

THE JAMMU AND KASHMIR PUBLIC PROPERTY (PREVENTION OF DAMAGE) ACT, 1985

(Act No. XX of 1985)

[Received the assent of the Governor on 9th October, 1985 and published in the Government Gazette dated 15th October, 1985.]

An Act further to provide for prevention of damage to public property in Jammu and Kashmir State and for matters connected therewith.

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

1. Short title and extent

(1) This Act may be called the Jammu and Kashmir Public Property (Prevention of Damage) Act, 1985.

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

(3) It shall come into force at once.

2. Definitions

In this Act, unless the context otherwise requires,—

(a) "mischief" shall have the same meaning as in section 425 of the State Ranbir Penal Code, Samvat 1989;

(b) "public property" means any property, whether immovable or moveable (including any machinery) which is owned by, or is in the possession of, or under the control of—

(i) the Central Government; or

(ii) any State Government; or

(iii) any local authority; or

(iv) any corporation established by, or under a Central or a State Act; or

- (v) any Company as defined in section 617 of the Companies Act, 1956; or
- (vi) any institution, concern or undertaking which the Government may, by notification in the Government Gazette, specify in this behalf:

Provided that the Government shall not specify any institution, concern or undertaking under this sub-clause unless such institution, concern or undertaking is financed wholly or substantially by funds provided directly or indirectly by the State Government or by the Central Government and/or partly by one or more State Governments.

3. Mischief causing damage to public property

(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2) shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being—

- (a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power, or energy;
- (b) any oil installation;
- (c) any sewage works;
- (d) any mine or factory;
- (e) any means of public transportation or of telecommunications, or any building, installation or other property used in connection therewith;

shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine:

Provided that the Court may, for reasons to be recorded in its judgments, award a sentence of imprisonment for a term of less than six months.

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4. Mischief causing damage to public property by fire or explosive substance

Whoever commits an offence under sub-section (1) or sub-section (2) of section 3 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to ten years and with fine:

Provided that the court may, for special reasons to be recorded in its judgments, award a sentence of imprisonment for a term of less than one year.

5. Special provisions regarding bail

No person accused or convicted of an offence punishable under section 3 or section 4 shall, if in custody, be released on bail on or his own bond unless the prosecution has been given an opportunity to oppose the application for such release.

6. Procedure for trials

The provisions of section 259-A and 259-B of the Code of Criminal Procedure, Samvat 1989 shall as far as may be, apply to every trial relating to any offence under this Act.

7. Saving

The provisions of this Act shall be in addition to, and not in derogation of, provisions of any other law for the time being in force and nothing contained in this Act shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might, apart from this Act be instituted or taken against him.