

**The Dispatch**  
D o c u m e n t s

# **Jammu and Kashmir State Official Secrets Act, 1920**

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**THE STATE OFFICIAL SECRETS ACT, 1977 (1920 A.D.)**

**Act No. XLIII of 1977.**

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**THE STATE OFFICIAL SECRETS ACT, 1977 (1920 A.D.)****Act No. XLIII of 1977.**

*[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 read with State Council Resolution No. 1, dated 8th April, 1925, (Notification No. 14-L/81) and published in Government Gazette dated 16th Chet, 1977.]*

**An Act to prevent the disclosure of official documents and information.**

Whereas it is expedient to prevent the disclosure of official documents and information ; it is hereby enacted as follows :--

1. (1) This Act may be called the State Official Secrets Act, 1977.

(2) It extends to the whole of the State. It shall come into force on the 1st day of Baisakh, 1978.

2. In this Act unless there is something repugnant in the subject or context :--

(1) expression referring to communications includes any communication, whether in whole or in part, and whether the document, or information itself or the substance or effect thereof only be communicated ;

(2) "document" includes part of a document ;

(3) "civil affairs" means affairs--

<sup>1</sup>[(a) affecting the relations of the Government with the Government of India or the Government of any State within the Indian Union] ; or

(b) relating to fiscal arrangements or other important matters of the State to whatever department they may pertain where the affairs are of such a confidential nature that the public interest would suffer by their disclosure.

3. (1) (a) Where a person for the purpose of wrongfully obtaining information enters or is in any part of the premises of any office of the State and either obtains or attempts to obtain any document or copy thereof or knowledge of any military or civil affairs of <sup>2</sup>[the Government] which he is not entitled to obtain ;

1. Section 2 (3) (a) substitute by A.L.O. 2008.

2. Substituted by Act X of 2010 for "His Highness".

(b) where a person knowingly having possession of or control over any document or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not in the public interest to be communicated at that time ; or

(c) where a person after having been entrusted in confidence with any document or information relating to the military or civil affairs of the State wilfully and in breach of such confidence communicates the same, when in the public interest it ought not to be communicated ; or

(d) where a person by means of his holding or having held an office under the State has lawfully or unlawfully either obtained possession of or control over any document or acquired any information and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document or information to any person to whom the same ought not in the public interest to be communicated at that time ;

he shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) Where a person commits any act specified in clause (a) of sub-section (1) without lawful authority or permission (the proof of which authority or permission shall be upon him) the court may presume that he has committed such act for the purpose of wrongfully obtaining information.

4. Clause (d) of section 3 (1) shall also apply to a person holding a contract with any department of the State or with the holder of any office under '[the Government]' as such holder where such contract involves an obligation of secrecy and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy as if the person holding the contract and the person so employed were respectively holders of an office under '[the Government]'.

5. (1) Notwithstanding anything in the Code of Criminal Procedure, every offence against this Act committed in relation to military affairs of the State shall, for the purposes of the said Act, be deemed to be cognizable :

Provided that a person accused of any such offence shall not be released on bail unless on the order of a magistrate of the first class.

(2) Every other offence against this Act shall be non-cognizable.

6. (1) Any person, being a public servant as defined in the Ranbir Penal Code, may arrest any person who in his view commits any of the offences described in section 5, sub-section (1), and any such person or any police officer who has arrested any person on a charge of any such offence, and any police officer to whom any person arrested on any such charge has been made over, shall take or send him before the officer for the time being in command or charge of the nearest military station or camp or before a Magistrate of the first class.

(2) Where any person has been taken or sent before the commanding or other officer in accordance with sub-section (1), such officer may, if he thinks fit, discharge such person, but if he does not discharge him, shall without unnecessary delay, take or send him to the nearest police station or to any Magistrate of the first class.

(3) Where any person has been taken or sent to a police station or to a Magistrate under sub-section (2), the provisions of the Code of Criminal Procedure, shall, save as otherwise provided by section 7, apply to him as though he had been taken to such police station or Magistrate without being taken or sent before the commanding or other officer.

7. (1) No Magistrate of the second or third class shall have jurisdiction to try any person for an offence against this Act.

(2) No Court shall proceed to the trial of any person for an offence against this Act except with the consent of <sup>2</sup>[the Government].

1. Now there is no Magistrate of third class.

2. In section (7) "the Government" substituted for "His Highness the Maharaja" by Act X of 1996.