

The Punjab Development of Damaged Areas Act, 1951

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Act 10 of 1951

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The Punjab Development of Damaged Areas Act, 1951 Act 10 of 1951 Statement of Objects and Reasons. - The Punjab Development of Damaged Area Ordinance, 1950, was promulgated to provide for the development of damaged areas in the State through the agency of Improvement Trusts. The objects of the Punjab Development of Damaged Areas Bill is to re-enact the Ordinance. (vide Punjab Government Gazette Extraordinary, dated the 22nd February, 1951, p. 85) For Statement of Objects and Reasons, see Punjab Government Gazette Extraordinary, 1951 page 85; for proceedings in the Assembly, see Punjab legislative Assembly Debates, Vol. III, 1951, pages (20) 75 (20) 94 and (21) 85 (21) 138. Received the assent of the President on the 7th May, 1951 and was first published in the Punjab Government Gazette Extraordinary, dated the 11th May, 1951. An Act to provide for the development of Damaged Areas. It is hereby enacted as follows:-

1. Short title, extent and commencement.

(1) This Act may be cited as the Punjab Development of Damaged Areas Act, 1951. (2) It extends to the whole of Punjab. (3) It shall come into force at once within the local area of the Amritsar Improvement Trust, and in other areas on such date as the State Government may, by notification, specify.

2. Definitions.

- In this Act unless there is anything repugnant in the subject or context, (a) "Building", "Building Lines", "Local Area", "Street Alignment", "Tribunal" and any other words and expressions not defined in this Act have the same meaning as assigned to them in the Punjab Municipal Act, 1911 (Punjab Act III of 1911), the East Punjab Damaged Areas Act, 1949 (East Punjab Act X of 1949), and the Punjab Town Improvement Act, 1922 (Punjab Act IV of 1922), as the case may be. (b) "Collector" means a Collector as defined in the Land Acquisition Act, 1894. (c) "Cost of a Scheme" includes all

expenses incurred by an Improvement Trust in the preparation, supervision and execution of the Scheme.(d)"Damaged Area" means any area which the State Government may, by notification, declare to be a damaged area and shall include the areas already notified under the East Punjab Damaged Areas Act, 1949 (East Punjab Act X of 1949).(e)"Improvement Trust" or "Trust" means an Improvement Trust constituted under the Punjab Town Improvement Act, 1922 (Punjab Act IV of 1922).(f)"Land" includes benefits to arise out of lands and thing attached to the earth or permanently fastened to anything attached to the earth.(g)"Notify" means to publish in the Official Gazette.(h)"Persons interested" includes all persons claiming an interest in compensation to be awarded on account of the acquisition of land under this Act, and a person shall be deemed to be interested in land if he is interested in an assessment affecting that land.(i)"Prescribed" means prescribed by rules made under this Act.

3. Schemes for the development of a damaged area.

- The Trust may frame a scheme or schemes for the development of a damaged area, providing for all or any of the matters mentioned in section 28 of the Punjab Town Improvement Act, 1922 (Punjab Act IV of 1922); and any scheme already framed or sanctioned in respect of a damaged area under the provisions of that Act shall be deemed to have been framed or sanctioned under this Act.

4. Publication of schemes.

(1)When a scheme has been framed or deemed to have been framed under this Act, the Trust shall publish a notice in the Official Gazette and two newspapers, one at least with a circulation in both India and Pakistan - unless the entry into Pakistan of the newspapers published in India is banned, in which case both papers shall be such as have circulation in India, stating:(a)the fact that the schemes has been framed;(b)the boundaries of the locality comprised in the scheme; and(c)the place where and the time when details of the scheme, including a statement of the land proposed to be acquired and a general map of the locality comprised in the scheme, may be inspected.(2)Such notice shall also prescribe the period during which objections to the scheme will be received.

5. Decision of objections and publication of the sanctioned scheme.

(1)After considering the objections, if any, which may be received by the Trust during the period prescribed, the Trust may approve the scheme with or without modifications.(2)As soon as the scheme has been approved by the Trust, it shall submit the scheme and a statement of objections received to the State Government and the State Government may modify the scheme, if necessary.(3)The State Government shall then notify the Scheme, either in original or as modified by it and the scheme so published shall be deemed to be the sanctioned scheme.(4)The publication under sub-section (3) shall be conclusive evidence that a scheme has been duly framed and sanctioned.(5)The provisions of the Punjab Town Improvement Act, 1922 (Punjab Act IV of 1922), shall apply, to the extent they are applicable to all schemes framed and sanctioned under this Act in so far as they do not conflict with or are not inconsistent with the provisions of this Act.

6. Acquisition of damaged area through the Collector.

(1)The Trust shall within three months from the date of publication of the scheme under sub-section (3) of section 5, apply to the Collector for the acquisition of any damaged area comprised in the scheme and, if considered necessary, for the immediate delivery of the possession of the whole or any part of such area to the Trust.(2)Notwithstanding anything contained in any other law for the time being in force, the Collector may accept the application made to him under the foregoing sub-section and forthwith deliver or cause to be delivered, to the Trust possession of the damaged area for which the application has been made, and on such order being made, the area shall thenceforth vest absolutely in the Trust free from all encumbrances but subject to the payment in due course of compensation by the Trust in accordance with the provisions of this Act:Provided that possession of any building or part of a building shall not be taken unless its occupier has been given at least two weeks' notice, or such longer notice as is considered reasonably sufficient to enable him to remove his movable property from such building without unnecessary inconvenience to himself.

7. Magistrate to enforce surrender of land.

- If the Collector or any person acting under authority is opposed or obstructed in the delivery of possession under section 6 he shall, if himself a [Judicial Magistrate] [Substituted for the words 'Magistrate' by Punjab Act 25 of 1964, section 2 and Schedule, Part III.], enforce the surrender of the land to the Improvement Trust and, if he is not himself a [Judicial Magistrate] [Substituted for the words 'Magistrate' by Punjab Act 25 of 1964, section 2 and Schedule, Part III.], apply to a [Judicial Magistrate] [Substituted for the words 'Magistrate' by Punjab Act 25 of 1964, section 2 and Schedule, Part III.] for this purpose, and such [Judicial Magistrate] [Substituted for the words 'Magistrate' by Punjab Act 25 of 1964, section 2 and Schedule, Part III.] shall enforce the surrender of the land to the Improvement Trust.

8. Marking and measuring.

- After possession of the land has been delivered to the Trust, the Collector shall have the land (unless this has already been made) demarcated and measured and, if no plan of the site exists, have a plan prepared.

9. Notice inviting claims to compensation and objections.

(1)The Collector shall then cause notices to be posted at convenient places on or near the land comprised in the scheme, stating that claims to compensation for all interests in such land may be made to him.(2)Such notice shall -(a)give full particulars of the land; and(b)specify the date, time and place when all persons interested in the land are required to appear before the Collector to state the nature of their respective interests in the land, any objections which they may have to make to the demarcation or measurements of the land in which they are interested and the extent and nature of their claims to compensation:Provided that this date shall not be earlier than fifteen days from the date of posting of the notices: andProvided further, that a person interested may appear

personally or by agent and the Collector may in any case require the statement to be made in writing and signed by the party or his agent.(3)The Collector shall also give a notice to the same effect to the occupier, if any, of such land and to all such persons known or delivered to be interested or to be entitled to act for persons so interested, if such persons or their agents authorised to receive on their behalf reside within the revenue district in which the land is situated.(4)In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business.(5)In case whereabouts of any such person are not known, such notice may be given by publication, in a newspaper of the description given in sub- section (1) of section 4, and if such notice has been published in such newspaper not less than fifteen days before the date of hearing ex parte proceedings may be taken if the person does not appear on that date.

10. Occupier to disclose other interested persons.

(1)The Collector may also require any such person to make or deliver to him, on a date and a place mentioned in the requisition (such date not being earlier than fifteen days from the date of the requisition) a statement containing, so far as may be practicable, the name of every other person possessing any interest in any land or any part thereof as co-proprietor, sub-proprietor mortgagee, tenant or otherwise, the nature of such interest and the rents and profits, if any, received or receivable on this account for the three years preceding the date of the statement.(2)Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code, 1860 (XIV of 1860).

11. Enquiry into claim and objections.

- On the date fixed under sub- section (2)(b) of section 9, or on any other date to which the enquiry may be adjourned, the Collector shall proceed to enquire into the objections filed under the aforesaid sub-section (2)(b) into the respective interests of the persons claiming compensation and shall determine(a)the true area of the land;(b)the market value, at the time of publication of the scheme under section 4(1), of(i)the land,(ii)all material standing on them, and(iii)any sources of income derived from the land;(c)the value of plots, the material thereon and other sources of income remaining outstanding as notified by the State Government under section 12; and(d)the extent of the interest of every person claiming compensation and the market value of the interest of such persons at the time of publication of the scheme under section 4(1).

12. Execution of scheme by the Trust.

(1)On possession of the land comprised in any sanctioned scheme being delivered to the Trust, it shall proceed to execute the scheme.(2)The Trust shall, as soon as after but not later than three years from the date of the sanction of the scheme, submit for the scrutiny of the State Government an accurate statement which shall contain the following particulars:-(a)the actual costs of the scheme;(b)the income derived from the scheme;(c)the particulars and the estimated value of the plots and any material thereon that remain to be sold; and(d)the estimated value of the other

sources of income from the scheme which remain outstanding.(3)The State Government shall, after such scrutiny as it may deem necessary, notify the details of the aforesaid statement.

13. Total compensation how calculated.

(1)After the statement has been notified under the preceding section, the Collector shall make an award apportioning compensation, in the manner hereinafter prescribed, among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether or not they have appeared before him.(2)Notwithstanding anything contained in any other law for the time being in force, the total compensation payable for any land acquired under this Act shall be difference between -(a)The income of the scheme, which shall include the estimated value of the plots and the material thereon that remain to be sold and the other sources of income from the scheme which remain outstanding, and(b)the costs of the scheme, as notified in the statement under section 12.(3)Subject to the provisions of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) or any other law on the subject for the time being in force, the compensation awarded in respect of the structures, if any, standing on the land comprised in the scheme shall be payable to the person known or believed to be interested in those structures according to their respective interests as determined by the Collector under section 11.Explanation. - In computing such compensation, the Collector shall assess the market value of the structure at the time of delivery of possession of the land to the trust and deduct from such value the cost of demolishing them and removing the material from the site.(4)The total compensation, less any deductions that may be necessary on account of the amounts, if any, payable under sub-sections (3), shall be paid to the various persons interested in proportion to the interests held by them as determined by the Collector under section 11(c).Provided that the amount paid to any person shall not be less than the market value of his interest as determined by the Collector under section 11(d) minus the cost of demolition and removal incurred by the Trust.

14. Collector's award to be filed.

(1)The award made by the Collector under section 13 shall be filed in the office of the Collector of the district and shall, except as hereinafter provided, be final and conclusive evidence as between the Improvement Trust and persons interested whether they have appeared before the Collector or not of the true area and value of the land and the apportionment of the compensation among the persons interested.(2)The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is announced.

15. Trust may make reference to the Tribunal.

- As soon as the Collector has made his award it shall be intimated to the Trust, which shall within thirty days of the date of the announcement of the award either notify its intention to make a reference to the Tribunal in the manner stated in section 19 against the amount awarded by the Collector or place the amount awarded at his disposal.

16. Payment of compensation by Collector.

- From the amount placed at his disposal under section 15, the Collector shall, according to the award, tender payments to the persons interested and make payments to those who agree to receive the same, with or without protest.

17. Deposit of compensation in Treasury.

(1)The amounts due to persons who may not be competent to alienate the land for which compensation has been awarded, or the amounts due in respect of the land which is subject to a disputed title, shall be deposited in the local Treasury.(2)In the case of persons incompetent to alienate the land acquired under this Act, the amount of compensation due may be invested by the Collector in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect in which such money shall have been deposited was held or, if such purchase cannot be effected, forthwith in Government securities. The interest accruing of such money may also be deposited and invested in the same way until the same be applied in the manner aforesaid.(3)Nothing in this section shall preclude the Collector from making payment of compensation due to any person incompetent to alienate the same, or from transferring the land or securities purchased under sub-section (2), to such person after the cessation of his disability or, during such disability, to any person competent to receive the same under any law for the time being in force or on an order of a competent civil court.

18. Jurisdiction of other court barred.

(1)No award under this Act shall be called in question in any court or in any other manner except as provided hereinafter.(2)No person shall challenge in any Court, or before the Tribunal, the amounts notified by the State Government under section 12 as the cost of a scheme and the income from it.

19. Persons interested may require reference to Tribunals.

(1)The Trust or any person interested who has received compensation under protest may, by written application to the Collector, require that the matter be referred by the Collector to the Tribunal for determination, whether the objection be to the measurement of the land, the amounts of the compensation, the persons to whom it is payable or the apportionment of compensation among the persons interested.(2)The application shall state the grounds on which objection to the award is based, and the grounds shall not be other than those stated in sub- section (1).(3)Every such application shall be made -(a)in the case of the Trust or a person interested who was present or represented before the Collector at the time of announcement of the award, within six weeks from the date of announcement of the award: and(b)in other cases, within six weeks of the receipt of the notice under sub-section (2) of section 14,Orwithin three months from the date of Collector's award whichever shall first expire.

20. Statement of case by Collector on reference.

(1) In making the reference the Collector shall, for the information of the Tribunal, state in writing, under his hand - (a) the situation and extent of the land, with particulars of any buildings and other structures standing thereon; (b) the name of the person believed to be interested in such land; (c) the amount of compensation, if any, awarded for the structures or buildings standing on the land and the value assessed for the unsold plots and the sources of income from the scheme still outstanding; and (d) if the objection be to the amount of compensation the grounds on which the amount of compensation was determined. (2) To the said statement shall be attached a schedule giving the particulars of the notice served upon, and of the statement in writing made or delivered by the parties interested.

21. Notice by Tribunal to persons interested.

- The Tribunal shall thereupon cause notice, specifying the day on which it will proceed to determine the objections and directing their appearance before it on that day, to be served on the following persons: - (a) the applicant; (b) all persons interested in the objection except (when the objection is not made by the Trust) such, if any, of them as have consented without protest to receive payment of the compensation awarded; and (c) if the objection relates to the area of the land or to the amount of compensation, the Collector.

22. Scope of enquiry.

- The scope of the enquiry in such proceedings before the Tribunal shall be restricted to a consideration of the interests of the persons affected by the objections.

23. Decision of Tribunal.

(1) The Tribunal may, on any reference made to it, make any order for the payment of compensation to any person proved to be entitled to it and may either maintain or modify the award of the Collector: Provided that the Tribunal shall not question the amounts notified by the State Government under section 12 as the cost of a scheme and the income from it. (2) Every such award shall be in writing and shall be signed by the President of the Tribunal, and it shall be deemed to be decree and the statement of the groups thereof a judgment within the meaning of sub-sections (2) and (9) respectively of section 2 of the Code of Civil Procedure, 1908 (V of 1908); and every award and order of the Tribunal shall be enforced by the court of the Senior Sub-Judge within the local limits of its jurisdiction as if it were a decree made or passed by it.

24. Costs.

- Every award of the Tribunal shall also determine the amount of the cost incurred in the proceedings by the parties concerned and the person by whom and the proportions in which they shall be paid; Provided that no order for the payment of costs shall be made against the Trust unless,

in the opinion of the Tribunal, the value of the plots unsold and of the material and other sources of income outstanding, as notified under section 12, is found to have been assessed by the Collector at a rate not exceeding 50 per cent of their value as determined by the Tribunal.

25. Interest not to be awarded.

- The Trust shall most be required to pay interest on any amount awarded as compensation and tendered in accordance with the order of the Collector.

26. Collector to disburse amount awarded in excess by Tribunal.

(1)The amounts, if any, awarded by the Tribunal in excess of the compensation awarded by the Collector shall be placed at the disposal of the Collector by the Trust, and the Collector shall disburse, deposit, invest or dispose of the same in the manner stated in sections 16 and 17 as if they were the amounts deposited on account of the award by him.(2)The Collector shall also in like manner and in accordance with the decision of the Tribunal, deposit, invest or dispose of the compensation due for the land the title to which is disputed before him.

27. Power to summon the witnesses.

(1)For the purposes of enquiries under this Act the Collector and the Tribunal shall have power to summon and enforce the attendance of witnesses, the parties interested or any of them, and to compel the production of documents by the same means and, so far as may be applicable, in the manner provided in the case of Civil Courts under the Code of Civil Procedure, 1908.(2)All proceedings of the Tribunal shall take place in open court, and all persons entitled to practise as legal practitioners in any Civil Court in the State shall be entitled to appear, plead and act in such proceedings.

28. Meetings of Trust to sanction proceedings.

- A Trust shall not exercise its powers under this Act, or act otherwise for the acquisition and possession of land or for the execution of any scheme under this Act, unless approval thereto has been accorded in a meeting of the Trust held after a notice of at least seven days.(2)The quorum of all such meetings shall not be less than three, and the decision of the majority shall prevail.

29. Consequences of erection etc., in contravention of sanctioned scheme.

(1)If any person, without the permission of the Trust, erects, re-erects, adds to, or alters any building in contravention of any scheme sanctioned by the Trust under this Act for any damaged area, the Chairman of the Trust may(a)by a written notice, direct that the building, alteration, or addition be stopped; and(b)require such building, alteration or addition to be altered or demolished, as he may deem necessary.(2)Notwithstanding anything contained in any other law the time being in force, no person shall have a right to claim compensation for any damages done in execution of the

requisition of the Chairman under the foregoing sub-section.

30. Protection of Government, etc.

- No suit, prosecution, or other legal proceedings shall lie against the State Government or an Improvement Trust or any person for anything done or purporting to have been done in pursuance of this Act or in the framing, supervision or execution of any scheme thereunder.

31. Penalties.

- An person who -(a)fails to deliver possession when required to do so by the Collector under this Act,(b)obstructs or molests any person in the service of an Improvement Trust, any person acting under the authority or directions of such person, any person with whom the Trust has entered into a contract or any person acting under the authority or directions of such person in the execution of his duty or of anything which he is empowered or required to do under this Act, or(c)removes any mark set up for the purpose of indicating the boundaries of any damaged area or any part thereof, or any level or directions necessary for the execution of any scheme under this Actshall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

32. Initiation of complaints.

- No prosecution for any offence punishable under this Act shall be instituted except on a complaint in writing made by the Chairman of the Improvement Trust within the local area in which the offence is committed, and such cases shall be triable by a [Judicial Magistrate] [Substituted for the word 'Magistrate' by Punjab Act 25 of 1964, section 2 and Schedule, Part III.] of the First class.

33. Rules.

- The State Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

34. Repeal of Punjab Ordinance No. XVI of 1950.

(1)The Punjab Development of Damaged Areas Ordinance (XVI of 1950) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.