

The Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972

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Act 7 of 1972

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The Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972 Orissa Act 7 of 1972 Published vide Orissa Gazette Extraordinary No. 331-Dated/25.2.1972-Notification No 2262-Legislative-Dated/21.2.1972.(Assented to by the President on the 9th February, 1972).An act to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters.Be it enacted by the Legislature of the State of Orissa in the Twenty-Second year of the Republic of India, as follows ;

1. Short title, extent and commencement.

(1)This Act may be called the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972.(2)It extends to the whole of the State of Orissa.(3)It shall be deemed to have come into force on the 21st December 1961 except Sections 13, 18 and 19 which shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)["Board" shall mean - [Substituted by Orissa Act 12 of 1989.](i)the Orissa State Electricity Board constituted under the Electricity (Supply) Act 54 of 1948.(ii)The Orissa State Housing Board constituted under the Orissa Housing Board Act II of 1968.](b)"Company" means a Government company as defined in Section 617 of the Companies Act, 1 of 1956, but shall not include any such company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government;(bb)["Corporation" means a Corporation established by or under a Central Act or a State Act, and owned or controlled by the State Government] [Inserted by Orissa Act 2 of 1983.];(c)"Estate Officer" means an officer appointed as such by the State Government under Section 3;(cc)["Improvement Trust and special Planning Authority", respectively mean an Improvement Trust and Special Planning Authority constituted

under the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957); [Inserted by Orissa Act 2 of 1983.](ccc)"Municipal Council and Notified Area Council" respectively mean a Municipal Council and a Notified Area Council constituted under the Orissa Municipal Act, 23 of 1950;](d)"Premises" means any land or any 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; and(ii)any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;(e)"Prescribed" means prescribed by rules made under this Act;(f)["Public Premises" means any premises situated within the jurisdiction of a Municipal Council or Notified Area Council or within an area declared by the State Government to be an industrial estate and- [Substituted by Orissa Act 2 of 1983.](i)belong to or taken on lease by the State Government or the Board or by any Company, Corporation, Municipal Council, Notified Area Council, Improvement Trust, Special Planning Authority; or University; or(ii)requisitioned by the State Government].(g)"Unauthorised Occupation" in relation to any public premises means the occupation by the person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever;(h)["University" means a University established by any Act of the State.] [Added by Act 2 of 1983.]

3. Appointment of Estate Officer.

- The State Government may, by notification -(a)appoint such persons, being gazetted officers of Government or officers of equivalent rank of [the Board or of a Company, Corporation, Municipal Council, Notified Area Council, Improvement Trust, Special Planning Authority or University] [Substituted by Orissa Act 2 of 1983.], as they think fit, to be Estate Officers for the purposes of this Act; and(b)define the local limits within or with the categories of public premises in respect of which each Estate Officer shall exercise the powers conferred, and perform the duties imposed on Estate Officers by or under this Act.Explanation. - For the purpose of Clause (a) the expression Gazetted Officer of Government shall include any such officer who is on deputation to the services of a [the Board or of a Company, Corporation, Municipal Council, Notified Area Council, Improvement Trust, Special Planning Authority or University.] [Added by Act 2 of 1983.]

4. Issue of notice of show cause against order of eviction.

(1)If the Estate Officer is of the opinion that any persons are in unauthorised occupation of any public premises and they should be evicted, the Estate Officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.(2)The notice shall -(a)specify the grounds on which the order of eviction is proposed to be made; and(b)require all persons Concerned, that is to say, all persons who are, or, may be in occupation, of or claim interest in the public premises to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than [seven days] [Substituted by Orissa Act 12 of 1989.] from the date of service thereof.(3)The Estate Officer shall cause the notice to be served by having h affixed on the outer door or some other conspicuous part of the public premises, and in such other manner if any as may

be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.(4)Where the Estate Officer knows or has reasons to believe that any persons are in occupation of the public premises then, without prejudice to the provisions of Sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

4A. [Stay of construction. [Inserted by Orissa Act 2 of 1983.]

- The Estate officer may, if he has reasons to believe that any person unauthorisedly occupying any public premises is constructing or is about to construct any building or other structure thereon, by order prohibit such person from proceeding with construction or, as the case may be, from constructing such building or structure and if such person fails to comply with the said order, the Estate Officer may impose a penalty which may extend to one thousand rupees and a daily penalty not exceeding one hundred rupees for every day during which such non-compliance continues and may also issue a warrant for the arrest of the said person and on his appearance may send him with a warrant in the form appended to the Schedule for imprisonment in the Civil Jail of the district for a period not exceeding thirty days as may be necessary to prevent the person from proceeding with the construction.]

5. Eviction of unauthorised occupants.

(1)If, after considering the cause, if any, shown by any person in pursuance of a notice under Section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard the Estate Officer is satisfied that the public premises are in unauthorised occupation the Estate Officer may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated on such date as may be specified in the order, by all persons who may be in occupation thereof or any part thereof and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.(2)If any person refuses or fails to comply with the order of eviction within [fifteen days] [Substituted by Orissa Act 12 of 1989.] of the date of its publication under Sub-section (1), the Estate Officer or any other officer duly authorised by the Estate Officer in this behalf, may evict that person from and take possession of the public premises and may, for that purpose, use such force as may be necessary.[* * *] [Proviso omitted by Orissa Act 12 of 1989.]

6. Disposal of property left on public premises by unauthorised occupants.

(1)Where any person have been evicted from any public premises under Section 5, the Estate Officer may, [after giving reasonable notice to the persons from whom possession of the premises has been taken] [Substituted by Act 2 of 1983.] remove or cause to be removed or dispose of by public auction any property remaining on such premises.(2)Where any property is sold under Sub-Section (1), the sale proceeds shall after deducting the expenses of the sale and the amount, if any [due to the State Government, Board, Company, Corporation, Municipal Council, Notified Area Council, Improvement Trust, Special Planning Authority or University] [Substituted by Act 2 of 1983.], as the case may be an account of arrears of rent or damages, be paid to such person or persons as may

appear Estate Officer to be entitled to the same. Provided that where the Estate Officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same he may refer such dispute to the Civil Court of competent jurisdiction and the decision of the Court thereon shall be final.

7. Power to recover rent or damages in respect of public premises as arrears of land revenue.

(1) Where any person is in arrears of rent payable in respect of any public premises the Estate Officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order. (2) Where any person is or has at any time been in unauthorised occupation of any public premises, the Estate Officer may having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order. Provided that no such order shall be made until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice as to why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the Estate Officer. (3) [if any person refuses or fails to pay-(a) the arrears of rent or any instalment thereof or the damages or any instalment thereof within the time specified in the order made under Sub-section (1) or Sub-Section (2), as the case may be; or (b) the penalty payable under Section 4-A within three months from the date on which the order imposing the penalty is communicated to him. The Estate Officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.] [Substituted by Act 2 of 1983.]

8. Powers of Estate Officer.

- An Estate Officer shall, for the purpose of holding any enquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 5 of 1908, when trying a suit, in respect of the following matters, namely : (a) summoning and enforcing the attendance of any persons and examining him on oath; (b) requiring the discovery and production of document; and (c) any other matter which may be prescribed.

9. Appeals.

- [(1) An appeal shall lie from every order of the Estate Officer made under Section 4-A, Section 5 or Section 7. (i) [in respect of any public premises situated within Cuttack and Bhubaneswar Municipal areas and owned by the General Administration Department of the Government to an appellate authority who shall be the Director of Estates or such other officer including the Additional Director of Estates as the Government may by notification specify in this behalf; and] (ii) in respect of any other public premises to the Collector within whose jurisdiction such premises are situate. (1-A) All appeals filed under this section and pending before the Revenue Divisional Commissioner prior to the date of commencement of the Orissa Public Premises (Eviction of Un-authorised Occupants)

Amendment Act, 1989 shall, on the date of such commencement, stand transferred to the Director of Estates Orissa or as the case may be, the Collector within whose jurisdiction such premises are situate and shall be disposed of by him in accordance with the provisions contained in this section. Provided that an appeal against the orders of the Director of Estates passed in the capacity of an Estate Officer under this Act which is so pending before a Revenue Divisional Commissioner shall be disposed of by such Revenue Divisional Commissioner.] [Substituted by Orissa Act 12 of 1989.] (2) An appeal under Sub-section (1) shall be preferred—(a) in the case of any appeal from the order under Section 5, within [twelve days] [Substituted by Act 2 of 1983.] from the date of publication of the order under Sub-Section (1) of that section; and (b) in the case of an appeal from an order [under Section 4-A or Section 7] [Substituted by Act 2 of 1983.] within [twelve days] [Substituted by Act 2 of 1983.] from the date on which the order is communicated to the appellant. Provided that the appellate authority may entertain the appeal after the expiry of the said period of [twelve days] [Substituted by Act 2 of 1983.] if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. [Transitory provision [Transitory provision Section 8 (2) Orissa Act 2 of 1983.] - All appeals filed under Section 9 of the Principal Act and pending in the Court of a District Judge on the date of commencement of this Act shall stand transferred to the Revenue Divisional Commissioner within whose jurisdiction the concerned premises are situate and shall be disposed of by him in accordance with the provisions contained in that Section.] (3) Where an appeal is preferred from an order of the Estate Officer, the appellate authority may stay the enforcement of that order for such period and on such conditions as it deems fit. (4) Every appeal under this section shall be disposed of by the appellate authority as expeditiously as possible.

10. Finality of order.

- Save as otherwise expressly provided in this Act every order made by an Estate Officer or appellate authority under this Act shall be final and shall not be called in question in any original suit application or execution proceedings.

11. Power to obtain information.

- If the Estate Officer has reason to believe that any persons are in unauthorised occupation of any public premises he may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

12. Liability of heirs and Legal representatives.

(1) Where any person against whom any proceeding for the determination of arrears of rent or the assessment of the damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceedings may be taken or as the case may be continued against the heirs or legal representatives, of that person. (2) Any amount due to the State Government or [the Board or to any Company Corporation Municipal Council, Notified Area Council, Improvement Trust, Special Planning Authority or University] [Substituted by Act 2 of 1983.] from any person

whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his heirs or legal representative but their liability shall be limited to the extent of the assets of the deceased in their hands.

13. Offences and Penalty.

(1) If any person who has been evicted from any public premises under the Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both. (2) The Magistrate convicting a person under Sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

14. Bar of suit and proceeding.

- No suit or other proceeding in respect of matters or disputes for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under and in conformity with the provisions of this Act.

15. Protection of action taken in good faith.

- No suit prosecution or other legal proceeding shall lie against the State Government or the appellate authority or the Estate Officer or any other officer duly authorised by the Estate Officer under Sub-section (2) of Section 5 in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

16. Delegation of powers.

- The State Government may, by notification, direct that any power exercisable by them under this Act shall subject to such conditions if any, as may be specified in the notification be exercisable also by an Officer of the Government.

17. Power to make rules.

(1) The State Government may, by notification, 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 form of any notice required or authorised to be given under this Act and the manner in which it may be served; (b) the holding of inquiries under this Act; (c) the procedure to be followed in taking possession of public premises; (d) the manner in which damages for unauthorised occupation may be assessed and the principle which may be taken into account in assessing such damages; (e) the manner in which appeals may be preferred and the procedure to be followed in appeals, and (f) any other matter Which has to be or may be prescribed. (3) All rules made under this section shall as soon as may be

after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period, the State Legislature makes modification if any therein, the rules shall thereafter have effect only in such modified form; so, however, that such modifications shall be without prejudice to the validity of anything previously done under the rules.

18. Repeal.

- The Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 25 of 1961, is hereby repealed.

19. Validation.

- Notwithstanding any judgement, decree or order of any Court anything done or any action taken (including rules or orders made notices issued, evictions ordered or effected damages assessed, rents or damages or costs covered and proceedings initiated) or purported to have been done or taken under the Orissa Public Premises (Eviction of Unauthorised Occupants) Act 25 of 1961 (hereinafter in this section referred to as the 1961 Act) shall be deemed to be as valid and effective as if such thing or action was done or taken the corresponding provisions of this Act which under Section (3) of Section 1, shall be deemed to have come into force on the 21st December 1961 and accordingly-(a)no suit or other legal proceeding shall be maintained or continued in any Court for the refund of any rent or damages or costs recovered under the 1961 Act, where such refund has been claimed merely on the ground that the said Act has been declared to be unconstitutional and void; and(b)no Court shall enforce a decree or order directing the refund of any rent or damages or costs recovered under the 1961 Act, merely on the ground that the said Act has been declared to be unconstitutional and void.(Schedule)(Section 4-A)Form of warrant to be issued by the Estate Officer under Section 4-A of the Act

Seal

ToThe Officer-in-charge of the Civil Jail at.....Whereas A, B of.....has failed to comply with the order issued under Section 4-A of the Orissa Public Premises Eviction of Unauthorised Occupants) Act, 1972.And whereas it is necessary in order to enforce compliance of the said order to commit the said A, B to close custody;You are hereby required under the provisions of Section 4-A of the said Act to receive the said A.B, into the jail under your charge and there to keep him in safe custody for.....days.Dated this day of.....Signature of Estate Officer