

Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992

TAMILNADU

India

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Act 59 of 1992

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Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 (Act No. 59 of 1992) An Act to provide for punishment and compensation for damage and loss caused to [any property and the public] [Substituted by Tamil Nadu Act 46 of 1994] in the State of Tamil Nadu and matters connected therewith. Be it enacted by the Legislative-Assembly of the State of Tamil Nadu in the Forty-five year of the Republic of India as follows: -

1. Short title and commencement.

(1) [This Act may be called the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992.] [Substituted by Tamil Nadu Act 46 of 1994] (2) It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires.-(1) "Government" means the State Government; (2) "Mischief" shall have the same meaning as in section 425 of the Indian Penal Code; (3) "Political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968. (4) ["Property" means any property, movable or immovable or machinery owned by or in possession of, or under the control of any person including] [Substituted by Tamil Nadu Act 46 of 1994] (a) the Central Government; or, (b) the State Government; or, (c) any local authority; or, (d) the Tamil Nadu State Electricity Board; or, (e) any University in this State; or (f) any co-operative society including a land development bank registered or deemed to be registered under the Tamil Nadu Co - operative Societies Act, 1983; or (g) any corporate body constituted under any Act passed by Parliament or the Legislative Assembly of this State; or (h) any other corporation owned or controlled by the Central Government or the State Government; or (i) [any institution concern or undertaking; or [Substituted by Tamil Nadu Act 46 of 1994] (j) any company. Explanation. - For the purposes of this clause, "company" means any body

corporate and includes a trust, a firm, a society or other association of individuals.]

3. Punishment for committing mischief in respect of [property] [Substituted by Tamil Nadu Act 46 of 1994].

- Whoever, -(i) Commits mischief by doing any act in respect of any [property] [Substituted by Tamil Nadu Act 46 of 1994] and thereby causes damage or loss to such [property] [Substituted by Tamil Nadu Act 46 of 1994] to the amount of one hundred rupees or upwards; or (ii) commits mischief by doing any act which causes or which he knows to be likely to cause a diminution of the supply of water to the public or to any person for any purpose or an inundation of, or obstruction to, any public drainage, or (iii) commits mischief by doing any act which renders any public road, bridge, navigable channel, natural or artificial impassable or less safe for traveling or conveying property, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine: Provided that the Court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year.

4. Mischief causing damage to [property] [Substituted by Tamil Nadu Act 46 of 1996] by fire or explosive substance.

- Whoever commits mischief by fire or any explosive substance intending, to cause or knowing it to be likely that he will thereby cause damage to any [property] [Substituted by Tamil Nadu Act 46 of 1996] to the amount of one hundred rupees or upwards, shall be punished with rigorous imprisonment for a term which shall not be less than two years but which may extend to ten years and with fine: Provided that the Court may for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years.

5. Punishment for throwing stones, bricks, etc., upon persons travelling in motor vehicles.

- Whoever commits or instigates, incites or otherwise abets the act of throwing stones, bricks, soda-bottles or any other material whatsoever upon the persons traveling in any motor vehicle, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine: Provided that the court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months. Explanation. - For the purpose of this section "motor vehicle" shall have the same meaning as in clause (28) of section 2 of the Motor Vehicles Act, 1988.

6. Special Provision regarding bail.

- No person accused or convicted of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release.

7. Order to Pay Compensation.

(1)When imposing a sentence of fine for an offence under this Act, the court may when passing judgment, order the whole or any part of the fine recovered to be applied-(a)in defraying expenses properly incurred in the prosecution;(b)in the payment, to any person, of compensation for any loss or injury caused by the offence;(c)in replacing or as the case may be, restoring to the previous state, the [property including any road] [Substituted by Tamil Nadu Act 46 of 1996], bridge, navigable channel, natural or artificial.(2)If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.(3)An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.(4)At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.(5)Save as otherwise provided, when a court imposes a sentence, of which fine does not form a part, the court may, when passing judgment order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

8. Power to try Offences.

- No court inferior to that of a Chief Metropolitan Magistrate or a Court of Session shall try any offence punishable under this Act.

9. Liability to pay Compensation in Certain Cases.

- Notwithstanding anything contained in this Act, where an offence punishable under this Act has been committed during any procession, assembly, meeting, agitation, demonstration or any other activity organised by a political party or communal, language or ethnic group, it shall be presumed that the offence has also been committed by such political party or communal, language or ethnic group and such political party or communal, language or ethnic group shall be liable to pay compensation for damage or loss caused to any [property] [Substituted by Tamil Nadu Act 46 of 1996], in accordance with the provisions of this Act and the rules made thereunder.

10. Claim for Compensation.

- [(1) Any claim for compensation for damage or loss caused to the property shall be made by-(i)any person who has been affected by such damage or loss; or(ii)such officer empowered by the authorities specified in sub clauses (a) to (j) of clause (4) of section 2.](2). Every application for claim for compensation for damage or loss caused to the [Property] [Substituted by Tamil Nadu Act 46 of 1996] shall be in such form and containing such particulars as may be prescribed.

11. Authority to decide compensation.

- [(1) Every claim for compensation for damage or loss caused to the [property] [Substituted by Tamil Nadu Act 46 of 1996] shall be made to such authority as may be prescribed.] [Substituted by Tamil Nadu Act 46 of 1996](2)In arriving at the quantum of compensation for damage or loss caused to the [property] [Substituted by Tamil Nadu Act 46 of 1996], the authority prescribed under sub-section (1) shall have regard to-(a)the value of the property,(b)the extent of damage to the [property] [Substituted by Tamil Nadu Act 46 of 1996]; and,(c)such other matters as may be prescribed.(3)The authority prescribed under sub-section (1) in deciding the claim for compensation shall follow such procedure as may be prescribed.(4)The authority prescribed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 for the purpose of-(a)taking evidence on oath;(b)enforcing the attendance of witnesses;(c)discovery and production of documents and material objects; and(d)for such other purposes as may be prescribed.

12. Recovery of compensation as arrear of land revenue.

- The authority prescribed under sub-section (1) of section 11, on determination of the compensation amount [for any damage or loss to property and on the application of the officer prescribed] [Substituted by Tamil Nadu Act 46 of 1996] under sub-section (1) of section 10, may issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

12A. [Appeal. [Substituted by Tamil Nadu Act 46 of 1996]

(1)Any person aggrieved by an order made by the authority prescribed under sub-section (1) of section II may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government in this behalf.(2)In deciding the appeal, the authority specified under sub-section (1) shall follow such procedure as may be prescribed and the decision of such authority on such appeal shall be final and shall not be called in question in any court of law.]

13. Power to make rules.

(1)The Government may make rules for carrying out all or any of the purposes of this Act.(2)Without prejudice to the generality of the foregoing power, such rules may provide for-(a)the officer by whom an application for compensation to be made;(b)the form of application for compensation and particulars it may contain and fees if any, to be paid, in respect of the application for compensation;(c)the authority to whom the claim for compensation has to be made;(d)the matters to be taken into account in arriving at the quantum of compensation by the authority prescribed under Section II;(e)the procedure to be followed in deciding the claim for compensation by the authority prescribed under section II; and(f)any other matter which is to be or may be prescribed.(3)Even rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the

session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or notification or the Legislative Assembly agrees that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

14. Saving.

- The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force and nothing contained herein shall exempt any person from any proceeding by way of investigation or otherwise which might, apart from this Act, be instituted against him.

15. Repeal.

- The Tamil Nadu Public Property (Prevention of Destruction and Loss) Act, 1982 is hereby repealed.