

# **The Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972**

GUJARAT

India

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### **Act 12 of 1973**

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The Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972 Gujarat Act No. 12 of 1973 [Dated 26th June, 1973] For Statement and Objects and Reasons, see Gujarat Government Gazette, Extraordinary, Part V, dated the 14th December, 1972, pp. 351 to 352. An Act to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters. It is hereby enacted in the Twenty-third Year of the Republic of India as follows.-

### **1. Short title, extent and commencement.**

(1) This Act may be called the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972. (2) It extends to the whole of the State of Gujarat. (3) It shall come into force at once.

### **2. Definitions.**

- In this Act, unless the context otherwise requires,-(a) "Competent Officer" means an officer appointed as such by the State Government under Section 3; (b) "corporate authority" means any Municipal Corporation, Municipality, Panchayat or other Corporation referred to in clause (f) of this section; (c) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to the earth or permanently fastened to anything attached to the earth; (d) "premises" means any laid or any building or part of a building and includes-(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building, and (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; (e) "prescribed" means prescribed by rules made under this Act; (f) "public premises" means any premises belonging to or taken on lease or requisitioned by, or on behalf of, the State Government and includes any premises belonging to or taken on lease by, or on behalf of-(i) any Municipal Corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949

(Bombay LIX of 1949) or any Municipality constituted under the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964).(ii)a panchayat constituted under the Gujarat Panchayats Act, 1961 (Gujarat VI of 1962).(iii)any Corporation (not being a company as defined in Section 3 of the Companies Act, 1956 (I of 1956)) established by or under a Central or State Act, and owned or controlled by the State Government, [\*\*\*] [Word 'and' deleted by Gujarat 6 of 2004, dated 6th March 2004.].(iv)any University established or incorporated by or under any law in the State of Gujarat or any institution recognised by the University Grants Commission or declared by the Central Government to be a University, in accordance with the provisions of Clause (f) of Section 2 or of Section 3, as the case may be the University Grants Commission Act, 1956; [and] [Added by Gujarat 6 of 2004, dated 6th March 2004.](v)[ a public trust registered under the Bombay Public Trust Act, 1950, as the State Government may, by notification in the Official Gazette, declare the premises of such trust to be of national importance or historical interest.] [Clause (v) inserted by Gujarat 6 of 2004, dated 6th March 2004.](g)"rent" in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises, and includes-(i)any charge for electricity, water or any other services in connection with the occupation of the premises;(ii)any tax (by whatever name called) payable in respect of the premises, where such charge or tax is payable by the State Government or the Corporate authority;(h)"unauthorised occupation" in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

### **3. Appointment of competent officers.**

- The State Government may, by notification in the Official Gazette-(a)appoint such persons, being gazetted officers of Government or Officers of equivalent rank of the corporate authority, as it thinks fit, to be competent officers for the purpose of this Act; and(b)define the local limits within which, or the categories of public premises in respect of which, the competent officers shall exercise the powers conferred, and perform the duties imposed, on competent officers by or under this Act.

### **4. Issue of notice to show cause against order of eviction.**

(1)If the competent officer is satisfied-(a)that the person authorised to occupy any public premises has-(i)not paid rent lawfully due from him in respect of such premises for a period of more than two months, or(ii)sub-let without the permission of the State Government or, as the case may be, the corporate authority, the whole or any part of such premises, or(iii)committed, or is committing such acts of waste as are likely to diminish materially the value, or impair substantially the utility, of the premises, or(iv)otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such, premises, or(b)that any person is in unauthorised occupation of any public premises, or(c)that any public premises are required for any other purpose of the State Government, or as the case may be, the corporate authority to whom such premises belong, the competent officer shall, notwithstanding anything contained in any other law for the time being in force issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.(2)The notice shall-(a)specify the

grounds on which the order of eviction is proposed to be made; and (b) require all persons concerned, that is to say, all person who are, or maybe, in occupation of or claim interest in, the public premises, to show cause, if any, against the proposed order on or before such date as may be specified in the notice, being a date not earlier than ten days from the date of issue thereof. (3) The competent officer shall cause the notice to be served by post or by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all person concerned. (4) Where the competent officer knows or has reason to believe that any person are in occupation of the public premises, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed. (5) If any person makes an application to the competent officer for extension of the period specified in the notice, the competent officer may grant the same on such terms as to payment and recovery of the amount claimed in the notice, as it deems fit.

## **5. Eviction of unauthorised occupants.**

(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under Section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, by himself, or by advocate, attorney or pleader, the competent officer is satisfied that any of the reasons specified in sub-section (1), of Section 4 exists, the competent officer may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or same other conspicuous part of the public premises; and thereupon the order shall be deemed to have been duly served on all the persons concerned. (2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its service under sub-section (1), the competent officer or any other officer duly authorised by the competent officer in this behalf may evict that person from, and take possession of, the public premises and may for that purpose, use such force as may be necessary. (3) Notwithstanding anything contained in sub-section (2), where a person who has been ordered to vacate any public premises for the reasons specified in sub-clause (i) or (iv) of clause (a) of sub-section (1) of Section 4 pays to the competent officer the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent officer as the case may be, within one month, of the date of service of the notice or such longer time as the competent officer may allow, the competent officer shall, in lieu of evicting such person under sub-section (2), cancel his order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

## **6. Disposal of property left on public premises by unauthorised occupants.**

(1) Where any persons have been evicted from any public premises under Section 5, the competent officer may, after giving fourteen days' notice to person from whom possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation

in the locality, remove, or cause to be removed or dispose of by public auction any property remaining on such premises. Such notice shall be served in the manner provided for service of notice under sub-section (3) of Section 4.(2)Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount if any, due to the State Government or the corporate authority on account of arrears of rent or damages or costs be paid to such person or persons as may appear to the competent officer to be entitled to the same:Provided that where the competent officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the Civil Court of competent jurisdiction and the decision of the Court thereon shall be final.

## **7. Power to require payment of rent or damages, in respect of public premises.**

(1)Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of Section 4, where any person is in arrears of rent payable in respect of any public premises, the competent officer may, by issuing a notice to him require that person to pay the same within such time, not less than ten days and in such instalments as may be specified in the notice.(2)Where any person is, or has at any time been, in unauthorised occupation of any public premises, the competent office may, having regard to such principles of assessment of damages as may be prescribed assess the damages on account of the use and occupation of such premises and may by order require that person to pay the damages within such time and in such instalments as may be specified in the order.(3)No order under sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the competent officer.(4)The notice under sub-section (1) or (3) shall be served in the manner provided for service of notice under sub-section (3) of Section 4.

## **8. Power of competent authorities.**

- A competent officer shall for the purpose of holding any inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908) when trying a suit in respect of the following matters, namely:-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of documents;(c)any other matter which may be prescribed.

## **9. Appeal.**

(1)An appeal shall lie from every order of the competent officer made in respect of any public premises under Section 5 or Section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer in that district who has for at least ten years held a Judicial office in the State as the district judge may designate in this

behalf.(2)An appeal under sub-section (1) shall be preferred,-(a)in the case of an appeal from an order under Section 5 within fifteen days from the date of the service of the order under sub-section (1) of that section; and(b)in the case of an appeal from an order under Section 7 within fifteen days from the date on which the order is communicated to the appellant:Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(3)Where an appeal is preferred from an order of the competent officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.(4)Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.(5)The costs of any appeal under this section shall be at the discretion of the appellate officer.(6)For the purposes of the principal Judge of the Ahmedabad City Civil Court shall be deemed to be the district judge of the district and the City of Ahmedabad shall be deemed to be a district.

## **10. Finality of order.**

- Save as otherwise expressly provided in this Act every order made by a competent officer or appellate officer under this Act shall be final and shall not be called in question in any original suit application or execution proceeding and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

## **11. Offences and penalty.**

(1)Any person who obstructs the lawful exercise of any power conferred by or under this Act shall on conviction be punished with fine which may extent to one thousand rupees.(2)If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.(3)Any magistrate convicting a person under sub-section (2) may make an order for evicting that person summarily and such person shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

## **12. Power to obtain information.**

- If a competent officer has reason to believe that any persons are in unauthorised occupation of any public premises or have committed any of the acts specified in clause (a) of sub-section (1) of Section 4, the competent officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

### **13. Liability of heirs and legal representatives.**

(1)Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken during the pendency thereof, the proceeding may be taken or as the case may be continued against the heirs or legal representatives of that person.(2)Any amount due to the State Government or the corporate authority from any person whether by way of arrears of rent or damages or costs shall after the death of the person be payable by his heirs or legal representatives but their liability shall be limited to the extent of the assets of the deceased in their hands.

### **14. Recovery of rent, etc. as an arrear of land revenue.**

- If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of Section 7 or the damages payable under sub-section (2) of that section or the costs awarded to the State Government or the corporate authority under sub-section (5) of Section 9 or any portion of such rent, damages or costs within the time, if any specified therefor in the order relating thereto, the competent officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

### **15. Rent to be recovered by deduction from salary or wages of employee.**

(1)Without prejudice to any other provision of this Act where any person to whom any public premises have been allotted is-(a)an employee of the State Government or of a corporate authority or(b)an employee of a local authority other than a corporate authority who has executed an agreement as provided in sub-section (2),and is in arrears of rent payable in respect of such public premises the amount of rent in respect of such premises shall on a requisition in writing made in that behalf by the competent officer be liable to be deducted from the salary or wages payable to such person. On receipt of such requisition the head of the department or office of the State Government, corporate authority or as the case may be local authority under whom such person is employed shall deduct from the salary or wages payable to such person the amount specified in the requisition and pay the amount so deducted to the competent officer in satisfaction of the amount due as aforesaid.(2)An employee of a local authority other than a corporate authority who is allotted any public premises may execute an agreement in favour of the State Government or as the case may be the corporate-authority to whom such premises belong providing that the local authority by or under whom he is employed shall be competent to deduct from time to time from the salary or wages payable to him such amount as is specified in the agreement and to pay the amount so deducted to the competent officer in satisfaction of any amount due by him in respect of the public premises allotted to him.

### **16. Bar of Jurisdiction.**

- No Court shall have jurisdiction to entertain any suit proceeding in respect of the eviction of any person on the ground that he is in unauthorised occupation of any public premises or for any other

reason specified in subsection (1) of section 4, or the recovery of the of rent payable under sub-section (1) of Section 7 or the damages payable under sub-section (2) of that section or the costs awarded to the State Government or the Corporate authority under sub-section (5) of Section 9 or any portion of such rent, damages or costs.

## **17. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall lie against the State Government or the corporate authority or the appellate officer or the competent officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

## **18. Power to make rules.**

(1)The State Government may by notification in the Official Gazette and subject to the condition of previous publication 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 be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.(3)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(4)Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

## **19. Repeal, saving and validation.**

- The Bombay Government Premises (Eviction) Act, 1955 (Bombay II of 1956) and any other corresponding law providing for the eviction of occupants from public premises are hereby repealed:Provided that anything done or any action taken (including rules or orders made, notices issued, evictions ordered or effected, damages, assessed, rents or damages or costs recovered and proceeding initiated) or purported to have been done or taken under the Act or law hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act and shall be deemed to be and to have always been as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act as if this Act had been in force when such thing was done or such action was taken.