

Jammu And Kashmir Disturbed Areas Act, 1992

[Act No. 4 of 1992]

Enacted by the President in the Forty-third Year of the Republic of India An Act to provide for better provision for the suppression of disorder and for the restoration and maintenance of public order in disturbed areas in Jammu and Kashmir In exercise of the powers conferred by Section 3 of the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992 (21 of 1992), the President is pleased to enact as follows:-Reasons for the enactment.-

1. The Governor's Rule was promulgated in January 1990. At that time the militants/terrorists had posed a great challenge to the State administration. Various measures were taken to curb the military. Because of continued abetment and support from across the border to the militants it was felt that additional measures be taken to curb the militancy effectively and in a shortest possible time. In these circumstances the Jammu and Kashmir Disturbed Areas Act, 1990 (Governor's Act No. 12 of 1990) was enacted. The actions taken under the Act have shown considerable improvement but the circumstances and the conditions due to which the law was enacted continue to be the same.

2. The said law is of a temporary nature in terms of sub-section (4) of Section 92 of the Constitution of Jammu and Kashmir and shall remain in force only up to the 18th day of July 1992. It is proposed to re-enact the said Governor's Act by a President's Act. The Bill seeks to give effect to the said decision.

3. The President issued a Proclamation on the 8th July 1990 under Article 356 of the Constitution, in relation to the State of Jammu and Kashmir declaring inter alias that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament. Parliament has, under Article 357(1)(a) of the Constitution, now conferred on the President, the powers of the Legislature of the State of Jammu and Kashmir to make the laws vide the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992 (21 of 1992).

4. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Jammu and Kashmir Legislation. This measure is accordingly being enacted without reference to the Consultative Committee.

2. Definition.

(1) In this Act, "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area.

(2) All other words and expressions used herein and not defined, but defined in any other law for the time being in force in the State of Jammu and Kashmir, shall have the meanings respectively assigned to them in such law.

3. Powers to declare areas to be disturbed areas.

The State Government may, by notification in the Official Gazette, declare that the whole or any part of any district of Jammu and Kashmir as may be specified in the notification, is a disturbed area.

4. Power to fire upon persons contravening certain orders.

In a "disturbed area", any Magistrate or Police Officer not below the rank of Sub-Inspector or Head Constable in case of the Armed Branch of the Police may, if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning, as he may consider necessary, fire upon, or otherwise use force, even to the causing of death, against any person who is indulging in any act which may result in serious breach of public order or is acting in contravention of any law or order for the time being in force, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire arms, ammunition or explosive substances.

5. Powers to destroy arms dump, fortified positions, etc.

In a "disturbed area", any Magistrate or Police Officer not below the rank of a Sub-Inspector may, if he is of the opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position of shelter from which aimed attacks are made or are likely to be made or are attempted to be made or any structure used as a training camp for armed volunteers or utilised as a hideout by armed gangs or absconders wanted for any offence.

6. Protection of persons acting under Sections 4 and 5.

No suit, prosecution, or other legal proceedings shall be instituted except with the previous sanction of the State Government against any person in respect of anything done or purporting to be done in exercise of the powers conferred by Sections 4 and 5.

7. Repeal and saving.

(1) The Jammu and Kashmir Disturbed Areas Act, 1990 (Governor's Act No. 12 of 1990) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Jammu and Kashmir Disturbed Areas Act, 1990 (Governor's Act No. 12 of 1990), shall be deemed to have been done or taken under the corresponding provisions of this Act.