

THE JAMMU AND KASHMIR ACCOUNTABILITY COMMISSION (AMENDMENT) ACT, 2011.

(Act No. II of 2011)

[19th January, 2011]

An Act to amend the Jammu and Kashmir Accountability Commission Act, 2002.

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

1. Short title and commencement. – (1) This Act may be called the Jammu and Kashmir Accountability Commission (Amendment) Act, 2011.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. Amendment of section 2, Act XXXVIII of 2002. – In section 2 of the Jammu and Kashmir Accountability Commission Act, 2002, (hereinafter referred to as ‘the Principal Act’), –

(i) for clause (6), the following clause shall be substituted, namely: –

“(6) “Competent Authority” in relation to a public functionary means the Governor of the State.”;

(ii) clauses (9), (10) and (14) shall be deleted;

(iii) for clause (16), the following clause shall be substituted, namely: –

“(16) “Public functionary” means a person who is or was at any time, –

- (i) the Chief Minister or a Minister;
- (ii) the Speaker or Deputy Speaker of the State Legislative Assembly;
- (iii) the Chairman or Deputy Chairman of the State Legislative Council;
- (iv) a Member of the State legislature;
- (v) Advisor to Governor;

- (vi) Advisor including the Political Advisor to Chief Minister or the Government;
- (vii) given the status of a Minister or Minister of State by the Government in connection with the discharge of his official functions;
- (viii) appointed by the Government as Chairman (other than a Government servant) of any statutory corporation or autonomous board.

Explanation: – For purposes of this clause the term “Minister” includes a Minister of State and a Deputy Minister.”.

3. Amendment in section 9, Act XXXVIII of 2002. – In section 9 of the Principal Act, in sub-section (1), second proviso shall be omitted.

4. Amendment of section 11, Act XXXVIII of 2002. – In section 11 of the Principal Act, –

- (i) in sub-section (1) –
 - (a) the words “in the case of an allegation” and the words “and in case of a grievance, by a person aggrieved”; and
 - (b) the “proviso” to the said sub-section, shall be deleted.
- (ii) after sub-section (2), the following sub-section shall added, namely: –

“(3) The contents of the complaint shall not be made public till its scrutiny by the Accountability Commission under section 12.”.

5. Amendment of section 16, Act XXXVIII of 2002. – In section 16 of the Principal Act, the words “or grievance” “concerned” and shall respectively be deleted.

6. Amendment of section 17, Act XXXVIII of 2002. – In section 17 of the Principal Act, –

- (i) for the words, brackets and figures “Government company, society, university as is referred to in sub-clauses (iv) to (vi) of clause (16)” the words “Government company or society” shall be substituted; and

- (ii) the words “a grievance or” shall be deleted.

7. Amendment of section 21 Act, XXXVIII of 2002. –
In section 21 of the principal Act, –

- (i) in sub-section (1) the words “grievances or” shall be deleted;
- (ii) in sub-section (2) the word “concerned” shall be deleted;
- (iii) for sub-sections (3), (4), (5) and (6) the following sub-sections shall be substituted; namely:–

“(3) The competent authority shall examine the report forwarded to it under sub-section (1) and take such action as it may deem fit on receipt of the report.

(4) The competent authority shall communicate to the Accountability Commission within a period of 90 days from the date of receipt of report the action taken or proposed to be taken on the recommendations.”;

- (iv) sub-section (7) shall be renumbered as sub-section (5) thereof.”.

8. Amendment of section 30, Act XXXVIII of 2002. –
In sub-section (2) of section 30 of the Principal Act, clause (a) shall be deleted and clauses (b), (c) and (d) thereof shall be renumbered as clauses (a), (b) and (c) respectively.

9. Insertion of section 32 in Act XXXVIII of 2002. –
After section 31 of the Principal Act, the following section shall be added, namely:–

“32. Transitory provisions. – Subject to the provisions of sub-section (2) of section 9, all complaints that are pending in the Accountability Commission against public servants in which the Commission has not recorded its findings or made recommendations to the competent authority on the date of commencement of the Jammu and Kashmir Accountability (Amendment) Act, 2011 shall stand transferred to the State Vigilance Commission for being dealt with under the provisions of the Jammu and Kashmir State Vigilance Commission Act, 2011.

Explanation:– For purposes of this section, the expression “public servant” shall have the same meaning as assigned to it under the Jammu and Kashmir State Vigilance Commission Act, 2011.”.

