

Constitution Act, 1934

Whereas it is my declared intention to provide for the association of my subjects in the matter of legislation and administration of the State, I hereby promulgate the following Regulations:

This Regulation may be styled the Jammu and Kashmir Regulation No. 1 of 1991 and it shall come into force on 7th Baisakh 1991.

In this Regulation unless there is something repugnant in the subject or context:

"His Highness" means His Highness the Maharaja Bahadur of Jammu and Kashmir.

"State" means the State of Jammu and Kashmir.

"Council" means the Council of Ministers of Jammu and Kashmir hereinafter referred to.

"Assembly" means the Legislative Assembly of the State constituted under this Regulation.

"Official" and "Non-Official" means respectively a person who is or who is not in the Civil or Military Service of the State provided that rules under this Regulation may provide for the holders of such offices or any of them as may be specified in the rules not being treated for purposes of this Regulation as officials.

All powers, legislative, executive and judicial in relation to the State and its Government are hereby declared to be and to have been always inherent in and possessed and retained by His Highness the Maharaja of Jammu and Kashmir and nothing contained in this Regulation shall affect or be deemed to have affected the right and prerogative of His Highness to make and pass Regulations, Proclamations and Ordinances by virtue of his inherent authority.

The Government of the State shall be conducted in the name of His Highness and all powers and authority under this Regulation shall be exercised by and in the name of His Highness.

The Council of Ministers of the State shall comprise the Prime Minister for the time being and such other Ministers of the State as His Highness may appoint. The Prime Minister, who shall be the President of the Council and the other Ministers shall hold office during His Highness' pleasure.

Subject always to the provisions of Section 3 and the exercise in his discretion of the powers and authority inherent as aforesaid in His Highness and subject also to such rules of business and allocation of portfolios and such other directions as to consultations with or reports and confirmation by His Highness on specified matters His Highness may give from time to time by general or special orders in that behalf, the superintendence, direction and control of the Civil Administration and Government of the State shall be vested in the Council.

The following subjects shall be deemed to be reserved from this Regulation and it shall not be lawful for the Council or the Assembly to consider, deal with or enact any measure relating to or affecting:

His Highness or any Member of the Royal Family or the management of their Household;

relations, treaties, conventions or agreements between the State and His Majesty the King Emperor of India or the Government of India or with Foreign powers or the Government of any State in India now subsisting or in force or hereafter to be established or made;

matters concerning the Gilgit and Ladakh Frontiers;

rights specifically granted to Ilaqadars or Jagirdars by their Sanads;

the organization, discipline and control of the State Army;

the State Departments now under the charge of the Minister-in-Waiting on His Highness and specified in the Schedule hereto (Schedule I)

the Dharmarth Department; and

the provisions of this Regulation and the Rules thereunder and their repeal or modification.

The Council, with the previous consent of His Highness and subject to the provisions of Section 6, may make rules for the conduct of executive business and may, in default of any directions given by His Highness provide that the authority of the Council may be delegated to a Minister in respect of any subject or class of subjects.

All rules and orders issued prior to the enactment of this Regulation shall remain in force excepting in so far as they are amended or repealed by this Regulation.

The Legislature of the State shall consist of:

the Council; and

the Assembly; and subject to the provisions of Section 7, no legislative measure shall be deemed to have been passed unless it has been passed by the Council of the Assembly under the provisions hereinafter set out and has received the assent of His Highness.

The Council may provide by Regulation for any matter concerning the Public Department or the Public Revenue of the State including the imposition of any charge thereon or the maintenance, alteration or imposition of any tax or duty.

Notwithstanding anything contained in this Regulation the Council may in cases of emergency or where immediate legislation is required in any matter affecting the peace and good Government of the State. submit to His Highness an Ordinance and such Ordinance or being assented to by His Highness shall have the force of law for a period not exceeding six months from the date of promulgation.

Subject to the provisions herein contained the Assembly shall have power to make Regulations for all persons, for all Courts and for all places and things within the State.

The Assembly shall consist of Members nominated or elected under provisions of this Regulation and of the Jammu and Kashmir Assembly Electoral Regulations, issued under his Highness Command by endorsement No. P. B. 157 of 5th March 1934. The total number of non-elected Members shall be 42 and shall include the Ministers for the time being and officials nominated by virtue of their office and 16 State Councillors summoned by name by His Highness for the constituencies and communities specified in the attached schedule (Schedule II) The number of Officials nominated by virtue of their office shall not exceed 12 including the Ministers. The number of elected Members shall be 33 and they shall be elected for the constituencies and from the communities specified in the Jammu and Kashmir Assembly Electoral Regulations.

The Council may make rules for the following purposes:

as to the term of office of nominated Members of the Assembly and the manner of filling casual vacancies amongst them;

as to the conditions under which and the manner in which persons may be nominated as Members of the Assembly;

as to the qualifications of electors, the constitution of constituencies and the method of election for the Assembly and any matter incidental or ancillary there to;

as to the qualification for being elected or being nominated as Members of the Assembly;

as to the final decision of doubts or disputes as to the validity of an election; and

as to the manner in which such rules should be carried into effect.

The Council shall provide by rules under this Regulation for regulating the course of business and the preservation of order in the Assembly; for number of Members required to constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subjects specified in the rules.

The President of the Assembly shall be appointed by His Highness for such term and on such salary as he may fix and he may remove the President from office and fill casual vacancies in that office from time to time. The President's place during temporary absences shall be taken by such persons as His Highness may direct by general or special order in that behalf.

Every Assembly shall continue for three years from its first meeting provided that: the Assembly may sooner be dissolved by His Highness; such period may be extended by His Highness if in special circumstances he so deems fit: and after the dissolution His Highness shall appoint a date not more than six months after the date of the dissolution for the next Session of the Assembly.

There shall be two Sessions of the Assembly in the year as far as possible in the months of October at Srinagar and in March at Jammu and His Highness may also appoint such other times and places for holding an ordinary Or special Session as he thinks fit.

His Highness may from time to time prorogue the Sessions of the Assembly.

Any Session of the Assembly may be adjourned by the person presiding.

All questions in the Assembly shall be determined by a majority of votes of the Members present other than the presiding Members who shall have and exercise a casting vote in case of an equality of vote.

The powers of the Council or the Assembly may be exercised notwithstanding any vacancy among the Ministers or the Assembly.

An official shall not be qualified to be elected as a Member of the Assembly or to be nominated for any of the seats specified in Schedule II and if an elected Member or a Member nominated for one of such seats accepts office, his seat shall become vacant.

The seat of any Member of the Assembly shall become vacant on his being sentenced for an offence punishable with imprisonment for a term of six months or more or on his being interned or externed under the orders of a Magistrate or the Council of His Highness.

It shall not be lawful for the Assembly to make, repeal or alter any Regulation referred to in Section 12.

It shall not be lawful at any meeting of the Assembly to consider or enact any measure imposing any disability on any community as such.

It shall not be lawful, without the previous sanction of His Highness and without the consent in writing of not less than two-thirds of the Members of the Assembly from the community affected, to introduce, consider or enact any measure affecting the religious rights, usages, endowments or personal law of any community.

When any bill has been introduced or is proposed to be introduced or any amendment to bill is moved or proposed to be moved or any resolution is moved or proposed to be moved or any question is proposed to be asked, His Highness may declare that the bill or any clause of it or amendment or the resolution or question affects the safety or tranquility of the State or any part thereof and may direct that no proceedings shall be taken by the Assembly in relation to the bill or any clause of it or amendment or resolution or question and effect shall be given to such direction.

No measure shall be deemed to have been passed by the Assembly until and unless His Highness has signified his assent thereto.

Where the Assembly refuses leave to introduce or fails to pass in a form recommended by the Council any Regulation, His Highness may declare that the Regulation is essential for the good Government safety or tranquility of the State and such measure shall, on the signification of His Highness' assent become a Regulation as if it has been passed by the Assembly.

Subject and without prejudice to the provisions herein contained, His Highness may, where a measure has been passed by the Assembly, return the same for reconsideration by the Assembly.

The President shall refuse leave to move a resolution or to ask a question which, in his opinion, affects any matter reserved under the provisions of this Regulation, or which affects the religious rights, usages, endowments or personal law of any community and is not moved or asked by a Member of that community.

Standing Orders may be made and altered by the Assembly providing for the conduct of business and the procedure to be followed in the Assembly. Any Standing Order which is repugnant to the provisions of this Regulation or to any rules made thereunder shall, to the extent of that repugnancy but not otherwise, be void.

Subject to the rules and Standing Orders of the Assembly, there shall be freedom of speech in the Assembly and no person shall be liable to any proceedings in any Court of Law by reason of his speech or vote in the Assembly or by reason of anything contained in any official report of the Assembly.

The Council shall cause a copy of the detailed statement of the estimated annual Revenue and Expenditure of the State and of the Ilaqas exercising Criminal and Civil Jurisdiction to be laid on the table of the Assembly first day of the Session to be held in each year in the month of October or any of the subsequent months if a meeting be not held in October. The President shall provide for the meeting of the Assembly on not fewer than seven days for the consideration of the statement after a week from the commencement of the said Session of the Assembly. During the time so provided and subject to the provisions hereinafter contained and to any rules or Standing Orders, any Member of the Assembly may ask a question or move a resolution regarding any appropriation of revenue or moneys proposed in the statements or regarding the form in which the statement is laid on the table.

If such a resolution is supported by a majority of votes, the President shall, before the Budget is passed, declare what action, if any, the Council will take on the resolution.

Before any new tax or duty is imposed or the rate of any existing tax or duty is altered by any Ordinance, Regulation or rule under this Regulation, the Council shall cause a copy of such Regulation, Ordinance or rule to be supplied to each Member of the Assembly and the President shall allot a day or days for the consideration of such proposals in the Assembly and any Member may then move any resolution on the proposals or ask any question regarding them and such tax or duty shall not be imposed or altered until the Council has taken into consideration any resolution regarding it which may have been passed by a majority of votes in the Assembly.

The following matters shall not open for discussion and no resolution may be moved or question asked in respect of these at the time when the said statement is under consideration:

expenditure on matters reserved from the cognizance of the Assembly under Section 7;

expenditure which is obligatory under any law;

pensions and gratuities granted by His Highness or with his sanction or under the rules sanctioned by His Highness;

interest on loans and sinking fund charges; and

expenditure which may be classed by His Highness or the Council as political.

If any question arises whether any proposed appropriation of revenue or moneys does not relate to any matter not liable to be voted upon by the Assembly, the decision of the President shall be final.

No proposal shall be made or resolution moved for the appropriation of any revenue or moneys for any purpose excepting by and on the recommendation of the Council.

It shall not be lawful for any Member to introduce in the Assembly, without the previous sanction of the Council, any measure affecting the public revenues of the State or imposing any charge on such revenues.

Where any Ordinance has been passed under Section 12 of this Regulation, the Council shall cause a copy of it to be delivered to such Member of the Assembly.

If any dispute arises as to the interpretation or the carrying out of any of the provisions of this Regulation or the rules made thereunder, the decision of the Council, subject to the provisions of Section 3, shall be final.

Communication by His Highness to the Assembly may be made (a) in person, (b) by message sent through the Prime Minister or other Minister, or (c) by the President or other person presiding under the Provisions of Section 17.

Every person who is elected or nominated to be a Member of the Assembly shall before taking his seat make at a meeting of the Assembly, an oath of his allegiance to His Highness in the following form, namely:

I have been elected/nominated Member of this Assembly do solemnly swear that I will be faithful and bear true allegiance to His Highness Raj Rajeshwer Maharajadhiraj Shri Maharaja Harisingh Ji Bahadur, Indar Mahindar Sipar-i-Saltanat-i-Inglishia, G.C.S.I., G.C.I.E., K.C.V.O., of Jammu and Kashmir his heirs and successors and that I will faithfully discharge the duty upon which I am about to enter.

Every person who is appointed to be Member of the Council shall before entering on his office make the oath of allegiance in the same form.

SCHEDULE I

(See Section 7 (f))

The State departments under the Minister-in-Waiting and now styled as:

Ceremonial, Toshakhana and State Garage.

Place Guards and State Stables.

Palaces.

Reception.

Shikarkhana.

Provided that His Highness may at any time re-name or re-classify and of the items now included in the departments so styled.

SCHEDULE II

(See Section 14)

Constituencies for which members shall be nominated.

<i>No. of members</i>	<i>Constituency</i>	<i>Community</i>
I.To be nominated by His Highness.		
2	Ladakh Wazarat	Buddhist
1	Skardu Tehsil	Muslim
1	Kargil Tehsil	Muslim
1	Gilgit Wazarat	Muslim
1	North Kashmir Wazarat	Muslim
1	South Kashmir Wazarat	Muslim
1	Muzaffarabad Wazarat	Muslim
1	Jammu Wazarat	Hindu (Megh)
1	Udhampur Wazarat	Hindu(Megh)
1	Srinagar City	Hindu other than Kashmiri Pandit
1	Wazarats Jammu,	Sikh.

	Udhampur, Reasi, Kathua, Kashmir South and Sri Partap singhpura Tehsil.	
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II. To be nominated by His Highness on the recommendation of the Ilaqadar of Poonch.		
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1.	Ilaqa Poonch	Hindu
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III. To be nominated by His Highness on the recommendation of Ilaqadar of Chenani.		
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1.	Ilaqa Chenani	Hindu
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