual Line of Control, it had become necessary to amend the Act.

4. The Jammu and Kashmir Reservation (Amendment) Bill, 2019 which seeks to replace the Jammu and Kashmir Reservation (Amendment) Ordinance, 2019 shall meet the long pending demand of the people residing in the areas adjoining International Border for their overall socio-economic and educational development. It will enable a large number of people residing in the areas adjoining International Border to reap the benefits of reservation as available to persons residing in the areas adjoining the Actual Line of Control.

5. As the Parliament was not in session and an urgent legislation was required to be made, the President promulgated the Jammu and Kashmir Reservation (Amendment) Ordinance, 2019 under clause (1) of article 123 of the Constitution.

6. The Bill seeks to replace the said Ordinance.

AMIT SHAH

NEW DELHI;  
*The 15th June, 2019.*

*Statement under Rule 66(1) and 71(1) of the Rules of Procedure and Conduct of Business in Rajya Sabha/Lok Sabha explaining the circumstances which necessitated immediate legislation by promulgation of the Jammu and Kashmir Reservation (Amendment) Ordinance, 2019.*

The Jammu and Kashmir Reservation Act, 2004 and the rules framed thereunder provide for vertical reservation in direct recruitment, promotions and admission in different professional courses to various categories, namely the Scheduled Castes, the Scheduled Tribes, the socially and educationally backward classes (Residents of Backward Area, Residents of Areas adjoining Actual Line of Control and the weak and under privileged classes).

2. Besides, horizontal reservation is also extended to the Ex-Serviceman and Physically Challenged Persons. Similarly, reservation is available to the Children of Defense Personnel, Para-Military Forces, State Police Personnel and Candidates possessing outstanding proficiency in Sports for admission in various professional courses.

3. As per the rules made under the said Act, 3 per cent. reservation is also extended to the persons residing in the areas adjoining Actual Line of Control. However, the said reservation is not presently available/extended to the persons residing in the areas adjoining International Border.

4. Due to continuous cross border tensions, persons living alongside International Border suffer from socio-economic and educational backwardness. Shelling from across the border often compels these residents to move to safer places and is adversely impacting their education as educational institutions remain closed for long periods. Further, there is a persistent demand from the persons residing in the areas adjoining International Border to bring them within the ambit of the said Act at par with persons living in areas adjoining Actual Line of Control.

5. The said demand was examined by the State Government in consultation with Jammu and Kashmir State Commission for Backward Classes and the Commission recommended for granting reservation to the persons residing in the area falling within six kms from the International Border. The recommendation was also approved by the State Administrative Council. Thereafter, the Government of Jammu and Kashmir sent the proposal to the Ministry of Home Affairs for consideration in view of the fact that the State of Jammu and Kashmir has been brought under President's Rule by issuing a Proclamation *vide* No. 1223(E) dated 19th December, 2018 under article 356 of the Constitution.

6. In order to provide the benefits of reservation to the persons living in areas adjoining International Border at par with persons living in areas adjoining Actual Line of Control immediately and as the Parliament was not in session, the President promulgated the "Jammu and Kashmir Reservation (Amendment) Ordinance, 2019" on the 1st day of March, 2019.

ANNEXURE

EXTRACTS FROM THE JAMMU AND KASHMIR RESERVATION ACT, 2004

(XIV OF 2004)

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

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(o) "socially and educationally backward classes" mean—

\* \* \* \* \*

(ii) the persons residing in the area adjoining Actual Line of Control; and

\* \* \* \* \*

(ix) any person whose annual income from all sources, determined in the prescribed manner, exceeds rupees eight lacs or such amount as may be notified by the Government from time to time in accordance with the prescribed norms:

Provided that the income ceiling shall not apply to a person who has lived and completed entire school education from an area identified as Backward or Actual Line of Control, as the case may be, and in case such schooling is not available in such area, from the nearest adjoining area;

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CHAPTER II

RESERVATION IN APPOINTMENT BY DIRECT RECRUITMENT

3. (1) \* \* \* \* \* Reservation in appointment.

(2) Notwithstanding anything to the contrary contained in any law for the time being in force, any person appointed against any available vacancy on the basis of his being a resident of backward area or an area adjoining Line of Actual Control shall serve in such areas for a period of not less than seven years:

Provided that in case the post against which he has been appointed is not available in such area, he shall be posted in the nearest adjacent backward area.

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LOK SABHA

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BILL  
further to amend the Jammu and Kashmir Reservation Act, 2004.

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*(Shri Amit Shah, Minister of Home Affairs)*