

The Punjab Village Common Lands (Regulation) Amendment Act, 1964

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Act 19 of 1964

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The Punjab Village Common Lands (Regulation) Amendment Act, 1964 Punjab Act No. 19 of 1964 Statement of Object and reasons. - "The object of this Bill is to make certain provisions in the principal Act which have been found from experience to be necessary for effective administration of this Act. 2. According to Section 5 of the act, where the area of land in shamlat deh of any village is in excess of 25 per cent of the total area of that village then shamlat deh equivalent to 25 per cent of the total area of the village will be used by the Panchayat for the benefit of the inhabitants of the Panchayat area, and the remaining area of shamlat deh will be utilized for the settlement of landless tenants and for distribution among small landowners. Applied to hilly areas this provision will result in land being used in disregard of the provisions of the Indian Forest Act or the Land Preservation Act or the rules made thereunder. Such use of land would also be not in conformity with the National Forest Policy. It is, therefore, proposed that the third proviso to sub-section (1) as also sub-sections (2) and (3) should not apply in the case of Shamlat lands in hilly areas and such land should not be used by Panchayats in contravention of the provisions of the Indian Forest Act. 3. The Panchayats have, in a large number of cases, given Shamlat lands on defective leases either without putting the land to auction or without observing the prescribed rules or have leased out lands for more than five years (in some cases 50 years) and in many cases on unremunerative rates. The income from such leases is much less than normally expected. It is, therefore, proposed to make provision for the cancellation of such leases and to provide for compensation to be assessed by the Collector for any loss or damages caused to the lessee, etc., which naturally arose in the usual course of things from such cancellation or variation. 4. It is proposed to make a provision in the Act to safeguard the sub-terranean rights of the Government in lands vested in the Panchayats and to avoid litigation between the Government and Panchayats. Published vide Punjab Gazette (Extraordinary), Legislative Supplement, dated March 9, 1964/Phalgun 19, 1885 Saka. An Act to amend the Punjab Village Common Lands (Regulation) Act, 1961. Be it enacted by the Legislature of the State of Punjab in the Fifteenth Year of the Republic of India as follows :-

1. Short title.

- This Act may be called the Punjab Village Common Lands (Regulation) Amendment Act, 1964.

2. Amendment of Section 2 of Punjab Act 18 of 1961.

- In Section 2 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the Principal Act), after clause (b), the following new clause shall be inserted, namely :-(bb) "hilly area" means -(i) Kangra and Simla Districts; (ii) Dharkalan Block in Gurdaspur District; (iii) Una Tehsil and Hajipur Block, Dasuya Block, Hoshiarpur I Block, Hoshiarpur II Block and Balachaur Block in Hoshiarpur District; and (iv) Nalagarh Tehsil and Rupar Block, Naraingarh Block, Manimajra Block, Raipur Rani Block and Chhachrauli Block in Ambala District;"

3. Amendment of Section 5 of Punjab Act 18 of 1961.

- After sub-section (3) of Section 5 of the Principal Act, the following new sub-section shall be added, namely :-(4) Nothing contained in the third proviso to sub-section (1), and in sub-section (2) and sub-section (3), shall apply to the hilly area."

4. Insertion of new Section 10A in Punjab Act 18 of 1961.

- After section 10 of the principal Act, the following section shall be inserted, namely :-"10-A. Power of Collector to cancel or vary leases, etc. of lands vested in Panchayats. - (1) Notwithstanding anything contained in this Act or the Shamlat Law or in any other law for the time being in force, the Collector may call for from any Panchayat in his district the record of any land vested or deemed to be vested in it, whether such lease, contract or agreement is entered into before or after the commencement of the Punjab Village Common Lands (Regulation) Amendment Act, 1964, and examine such record for the purpose of satisfying himself as to the legality or propriety of such lease, contract or agreement. (2) Where, on examination of the record under sub-section (1) and after making such inquiry, if any, as he may deem fit, the Collector is satisfied that such lease, contract or agreement -(i) has been entered into in contravention of any of the provisions of this Act or the rules made thereunder; or (ii) has been entered into as a result of fraud or concealment of facts; or (iii) is detrimental to the interests of the Panchayats as prescribed; the Collector may, notwithstanding anything as aforesaid, cancel the lease, contract or agreement or vary the terms thereof unconditionally or subject to such conditions as he may think fit : Provided that no order under this sub-section shall be passed by the Collector without affording an opportunity of being heard to the parties to the lease, contract or agreement. (3) Where the terms of any lease, contract or agreement have been varied by the Collector under sub-section (2), the variation shall, notwithstanding anything contained in this Act or the shamlat law or in any law for the time being in force, be binding on the parties to the lease, contract or agreement, as the case may be. (4) Where the lessee or the person with whom a contract or agreement has been entered into by a Panchayat refuses to accept the variation made by the Collector under this Section in the terms of his lease, contract or agreement, such lease, contract or agreement, as the case may be, shall be deemed to be cancelled by

the Collector under this section with effect from the date of such refusal.(5)Where under this section any lease, contract or agreement is cancelled or deemed to be cancelled or its terms are varied, the lessee or the person with whom the contract or agreement has been entered into, who suffers by such cancellation or variation, is entitled to receive compensation to be assessed by the Collector for any loss or damage caused to the lessee or such person which naturally arose in the usual course of things from such cancellation or variation :Provided that no such compensation shall be given for any remote and indirect loss or damage sustained by reason of such cancellation or variation.(6)Notwithstanding anything contained in any law for the time being in force, the amount of compensation awarded by the Collector under this section shall be payable by the Panchayat in the prescribed manner and shall be a valid charge on the Sabha fund.(7)Any party to a lease, contract or agreement aggrieved by any order of the Collector made under this Section may, within a period of thirty days from the date of such order appeal to the Commissioner whose decision thereon shall be final."

5. Insertion of new Section 14A in Punjab Act 18 of 1961.

- After section 14 of the Principal Act, the following Section shall be inserted, namely :-"14A. Saving.
- Nothing contained in this Act or the shamlat law shall -(a)affect or shall be deemed ever to have affected any right of the State Government in the land vested or deemed to be vested in a Panchayat under this Act; or(b)entitle or shall be deemed ever to have entitled a Panchayat or any other authority under this Act or the shamlat law to exercise any right or to do any Act in respect of any land in the hilly area vested or deemed to be vested in the Panchayat whether such land has or has not been declared as a protected forest under section 29 of the Indian Forest Act, 1927 in contravention of the provisions of that Act or the rules made thereunder."