

# **Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980**

SIKKIM

India

## **Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980**

### **Rule**

### **SIKKIM-PUBLIC-PREMISES-EVICTION-OF-UNAUTHORISED-OCCUPANTS of 1980**

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Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980Published vide Notification No. I/L.R. Gangtok, dated 29.07.1980Last Updated 25th February, 2020No. 6/L. R., Gangtok, dated 26.07.1986. - In exercise of the powers conferred by sub-section (1) of section 13 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (14 of 78) and in super session of the notification No. 21/L. R. dated the 11th December, 1978, the State Government, hereby constitutes the Tribunal for hearing of Appeals under section 13 of the aforesaid Act and appoints the Joint Secretary, (Land Reforms) to the Government of Sikkim in the Land Revenue Department, as the sole member of the Tribunal.Notification No. I/L.R. Gangtok, the dated 29.07.1980. - In exercise of powers conferred by sub-section (1) of section 18 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, the State Government hereby makes the following rules:

### **1. Short title & commencement.**

(1)The rules may be called the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980.(2)They shall come into force at once.

### **2. Definition.**

- In these rules, unless the context otherwise requires:(a)Act means the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980.(b)All other words and expressions used but not defined in these rules and defined in the Act, shall have the meaning

respectively assigned to them in the Act.

### **3. Form and manner of service of notice under Section 4 of the Act.**

(1) A notice under sub-section (1) of Section 4 of the Act, shall be in SPP Form I appended to these rules. (2) In addition to any mode of service specified in the Act, a notice issued under sub-section (1) of Section 4 of the Act, shall be served by delivering or tendering a copy of the notice to the person for whom it is intended or to any adult members of his family, or by sending it by registered post with acknowledgement due in a letter addressed to that person at his usual or last known place of residence or business. (3) Where the copy of the notice under sub-rule (1) is delivered or tendered, the signature of the person to whom a copy so delivered or tendered should be obtained in token of acknowledgement due of the service of notice. (4) In respect of notice issued under sub-section (1) of Section 4 of the Act, where the person or the adult members of the family of such person refuses to sign the acknowledgement or where such person cannot be found after using all due and reasonable diligence, and there is no adult members of the family of such person, a copy of the notice shall be affixed on the outer door or some other conspicuous part of the residence or usual place of business of such person and the original shall be returned thereon or annexed thereto stating that a copy has been so affixed, the circumstances under which it was done so and the name and address of the person, if any, by whom the residence or usual place of business was identified and in whose presence the copy was affixed. (5) If the notice issued under sub-section (I) of Section 4 of the Act, cannot be served in the manner provided in sub-rule (I), the Collector may, if he thinks fit, direct that such notice shall also be published in at least one local newspaper having circulation in the locality and he may also proclaim the contents of any notice in the locality by beat of drum. (6) Where any notice is to be served on any local authority, company or corporation, it shall be served in the manner provided below: (a) Upon anyone or more of the partners, secretary, any director or other principal officer of such local authority, company or corporation, or (b) by leaving it or sending it by registered post addressed to the local authority, company or corporation at its office or if there is no registered office, then at the place where such local authority, company or corporation carries out its business.

### **4. Holding of enquiries under section 8.**

(1) Where any person on whom a notice or order under this Act, has been served desires to be heard through his representatives, he should authorize such representatives in writing. (2) The Collector or any other officer appointed under the Act, shall record the summary of the evidence tendered before him. The summary of such evidence and any relevant documents filed before him shall form part of the records of the proceeding.

### **5. Form and manner of service of order & taking possession of public premises.**

- 1) The order of eviction under sub-section (1) of Section 5 of the Act, shall be in SPP Form II which shall be served in the manner prescribed under sub-rule (2), (3), (4) & (5) of Rule 3. (2) If any

obstruction is offered, or is in the opinion of the Collector, likely to be offered, to the taking possession of any premises under the Act, the Collector or any other officer duly authorised by him in this behalf may obtain necessary police assistance.(3)Where any public premises of which possession is to be taken under the Act, is found locked, the Collector or any other officer duly authorised by him in this behalf may either seal the premises or in the presence of two witnesses break open the locks, or open, or cause to be opened, any door, gate or other barrier and enter the premises.Provided that :(a)no entry shall be made into, or possession taken of, a public premises before sunrise or after sunset.(b)where any public premises is forced open, an inventory of the articles found in the premises shall be prepared in the presence of two witnesses.

## **6. Form of notice to remove any property.**

(1)The Collector may issue a notice to a person concerned from whom the public premises has been taken, to remove any property remaining on the said premises, giving not less than fourteen days time from the date of service of notice in SPP Form III.

## **7. Assessment of damages and form of notice or order.**

(1)In assessing damages for unauthorised use and occupation of any public premises, the Collector shall take into consideration the following matters, namely:(a)the purpose and the period for which the public premises were in unauthorised occupation;(b)the nature, size and standard of the accommodation available in such premises;(c)the rent that would have been realized if the premises had been let on rent for the period of unauthorised occupation to a private person;(d)any damage done to the premises during the period of unauthorized occupation;(e)any other matter relevant for the purpose of assessing the damage.(2)Where any person is in arrear of rent payable, or, any person is, or has at any time been in unauthorised occupation of public premises, the Collector shall cause to be assessed the arrear of rent payable and damages and serve upon the person concerned, a notice in SPP Forms IV and V calling upon him to show cause within a period of thirty days from the date of issue of notice why an order requiring him to pay the said arrear of rent and damages assessed should not be made.(3)After the disposal of objections filed, if any. under subsection (3; of section 7 or after disposal of any appeal under Section 9 of the Act, the Collector shall cause to be served upon the person concerned showing the arrear of rent and damages payable in such number of instalments within a period of thirty days from the date of issue of notice in Forms SPP VI and VII. In the event of failure to make payment within the stipulated time, the same shall be recovered as an arrear of land revenue or public demand.

## **8. Procedure in appeals.**

(1)An appeal preferred under Section 9 of the Act shall be in writing, shall set forth concisely the grounds of objection to the order appealed against, and shall be accompanied by a copy of such order.(2)On receipt of the appeal and after calling for and perusing the record of the proceedings before the Collector, the Appellate Officer shall appoint a time and place for the hearing of the appeal and shall give notice thereof to the Collector' against whose orders the appeal is preferred and to the Appellant and authority in administrative control of the premises.SPP Form

1Notice(Under Sub-Section 1 of Section 4)To:Name: Shri/Shrimati/  
Kumari.....Address .....Whereas I, the undersigned, am of  
opinion, on the grounds specified below, that you .are in unauthorised occupation of the public  
premises mentioned in the Schedule below and that you should be evicted from the said  
premises:GroundsNow, therefore, in pursuance of sub-section (1) of Section 4 of the Sikkim Public  
Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I hereby call upon  
you to show cause on or before the..... why such an order of eviction should  
not be made.

## Schedule

Date .....Signature and seal of the Collector.....This date should be a date  
not earlier than fifteen days from the date of issue of the notice.SPP Form IIOOrderUnder  
Sub-Section (1) of section 5Whereas I, the undersigned, am satisfied for the reasons recorded below  
that Shri/Smt/Kumari..... is/are in unauthorised occupation of the public premises  
specified in the schedule below:ReasonsNow, therefore, in exercise of the powers conferred on me  
by sub-section (1) of Section 5 of the Sikkim Public Premises (Eviction of Unauthorised Occupants  
and Rent Recovery) Act, 1980, I, hereby order the said Shri/Smt/Kumari ..... and  
all persons who may be in occupation of the said premises or any part thereof to vacate the said  
premises within .....days of the date of the publication of this order.. In the event of refusal or  
failure to. comply with this order within the period specified above, the said  
Shri/Smt/Kumari..... and all other persons concerned are liable to. be evicted from  
the said premises. if need be by the use of such force as may be necessary.

## Schedule 2

Date.....Signature and seal of the Collector.SPP Form IIINoticeUnder Sub-Section (3) of  
section 6To. :Name: Shri/Shrimati/Kumari.....Address., .....Whereas on.  
the ..... you ,were evicted from the public premises described in the schedule below  
which was unauthorizedly occupied by you.Now, therefore, in exercise of the powers conferred on  
me by sub-section (I) of Section 6 of the Sikkim Public Premises (Eviction of Unauthorized  
Occupants and Rent Recovery) Act, 1980, I hereby give you notice that after fourteen days of the  
service of this notice on you, any property remaining on the said premises will be liable to be  
removed or disposed of by public auction.In case you desire to. take possession of your property and  
to. remove the same from the said premises, you will be permitted to. do. so. on written authority  
from the undersigned provided any arrears of rent/damages/costs due from you are paid within the  
said period of fourteen days.

## Schedule 3

Date.....Signature and seal of the Collector.SSP Form IVNotice(Under Sub Section (3) of  
Section 7)To:Name Shri/Shrimati/Kumari.....Address.....Whereas you  
are/were in occupation of the public premises described in the Schedule below:And whereas a sum  
of Rs.....being arrears of rent from.....days of 19 .....upto the ..... day of  
19..... (both days inclusive) in respect of the said premises is due against you and payable to the

GovernmentNow, therefore, as required by sub-section (3) of Section 7 read with sub-section (1) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I hereby call upon you to show cause on or before ..... why an order requiring you to pay the said arrear of rent should not be made.

## Schedule 4

Date... .....Signature and seal of the Collector.SPP Form VNoticeUnder Sub-Section (3) of Section 7To:Name: Shri/Shrimati/Kumari .....Address... .....Whereas I, the undersigned, am satisfied that you are/were in unauthorised occupation of public premises mentioned in the schedule below:And whereas in exercise of the powers conferred on me by sub-section (2) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I consider the damages amounting to Rs .....at the rate of Rs ..... p. m./p. a. have been caused on account of unauthorised use and occupation of the said premises for the period from ... . . . . . to. . . . . .Now, therefore, as required by sub-section (3) of Section 7 read with sub-section (2) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorized Occupants and Rent Recovery) Act, 1980, I hereby call upon you to show cause on or before the ..... why an order requiring you to pay the said damages should not be made.

## Schedule 5

Date.....Signature and seal of the Collector.SPP Form VIOrderUnder Sub-Section (1) of Section 7To:Name: Shri/Shrimati/Kumari.....Address.....Whereas you are/were in occupation of the public premises described in the schedule below;And whereas, by a written notice dated you are called upon to show cause on or before why an order requiring you to pay a sum of Rs. (Rupees ) being the rent payable in respect of the said premises should not be made;And, whereas I have considered your objection and/or the evidence produced by you;And whereas you have not made any objection or produced any evidence before the said date;Now therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) , Act, 1980, I hereby require you to pay the sum of Rs. (Rupees on or before theIn case the said sum is not paid within the said period or in the said manner it will be recovered as arrear of Land Revenue or Public Demand.

## Schedule 6

DateSignature and seal of the Collector.Strike off portion not required.SPP Form VIIOrder(Under Sub-Section (2) of Section 7)To:Name: Shri/Shrimati/KumariAddress.....Whereas, I, the undersigned, am satisfied that you are /were in unauthorised occupation of the public premises mentioned in the schedule below;And, whereas by a written notice dated ..... you were called upon to show cause on or before the ..... why an order requiring you to pay damage of Rs. .... (Rupees .....), for unauthorised use and occupation of the said premises, should not be made;\*And, whereas I have considered your produced by you;And, whereas you have not made any objections or produced any evidence before the said date; objection and I or the evidenceNow, therefore, in exercise of the powers conferred on me by sub-section (2) of section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery)

Act, 1980, I hereby order you to pay the sum of Rs. ....(Rupees ..... ) assessed by me as damages on account of your unauthorised occupation of the said premises on or before theIn the event of your refusal or failure to pay the damages within the said period, the amount will be recovered as an arrear of Land Revenue or Public Demand.

## **Schedule 7**

Date.....Signature and seal of the Collector.\* Strike off portion not required.