

# **The Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954**

PUNJAB

India

## **The Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954**

### **Act 18 of 1954**

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The Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954 Act No. 18 of 1954 Received the assent of the President on the 24th September, 1954, and first published for general information in the Patiala and East Punjab States Union Government Gazette, (Extraordinary), dated the 4th October, 1954. An Act to vest proprietary rights in occupancy tenants and provide for payment of compensation to landlords and for matters connected therewith. It is hereby enacted in the Fifth Year of the Republic of India as follows :-

### **1. Short title, extent and commencement.**

(1) This Act may be called the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954. (2) [ It extends to the territories of the State of Punjab, which, immediately before the 1st November, 1956, formed part of the State of Patiala and East Punjab States Union.] [Substituted by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.] (3) It shall come into force at once, [\* \* \* \*] [Omitted by Punjab Act No. 29 of 1958, section 2].

### **2. Definitions.**

- In this Act, unless the context otherwise requires, -(a) "appointed day" means -(i) in relation to any person who at the commencement of the President's Act, is, or is deemed to be, an occupancy tenant, the date of such commencement; and (ii) in relation to any other person who, after the commencement of the President's Act, obtains a right of occupancy in respect of any land the date on which he obtains such right of occupancy; (b) "Collector" means the Collector of the district in which the land, in respect of which proprietary rights are vested in an occupancy tenant under this Act, is situate and includes any other officer specially empowered by the Government to perform the duties of a Collector under this Act; (c) "Commissioner" and "Financial Commissioner" have the

meanings respectively assigned to them under the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887) and includes any other officer specially empowered by the Government to perform the duties of a Commissioner or Financial Commissioner under this Act; (d) "Government" means the Government of the State of [Punjab] [Substituted by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.]; (e) "Land", "land revenue", "rent" and all other words and expressions used, but not defined in this Act and defined in the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887) shall have the meanings respectively assigned to them in that Act; (f) "landlord" means a landowner or any other person under whom an occupancy tenant holds land and to whom the occupancy tenant is, or but for a special contract would be, liable to pay rent for that land and includes the predecessors and successors in interest of a landlord; (g) "landowner" has the same meaning as in the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887); (h) "Occupancy tenant", in respect of any land means a person who, at the commencement of the President's Act is or is deemed to be an occupancy tenant in respect of the land and includes a person who, after such commencement, obtains a right of occupancy in respect of the land, whether by any agreement with the landlord or by any decree or order of any court or other authority of competent jurisdiction and includes also the predecessors and successors in interest of an occupancy tenant : Provided that no person who has abandoned his tenancy shall be deemed to be an occupancy tenant within the meaning of this clause. Explanation I. - For the purposes of this clause, a person is or is deemed to be an occupancy tenant at the commencement of the President's Act - (i) if he is recorded, immediately before the commencement of the President's Act, as an occupancy tenant in the latest annual records; or (ii) if he is recorded in the record-of-rights of any of the estates of the former Faridkot State as - (a) Muzara-i-shartia; (b) Chakotedar khas; (c) Muzara bilatai-yun sifat; (d) Muzara tabe marzi malik; (e) Chakotedar nautor; of any landlord, not being the Government; or (iii) if he is recorded in the latest annual records of any estate of the former Malerkotla State as - (a) dakhilkar; (b) maurussi; or (iv) if he was recorded as an occupancy tenant in the annual records on the 11th March, 1940, and - (a) his right of occupancy in the land has been extinguished, but partition proceedings under the Farman-i-Shahi No. 6, dated the 11th March, 1947, or the Patiala and East Punjab States Union Abolition of Biswedari Ordinance, 2006 Bk. (Ordinance No. XXIII of 2006 Bk.) have not been finally completed; or (b) he has been dispossessed, or deprived of his right to the occupation of the land at any time after the 11th March, 1940, but has not been granted any relief under the Patiala and East Punjab States Union Abolition of Biswedari Ordinance, 2006 Bk. (v) [ if he is recorded, immediately before the commencement of the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Amendment Act, 1969, as a Muqarraridar in the latest annual records.] [Paragraph (v) added by Punjab Act No. 1 of 1970, section 2.] Explanation II. - Where an occupancy tenant holds any land under another occupancy tenant, the former shall be deemed to be the occupancy tenant within the meaning of this clause; (i) "prescribed" means prescribed by rules made under this Act; (j) "special officer" means any officer appointed by the Government by notification in the official Gazette for performing the functions and duties assigned to such officer under this Act and a special officer shall have jurisdiction to perform his functions in such local area as may be specified in the notification; (k) "the President's Act" means the Patiala and East Punjab States Union Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (President's Act 3 of 1953); (l) references, in this Act to the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887), and the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887), shall be construed as references to those Acts as in force in the State of Patiala and East Punjab States Union.

### **3. Extinguishment of rights of landlords and vesting the same in occupancy tenants.**

- Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, on and from the appointed day, -(a)all rights, title and interest (including the contingent interest, if any, recognised by any law, custom or usage for the time in force) of a landlord in the land held under him by an occupancy tenant shall be extinguished; and such rights, title and interest shall vest in the occupancy tenant free from all encumbrances, if any, created in the land by the landlord;(b)the landlord shall cease to have any right to collect or receive any rent in respect of such land (including arrears of rent, if any, whether under a decree or not, for any period prior to the appointed day) and his liability to pay land revenue in respect of the land shall also cease;(c)the occupancy tenant shall be liable to pay direct to the Government the land-revenue payable in respect of the land;(d)the landlord shall be entitled to receive and be paid such compensation as may be determined or deemed to have been determined, under this Act.

### **4. Determination of compensation payable to the landlord.**

(1)Any landlord whose rights have been extinguished under section 3 may, within twelve months from the appointed day, make an application to the special officer of competent jurisdiction in such form and manner as may be prescribed, for the determination of the amount of compensation payable to him.(2)For the purpose of determining the amount of compensation, payable to a landlord, the special officer may, of his own motion, and shall, on receipt of an application under sub-section (1), issue notice to the parties concerned and, after giving the parties an opportunity of being heard and after making such inquiry as he may consider necessary, the special officer shall make an award determining the amount of compensation payable by the occupancy tenant in accordance with the provisions of sections 5 and 6.(3)Where there is any dispute as to the person or persons who are entitled to the compensation, the special officer shall decide such dispute and if he finds that more than one person is entitled to compensation, he shall apportion the amount thereof amongst such persons.(4)Where the compensation is payable to a minor or to a person having a limited interest, the special officer may make such arrangement as may be equitable, having regard to the interests of the minor, the person having a limited interest and their reversioners.(5)In making any award under this Act, the special officer may having regard to the amount of compensation and other circumstances of the case, allow the occupancy tenant to pay the compensation in such instalments and within such time as may be specified in the award; and in fixing such instalments, the special officer shall have regard to the following considerations, namely :-(a)Where the amount of compensation does not exceed two hundred and fifty rupees, the compensation may be recovered within a period of six months from the date of the award;(b)Where the amount of compensation exceeds two hundred and fifty rupees the excess amount may be recovered in such six-monthly instalments, not extending in any case beyond six years from the date of the award, as the special officer thinks fit.(6)Every award made under this section shall contain such particulars as may be prescribed; and a copy of the award shall be forwarded to the occupancy tenant and the landlord.

## **5. Principles of compensation.**

(1)The amount of compensation payable to the landlord for the extinguishment of his right, title and interest in any land under section 3 shall be determined in accordance with the provisions hereinafter set out, that is to say -(a)where the rent payable by the occupancy tenant is expressed in terms of the land revenue in respect of the land, the amount of compensation shall be twelve times the annual rent thereof exclusive of land revenue and rates and cesses;(b)where the rent payable by the occupancy tenant is not so expressed in terms of the land revenue of the land, and -(i)if the rent is payable in cash whether as a fixed amount or at a fixed rate with reference to the area of the land, the amount of compensation shall be twelve times the annual rent thereof exclusive of land revenue and rates and cesses or twelve times the land revenue including rates and cesses payable by the landlord in respect of the land, whichever amount is less; or(ii)If the rent is payable wholly or partly by a division or appraisalment of the produce on the basis of batai, the amount of compensation shall be twelve times the land revenue including rates and cesses payable by the landlord in respect of the land;(c)where no rent is payable by the occupancy tenant in respect of the land, the amount of compensation shall be an amount equal to the land revenue and rates and cesses payable by the landlord in respect of the land.(2)Where an occupancy tenant has not paid rent in respect of his land for any period prior to the appointed day, the compensation payable to the landlord shall, in addition to the amount determined under sub-section (1), include the amount of arrears of rent lawfully recoverable from the occupancy tenant:Provided that where the rent is payable wholly or partly by a division or appraisalment of the produce on the basis of batai, then, notwithstanding anything to the contrary contained in any contract, judgment or decree, the rate of annual rent shall, for the purposes of this sub- section, be deemed to be equal to twice the land revenue including rates and cesses payable by the landlord in respect of the land.Explanation. - For the purposes of this sub-section, the amount of arrears of rent lawfully recoverable means -(i)the amount of arrears of rent as may be determined in accordance with this sub-section for any period not exceeding three years prior to the appointed day where no decree for such period has been obtained; or(ii)the amount of arrears of rent as may be determined in accordance with this sub-section for any period not exceeding six years prior to the appointed day where a decree for such period has been obtained and the decree is legally executable on the appointed day.

## **6. Rights of landlords in Shamilat to vest in occupancy tenants.**

(1)Where the rights of a landlord in respect of any land have vested in an occupancy tenant under section 3, then, notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, the right, title and interest of the landlord in the share in the Shamilat in proportion to that land shall also, as from the appointed day, be extinguished and such right, title and interest in that share shall vest in the occupancy tenant free from all encumbrances, if any, created therein by the landlord; and the occupancy tenant shall be liable to pay land revenue, if any, in respect of that share.(2)The amount of compensation payable to the landlord for the extinguishment of his right, title and interest in any share under sub-section (1) shall be twelve times the land revenue including rates and cesses payable in respect of that share :Provided that in any case where the Shamilat is not liable to the payment of land revenue, the land revenue in respect thereof shall, for the purposes of this sub-section, be deemed to be assessed at the lowest rate

prevalent in the village in respect of barani land and the amount of compensation shall be six times the land revenue so assessed.

## **7. Liability of occupancy tenant for payment of compensation.**

(1)The amount of compensation awarded or deemed to have been awarded under this Act shall be deposited with the Collector by the occupancy tenant in accordance with the terms of the award.(2)Where the occupancy tenant makes a default in the payment of compensation or any instalment thereof in accordance with the terms of the award, the amount due may be recovered from him in the same manner as an arrear of land revenue.

## **8. Payment of compensation to landlords.**

(1)There shall be paid by the Government to every landlord as compensation for the extinguishment of his rights, title and interest in the land and of his right to recover arrears of rent, if any, due to him in respect thereof, the amount determined in that behalf under section 4.(2)The compensation payable under this Act shall, subject to the provisions of sub-section (3) and sub-section (4), be given in cash or in bonds or partly in cash and partly in bonds.(3)Where the amount of compensation does not exceed two hundred and fifty rupees, the compensation shall be given in cash within a period of eight months from the date of the award.(4)Where the amount of compensation exceeds two hundred and fifty rupees, the excess amount may be given in bonds carrying interest at three per centum per annum from the date of the award to the date of the redemption of bonds, and the bonds may be redeemed in such instalments, as the Government thinks fit, not extending in any case beyond eight years from the date of the award.

## **9. Appeal and revision.**

(1)Any person aggrieved by an award or order made by the special officer may, within thirty days from the date of the award or order, prefer an appeal to the Collector in such form and manner as be prescribed :Provided that the Collector may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)Any person aggrieved by an order of the Collector may, within thirty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed :Provided that the Commissioner may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(3)With respect to all matters dealt with under this Act, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the special officer, or the Collector or the Commissioner as provided in section 84 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

## **10. Amendment of orders.**

- Clerical or arithmetical mistakes in orders passed by the Financial Commissioner or a

Commissioner or a Collector or a special officer or errors arising therein from any accidental slip or omission may at any time, be corrected by the Financial Commissioner or the Commissioner or the Collector or the special officer, as the case may be, either on his own motion or on an application received in this behalf from any of the parties.

## **11. Certain powers of special officer, Collector, Commissioner and Financial Commissioner.**

- For the purpose of this Act, the Financial Commissioner, Commissioner, Collector and special officer may, in so far as may be necessary or expedient so to do, exercise all the powers of a revenue officer or a revenue court, as the case may be, under the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

## **12. Certain mortgages and charges not enforceable against any land held by occupancy tenants.**

- Notwithstanding anything contained in any contract or any law for the time being in force, no claim or liability, whether under any decree or order of a civil court or otherwise, enforceable against a landlord for any money which is charged on, or is secured by a mortgage of, any land held under him by an occupancy tenant, shall be enforceable against the land, and every such claim or liability shall be deemed to be a charge on the compensation payable to the landlord in respect of such land.

## **12A. [ Act not to apply to certain evacuee property. [Section 12A inserted by Punjab Act No. 29 of 1958, section 2.]**

(1) Nothing in this Act shall apply to evacuee property as defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950). (2) Notwithstanding anything contained in sub-section (1), the provisions of this Act shall, subject to the provisions of sub-section (3), apply to - (a) a person who, after the commencement of this Act, obtains a right of occupancy from the Central Government under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954); and (b) an occupancy tenant of a landlord who is an evacuee as defined in clause (d) of section 2 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950). (3) For the purposes of section 3 and sub-section (1) of section 4 the appointed date, in relation to a person referred to in sub-section (2), shall notwithstanding anything to the contrary contained in this Act or in any judgment, decree or order of any court, be, - (i) in the case of a person, who obtains a right of occupancy from the Central Government after the commencement of the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) (Amendment) Ordinance, 1958, the date on which such right is obtained; and (ii) in any other case the date of commencement of the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) (Amendment) Ordinance, 1958.]

### **13. Bar of jurisdiction.**

(1) Except under sub-section (3) of section 4, no Civil Court or any other authority shall have jurisdiction to settle, decide or deal with any question which under this Act is required to be settled, decided or dealt with by the Financial Commissioner, Commissioner, Collector or special officer. (2) Save as otherwise expressly provided in this Act, every award or order made by the Financial Commissioner or the Commissioner or the Collector or the special officer shall be final and no award or order made under this Act, shall be called in question by any court or other authority.

### **14. Protection of action taken in good faith.**

(1) No suit, prosecution or other legal proceeding shall lie against any officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder. (2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provision contained in this Act or any rules made thereunder.

### **15. Certain officers to be public servants.**

- Every officer acting under or in pursuance of the provisions of this Act or any rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

### **16. Removal of certain doubts.**

- For the removal of doubts, it is hereby declared that all proceedings commenced under the Patiala and East Punjab States Union Abolition of Biswedari Ordinance, 2006 (Ordinance No. XXIII of 2006 Bk.) and the Farman-i-Shahi No. 6, dated the 11th March, 1947, shall be disposed of in accordance with the provisions of this Act.

### **17. Power to make rules.**

(1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes 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 and manner in which the application for determination of compensation may be made by the landlord; (b) the form of notice and the manner in which notices may be served under this Act; (c) the manner in which inquiries may be held under this Act; (d) the circumstances to be taken into consideration in fixing the number and amount of instalments for payment of compensation by an occupancy tenant; (e) the particulars which an award may contain; (f) the manner in which compensation may be deposited by the occupancy tenant with the Collector; (g) the manner of payment of compensation to the landlord by the Government; (h) the manner in which appeals and applications for revision may be

filed;(i)fees, if any, to be paid on an application under this Act; or(j)any other matter which has to be, or may be, prescribed.

## **18. Repeal and Savings.**

- The Patiala and East Punjab States Union Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (President's Act 3 of 1953), is hereby repealed but, notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action was taken.