

# **Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968**

JAMMU & KASHMIR

India

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### **Act 30 of 1968**

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Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968 Act No. 30 of 1968 Received the assent of the Governor on 16th October, 1968 and published in Government Gazette dated 19th October, 1968 (Extraordinary). An Act to provide for the requisitioning and acquisition of immovable property for the purposes of the State. Be it enacted by the Jammu and Kashmir State Legislature in the Nineteenth year of Republic of India as follows:-

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

(1) This Act may be called the Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968. (2) It shall come into force on such [date] [Enforced with effect from 1st August, 1969 by SRO-402 dated 26th July, 1969.] as the Government Gazette, appoint. (3) It extends to the whole of the State.

### **2. Definitions.**

- In this Act unless the context otherwise requires, - (a) "award" means any award of an arbitrator made under section 8; (b) "competent authority" means any person or authority authorised by the Government by notification in the Government Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification; (c) "Landlord" means any person who for the time being is receiving, or is entitled to receive the rent of any premises, whether on his own account, or on account, or on behalf or for the benefit, of any other person or a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; (d) the expression "person interested in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act; (e) "Premises"

means may building or part of a building and includes :-(i)the garden, grounds and out-houses, if any, appertaining to such building or part of a building ;(ii)any fittings affixed to such building or part of a building for the more be beneficial enjoyment thereof;(f)"prescribed" means prescribed by rules made under this Act;(g)"prescribed" means immovable property of every kind and includes any rights in or over such property;(h)"tenant" means any person by home or on whose account rent payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

### **3. Power to requisition immovable property.**

(1)Where the Government is of the opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the State, it may by an order notify that the property should be requisitioned :Provided that no property or part thereof-(a)which is bona fide used by the owner thereof as the residence of himself or his family, or(b)which is exclusively used either for religious worship by the public or as school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall be notified to be requisitioned.(2)Upon such declaration the competent authority-(a)shall call upon the owner or any other person who may be in possession of the property by notice in writing to show cause, within fifteen days of the date of the service of such notices on him, why the property should not be requisitioned; and(b)may, by order, direct that neither the owner of the property nor any other person shall without permission of the competent authority dispose of or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.(3)If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may by order in writing, requisition the property and may, make such further orders as appear to it to be necessary or expedient in connection with the requisitioning :Provided that where the requisitioned property consists of premises which are being used as residence by a tenant for not less than two months immediately preceding the date of the service of the notice under sub-section (2) possession of the property shall not be taken unless the competent authority has provided such tenant with alternative accommodation which, in its opinion, is suitable.

### **4. Power to take possession of requisitioned property.**

(1)Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in necessary of the property to surrender or deliver possession thereof to the competent authority person duly authorised by it in this behalf within thirty days of the service of the notice.(2)If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

## **5. Rights over requisitioned property.**

- Where any premises are requisitioned under section 3 or section 21, the competent authority may order the Landlord to execute such repairs as may be necessary and are usually made by the Landlords in that locality and as may be specified in the notice, within such, reasonable time as maybe mentioned therein and if the Landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the Landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the Landlord.

## **6. Release from requisitioning.**

(1) Subject to the approval of the Government the competent authority may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changed caused by reasonable wear and tear and irresistible force: Provided that where the purposes for which any requisitioned property was being used cease to exist, the property shall, unless it is acquired under section 7, be released, as soon as may be from requisition. (2) Where any property is to be released from requisition, the competent authority may, after such enquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successor-in-interest of such person. (3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the property, but shall no prejudice any rights in respect of the property which any other person may be entitled due process of law to enforce against the person to whom possession of the property is given. (4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Government Gazette. (5) When a notice referred to in sub-section (4) is published in the Government Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of property for any period after the said date. (6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of army or of a mob or other irresistible force, the requisition shall, at the option of the Government, be void: Provided that the benefit of this sub-section shall not be available to the Government where the injury to such property is caused by any wrongful act or default of the Government.

## **7. Power to acquire requisitioned property.**

(1)Where any property is subject to requisition, the Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Government Gazette a notice to the effect that the Government has decided to acquire the property in pursuance of this section :Provided that before issuing such notice the Government shall call upon the owner of, or any other person who, in the opinion of the Government may be interested in such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Government may pass such orders as it deems fit.(2)When a notice as aforesaid is published in the Government Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.(3)No property shall be acquired under this section except in the following circumstances, namely :-(a)where any works have, during the period of requisition, been constructed in or over, the property wholly or partially at the expenses of the Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of the Government; or(b)where the cost of restoring the property to this condition at the time of its requisition would, in the determination of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.(4)Any decision or determination of the Government under subsection (3) shall be final and shall not be called in question in any Court.(5)For the purposes of clause (a) of sub-section (3) "works" included buildings, structures and improvements of every description.

## **8. Principals and methods of determining compensation.**

(1)Where any property is requisitioned or acquired under this Act, there shall be given compensation which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say:-(a)where the compensation can be fixed by agreement, it shall be given in accordance with such agreement;(b)where no such agreement can be reached, the Government shall appoint as arbitrator a person, who is a District Judge or Additional District Judge;(c)the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate as assessor for the same purpose ;(d)at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what is their respective opinion is a fair amount of compensation ;(e)the arbitrator shall after hearing the dispute, make an award determining the amount of compensation which appears to be just and specify the person or the persons to whom such compensation shall be paid ; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;(f)where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;(g)nothing in the Jammu and Kashmir Arbitration Act, 2002, shall apply to Arbitration under this

section.(2)The compensation for the requisitioning of any property shall consist of :-(a)recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and(b)such sum, or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:-(i)pecuniary loss due to requisitioning;(ii)expenses on account of vacating the requisitioned premises;(iii)expenses on account of re-occupying the premises upon lease from requisition ; and(iv)damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.(3)[ The compensation payable for the acquisition of any property under section 7 shall in the absence of an agreement be the price which the requisitioned property would have fetched in open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition.] [Substituted by Act VI of 1977.](4)Where there are several persons interested in the compensation, it shall be Lawful for the Government, either on its own motion, or on an application from any person interested to appoint the same or any other arbitrator to make an award or supplementary award in respect of the dispute.

## **9. Payment of compensation.**

- The amount of compensation under an award shall, subject to any rules made under this Act, be paid or given by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

## **10. Appeals form awards in respect of compensation.**

- Any person aggrieved by an award of the arbitrator make under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court:Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was presented by sufficient cause from filing the appeal in time.

## **11. Competent authority and arbitrator to have certain powers of civil courts.**

- The competent authority and the arbitrator appointed under section 8 while holding an inquiry or as the case may be, arbitration proceedings under this Act, shall have all powers of the civil court, while trying a suit, under the Code of Civil Procedure, 1977, 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 any documents ;(c)reception of evidence on affidavits;(d)requisitioning any public record from any court, or office;(e)issuing commissions for examination of witnesses.

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

- The Government or the competent authority may, with a view to carry out the purposes of section

3 or section 21 or section 6 or section 7 or section 8, by order require any person to furnish to such office, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

### **13. Power to enter and inspect.**

- The competent authority, or any officer, empowered in "this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

### **14. Service of notice and orders.**

(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall-(a) in the case of any notice or order of general nature or affecting a class of persons, be published in the Government Gazette; and (b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for the service of summons in Rule 2, order XXIX or Rule 3 or Order XXX as the case may be, in the First Schedule of the Code of Civil Procedure, 1977 (Act X of 1977); and (c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person-(i) by delivering or tendering it to that person ; or (ii) if it cannot be delivered or tendered by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part, on the premises in which that person is known to have last resided or carried on business or personally worked from gain; or failing service by these means ; (iii) by post. (2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served with out undue delay, the notice or order may be served by publishing it in the Government Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

### **15. Easement not to be disturbed.**

- No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

### **16. Delegation of powers.**

- The Governments may, by notification in the Government Gazette, direct that the powers

exercisable by it or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to the Government.

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

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act, or any order made thereunder. (2) No suit, or other legal proceeding shall lie against the Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

## **18. Bar of jurisdiction of civil courts.**

- Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, 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.

## **19. Penalty for offences.**

- Whoever contravenes any provision of this Act, or any rule made thereunder or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

## **20. Certain persons to be public servants.**

- The competent authority, every arbitrator and every officer empowered by the Government or the competent authority, while exercising any power or performing any duty under this Act shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code 1989.

## **21. Requisitioning of property at the instance of the Union.**

(1) Where any immovable property situate in the State is required by the Union Government in connection with the purposes of the Union and a requisition is that behalf is received by the Government, the Government shall notify that such property be requisitioned. (2) Upon such notification the provision of the Act shall apply in the same manner as they apply in respect of the property requisitioned for the purpose of the State. (3) The expenditure, if any, incurred by the Government in this behalf, shall be borne by the Union Government.

## **22. Power to make rules.**

(1) The Government may, by notification in the Government Gazette, make rules for carrying out the purpose 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 procedure to be followed by the competent authority in making inquiries under section 3 or section 7;(b)the procedure to be followed in arbitration proceedings and appeals under this Act ;(c)the principles to be followed in determining the compensation and methods of rendition of such compensation;(d)the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;(e)the manner of service of notice and order;(f)any other matter which has to be, or may be, prescribed.

## **23. Validation of certain requisitions and acquisitions.**

(1)All immovable property which purports to have been requisitioned by the Government for any purpose of the State or of the Union under any law in force prior to the commencement of this Act, and which immediately before such commencement was used or occupied by the State Government or by the Union Government or by an officer or authority subordinate to the State Government as the case may be, shall, as from the commencement of this Act, be deemed to be property duly requisitioned respectively, under section 3 or section 21 of this Act, and every such requisition shall, notwithstanding any judgement, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made under this Act, and all the provisions of this Act shall apply accordingly:Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of the requisition before the commencement of this Act and in force immediately before such commencement shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement :[Provided further that where the Government is of the opinion that the rates of compensation, in respect of any property requisitioned before the commencement of this Act, are very low compared to the existing market rates, the Government may enhance the rate of compensation prospectively in accordance with the provisions of this Act and rules made thereunder.] [Second proviso added by Act XIV of 1969.](2)Every acquisition of immovable property purporting to have been made before the commencement of this Act by the Government for any public purpose, under any enactment for the time being in force in the State and which, immediately before such commencement, was used for or occupied by the State Government or the Union Government or by an officer or authority subordinate to the State Government, or the Union Government, as the case may be, shall, notwithstanding any defect in the invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from on and from the date of the acquisition.

## **24. Power to recover rent of damages in respect of requisitioned property as arrears of land revenue.**

(1)Subject to any rules that may be made in this behalf by the Government, any sum due by way of rent in respect of any requisitioned property which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land



revenue.(2)Where any person is an unauthorised occupation of any requisitioned property, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the said property as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rule made in this behalf, order that person to pay the damages within such time as may be specified in this notice.(3)If any person refuses or fails to pay the damages within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue.

## **25. Act to over-ride other Laws.**

- The provision of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in the State Land Acquisition Act, 1990, or and other law for the time being in force or in any instrument having effect by virtue of any such law.[26. Omitted] [Amendments made in J & K Public Security Act, 2003 having been incorporated in that Act, hence section 26 of this Act, omitted.].