

The West Bengal Slum Areas (Improvement And Clearance) Act, 1972

WEST BENGAL

India

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Act 10 of 1972

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The West Bengal Slum Areas (Improvement And Clearance) Act, 1972 West Bengal Act 10 of 1972 [4th May, 1972.] An Act to provide for the improvement and clearance of the slum areas in West Bengal and for matters connected therewith or incidental thereto. Whereas it is expedient to provide for the improvement and clearance of the slum areas in West Bengal and for matters connected therewith or incidental thereto; It is hereby enacted as follows:-

1. Short title and extent.

(1) This Act may be called the West Bengal Slum Areas (Improvement and Clearance) Act, 1972. (2) It extends to the whole of West Bengal except the places which are declared as Cantonments under the Cantonments Act, 1924. (3) Save as otherwise provided in this Act the powers of the State Government and the prescribed authority conferred by or under this Act shall be restricted to the area declared as slum area under section 3 of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Calcutta Metropolitan District" means the area described as such in the Schedule to the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act, 1965; (b) "hut" means any structure, no substantial part of which, excluding the walls up to a height of fifty centimetres above the floor level, is constructed of masonry, reinforced concrete, ferroconcrete, cemented brick work, steel, iron or other metal or any combination thereof or prefabricated materials; (c) "intermediary" means a proprietor, a tenure-holder, a lessee or a sub-lessee or holder of any other tenancy interest in land, whether liable to pay rent or not, but does not include a thika tenant; (d) "notification" means a notification published in the Official Gazette; (e) "occupier", in relation to any land, hut or other structure,

includes -(i)any person who, for the time being, is paying, or liable to pay, to the owner, the rent or any portion of the rent thereof,(ii)an owner in occupation of, otherwise using, such land, hut or other structure,(iii)a rent-free tenant,(iv)any person who is a licensee in occupation, and(v)any person who is liable to pay to the owner damages for the use and occupation of such land, hut or other structure;(f)"owner", in relation to a land, hut or other structure, includes any person who is receiving or is entitled to receive the rent of such land, hut or other structure on his own account or on behalf of himself and others or as agent or trustee, or who would so receive the rent or be entitled to receive it if the land, hut or other structure were let to a tenant;(g)"prescribed" means prescribed by rules made under this Act;(h)"prescribed authority" means -(i)in respect of any area within the Calcutta Metropolitan District, -(a)unless otherwise specified by the State Government, the Calcutta Metropolitan Development Authority constituted under section 3 of the Calcutta Metropolitan Development Authority Act, 1972, or(b)such local authority, having jurisdiction over any slum within such area, as the State Government may, on the recommendation of the Calcutta Metropolitan Development Authority, specify,(ii)in respect of any other area, the local authority having jurisdiction over the area or any other authority, empowered by the State Government by notification, to perform the functions of the prescribed authority under this Act in such area;(i)"slum area" means the area declared as such by the State Government under section 3;(j)"thika tenant" has the same meaning as in the Calcutta Thika Tenancy Act, 1949.

3. Declaration of slum area.

- If the State Government is satisfied that the conditions of the land, huts or other structures in any area is such that the continued existence of such conditions would be injurious to public health or safety or to the health, hygiene or morals of the inhabitants of such area, it may, by notification, and in such other manner as may be prescribed, declare such area to be a slum area.

4. Erection of, or addition or alteration to, hut or other structure to be made with prior permission.

- No new hut or other structure shall be erected and no substantial addition to, or material alteration in, any existing hut or other structure shall be made, in any slum area except with the previous permission in writing of the prescribed authority, obtained in such manner as may be prescribed, and in accordance with such general or special conditions if any, as the prescribed authority may impose.

5. Power to order demolition in certain areas.

(1)Where any work in connection with the erection of a new hut or other structure or addition to, or alteration in, an existing hut or other structure, has been commenced, is being carried on, or has been completed, in contravention of the provisions of section 4, the prescribed authority may, after giving the owner of the hut or other structure, a reasonable opportunity of being heard, serve a notice upon such owner requiring him to demolish so much of the new hut or other structure as has been erected or so much of the addition or alteration as has been made, as the case may be, within

such time as may be specified in the notice.(2)On the failure of an owner to comply with the notice referred to in sub-section (1) within the time specified therein, the prescribed authority may cause the new hut, other structure, addition or alteration specified in the said notice to be demolished and recover the expenses of such demolition from such owner as if such expenses were a public demand.

6. Power to require the carrying out of certain measures.

- Where the prescribed authority is, upon the report from any of its officers or otherwise, satisfied that any hut or other structure in any slum area is, by reason of any omission to make the necessary repairs, or by reason of any damage or sanitary inconvenience or any impediment to the flow of natural light or air, unfit for human habitation, it may serve upon the owner of such hut or other structure, a notice requiring him to carry out within such time, not being less than sixty days, as may be specified in the notice, such measures as, in its opinion, are necessary to render such hut or other structure fit for human habitation.

7. Power to require service privy or urinal to be connected with sewer mains.

- Where sewer mains exist or have been laid within one hundred metres of any service privy or urinal in any hut or other structure or on any land appurtenant thereto within a slum area, the prescribed authority may serve on the owner of such hut, other structure or land, a notice requiring him -(a)to get such privy connected with the sewer mains, or(b)in the case of a urinal, either to close it or to get it connected with the sewer mains,within such time, not less than sixty days, as may be specified in the notice.

8. Power to direct discontinuance of service privy or urinal.

- Where, in any slum area, public conveniences connected either with the sewer mains or any septic tank exist or have been provided within such distance of any hut or other structure as the prescribed authority considers reasonable, it may serve a notice upon the owner of such hut or other structure requiring him within such time, not being less than sixty days, as may be specified in the notice, to discontinue the use of any service privy or urinal existing therein or on any land appurtenant thereto, and, if necessary, to demolish such service privy or urinal.

9. Power of prescribed authority to cause certain works to be done.

(1)If a notice served on the owner of a hut, other structure or land under section 6, section 7 or section 8 is not complied with within the time specified therein, the prescribed authority may cause the work specified in the said notice to be done.(2)All expenses incurred by the prescribed authority in causing any work to be done under sub-section (1), together with interest thereon at the rate of six per centum per annum from the date on which the demand for payment of such expenses is made until such payment, may be recovered by it from the owner of the hut, other structure or land as if they were a public demand.

10. Improvement schemes.

(1) Subject to the provisions of this Act, the prescribed authority may prepare such improvement schemes for the purpose of effecting such works of improvement as it may consider necessary in respect of any slum area and publish a copy of such schemes in such manner as may be prescribed. (2) The improvement schemes prepared under sub-section (1) shall indicate the manner in which environmental improvements shall be carried out in the slum area, and may provide for all or any of the following matters, namely:-(a) water supply, whether from any existing main belonging to a local authority or otherwise; (b) drainage and sewerage, whether to be connected with any existing channel or sewer main in the locality or otherwise; (c) construction of latrines connected either with the sewer mains or any septic tanks; (d) sewage and garbage disposal; (e) raising, lowering or levelling any land in the slum area; (f) lighting and paving of footways, passages and pathways; (g) improvement of huts or other structures; and (h) such other matters as may be considered necessary for carrying out the objects of this Act.

11. Right of user to vest in State Government or prescribed authority.

(1) Whenever it appears to the State Government that it is necessary for the purpose of implementing any improvement scheme prepared under this Act in respect of any slum area should be acquired, -(a) for the purpose of laying or erection of any cable, wire, pipe, post, drain, sewer main or channel through, across, under or over any road, passage, footway or pathway, or (b) for the installation of any equipments or appliances, or (c) for the construction of any other work, the State Government may, by notification, and in such other manner as may be prescribed, declare its intention to acquire the right of user therein, giving a brief description of the land over which the right of user is to be acquired and inviting suggestions or objections from persons likely to be affected thereby within such time as may be prescribed. (2) Every suggestion or objection received in pursuance of the notification referred to in sub-section (1) shall be forwarded by the State Government to the prescribed authority and the prescribed authority shall after giving a reasonable opportunity of being heard, to all the affected persons and after making such inquiry as it may consider necessary, submit a report to the State Government stating its views thereon and the State Government may, after considering the views of the prescribed authority, by notification, declare that the right of user in the land should be acquired. (3) On the date of publication of the declaration under sub-section (2), the right of user in the land shall vest absolutely in the State Government free from all encumbrances. (4) Notwithstanding anything contained in sub-section (3), the State Government, on such terms and conditions as it may think fit to impose, may direct by order in writing that the right of user in the land shall, instead of vesting in the State Government, vest in the prescribed authority on the date of publication of the declaration. (5) If, within a period of three years from the date of issue of the notification under sub-section (1), no declaration is published under sub-section (2), such notification shall cease to have effect on the expiration of that period.

12. Power to enter and carry out measures to implement improvement scheme.

- Where the right of user in any land vested in the prescribed authority under section 11, it shall be lawful for any person authorised by such prescribed authority to enter into or upon the land and do all things necessary for carrying out the works of improvement referred to in sub-section (1) of section 11 and take such steps as are necessary for the repair and maintenance of such works.

13. Slum Clearance and Redevelopment Scheme.

(1)Where it appears to the prescribed authority that in view of the unhealthy, unhygienic, insanitary and congested conditions existing in a slum area, it is expedient to carry out works of improvement in pursuance of the improvement schemes prepared under this Act for such slum area without redeveloping that area after demolishing the huts and other structures thereon, it may prepare a scheme, to be known as a "Slum Clearance and Redevelopment Scheme" and publish a copy thereof in such manner as may be prescribed inviting suggestions and objections.(2)Every such Scheme shall, as far as practicable, indicate the manner in which clearance and redevelopment shall be carried out and may provide for all or any of the following particulars, namely:-(a)the acquisition of any land or other property in the area comprised in the Scheme, or affected by, or required for the execution of, the Scheme;(b)the reservation, acquisition or allotment of land or other property for any of the matters specified in sub-section (2) of section 10;(c)the laying or relaying of any area comprised in the Scheme;(d)the provision of alternative accommodation, temporary or permanent, for the inhabitants of the area who may be displaced by reason of the execution of the Scheme or any part thereof;(e)the construction, alteration or widening of streets or passages;(f)the suspension, as far as may be necessary for the proper carrying out of the Scheme, of any rule, bye-law, regulation, notification or order made or issued under any law for the time being in force which the Legislature of the State is competent to make;(g)an estimate of the total cost of the Scheme; and(h)such other matters not inconsistent with the objects of this Act as may be directed by the State Government.(3)The prescribed authority, after considering any objection or suggestion relating to the Scheme referred to in sub-section (1) and received within thirty days from the date of publication of the Scheme and after making such modification in the Scheme as it thinks fit, shall, not later than twenty-four months from the date of publication of the Scheme, sanction it, subject to the approval of the State Government, by notification and by such other means as are calculated to bring it to the notice of all persons concerned.(4)Where a Scheme is sanctioned under sub-section (3), the State Government may, on the recommendation of the prescribed authority, by order published in the Official Gazette, suspend, to such extent only as may be necessary for the proper carrying out of the Scheme, any rule, bye-law, regulation, notification or order made or issued under any law for the time being in force which the Legislature of the State is competent to make.

14. Power of State Government to acquire land.

(1)Where the State Government is of opinion that for the purpose of carrying out any Slum Clearance and Redevelopment Scheme sanctioned under this Act, it is necessary to acquire any land or any other immovable property within, adjoining or surrounded by, any slum area, it may, by a notice published in the Official Gazette and by such other manner as may be prescribed, acquire such land or immovable property with effect from such date as may be specified in the notice.(2)With effect from the date specified in the notice referred to in sub-section (1), the land or

immovable property as is mentioned in the notice shall vest absolutely in the State Government free from all encumbrances.(3)Notwithstanding anything contained in sub-section (2), the State Government may, on such terms and conditions as it may think fit to impose, direct by order in writing that such land or immovable property shall, instead of vesting in the State Government, vest in the prescribed authority, and thereupon the prescribed authority shall -(a)take possession of the property as aforesaid in such manner as may be prescribed, and(b)clear and redevelop the area in accordance with the Slum Clearance and Redevelopment Scheme sanctioned under section 13, and(c)dispose of surplus land or immovable property, if any, with such notice to the previous owner thereof and subject to such terms and conditions as may be prescribed in this behalf.(4)Before taking possession under clause (a) of sub-section (3) of any hut or other structure situated upon any land acquired under this section, such officer of the prescribed authority, as may be duly authorised in this behalf, shall determine, after such inquiry and inspection as may be considered suitable, -(a)the cost of erection or removal of such hut or other structure,(b)the cost of dismantling and re-erecting any plant, machinery or other equipment used for any trade or industry carried on in the hut or other structure, and(c)compensation of any temporary loss of vocation,and shall pay the amount so determined to the owner or occupier, as the case may be.

15. Principles for determining compensation.

(1)Where the right of user in any land has vested in the State Government under sub-section (3), or in the prescribed authority under sub-section (4), of section 11, the State Government or the prescribed authority, as the case may be, shall be liable to pay to the owner and to any other person whose right of enjoyment in that land has been injuriously affected by reason of such vesting, compensation calculated at ten per centum of the market value of that land on the date of notification under sub-section (1) of section 11.(2)Where, in pursuance of any Slum Clearance and Redevelopment Scheme, any land or immovable property has been acquired, and has vested in the State Government under sub-section (3), or in the prescribed authority under sub-section (3), of section 14, the State Government or the prescribed authority, as the case may be, shall be liable to pay-(a)to each intermediary in respect of his rights and interests-(i)in any land, an amount equal to twenty times, and(ii)in any hut or other structure situated in the land and belonging to such intermediary, a further amount equal to five times,the net annual income of such intermediary from such land or such hut or other structure, as, the case may be;(b)to every thika tenant in respect of the rights and interests in any land, huts or other structures thereon, at an amount equal to five times the net annual income of the thika tenant from such land, huts or other structures.Explanation. - In this sub-section, -(i)"net annual income", in relation to any person, means the yearly average of his net income during a period of five consecutive years immediately preceding the date of vesting;(ii)"net income", in relation to any person, means the amount arrived at by deducting from his gross income the following, namely: -(a)the rents and taxes, if any, payable by such person in respect of the property concerned, and(b)the cost of management and collection calculated at an amount not exceeding three per centum of the gross income;(iii)"gross income", in relation to any person, means the income actually derived or derivable by such person:Provided that, where only a portion of any land is let out by any person for any period during the five consecutive years immediately preceding the date of vesting, the gross income of such person from the entire land or immovable property for such period shall be calculated on the basis of the income

actually derived by him during such period for the portion so let out.

16. Manner of payment of compensation.

- The compensation payable in respect of the acquisition of any interest under this Act either to one claimant or to several claimants jointly shall, subject to the provisions of this Act, be paid in the following manner, namely:-(a)payment in cash shall be made in accordance with the following Table, namely:-Table

Net compensation.	Payment to be made in cash.
(i) For the first Rs. 5,000 or less of the amount.	100per centumof the amount of compensation payable.
(ii) For the next Rs. 5,000 or less of the amount.	70per centumof the amount.
(iii) For the next Rs. 6,000 or less of the amount.	50per centumof the amount.
(iv) For the balance of the amount of compensation where suchamount exceeds Rs. 15,000.	30per centumof the amount by which the compensationexceeds Rs. 15,000;
(b)save as otherwise provided in clause (a), the balance of the compensation, if any, shall be paid to the claimants at their option in cash or in bonds issued by the State Government or the prescribed authority, as the case may be, repayable at par and maturing at the end of fifteen years from the date of vesting and carrying interest from the date of such vesting at the rate of five and a half per centum per annum.	

17. Appeal.

(1)Any person aggrieved by the amount offered to be paid under sub-section (4) of section 14 or under section 15 or apportionment thereof may prefer an appeal to such appellate authority as may be appointed by the State Government by notification in this behalf and the decision of the appellate authority thereon shall be final.(2)No person shall be appointed under sub-section (1) as an appellate authority to hear appeals under this Act unless he is, or has been, or is qualified for appointment as, a District Judge.(3)An appeal shall be filed within such time and shall be heard and disposed of in such manner and according to such procedure as may be prescribed.

18. Power to obtain information.

(1)For the purpose of carrying out any of the provisions of this Act and the rules or schemes framed thereunder, the State Government or any prescribed authority may, by order, require any person to furnish such information in his possession within such time, not being earlier than thirty days from the date of issue of the order, as may be specified in the order.(2)Every person required under sub-section (1) to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

19. Power of entry.

(1) Any officer of the State Government or of the prescribed authority duly authorised in this behalf may, with or without assistants and workmen, enter into or upon any land, hut or other structure in order, - (a) to make any inquiry, inspection, survey or measurement, (b) to take levels, (c) to dig or bore into the sub-soil, (d) to set out boundaries and intended lines of work, (e) to mark levels, boundaries and lines by placing marks and cutting trenches, or (f) to do any other thing, for the purpose of carrying out any of the provisions of this Act, the rules or schemes framed thereunder: Provided that - (a) no such entry shall be made between sunset and sunrise; and (b) no such entry shall be made in any hut or other structure or enclosed court or garden attached thereto save with the consent of the occupier thereof and, in case such consent is withheld, save after giving three days' written notice to the occupier. (2) Any person authorised under sub-section (1) to enter any land, hut or other structure, and his assistants and workmen, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

20. Power to summon, etc.

- For determining the amount payable under sub-section (4) of section 14, the officer referred to in that sub-section, and for determining the amount payable under sub-section (2) of section 15, the prescribed authority or the appellate authority, as the case may be, shall, subject to such rules as may be made under this Act, and in so far as such powers are necessary for carrying out the provisions of this Act, have power to summon and enforce the attendance of witnesses, including the parties interested, and to compel the production of documents by the same means and so far as may be, in the same manner as is provided in the Code of Civil Procedure, 1908, with regard to a suit tried by a Civil Court.

21. Indemnity.

- No suit or proceeding shall lie against the State Government or any prescribed authority, and no suit, proceeding or prosecution shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act or any rule, scheme or order made thereunder.

22. Other laws to remain suspended.

- The provisions of any law for the time being in force in a slum area which are inconsistent with the provisions of this Act shall, so long as this Act continues to apply to such slum area, remain suspended in that area.

23. Savings.

- Notwithstanding the suspension of any law in force in a slum area by reason of the provisions of section 22, anything done, action taken or work undertaken under any such law shall, if it is not inconsistent with the provisions of this Act, continue to be done, taken or undertaken, as the case

may be, as if that area had not been declared under this Act to be a slum area.

24. Revocation of declaration made under section 3.

- Where the State Government is of opinion that in view of the improvements made in a slum area or for any other reason, the continuation of the declaration of any area as a slum area is no longer necessary, it may, by notification and in such other manner as may be prescribed, revoke that declaration.

25. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely : (a)the manner of publication of copies of the schemes framed under this Act;(b)the manner of publication of the notice referred to in sub-section (1) of section 14;(c)the manner of taking possession of a property by a prescribed authority under sub-section (3) of section 14;(d)the time within which an appeal under section 17 shall be filed and the manner and procedure of disposing of such appeal; and(e)such other matters as are required to be, or may be, prescribed.

26. Repeal and savings.

(1)The West Bengal Slum Areas (Improvement and Clearance) Ordinance, 1972, is hereby repealed.(2)Anything done or any action taken under the West Bengal Slum Areas (Improvement and Clearance) Ordinance, 1972, shall be deemed to have been validity done or taken under this Act as if this Act had commenced on the 25th day of January, 1971.