

Meghalaya transfer of Land (Regulation) Act, 1971

MEGHALAYA

India

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Act 1 of 1972

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Meghalaya transfer of Land (Regulation) Act, 1971(Meghalaya Act 1 of 1972)Last Updated 19th February, 2020An Act to regulate transfer of land in Meghalaya for the protection of the interest of the Scheduled Tribes therein.Be it enacted by the Legislature of Meghalaya in the Twenty-Second Year of the Republic of India as follows:

1. Short title, extent and commencement.

(1)This act may be called the Meghalaya transfer of Land (Regulation) Act, 1971.(2)It extends to the tribal areas within the State of Meghalaya as specified in Part II of the Table appended to paragraph-20 of the Sixth Scheduled to the Constitution.(3)It shall come into force on such date as the Government of Meghalaya may, by notification, appoint.

2. Definition.

- In this Act, unless the context otherwise requires:(a)"competent authority" means such authority as the Government of Meghalaya may, by notification, appoint for the purpose of exercising all or any of the functions of a competent authority under this Act for the whole of Meghalaya or any part thereof;(b)"land" includes immovable property of every descriptions and any rights in or over such property;(c)"notification" means notification in the Official Gazette of Meghalaya;(d)"transfer" means the conveyance of land of one person to another and includes gift, sale, exchange mortgage, lease, surrender or any other mode of transfer;(e)"tribal" means a person belonging to any of the Scheduled Tribe pertaining to Meghalaya and as specified in the Constitution (Scheduled Tribes) Order 1950, as amended from time to time and, for the purpose of this Act shall also include the Rabhas, Kacharis (and Koches) resident in Meghalaya.

3. Transfer of land.

(1) No land in Meghalaya shall be transferred by a tribal to a non-tribal or by a non-tribal to another non-tribal except with the previous sanction of the competent authority: Provided that the Government of Meghalaya is satisfied may, from time to time, by notification, prohibit any transfer of land within such area or areas as may be specified in the notification and there upon the competent authority shall not sanction any such transfer of land under the provision of this Act, within such area or areas. Provided further that no notification made under the preceding proviso shall apply to transfer of land for any of the purposes mentioned in clause (e) or clause (f) of sub-section (1) of Section 4. (2) Every notification issued under the proviso to sub-section (1) of this Section shall:-(i) have effect on the date of its first publication in the official Gazette of Meghalaya; (ii) be laid, as soon as may be after its publication in the official Gazette, before the House of the Legislative Assembly of the State; (3) Any transfer of land made in contravention of the provisions of this section shall be void and shall not be enforceable in any Court.

4. Disposal of Application.

(1) In granting or refusing sanction under section 3 the competent authority shall take into account the following matters according to the circumstances of each case: (a) Whether the non-tribal holds any other land in Meghalaya; (b) Whether there is any other tribal willing to take the land on transfer at the market value; (c) Whether the non-tribal seeking to take the land on transfer is carrying on any business, profession or vocation in or near the area and whether for the purposes of such business, profession or vocation, it is necessary for him to reside in the area; (d) whether the proposed transfer is likely to promote the economic interests of the Scheduled Tribes in the area. (e) Whether the land proposed to be transferred is actually required as a place of public religious worship by any community or as burial or cremation ground. (f) Whether the land sought to be transferred is for the purpose of implementing a scheme to promote the interests of the tribals in the field of education or industry. (2) Every order granting or refusing sanction shall be in writing and in the case of refusal shall contain reasons for such a refusal. (3) Every application for sanction under this section shall be disposed off by the competent authority as early as possible and not later than six months. (4) If no order is passed by the Competent Authority on such application within six months, it shall be deemed that sanction has been accorded

4A. Acquisition of land by the State Government.

- Where:-(a) in respect of land the transfer of which is prohibited under the proviso to sub-section (1) of section 3, a person intending to sell his land is not able to effect such sale, or (b) in respect of land for which sanction of the competent authority is sought sub-section (1) of section 3, the land cannot be disposed of to a tribal, by reason of the fact that no tribal is willing to purchase the land on the terms offered by the seller or that the market value, such person or the competent authority, as the case may be, shall apply to the Deputy Commissioner of the District for the acquisition of the land by the State Government, and where the State Government decides to acquire the land the Deputy Commissioner shall, by order, take over the land on payment of compensation in accordance with the principle specified in the Land Acquisition Act, 1894 (Central Act I of 1894) and the land shall

thereupon vest in the State Government free from all encumbrances.

5. Appeal.

- Any person aggrieved by an order passed by the competent authority refusing him sanction under this Act, may within a period of sixty days from the date the order is communicated, prefer an appeal to the Board of Revenue and its order shall be final.

6. Restriction on registration etc.

- No Officer required under any law for the time being in force relating to the registration of documents or to the recording of any right in or over land shall register any documents or record, any right relating to any transfer of land which is contrary to the provisions of this Act.

7. Registrations of transfer made before commencement of the Act.

- Every transfer of land made after the commencement of the Constitution and before the commencement of this Act by a tribal to a non-tribal or by a non-tribal to another non-tribal shall, within a period of two years from the commencement of this Act, be registered by the transferee or any person claiming title through him before such authority as the Government of Meghalaya may specify in this behalf: Provided that the Government of Meghalaya may direct the authority to register any such transfer beyond the period of two years.

8. Eviction of persons in unauthorised possession.

(1) If any person is found in possession of any land otherwise than in accordance with the provisions of this Act, the competent authority may serve a notice upon such person requiring him to show cause why he should not be evicted from the land, and, after giving him an opportunity of being heard, require him to vacate the land and to remove any buildings or fences which may have been erected thereon within such time as may be fixed in this behalf: Provided that crops actually growing on the land if any, shall be allowed to remain till they are harvested. (2) If any person refused or fails to comply with an order made under sub-section (1), the competent authority may eject such person from the land. (3) The competent authority, upon such land being vacated, may restore the land to the original transferor or his or his successor-in-interest on refund of the actual consideration to the transferee of any person claiming through him. Provided that in case the original transferor or his successor-in-interest refuses or fails to refund the actual consideration to the transferee or any person claiming through him, the land shall be disposed of in a prescribed manner by the competent authority for the purpose aforesaid. (4) Any person aggrieved by an order passed by the competent authority under subsection (1) may, within a period of thirty days from the date the order is communicated, prefer an appeal to the Board of Revenue and its order shall be final.

8A. Sale of land by Court or other authority.

- No land belonging to a tribal shall be sold in execution of any decree or order passed by a Court or any other authority to any non-tribal except with the previous permission of the competent authority.

9. Penalties.

- If any person fails-(a)to comply with the provisions contained in sectioned in Section 7; or(b)to carry out any order passed under sub-section (1) of section 8; he shall, on conviction before a Magistrate be punishable with fine which may extend to five hundred rupees or in default to imprisonment which may extend to one month.

10. Cognizance of offences.

- All offences punishable under this Act shall be cognizable and bailable.

11. Exemptions.

- Nothing contained in this Act shall apply to-(a)Any transfer of land as security for any loan granted by such Banking Company, Co-operative Society or other credit institution as the Government of Meghalaya may, by notification, specify in this behalf;Provided that a banking company, Co-operative Society or other credit institutions as notified above by the Government of Meghalaya shall not transfer any land to a non-tribal except with the previous sanction of the competent authority as provided in Section 3;(b)the letting out on rent of any building standing on land;(c)any transfer of land to, or in favour of, Government or District Council.(d)any transfer of land to, or in favour of,(i)any company, corporation, society (including co-operative society), autonomous body or association, wholly or substantially owned and controlled or managed by the Government and which the Government of Meghalaya may, by notification, specify in this behalf;(ii)a Municipal corporation, municipality or, town committee constituted under any law.

12. Bar or suit in Civil Court.

- No suit shall be brought in any civil court to set aside or modify any order made under this Act.

13. Suit, etc., against authority and officers acting on good faith.

- No suit, prosecution or legal proceeding shall lie against any authority or officer for anything done in good faith under this Act.

14. Power to make rules.

- (i) The Government of Meghalaya may, by notification make rules to carry out the purposes of this Act.(ii)In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-(a)the form and manner in which applications for sanction of the competent authority may be made under this Act and the fees payable therefore;(b)the procedure to be followed by the competent authority in the disposal of applications under this Act;(c)the particulars to be furnished in respect of registrations under Section 7;(d)any other matter which may be prescribed.