

The United Provinces(Temporary) Accommodation Requisition Act, 1947

UTTAR PRADESH

India

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Rule

THE-UNITED-PROVINCES-TEMPORARY-ACCOMMODATION-REQUISITION ACT, 1947

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The United Provinces(Temporary) Accommodation Requisition Act, 1947U.P. ACT No. XXV of 1947

03.

(Passed by the United Provinces Legislative Council on September 20, 1947 and by the United Provinces Legislative Assembly on November 15, 1947). (Received the assent of the Governor General on December 15, 1947, under Section 76 of the Government of India Act, 1935, as adapted by the Indian (Provincial Constitution) Order, 1947, and was published in the United Provinces Government Gazette, Extraordinary, dated December 15, 1947).

1. The Act continued from October 1, 1948 to September 30, 1949, vide Notification No. 5855 G.E. Or. 48, dated September 25, 1948 and again continued and amended by the U.P. Ordinance No. IV, of 1949, and thereafter by U.P. Act No. XIII of 1950, XXII of 1952, XIX of 1963; and now by U.P. Act No. XII of 1969 and now by U.P. Act No. 38 of 1972..

[An Act to provide for powers to requisition accommodation] [Substituted by U.P. Act 38 of 1972, vide Section 2 (w.e.f. 30th Sept., 1972).][* * *] [Omitted by U.P. Act 38 of 1972 (w.e.f. 30th Sept., 1972).]It is hereby enacted as follows:

1.

[Short title, extent and commencement]. [Substituted by U.P. Act 38 of 1972, vide Section 3(i) (w.e.f. 30th Sept., 1972)]- [(1) This Act may be called the United Provinces (Temporary) Accommodation Requisition Act, 1947] [Substituted by *ibid*, vide Section 3 (iii)].(2)It extends to the whole of [Uttar Pradesh] [Substituted for "United Provinces" by the S.O. 1950](3)[* * *] [Omitted by U.P. Act 38 of 1972, vide Section 3](4)It shall come into force at once.(5)[* * *] [Omitted by U.P. Act 38 of 1972, vide Section 3]

2. Definitions.

- In this Act, unless anything repugnant in the subject or . context -(a)"accommodation" means 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 furniture supplied by the owner for use in such building or part of a building.(b)["Court" means the Court of Munsif or where there is no Munsif, the court of Civil Judge, in whose territorial jurisdiction the accommodation lies] [Substituted by Section 3 of U.P. Act No. 19 of 1963 for the original clause (b) which read as follows: - "Court" means the Court of a Munsif or Civil Judge, or where there is no Civil Judge, the District Judge who would have jurisdiction to hear and decide a suit for eviction of a tenant from accommodation in respect of which the question arises];(bb)["District Judge" means the District Judge in whose territorial jurisdiction the accommodation lies;] [Added by U.P. Act No. 19 of 1963](c)"District Magistrate" includes an Additional District Magistrate;(d)"Occupier" means a person in actual occupation of the accommodation;(e)"Owner" includes a mortgagee in possession, trustee, receiver or guardian.

3. Power of requisition.

- [(1) Where the District Magistrate is of opinion that any accommodation is needed or likely to be needed for any public purpose, not being a purpose of the Union, and that the accommodation should be requisitioned, the District Magistrate-(a)shall call upon the owner as well as the occupier of the accommodation by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the accommodation should not be requisitioned, and(b)may, by order, direct that neither the owner of the accommodation nor any other person shall, without permission of the District Magistrate, dispose of or structurally alter the accommodation, or let it out to a tenant until (he expiry of such period, not exceeding two months, as may be specified in the order).(2)If, after considering the cause, if any, shown by the owner or occupier of the accommodation the District Magistrate is satisfied that it is necessary or expedient to do so, he may, by order in writing requisition the accommodation and may make such further orders as it appears to him to be necessary or expedient in connection with the requisitioning:Provided that no accommodation 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 a school, hospital, public library or an orphanage or for the purpose of accommodating persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall be requisitioned :Provided further that where the

requisitioned accommodation or part thereof is being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), the District Magistrate shall provide such tenant with alternative accommodation which, in his opinion, is suitable.(3)The provisions of Section 4 shall apply in relation to service of a notice under clause (a) of sub-section (1) as they apply in relation to service of an order under that clause (b) of that sub-section. [Substituted by U.P. Act 38 of 1972, vide Section 4 (w.e.f. 30th Sept., 1972)]

4. Service of order.

- The order of requisition shall be served on the owner as well as occupier, if any of the accommodation by delivering to such owner or occupier a copy of the order but where the owner or the occupier is not readily traceable and the order cannot be served without undue delay, or where the ownership is in dispute or cannot be easily ascertained the order shall be served by publication in the official Gazette, and by affixing a copy thereof on any conspicuous part of the accommodation.

5. Compensation by agreement.

- The District Magistrate shall pay to the owner of the accommodation requisitioned by him such compensation, either in gross sum of money, or by periodical payments, as may be agreed upon between him and the owner.

6. Reference to Court.

(1)Where no agreement as specified in Section 5 is reached, such compensation shall be paid as may be determined by the Court on a reference made to it by the District Magistrate.(2)The Court in deciding the reference shall have regard to the provisions d sub-section (1) of Section 23 of the Land Acquisition Act, 1894, in so far as the same may be applicable and also to the reasonable expenses, if any, incurred in vacating the accommodation and shall as far as possible follow the procedure applicable to suits under the Code of Civil Procedure, 1908. The decision of the Court shall have the force of a decree.

7. [Appeals against orders of the Court. [Substituted by Section 4 of U.P. Act No. 19 of 1963.]

(1)An appeal from a decision of the court under this Act shall lie to the District Judge within thirty days.(2)The provisions of Sections 4, 5 and 12 of the [Indian Limitation Act, 1908] [See new Sections 4, Sand 12 and of the Limitation Act, 36 of 1963] shall be applicable to appeals under this Act].

Before substitution original Section 7 read as follows - "No appeal or revision against the order of the court - Notwithstanding anything to the contrary contained in any enactment for the time being in forces no appeal or revision shall lie against the decision or the court under Section 6."

8. Release from requisition.

- Where any accommodation requisitioned under this Act is to be released from requisition, the District Magistrate shall release it in favour of the person from whom it was requisitioned [and deliver possession thereof to him] [Added by Section 5 of U.P. Act No. 19 of 1963]. If the accommodation was subject to mortgage with possession on the date of requisition and the mortgage has since been redeemed or otherwise paid off, or if the accommodation was held by a receiver, trustee or guardian and the receiver, trustee or guardian, as the case may be, has been discharged or the person from whom it was requisitioned is dead, the District Magistrate may, after making such inquiry if any, as he may consider necessary specify by order in writing the person to whom possession thereof shall be delivered. [(1-A) For purposes of delivery of possession of the accommodation under sub-section (1) the District Magistrate shall in the manner prescribed by rules evict or cause to be evicted all persons who might be in occupation of the accommodation at the time of its release from requisition, and in doing so he may use such force as may be necessary] [Added by Section 5 (ii) of U.P. Act No. 19 of 1963]. (2) The delivery of possession of, and payment of compensation for, such accommodation to a person specified in the order under sub-section (1) shall be full discharge of the [State Government] [Substituted by the A.L.O. 1950 for (] or the District Magistrate from all liability in respect of the accommodation, but shall not prejudice any rights in respect of the accommodation which any other person may be entitled to enforce against the person to whom possession is delivered or compensation is paid. (3) Where the person to whom possession of accommodation is to be delivered under sub-section (1) cannot be found and has no agent or other person empowered to accept delivery of possession on his behalf, the District Magistrate may cause a notice declaring that the accommodation is released from requisition to be published in the official Gazette. (4) When the notice referred to in sub-section (3) has been published the accommodation specified in the notice shall cease to be subject to requisition on and from the date of the publication of the notice in the Gazette, and shall be deemed to have been delivered to the person entitled to possession thereof and the [State Government] or the District Magistrate shall not be liable for any compensation or other claim in respect of the accommodation for any period after such date. (5) [Nothing in this Section shall prevent the District Magistrate from releasing from requisition only a part of the accommodation: Provided that where the District Magistrate releases from requisition only a part of the accommodation with the concurrence of the owner, the release shall be on such terms as to compensation or otherwise as may be agreed upon between him and the owner: Provided further that where the release from requisition of only a part of the accommodation is without the concurrence of the owner where no agreement as specified in the first proviso as to the terms of the release is reached, such reduction if any, shall be made in the compensation payable to the owner as may be determined by the Court on a reference made to it by District Magistrate, and the provisions of sub-section (2) of Section 6 shall mutatis mutandis apply to such reference.] [Added by Section 5 (ii) of U.P. Act No. 19 of 1963]

9. Penalty.

- Any person who contravenes any provision of this Act or of any order made thereunder or who obstructs the taking of possession under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees or with both.

10. [Power to order repairs. [Original Section 10 renumbered as sub-section (1) by Section 6 of Act 19 of 1963]

(1)Where the District Magistrate requisitions any accommodation under this Act, he may at any time by notice in writing order the owner to execute such repairs, and within such time, as may be specified in the notice.](2)[The owner shall not ordinarily be required to execute repairs at a cost exceeding one month's letting value of the accommodation in a year. If in the opinion of the District Magistrate the accommodation needs any special repairs and the aggregate cost of the all repairs is in any year likely to exceed one month's letting value of the accommodation and the owner does not agree to carry out such repairs the District Magistrate may refer the matter to the court which shall make such order and on such terms, including those relating to payment of compensation, as it may consider necessary.] [Sub-section (2) added, by Section 6 of Act 19 of 1963]

11. Execution of order in case of non-compliance.

(1)If any person fails to comply with any order made under section 3, the Court shall, on the application of the District Magistrate, execute the order as if it were a decree passed by the that Court.(2)If the owner fails to execute any repairs in pursuance of an order made under section 10, the District Magistrate may cause such repairs to be executed, and the cost thereof may, without prejudice to any other mode of recovery be deducted from the compensation payable to the owner.

12. Power of entry and inspection.

- The District Magistrate or any person authorised by him in this behalf may, after giving reasonable notice, enter any premises and inspect such premises or any property thereon for the purpose of determining whether an order under section 3 may be made.

13. Effect of provisions inconsistent with other enactments.

- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any enactment for the time being in force or any instrument having the force of law.

14. Protection of action taken under the Act.

- 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 any order made under this Act.

15. Cognizance of offences under the Act.

- No court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by the District Magistrate.[15-A. Offences by companies. [Instituted by U.P. Act 38 of 1972, vide section 5 (w.e.f. 30th Sept., 1972)](1)If the person committing an offences under this Act is a company, the company as well as every person in

charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. .(2)Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section, -(a)'Company' means any body corporate, and includes a firm or other association of individuals, and(b)'Director', in relation to a firm, means a partner in the firm.]

16. Orders not to be questioned in any court.

- Except as provided in this Act no order made in exercise of any power conferred by or under this Act shall be called in question in any court.

17. Rule-making power.

- The State Government may, by notification in the official Gazette, make rules to give effect to the purposes of this Act.(2)[Laying of rules, etc. before legislature. All rules made under this Act shall as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session for a total period of not less than thirty days, extending in its one session or more than one successive sessions, and shall unless some later date is appointed, take effect from the date of their publication in the Gazette subject to such modification or annulments as the two Houses of the legislature may, during the said period, agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.] [Instituted by U.P. Act 38 of 1972. vide Section 6 (w.e.f. Sept. 30, 1972)]

18. Continuance of orders.

- [(1)] [Re-numbered as sub-section (1) (hereof, by U.P. Act 38 of 1972, vide Section 6] Any order made under the United Provinces Accommodation Requisition Ordinance, 1947, and in force immediately before the commencement of this Act, shall continue to be in force and be deemed to be an order made under this Act.