

PART I
EXTRACTS FROM THE
CONSTITUTION OF
JAMMU AND KASHMIR

THE CONSTITUTION OF JAMMU AND KASHMIR

RELEVANT EXTRACTS

PART II THE STATE

3. Relationship of the State with the Union of India

The State of Jammu and Kashmir is and shall be an integral part of the Union of India.

4. Territory of the State

The territory of the State shall comprise all the territories which on the fifteenth day of August, 1947, were under the sovereignty or suzerainty of the Ruler of the State.

5. Extent of executive and legislative power of the State

The executive and legislative power of the State extends to all matters except those with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India.

PART III PERMANENT RESIDENTS

6. Permanent residents

(1) Every person who is, or is deemed to be, a citizen of India under the provisions of the Constitution of India shall be a permanent resident of the State, if on the fourteenth day of May, 1954—

- (a) he was a State Subject of Class I or of Class II; or
- (b) having lawfully acquired immovable property in the State he has been ordinarily resident in the State for not less than ten years prior to that date.

(2) Any person who, before the fourteenth day of May, 1954, was a State Subject of Class I or of Class II and who having migrated after the first day of March, 1947, to the territory now included in Pakistan, returns to the State under a permit for re-settlement in the State or for permanent return issued by or under the authority of any law made by the State Legislature shall on such return be a permanent resident of the State.

(3) In this section, the expression "State Subject of Class I or of Class II" shall have the same meaning as in State Notification No. I-L/84 dated the twentieth April, 1927, read with State Notification No. 13/L dated the twenty-seventh June, 1932.

7. Construction of references to State Subjects in existing laws

Unless the context otherwise requires, all references in any existing law to hereditary State Subjects or to State Subject of class I or of Class II or of Class III shall be construed as references to permanent residents of the State.

8. Legislature to define permanent residents

Nothing in the foregoing provisions of this part shall derogate from the power of the State Legislature to make any law defining the classes of persons who are, or shall be, permanent residents of the State.

10. Rights of the permanent residents

The permanent residents of the State shall have all the rights guaranteed to them under the Constitution of India.

PART VI

THE STATE LEGISLATURE

COMPOSITION OF THE STATE LEGISLATURE

46. Legislature for the State

There shall be a Legislature for the State which shall consist of the ¹Governor and two Houses to be known respectively as the Legislative Assembly and the Legislative Council.

47. Composition of Legislative Assembly

(1) The Legislative Assembly shall consist of ²[one hundred and eleven] members chosen by direct election from territorial constituencies in the State:

Provided that the ³Governor may if he is of opinion that women are not adequately represented in the Assembly, nominate not more than two women to be members thereof.

¹ Substituted for "Sadar-i-Riyasat" the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.

² Substituted by the Constitution of Jammu and Kashmir (Twentieth Amendment) Act, 1987, s.1.

³ Substituted for "Sadar-i-Riyasat" the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.

¹[(2) For the purposes of sub-section (1), the State shall be divided into single member territorial constituencies by such authority and in such manner as the Legislature may by law determine.]

(3) Upon the completion of each census, the number, extent and boundaries of the territorial constituencies shall be readjusted by such authority and in such manner as the Legislature may by law determine:

Provided that such readjustment shall not effect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

²[Provided that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust the total number of seats in the Legislative Assembly of the State and the division of the State into territorial constituencies under this sub-section.]

48. Provision relating to Pakistan occupied territory

Notwithstanding anything contained in section 47, until the area of the State under the occupation of Pakistan ceases to be so occupied and the people residing in that area elect their representatives—

- (a) ³[twenty-four seats] in the Legislative Assembly shall remain vacant and shall not be taken into account for reckoning the total membership of the Assembly; and
- (b) the said area shall be excluded in delimiting the territorial Constituencies under section 47.

⁴[48-A. Holding of general election in the event of earlier dissolution of Legislative Assembly

Notwithstanding anything contained in this Constitution if upon the completion of a census, but before the final re-adjustment of territorial constituencies, the Legislative Assembly is dissolved prior to the expiry of its duration and the Governor is satisfied that holding of general election without delay is necessary, he may, after consulting the Election Commission, by notification direct that the general election shall be held

1 Substituted by the Constitution of Jammu and Kashmir (Twelfth Amendment) Act, 1975, s.2.

2 Inserted by the Constitution of Jammu and Kashmir (Twenty-ninth Amendment) Act, 2002, s. 2.

3 Substituted for "Twenty-five seats" by the Constitution of Jammu and Kashmir (Twelfth Amendment) Act, 1975, s.3.

4 Inserted *ibid*, s.4.

on the basis of the last preceding delimitation of territorial constituencies].

49. Reservation of seats for Scheduled Castes

(1) There shall be reserved in the Legislative Assembly for the Scheduled Castes in the State a number of seats which shall bear, as nearly as may be, the same, proportion to the total number of seats in the Assembly as the population of the Scheduled Castes bears to the population of the State.

Explanation: — In this sub-section—

- ¹[(a) the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published; and]
- (b) "Scheduled Castes" means the castes, races or tribes or part of, or groups within, castes, races or tribes which are for the purposes of the Constitution of India deemed to be Scheduled Castes in relation to the State under the provisions of Article 341 of the Constitution:

²[Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures of the first census taken after the year 2026 have been published, be construed as a reference to the 1981 census.]

(2) The provisions of sub-section (1) shall cease to have effect on the expiration of a period of ³[Sixty-three years] from the commencement of this Constitution:

Provided that such cesser shall not affect any representation in the Legislative Assembly until the dissolution of the then existing Assembly.

50. Composition of Legislative Council

(1) Legislative Council shall consist of thirty-six members, chosen in the manner provided in this section.

(2) Eleven members shall be elected by the members of the Legislative Assembly from amongst persons who are residents of the Province of Kashmir and are not members of the Legislative Assembly:

¹ Substituted by the Constitution of Jammu and Kashmir (Twelfth Amendment) Act, 1975, s.5.

² Added by the Constitution of Jammu and Kashmir (Twenty-ninth Amendment) Act, 2002, s.3.

³ Substituted for "fifty-three years" by the Constitution of Jammu and Kashmir Thirty-third Amendment) Act, 2013, s.2, w. e. f. 25th January, 2010.

Provided that of the members so elected, at least one shall be a resident of Tehsil Ladakh and at least one shall be a resident of Tehsil Kargil.

(3) Eleven members shall be elected by the members of the Legislative Assembly from amongst persons who are residents of the Province of Jammu and are not members of the Legislative Assembly:

Provided that of the members so elected, at least one shall be a resident of Doda District and at least one shall be a resident of Poonch District.

(4) One member shall be elected by each of the following electorates, namely:—

- (a) the members of municipal council, town area committees and notified area committees in the Province of Kashmir;
- (b) the members of municipal council, town area committees and notified area committees in the Province of Jammu;

¹[X X X]

(5) Two members shall be elected by each of the following electorates, namely:—

- (a) the members of the Panchayats and such other local bodies in the Province of Kashmir as the ²Governor may by order specify;
- (b) the members of the Panchayats and such other local bodies in the Province of Jammu as the ³Governor may be order specify.

(6) ⁴[Eight] members shall be nominated by the ⁵Governor, not more than three of whom shall be persons belonging to any of the socially or economically backward classes in the State, and the others shall be persons having special knowledge or practical experience in respect of matters such as literature, science, art, co-operative movement and social service.

(7) Elections under sub-sections (2) and (3) shall be held in accordance with the system of proportional representation by means of the single transferable vote.

¹ Clauses (c) and (d) omitted by the Constitution of Jammu and Kashmir (Fifth Amendment) Act, 1963, s.2.

² Substituted for "Sadar-i-Riyasat" the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.

³ Substituted for "Sadar-i-Riyasat" the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.

⁴ Substituted by the Constitution of Jammu and Kashmir (Fifth Amendment) Act, 1963, s.2.

⁵ Substituted for "Sadar-i-Riyasat" the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.

GENERAL PROVISIONS

51. Qualifications for membership of the Legislature

A person shall not be qualified to be chosen to fill a seat in the Legislature unless he—

- ¹(a) is a permanent resident of the State, and makes and subscribes before some person authorised in that behalf by the Election Commission of India an oath or affirmation according to the form set out for the purpose in the Fifth Schedule;]
- (b) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age, and in the case of a seat in the Legislative Council, not less than thirty years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Legislature.

52. Duration of Legislature

(1) The Legislative Assembly, unless sooner dissolved, shall continue for ²[six years] from the date appointed for its first meeting and no longer and the expiration of the said period of ³[six years] shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under Article 352 of the Constitution of India is in operation, be extended by the State Legislature by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the proclamation has ceased to operate.

(2) The Legislative Council shall not be subject to dissolution but as nearly as possible one-third of the members thereof shall retire, as soon as may be, on the expiration of every second year in accordance with the provisions made in that behalf by Legislature by law.

53. Session of the Legislature, prorogation and dissolution

(1) The Governor shall from time to time summon each House of the Legislature to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

¹ Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, s.10.

² Substituted for "five years" by the Constitution of Jammu and Kashmir (Sixteenth Amendment) Act, 1977, s. 2.

³ Substituted for "five years" by the Constitution of Jammu and Kashmir (Sixteenth Amendment) Act, 1977, s. 2.

- (2) The Governor may from time to time—
- (a) prorogue the Houses or either House;
 - (b) dissolve the Legislative Assembly.

54. Rights of Governor to address and send messages to the House or Houses

(1) The Governor may address either House of Legislature, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to either House, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

55. Special address by the Governor

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address both Houses of Legislature assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address.

56. Rights of Ministers and Advocate General as respects the Houses

Every Minister and the Advocate General shall have the right to speak in, and otherwise to take part in the proceedings of both Houses and to speak in, and otherwise to take part in the proceedings of, any Committee of the Legislature of which he may be named a member, but shall not, by virtue of this section, be entitled to vote.

68. Vacation of Seats

(1) No person shall be a member of both Houses of the Legislature and provision shall be made by Legislature by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

¹[(2) If a member of a House of the Legislature resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be, his seat shall thereupon become vacant:

Provided that if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation].

(3) If for a period of sixty days a member of a House of the Legislature is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of—

- (a) such absence caused by reason beyond his control; or
- (b) any period during which the House is prorogued or is adjourned for more than four consecutive days.

69. Disqualification for membership

(1) A person shall be disqualified for being chosen as and for being a member of the Legislative Assembly or Legislative Council—

- (a) if he holds any office of profit under the Government of India or the State Government or any other State Government within the Union of India, other than an office declared by Legislature by law not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) If he is not a permanent resident of the State or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
- (e) if he is so disqualified by or under any law made by the Legislature.

(2) For the purposes ²[of sub-section (1)] a person shall not be deemed to hold an office of profit under the Government of India, the State

¹ Substituted by the Constitution of Jammu and Kashmir (Fourteenth Amendment) Act, 1976, s.2.

² Substituted by the Constitution of Jammu and Kashmir (Eighteenth Amendment) Act, 1987, s.2.

Government or any other State Government within the Union of India, by reason only that he is a Minister, or a Deputy Minister.

¹[(3) A person shall be disqualified for being a member of either House of Legislature if he is so disqualified under the Seventh Schedule.]

70. Decision on questions as to disqualifications of members

(1) If it is represented to the Speaker or the Chairman that a Member of the Legislative Assembly or, as the case may be, of the Legislative Council, is disqualified for being such a member under the provisions of ²[sub-section (1) of section 69], or was so disqualified at any time since being chosen as a member, and the member does not admit that he is or was so disqualified, the question shall be referred to the High Court for decision and its decision shall be final:

Provided that, where the disqualification in question arises from circumstances which subsisted at the time of his being chosen as such member, no such representation as aforesaid shall be entertained—

- (a) unless it is made after the expiration of the period prescribed by law, for presenting an election petition calling in question the election of the member; and
- (b) if such an election petition is pending or has been tried, unless the Speaker or Chairman, as the case may be, is satisfied that the question of the member's disqualification by reason of those circumstances has not been raised or, as the case may be, was not raised, in the proceedings on the election petition.

(2) Where on a representation made under sub-section (1) the member admits that he is or was disqualified under the provisions of ³[sub-section (1) of section 69], or where on a reference made under that sub-section the High Court decided that the member is or was so disqualified, his seat shall thereupon become vacant.

71. Penalty for sitting and voting before making oath or affirmation when not qualified or when disqualified

If a person sits or votes as a member of the Legislative Assembly or the Legislative Council before he has complied with the requirements of section 64 or when he knows that he is not qualified or that he is

1 Inserted *ibid*.

2 Substituted by the Constitution of Jammu and Kashmir (Eighteenth Amendment) Act, 1987, s.3.

3 Substituted *ibid*, s. 3.

disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by the Legislature, he shall be liable in respect of each day on which he so sits or votes to a penalty of one hundred rupees to be recovered as a debt due to the State.

PART X
ELECTIONS

¹[138. Superintendence, direction and control of elections

The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, elections to either House of the State Legislature held under this Constitution, ²[x x x] shall vest in the Election Commission of India].

139. No person to be ineligible for inclusion in electoral roll on grounds of religion, race, caste or sex

There shall be one general electoral roll for every territorial constituency for election to either House of the Legislature and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

140. Elections to the Legislative Assembly to be on the basis of adult suffrage

The elections to the Legislative Assembly shall be on the basis of adult Suffrage; that is to say, every person who is a permanent resident of the State and who is not less than ³[eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the Legislature and is not otherwise disqualified under this Constitution or any law made by the Legislature on the ground of non-resident, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

141. Power of Legislature to make provision with respect to elections to Legislature

Subject to the provisions of this Constitution, the Legislature may from time to time by law make provision with respect to all matters

¹ Section 138 substituted by the Constitution of Jammu and Kashmir (First Amendment) Act, 1959, s.8.

² Certain words omitted by the Constitution of Jammu and Kashmir (Eighth Amendment) Act, 1967, s.2.

³ Substituted by the Constitution of Jammu and Kashmir (Twenty-first Amendment) Act, 1989, s.2.

relating to or in connection with elections to either House of the Legislature, including the preparation of electoral rolls, the delimitation of constituencies, appointment of election tribunal, and all other matters necessary for securing the due constitution of the two Houses.

142. Bar to interference by courts in electoral matters

Notwithstanding anything in this Constitution—

- (a) the validity of any law relating to the delimitation of territorial constituencies for the purpose of electing members of the Legislative Assembly or the allotment of seats to such constituencies, made or purporting to be made under section 141, shall not be called in question in any court;
- (b) no election to either House of the Legislature shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the Legislature:

¹[Provided that nothing in this clause shall preclude a person whose nomination paper has been rejected from preferring an appeal against the decision of the Returning Officer to such authority and in such manner as the Legislature may by law provide:

Provided further that the decision of the Appellate Authority on such appeal shall be final subject only to the result of the election petition, if any, and shall not be called in question in any Court whatsoever notwithstanding anything contained in this Constitution].

FIFTH SCHEDULE

(See sections 40, 64 and 97)

FORMS OF OATHS OR AFFIRMATIONS

FORM A

OATH FOR A MINISTER

"I, A. B., do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established, ²[that I will uphold the sovereignty and integrity of India], that I will faithfully and conscientiously discharge the duty upon which I am about to enter, and that I will do right to all manner of people in

¹ Added by the Constitution of Jammu and Kashmir (Thirteenth Amendment) Act, 1975, s.2.

² Inserted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, s.18.

accordance with the Constitution and the law, without fear or favour, affection or ill-will.

I further do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the State except as may be required for the due discharge of my duties as such Minister."

FORM B

OATH FOR A DEPUTY MINISTER

"I, A. B, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established, ¹[that I will uphold the sovereignty and integrity of India], and that I will faithfully and conscientiously discharge the duty upon which I am about to enter, and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will,

I further do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Deputy Minister for the State except as may be required for the due discharge of my duties as such Minister."

²**FORM C**

(I)

**FORM OF OATH OR AFFIRMATION TO BE MADE BY A
CANDIDATE FOR ELECTION TO THE STATE LEGISLATURE**

"I, A. B., having been nominated as a candidate to fill a seat in the Legislative Assembly, (or Legislative Council) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established and that I will uphold the sovereignty and integrity of India".

¹ Inserted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, s.18.

² Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, s.18.

(II)

**FORM OF OATH OR AFFIRMATION TO BE MADE BY A
MEMBER OF THE STATE LEGISLATURE**

"I, A. B., having been elected (or nominated) a member of the Legislative Assembly, (or Legislative Council) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter".]

¹[SEVENTH SCHEDULE

[See section 69 (3)]

**PROVISIONS AS TO DISQUALIFICATION ON GROUND OF
DEFECTION**

1. Interpretation

In this Schedule, unless the context otherwise requires,—

- (a) "House" means either House of the Legislature of the State;
- (b) "Legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or ²[x x x] paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;
- (c) "Leader" in relation to a Legislature party means a member of the party chosen by it as its leader and includes any other member of the party authorised by the party to act, in the absence of the leader, as, or discharge the functions of the leader for the purpose of this Schedule;
- (d) "Original political party", in relation to a member of a House, means the political party to which he belongs for the purpose of sub-paragraph (1) of paragraph 2;
- (e) "Paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection

(1) Subject to the provisions of ³[paragraphs 4 and 5] a member of a House belonging to any political party shall be disqualified for being a member of the House—

¹ Inserted by the Constitution of Jammu and Kashmir (Eighteenth Amendment) Act, 1987.

² Omitted by the Constitution of Jammu and Kashmir (Thirtieth Amendment) Act, 2006.

³ Substituted by the Constitution of Jammu and Kashmir (Thirtieth Amendment) Act, 2006, s. 5.

- (a) if he has voluntarily given up his membership of such political party; or
- (b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation. — For the purpose of this sub-paragraph—

- (a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;
- (b) a nominated member of a House shall,—
 - (i) where he is a member of any political party on the date of his nomination as such member be deemed to belong to such political party;
 - (ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes member before the expiry of six months from the date on which he takes his seat after complying with the requirements of section 64.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of section 64.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who on the commencement of the Constitution of Jammu and Kashmir (Eighteenth Amendment) Act, 1987 is a member of a House (whether elected or nominated as such) shall,—

- (i) where he was a member of a political party, immediately before such commencement be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a

member of such House as a candidate set up by such political party;

- (ii) in any other case be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

¹[3. Omitted].

4. Disqualification on ground of defection not to apply in case of merger

(1) A member of a House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other member of his original political party,—

- (a) have become members of such other political party or, as the case may be, of a new political party formed by such member; or
- (b) have not accepted the merger and opted to function as a separate group;

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-third of the members of the Legislature party concerned have agreed to such merger.

5. Exemption

Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the Legislative Assembly or the Chairman or the Deputy Chairman of the Legislative Council shall not be disqualified under this Schedule,—

¹ Paragraph 3 omitted by the Constitution of Jammu and Kashmir (Thirtieth Amendment) Act, 2006, s. 5.

- (a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belongs immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or becomes a member of another political party;
- (b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. Decision on questions as to disqualification on ground of defection

(1) If any question arises as to whether a member of the House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Leader of the Legislature party to which such member belongs and his decision shall be final:

Provided that where the question which has arisen relates to a member belonging to a Political party which has not elected any Leader of its Legislature party, the question shall be referred for the decision of the Speaker or, the Chairman, as the case may be, and his decision shall be final:

Provided further that where the question which has arisen relates to a member not belonging to any political party, the question shall be referred for the decision of the Speaker or the Chairman, as the case may be, and his decision shall be final:

¹[Provided also that where the question which has arisen to as to whether the Leader of the Legislative Party has become subject to such disqualification, the question shall be referred for the decision of the Chairman, or, as the case may be, the Speaker of such House and his decision shall be final].

(3) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in the House within the meaning of section 89.

1 Inserted by the Constitution of Jammu and Kashmir (Thirtieth Amendment) Act, 2006, s.5.

7. Bar of jurisdiction of Courts

Notwithstanding anything in this Constitution, no Court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. Rules

(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of the House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

- (a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;
- (b) the report which the Leader of a Legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;
- (c) the reports which a political party shall furnish with regard to admission to such political party of any members of the House and the office of the House to whom, such report shall be furnished; and
- (d) the procedure for deciding any question referred to in sub-paragraph (1) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of the House under sub-paragraph (1) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or, in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) The Chairman or the Speaker of the House may, without prejudice to the provisions of section 72 and to any other power which he may have under this Constitution direct that any wilful contravention

by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.

STATE SUBJECT DEFINITION NOTIFICATION

Notification No. I-L/84, dated 20th April, 1927¹

The following definition of the term "State Subject" has been sanctioned by His Highness the Maharaja Bahadur (vide Private Secretary's letter No. 2354, dated 31st January, 1927, to the Revenue Member of Council) and is hereby promulgated for general information.

The term "State Subject" means and includes:—

CLASS — All persons born and residing within the State before the
 I. commencement of the reign of His Highness the late Maharaja Gulab Singh Sahib Bahadur, and also persons who settled therein before the commencement of Samvat year 1942, and have since been permanently residing therein;

CLASS — All persons other than those belonging to Class I who settled
 II. within the State before the close of Samvat year 1968, and have since permanently resided and acquired immovable property therein.

CLASS — All persons other than those belonging to Class I and II
 III. permanently residing within the State, who have acquired under a rayatnama any immovable property therein or who may hereafter acquire such property under an ijazatnama and may execute a rayatnama after ten years' continuous residence therein.

²[CLASS — Companies which have been registered as such within the
 IV. State and which, being companies in which the Government are financially interested or as to the economic benefit to the State or to the financial stability of which the Government are satisfied, have by a special order of His Highness been declared to be State Subject.]

¹ This notification is to be read subject to the provisions of Section 6 of the Constitution of Jammu and Kashmir.

² Added by order No. 98-H/39, published in Government Gazette dated 27th Poh, 1996. By the same Order His Highness is further pleased to direct that, notwithstanding any law, rule or other order to the contrary, no disability as regards acquisition of any interest in land or other immovable property in the State shall attach to a company which is a State Subject within the meaning of Notification No. I-L/84, dated 20th April, 1927, as amended.

NOTE I. — In matter of grants of State scholarships, State lands for agricultural and house building purposes and recruitment to State service, State Subject of Class I should receive preference over other classes and those of Class II, over Class III, subject, however, to the order dated 31st January, 1927, of His Highness the Maharaja Bahadur regarding employment of hereditary State Subject in Government service.

NOTE II. — The descendants of the persons who have secured the status of any Class of the State Subjects will be entitled to become the State Subjects of the same Class. For example if A is declared a State Subject of Class II, his sons and grand-sons will ipso facto acquire the status of the same Class II and not of Class I.

¹**[NOTE III.** — The wife or a widow of a State Subject of any Class shall acquire the status of her husband as State Subject of the same Class as her husband, so long as she resides in the State and does not leave the State for permanent residence outside the State.]

²**[NOTE IV.** — For the purposes of the interpretation of the term ‘State Subject’ either with reference to any law for the time being in force or otherwise, the definition given in this Notification as amended upto date shall be read as if such amended definition existed in this Notification as originally issued.]

Emigrants from the Jammu and Kashmir State to foreign territories shall be considered State Subject and also the descendants of these emigrants born abroad for two generations

³*Notification No. 13-L/1989*

Issued by His Highness the Maharaja Bahadur dated the 27th June, 1932/14th Har, 1989 and published in Government Gazette dated 24th Har, 1989.) No. 13-L/1989.

Whereas it is necessary to determine the status of Jammu and Kashmir State Subject in foreign territories and to inform the Govern-

1 Added by notification No. 51-D/1989 as amended by Notification No. 6-L/1990 published in Government Gazette dated the 8th Baisakh, 1990 and Government Gazette dated the 23rd Bhadon, 1990, respectively.

2 Added by order No. 98-H/39, published in Government Gazette dated 27th Poh, 1996. By the same Order His Highness is further pleased to direct that, notwithstanding any law, rule or other order to the contrary, no disability as regards acquisition of any interest in land or other immovable property in the State shall attach to a company which is a State Subject within the meaning of Notification No. I-L/84, dated 20th April, 1927, as amended.

3 This notification is to be read subject to the provisions of Section 6 of the Constitution of Jammu and Kashmir

ments of Foreign States as to the position of their nationals in the State; it is hereby commanded and notified for public information as follows:—

1. That all emigrants from the Jammu and Kashmir State to foreign territories shall be considered State Subject and also the descendants of these emigrants born abroad for two generations:

Provided that, these nationals of the Jammu and Kashmir State shall not be entitled to claim the internal rights granted to subjects of this State by the laws, unless they fulfil the conditions laid down by those laws and rules for the specific purposes mentioned therein.

2. The foreign nationals residing in the State of Jammu and Kashmir shall not acquire the nationality of the Jammu and Kashmir State until after the age of 18 on purchasing immovable property under permission of an Ijzatnama and on obtaining Rayatnama after ten years' continuous residence in the Jammu and Kashmir State as laid down in Notification No. I-L of 1984, dated 20th April, 1927.
3. Certificate of nationality of the Jammu and Kashmir State may, on application, be granted by the Minister-incharge of the Political Department in accordance with the provisions of section 1 of this Notification.

The Constitution (Jammu And Kashmir) Scheduled Castes Order, 1956

C.O. 52 — Published with the Ministry of Law Notifn. No. S.R.O. 3135A, dated the 22nd December, 1956, Gazette of India, Extraordinary, 1956, Part II, Section 3, page 2686A.

In exercise of the powers conferred by clause (1) of article 341 of the Constitution of India, the President, after consultation with the Sadar-i-Riyasat of Jammu and Kashmir, is pleased to make the following Order, namely:-

1. This Order may be called the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956.
2. The castes specified in the Schedule to this Order shall, for the purposes of the Constitution, be deemed to be Scheduled Castes in relation to the State of Jammu and Kashmir:

Provided that no person who professes a religion different from the Hindu ¹[, the Sikh or the Buddhist] religion.

THE SCHEDULE

1. Barwala
 2. Basith
 3. Batwal
 - ²4. Chamar or Ramdasia, Chamar-Ravidas, Chamar-Rohidas]
 - ³5. Chura, Bhangi, Balmiki, Mehtar]
 6. Dhyar
 - ⁴7. Doom or Mahasha, Dumna]
 8. Gardi
 9. Jolaha
 10. Megh or Kabirpanthi
 11. Ratal
 12. Saryara
 13. Watal.
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1 Subs. by Act 15 of 1990, s. 6, for "or the Sikh" (w.e.f. 3-6-1990).

2 Subs. by Act 61 of 2002, s. 2 and Second Sch.

3 Subs. by Act 61 of 2002, s. 2 and Second Sch.

4 Subs. by Act 61 of 2002, s. 2 and Second Sch.