

The East Punjab Utilization of Lands Act, 1949

PUNJAB

India

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Act 38 of 1949

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The East Punjab Utilization of Lands Act, 1949 East Punjab Act No. 38 of 1949 Statement of Objects and Reasons. - At present there is no specific right of appeal to an aggrieved person against the orders passed by the Collector under the provisions of the East Punjab Utilization of Lands Act, 1949. It seems necessary that there should be a specific right of appeal to the aggrieved persons. Section 14 of the Act only vested revisionary powers with the Commissioner. Commissioners will now be the appellate authority. The State Government or the Financial Commissioners, Revenue, if so authorised, will exercise revisionary powers. The amendment is necessary to give more facilities to the aggrieved persons to secure justice. Published vide Punjab Gazette, Extraordinary dated March 31, 1959. Received the assent of His Excellency the Governor-General on the 22nd November, 1949, and first published in the East Punjab Government Gazette (Extraordinary) of November 26, 1949. An Act to provide for the utilization of lands in [Punjab] [Substituted for the words 'East Punjab' by the Adaptation of Laws (Third Amendment) Order, 1951.] It is hereby enacted as follows :-

1. Short title, extent and duration.

(1) This Act may be called the East Punjab Utilization of Lands Act, 1949. (2) It extends to the whole of the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] of [Punjab] [Substituted for the word 'East Punjab' by the Adaptation of Laws Order, 1950]. (3) [Sub-Section (3) which reads as follows:- 'It shall remain in force for two years from the date of its commencement' was omitted by Punjab Act 11 of 1951, section 2.]

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a) "Allottee" has the meaning assigned to it under the East Punjab Displaced Persons (Land Resettlement) Act, 1949. (b) "Collector" means Collector of the district where the land is situated. (c) "Custodian" has the meaning assigned to it in the Administration of Evacuee Property Ordinance, 1949. (d) "Evacuee

Land' means land which has vested in the Custodian under the provisions of the Administration of Evacuee Property Ordinance, 1949.(e)"Land" means land which is not urban land and is not occupied as the site of any building in a town or village, but does not include land which is leased by Government or Custodian under any law other than this Act.(f)"Owner" means a person having a proprietary right in the land and includes an allottee, a usufructuary mortgagee or a lessee.(g)"Prescribed" means prescribed by rules made under the Act.(h)"Tenant" means a person to whom land is leased by the Collector under the provisions of this Act.(i)"Urban land" means all land included within the limits of a Corporation, Municipal Committee, Notified Area Committee, Town Area Small Town Committee and Cantonment.

3. Power to take possession of any vacant land.

- [(1) Notwithstanding any law to the contrary, the Collector may issue notice to the owner of any land which has not been cultivated for the last six or more harvests to show cause, within thirty days of the date of the service of such notice on him, why the land has not been cultivated and in case the Collector does not find the explanation to be satisfactory he may take possession of the land forthwith for the purposes of this Act:Provided that the Collector may take possession of the land without issue of notice, if, in his opinion, the owner thereof has been wrongfully shown in the revenue records to have cultivated the land which in fact has remained uncultivated for six or more harvests prior to such wrong entry.] [Substituted for sub-section (1) by Punjab Act 39 of 1956, Section 2.](2)The notice required by sub-section (1) shall be deemed to be duly served if delivered at, or sent by post to the usual or last known place of residence of the owner:Provided that no notice shall be deemed to be invalid on the ground of any defect, vagueness or insufficiency.

4. [Payment of compensation. [Substituted for Section 4, by the East Punjab Utilization of Lands (Amendment) Act, 1953, Section 2 (Punjab Act 32 of 1953).]

- Where possession of any land has been taken under the last preceding section, compensation shall be paid in accordance with the provision of Section 23(1) of the Land Acquisition Act, 1894 (Act No. 1 of 1894) :Provided that from the compensation the Collector shall be competent to deduct the expenditure, if any incurred in relation to any preliminary process incidental to the utilization of the said land or in connection with any additional staff or services rendered necessary for such utilization and computed in the manner prescribed. The balance shall be paid to the person who in his opinion is entitled to receive the same, without prejudice to the rights of any other person who may be lawfully entitled to claim it].

5. Lease by Collector.

- Where the Collector has taken possession of any land under Section 3, he may lease it to any person on such terms and conditions as he may deem fit for the purpose of growing food and fodder crops :[Provided that the period of lease shall not be less than 7 years or more than 20 years] [Substituted for the old proviso by Punjab Act 11 of 1951, Section 5.].

6. [Power of Collector to determine lease in certain cases. [Section 6 omitted by Punjab Act 11 of 1951, Section 6 and again inserted by Punjab Act 24 of 1957, Section 2.]

(1) If a person to whom land has been leased under Section 5 commits a breach of any of the terms and conditions thereof, the Collector, shall without prejudice to any other right or remedy against him, have the power to determine the lease and take possession of the land. (2) Where lease has been determined by the Collector the lessee shall not be entitled to any compensation.]

7. Delivery of possession on termination of lease.

(1) Where any land taken possession of by the Collector under Section 3 is on the expiry of the lease [* * * * *] [The words 'or its earlier termination' omitted by Punjab Act 11 of 1951, Section 7.] to be returned to the owner, the Collector may after making such inquiry, if any, as he considers necessary; specify by order in writing the person to whom possession of the land shall be given. (2) The delivery of possession of the land to the person specified in any order made under sub-section (1) shall be a full discharge of the Collector from all liability in respect of such delivery but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered. (3) Where the person to whom possession of any land is given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Collector shall cause a notice declaring that the land is released to be affixed on some conspicuous part of the land. (4) On issue of the notice referred to in sub-section (3) the land specified in the notice shall be deemed to have been delivered to the person entitled to the possession thereof, and the Government or the Collector shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

8. Penalty for failure of the tenant to grow food or fodder crops.

- Where the tenant fails to grow food or fodder crops on the land leased to him, he shall besides the payment of rent fixed under Section 5 be also liable to pay a penalty not exceeding twice such rent.

9. [[Section 9 omitted by Punjab Act 11 of 1951, Section 8.]

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10. Sums due recoverable as arrears of land revenue.

- All sums due under this Act from the owner or tenant shall be recoverable as arrears of land revenue.

11.

The Collector may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with any order made by him under this Act.

12. Delegation of functions.

- The Collector may delegate all or any of his powers and functions under this Act to any officer of the Revenue or Rehabilitation Department in his district either by name or designation.

13. Instrument of lease not necessary.

- Notwithstanding anything contained in any law for the time being in force no instrument in writing to give effect to a lease by the Collector under the Act shall require stamp, attestation or registration.

14. [Appeal and revision. [Section 14 substituted by Punjab Act 1 of 1960, Section 2.]

(1)Any person aggrieved by an order passed by the Collector may, within fifteen days from the date of such order or such longer period as the Commissioner may allow for reasons to be recorded in writing, prefer on appeal in writing to the Commissioner of Division in which the land is situate.Explanation. - In computing the period of fifteen days, the time taken in obtaining a certified copy of the order appealed against shall be excluded.(2)On such appeal being preferred, the Commissioner may order stay or further proceedings in the matter pending decision on the appeal.(3)The Commissioner shall decide the appeal after giving the parties an opportunity of being heard and if necessary, after sending for the records of the case from the Collector and after making such enquiry as he thinks fit either personally or thorough the Collector.(4)The State Government or the Financial Commissioner authorised by it in this behalf may, at any time, for the purpose of satisfying itself or himself as to the legality or propriety of any order passed by any officer under this Act, call for and examine the records of any case pending before or disposed of by such officer and may, after giving the parties a reasonable opportunity of being heard, pass such order in reference thereto as may be deemed fit.(5)Except as provided in this Act no order made or action taken in exercise of any power conferred by this Act shall be called into question in any court or before any officer or authority.]

15. Debar to suits or legal proceedings.

(1)No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is, in good faith done or intended to be done under this Act.(2)No suit or other legal proceedings shall lie against the [Government] [Substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] for any damage caused by anything which is, in good faith done or intended to

be done under this Act.

16. Power of Government to make rules.

- The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may be notification make [rules for carrying out the provisions of this Act.] [For Rules see Punjab Government notification No. 1768-FP-50/786, dated 20th February, 1950.]