

The Gujarat Motor Vehicles (Requisitioning and Control) Act, 1987

GUJARAT

India

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Act 10 of 1987

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The Gujarat Motor Vehicles (Requisitioning and Control) Act, 1987 Gujarat Act No. 10 of 1987 [Dated 10th March, 1987] For Statement of Objects and Reasons, see Gujarat Government Gazette, Extraordinary, Part V, Dated the 30th January, 1987, pp. 6-8 to 6-9. This Act was assented to by the President on the 9th March, 1987. An Act to provide for the requisitioning and control of motor vehicles in certain emergent circumstances. It is hereby enacted in the Thirty-eighth year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Motor Vehicles (Requisitioning and Control) Act, 1987. (2) It extends to the whole of the State of Gujarat. (3) This section shall be deemed to have come into force on the 8th December, 1986 and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "motor vehicle" has the same meaning as assigned to that expression under clause (18) of Section 2 of the Motor Vehicles Act, 1939 (IV of 1939); (b) "owner" includes, where the person in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire purchase agreement or, as the case may be, of hypothecation, the person in possession of the vehicle under such agreement of hypothecation; (c) "prescribed" means prescribed by rules made under this Act.

3. Declaration by State Government.

- If the State Government is satisfied that a situation has arisen in which it is necessary or expedient to secure, - (i) the public safety; (ii) the maintenance of public order or of the services and supplies essential to the life of community; or (iii) the relief of distress caused by serious drought, flood, fire or other natural calamity, the State Government may, by notification in the Official Gazette, make a declaration to that effect and such declaration shall continue to be in force till it is rescinded.

4. Requisitioning of motor vehicle.

(1) Where a declaration made under section 3 is in force, the State Government may, by order in writing, requisition any motor vehicle and may make such further orders as appears to it to be necessary or expedient in connection with the requisitioning: Provided that no motor vehicle which is engaged in the transport or distribution of any essential commodity in pursuance of any order issued by the Central Government under the Essential Commodities Act, 1955 (10 of 1955), shall be requisitioned under this sub-section. (2) Where the State Government has requisitioned any motor vehicle under subsection (1), it shall vest in the State Government for the period of the requisitioning and the State Government may use or deal with it in such manner as it may appear to be expedient. (3) Any person authorised by the State Government may at any reasonable hour enter any building, land or other premises and inspect any motor vehicle therein or thereon for the purpose of determining whether, and if so, in what manner, any order under this section should be made in relation to such vehicle, or with a view to securing compliance with any order made under this section.

5. Release from requisitioning.

(1) The State Government may, at any time release from requisitioning any motor vehicle requisitioned under section 4 and shall, as far as possible, restore the vehicle in as good a condition as it was when possession thereof, was taken subject only to the changes caused by reasonable wear and tear. (2) When any vehicle is to be released from requisitioning, the State Government may after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing to whom possession of the vehicle shall be given. (3) The delivery of possession of the requisitioned vehicle to the person specified in the order made under sub-section (2) shall be a full discharge of the State Government from all liability in respect of such motor vehicle and the requisitioning shall be at an end: Provided that, nothing in this section shall prejudice any rights in respect of the motor vehicle which any other person may be entitled to, by due process of law, to enforce against the person to whom the possession of the motor vehicle is so delivered. (4) Where the person to whom the possession of any requisitioned vehicle is to be given cannot be found and has no legal agent or other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that vehicle is released from requisitioning to be published in the Official Gazette. (5) When such notice is published in the Official Gazette, the vehicle specified therein shall cease to be subject to requisitioning on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the State Government shall not be liable for any compensation or other claims in respect of the vehicle for any

period after such date.

6. Principles of compensation for requisitioning.

(1) The compensation payable in respect of requisitioning of any motor vehicle shall be the sum total of the following items:—(i) Interest on the cost at which the owner had purchased the vehicle calculated in such manner and at such rate not being less than ten per cent per annum or not more than thirteen per cent per annum as may be prescribed for all or any class of motor vehicles and different rates of interest may be prescribed having regard to the circumstances whether the vehicle was purchased on hire purchase basis or by obtaining loan from a bank or otherwise: Provided that, where the vehicle had been obtained by the owner as a gift or its cost cannot be established by him to the satisfaction of the State Government or its cost exceeds the current replacement price of the vehicle the current price of the same vehicle or vehicle which, in the opinion of the State Government is substantially similar to it shall be taken to be its cost. (ii) An amount representing depreciation of the vehicle during the period of its requisitioning calculated at a rate not exceeding thirty per cent per annum and in a manner that may be prescribed for all or any class of motor vehicles. (iii) An amount for the loss of the use of the vehicle or of any profits that might have been earned but for the requisitioning, at such percentage not being less than three per cent per annum, as may be prescribed of the cost referred to in clause (i) as reduced by depreciation calculated at the same rate as for clause (ii) in such manner and for such period as may be so prescribed. (iv) Any further amount that the State Government may, by general or special order, specify: Provided that, if during the period of requisitioning the vehicle is damaged otherwise than by normal wear and tear, or lost at a time when, it is not insured, there shall be paid to the owner additional compensation of a sum equal to the cost of making good the damage or, in the case of a total loss, a sum equal to the compensation that may be payable if the vehicle is acquired on the date of the loss, such compensation being determined in the prescribed manner. (2) The amount of compensation to be determined in accordance with sub-section (1) shall be determined within sixty days from the date of release of a motor vehicle from requisitioning under sub-section (1) of Section 5. (3) Where the owner is aggrieved by the amount of compensation determined in accordance with sub-section (1) he may make an application within such time and in such form and manner as may be prescribed to the State Government for referring the matter to an arbitrator appointed in this behalf by the State Government. Such arbitrator shall be a person who has been a Judge of any Court of law in the State. The amount of compensation to be paid shall be such as may be determined by the arbitrator in accordance with sub-section (1). (4) Where there is any dispute as to the right to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to such arbitrator appointed in this behalf by the State Government for determination and shall be determined in accordance with the decision of such arbitrator. (5) Any person aggrieved by the decision of the arbitrator under sub-section (3) or (4) may make an appeal within such time and in such form and manner as may be prescribed to the District Court having jurisdiction over the area in which the motor vehicle was requisitioned. (6) The decision of the District Court in appeal and subject to such decision, the decision of the arbitrator about sub-section (3) or (4) shall be final.

7. Payment of compensation.

- The compensation determined under section 6 for requisitioning any motor vehicle shall be paid within a period of thirty days from the date of determination and in such manner as may be prescribed: Provided that where requisitioning of a motor vehicle is likely to be continued for a period not less than a month interim compensation of such ad hoc amount as may be prescribed, may be paid: Provided further that, where payment of compensation is delayed beyond the period so prescribed, interest shall be payable on the amount or part of the amount in arrear at such rate not being less than ten percent or more than thirteen per cent per annum as may be prescribed.

8. Power to require information, etc.

- The State Government may, with a view to requisitioning any motor vehicle or determining the compensation payable thereof or taking any other action in pursuance of the foregoing provisions, by order in writing.-(a)require any person to submit to it or such authority as may be specified in the order, within such time or at such intervals, such information and documents in his possession relating to the vehicle as may be specified therein, being information and documents reasonably necessary for carrying into effect the provisions aforesaid;(b)direct that the owner or person in charge of the vehicle shall not, without the permission of the State Government, dispose of it, or remove it from the premises in which it is kept, or remove any tyres, tubes, accessories or parts from the vehicle, till the expiry of such period as may be so specified.

9. Penalty for contravention of any order regarding requisitioning.

- If any person contravenes any order made under section 4 or any order not being an order made with a view to determining the compensation payable for requisitioning any motor vehicle under section 8, he shall on conviction be punished with imprisonment for a term which may extend to six months or with fine or with both.

10. Control of motor vehicles.

(1)Where a declaration made under section 3 is in force, the State Government may, without prejudice to other provisions of this Act by general or special order, in such area and for such period as may be specified in the order, -(a)regulate, restrict or give directions with respect to the use of any motor vehicle for the purpose of road transport or the sale or purchase of any such vehicle;(b)require any person owning, or having in his possession or under his control any motor vehicle (hereinafter in this section referred to as "the said person") to make to any person specified in this behalf a return giving such particulars as may be specified in the order with regard to such vehicle and require such return to be verified in such manner as may be specified therein;(c)require the said person to give notice in such manner as may be specified in the order before disposing of the motor vehicle or allowing it to pass out of his possession or control;(d)require the said person, or any person employed in connection with any motor vehicle, to comply with any directions given by any person specified in, or duly authorised in pursuance of, the order and such directions may

require the said person or such employed persons to use the vehicle for the conveyance of such persons or goods at such time and by such routes as may be set forth in the directions;(e)prescribe the conditions subject to which and the rates at which any motor vehicle may be hired for the purpose of road transport and persons or goods may be carried by road, and the conditions subject to which goods so carried or to be carried may be discharged or loaded;(f)provide for the giving of directions with respect to the carriage of persons or goods on any particular motor vehicle or by any particular route, or to any clearing house or depot :(g)provide for the regulation of the priority in which persons and goods are to be carried by road and vehicles are to be used for the purpose of road transport;(h)make such other provisions in relation to road transport as appear to the State Government to be necessary or expedient.(2)If any police officer not below the rank of sub-inspector of police or any Gazetted Officer authorised by the State Government in this behalf has reason to believe that any motor vehicle is or is kept in or upon any building, land or other premises, or is being used by any person in contravention of an order made under sub-section (1), such officer may,-(a)enter and search any such building, land or premises, as the case may be, and seize any motor vehicle found which he suspects to be therein or thereon in contravention of the order;(b)stop such person and seize any motor vehicle which is being used in contravention or the order.(3)If any person contravenes any order made in pursuance of this section he shall on conviction be punished with imprisonment for a term which may extend to six months, or fine, or with both.

11. Service of orders and notices.

- Save as otherwise expressly provided in this Act, any order made or notice issued under the provisions of this Act shall be deemed to have been served on the owner of a motor vehicle if it is served on the person having possession or control of that vehicle.

12. Delegation of powers and duties of State Government.

- The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on it by any of the provisions of this Act (except the power to make declaration under section 3 or the power to make rules under section (14) shall, under such conditions, if any, as may be specified in the direction be exercised or discharged also by the collector within the territorial limits of his jurisdiction.

13. Protection of action taken under Act.

(1)No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or omitted to be done in pursuance of this Act or any rules or orders made thereunder.(2)No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or omitted to be done in pursuance of this Act or any rules or order made thereunder.

14. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules to carry out all or any of the purpose of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.(3)The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(5)Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

15. Repeal and savings.

(1)The Gujarat Motor Vehicles (Requisitioning and Control) Ordinance, 1986 (Gujarat Ord. 13 of 1986) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.