

The East Punjab Refugees Rehabilitation (Loans and Grants) Act, 1948

HARYANA

India

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Act 2 of 1948

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The East Punjab Refugees Rehabilitation (Loans and Grants) Act, 1948 East Punjab Act No. 2 of 1948 Statement and Objects and Reasons. - Whereas it is expedient to enact the law for the sanction of grants and loans to help the resettlement of displaced persons from West Pakistan such as traders, shop-keepers, artisans, persons wishing to start their own workshops or cottage industries, Doctors and Radiologists and lawyers and to replace the Ordinance No. IV of 1948, on the subject, it is enacted as follows (vide East Punjab Government Gazette Extraordinary, dated the 3rd March 1948, page 153.) Received the assent of His Excellency the Governor on the 15th November, 1948, and first published in the East Punjab Government Gazette (Extraordinary) of March 20, 1948. It is hereby enacted as follows :-

1. Short title and extent.

(1) This Act may be called the East Punjab Refugees Rehabilitation (Loans and Grants) Act, 1948. (2) It extends to the whole of the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] of [Principal territories] [Substituted for the words 'Punjab' by the Adaptation of Laws Order, 1968].

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a) "borrower" or "grantee" means an individual, company or [group, co-operative society or other] [Inserted by East Punjab Act 25 of 1949, section 2(a).] association or body of individuals, whether incorporated or not to whom or to which a loan or a grant, as the case may be, has been made under this Act; (b) "Company" means a company as defined in the Indian Companies Act, 1913 (VII of 1913); (c) "Controlling Authority" means the authority competent to sanction a loan or make a grant

under the powers conferred by this Act;(cc)["co-operative society" means a society registered under the Co-operative Societies Act II of 1912, all the members of which are refugees] [Inserted by East Punjab Act 25 of 1949, section 2(b).];(d)"Financial Commissioner" means the Financial Commissioner, Rehabilitation, appointed under this Act;(e)["Deputy Commissioner" means the Deputy Commissioner of the District and includes an Additional Deputy Commissioner or any other officer authorised by the State Government to discharge the functions of the Deputy Commissioner under the Act] [Substituted for the old clause by Punjab Act 16 of 1950, section 2. The original clause had been amended by East Punjab Act 25 of 1949, section 2(c).];(ee)["group" means a combination of not less than four refugees, no two of them belonging to the same family, who enter into a partnership for the purpose of engaging in a business, industry or profession] [Inserted by East Punjab Act 25 of 1949, section 2(d).];(f)"prescribed" means prescribed by rules made under this Act; and(g)["refugee" means a person ordinarily resident or owning property prior to 1st of March, 1947, in the territories now comprised in Western Pakistan and who has left the said territories on account of civil disturbances or the fear of civil disturbances and is for the time being resident in [Punjab] [Substituted for the old clause by East Punjab Act 31 of 1948, section 2.]](h)["Registrar" means the Registrar, Co-operative Societies, Rehabilitation, appointed under this Act.] [Inserted by East Punjab Act 25 of 1949, section 2(e).]

3. Controlling Authority.

(1)For the purpose of making loans and grants to refugees for their rehabilitation, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may appoint a Financial Commissioner, Rehabilitation [and a Registrar, Co-operative Societies, Rehabilitation] [Inserted by East Punjab Act 25 of 1949, section 3(a)(i).], for the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] [-] [The words 'and either by name or designation, Deputy Commissioner, Rehabilitation, for such local areas as may be prescribed' omitted by East Punjab Act 25 of 1949, section 3(a)(ii).] and may by general or special order provide for the distribution or allocation of the work to be performed by them under this Act or the rules framed thereunder.(2)The Financial Commissioner [the Registrar] [Inserted by East Punjab Act 25 of 1949, section 3(b).] or a Deputy Commissioner may with the sanction of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government delegate any of his functions to any officer of the [Government] [Substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] whether by name or designation.

4. Limits of loans and grants.

- [(1) The amount of grant which may be made to a refugee under this Act shall not exceed Rs. 500.(2)The amount of loan which may be made to a refugee, a group, and a co-operative society under this Act shall not exceed Rs. 5,000, Rs. 20,000 and Rs. 25,000, respectively.] [Substituted for the old section by East Punjab Act 25 of 1949, section 4.]

5. Procedure for sanctioning loans and grants.

(1) Any refugee [or group] [Inserted by East Punjab Act 26 of 1949, section 5(a)(i).] may submit to the Deputy Commissioner, within the local limits of whose jurisdiction [the refugee or, as the case may be, a member of the group resides or intends to carry on] [Substituted for the words 'he resides or intends to carry on his' by East Punjab Act 25 of 1949, section 5(a)(i).] business or profession, an application in the prescribed form, supported by an affidavit, stating the amount of loan or grant desired [-] [The words 'by him' omitted by East Punjab Act 25 of 1949. section 5(a)(iii).] [-] the purpose for which it is desired and the manner in which the repayment of the loan, if granted [* * * *] [The words 'to him' omitted by East Punjab Act 25 of 1949. section 5(a)(iii).], is proposed. (2) The Deputy Commissioner, if satisfied that the applicant is a refugee, may -(a) if the application is for a grant of a sum not exceeding Rs. 250 or for a loan of a sum not exceeding Rs. 2,000, sanction the loan or the grant, as the case may be, to the extent of the amount stated in the application or any lesser amount as he may consider fit; (b) if the application is for a grant of a sum exceeding Rs. 250 or for a loan of a sum exceeding Rs. 2,000 forward it along with his recommendations as to the amount for which it may be sanctioned, to the Financial Commissioner. [(2-A) The Deputy Commissioner, if satisfied that the individuals constituting a group are all refugees, may -(a) if the application is for a loan not exceeding Rs. 1,000 per member of the group and not exceeding Rs. 10,000 for the group, sanction the loan to the extent of the amount stated in the application or any lesser amount as he considers fit, and (b) if the application is for a loan exceeding Rs. 1,000 per member of the group or exceeding Rs. 10,000 for the group forward it along with his recommendations as to the amount for which it may be sanctioned to the Financial Commissioner. (2-B) (a) Any co-operative society may submit to the Registrar an application in the prescribed form, supported by an affidavit, stating the amount of loan desired, the purpose for which it is desired and the manner in which the repayment of loan, if granted, is proposed. (b) The Registrar may -(i) if the application is for a loan not exceeding Rs. 1,000 per member of the co-operative society and not exceeding Rs. 10,000 for the co-operative society as a whole, sanction the loan to the extent of amount stated in the application, or any lesser amount as he considers fit, and (ii) if the application is for a loan exceeding Rs. 1,000 per member of the co-operative society or exceeding Rs. 10,000 for the co-operative society as a whole, forward it along with his recommendation as to the amount for which it may be sanctioned, to the Financial Commissioner". (3) The Deputy Commissioner may, after consulting such authorities, if any, as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe, specify the conditions on which any loan or grant sanctioned by him is made, and in the case of a loan, specify the instalments by which it is to be repaid. (4) The Financial Commissioner shall after consulting such authorities, if any, as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may in this behalf prescribe, either reject the application or accept it in whole or in part, and may specify the conditions on which the loan or grant is to be made, and in the case of a loan, specify the instalments in which it is to be repaid : [Provided that in the case of a loan to a co-operative society the amount sanctioned shall not exceed Rs. 2,000 per member of the society] [Inserted by East Punjab Act 25 of 1949, section 5(c).].

5A. [[Added by Punjab Act 3 of 1950, section 2.]

(1)Notwithstanding anything contained in the last preceding section the Financial Commissioner may entertain direct from any individual refugee or group an application in the prescribed form supported by an affidavit stating the amount of loan desired, and the manner in which repayment of the loan if granted, is proposed.(2)The Financial Commissioner if satisfied that the applicant is a refugee may, after consulting such authorities, if any, as the State Government may in this behalf prescribe sanction the loan to the extent of the amount stated in the application under sub-section (1) or any lesser amount as he may consider fit.] [Inserted by East Punjab Act 25 of 1949, section 5(b).]

6. Security for repayment of loans.

(1)When an application for loan has been sanctioned, the applicant shall execute a bond in the prescribed form undertaking to apply the money lent to the purpose or purposes for which, and to fulfil the conditions on which the application has been sanctioned.(2)For a loan not exceeding Rs. 2,000 the applicant shall furnish one surety and for loans exceeding Rs. 2,000 two sureties, and the person and property of the applicant as well as the surety or the sureties, as the case may be, shall be liable for the repayment of the loan with interest and costs, if any, incurred in making or recovering the loan :Provided that the Controlling Authority may in any case exempt the applicant from furnishing a surety or sureties, as the case may be.(3)When the application has been made by a [Co-operative Society] [Inserted by East Punjab Act 25 of 1949, section 6(a).], firm or company the bond shall be executed by a duly authorised representative thereof, and the bond shall thereupon be deemed binding on the said [Co-operative Society] [Inserted by East Punjab Act 25 of 1949, section 6(a).], firm or company and the property of the said [Co-operative Society], firm or company shall be liable for the repayment of the loan in the same manner as if the loan had been granted to an individual.[(3-A) When the application has been made by a group, the bond shall be executed by all the members of the group and the bond shall thereupon be deemed binding on all the members of the group jointly and severally and the property of the said group and of all the members of the group shall be liable for the repayment of the loan] [Added by East Punjab Act 25 of 1949, section 6(b).].(4)Any plant or machinery which the borrower purchases with or with the aid of the loan advanced to him shall, until the loan be repaid in the full, remain the sole and absolute property of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and any transfer thereof or assignment of any right, title or interest therein or the creation of any mortgage, encumbrance or any other charge thereon by the borrower shall be void against the [State] Government, unless it has been made with the previous written consent of the Controlling Authority.(5)[Any plant or machinery such as is referred to in the last preceding sub-section, and the stock in trade of the borrower purchased with or with the aid of the loan advanced to him shall, until the loan be repaid in full, not be liable to attachment or sale in the execution of a decree or order of any court.] [Added by East Punjab Act 31 of 1948, section 3.]

7. Agreement to be executed by grantee.

- When the application for a grant has been accepted the applicant shall execute a bond in the prescribed form undertaking to apply the money to the purpose or purposes for and to fulfil the conditions on which the grant was made and shall undertake that if it is not used for such purposes or if there is any breach of such conditions, the amount of the grant shall be realisable as if it was a loan made under section 5 of this Act.

8. Loans how repayable.

- The loan together with all interest due thereon, if any, shall, except as provided in any bond executed by the borrower, be repayable by annual instalments for a period of [six] [Substituted for the word 'seven' by East Punjab Act 25 of 1949, section 7.] years :Provided that except as specified in the bond executed by the borrower the repayment of instalments and interest shall commence [twenty-four] [Substituted for the word 'twelve' by East Punjab Act 25 of 1949, section 7.] months after the date of disbursement of the loan :[Provided further that the period of repayment of loan in deserving cases may be extended beyond the period of six years without affecting the terms and conditions of loans already advanced in respect of which bonds have been executed.] [Added by East Punjab Act 25 of 1949, section 7.]

9. Inspection and supply of information.

- Any borrower or grantee who makes default in the repayment of the loan or any instalment or interest due thereon shall be bounder :-(a)to comply with any general or special order of the Controlling Authority relating to the inspection of the premises, buildings, machinery and stock in hand purchased or hired by the borrower or grantee with the aid of the loan or grant, as the case may be, made to him; and(b)to furnish any information which the aforesaid authority may require relative to the purpose or purposes for which the loan or grant was made or the manner in which the loan or grant has been or is being utilized.

10. Default in compliance with order under section 9.

- Section 10 renumbered as sub-section (1) by Punjab Act 16 of 1950, section 3.(1)(i) If the borrower or grantee fails without reasonable cause to comply with any order under section 9, or(ii)If the Controlling Authority, after inspection provided for in section 9, or otherwise, is satisfied that the money lent or granted, as the case may be, is not being applied to the purpose or purposes for which it was lent or granted or that the conditions on which it was granted are not being duly fulfilled the Controlling Authority may declare notwithstanding anything contained in the bond executed by the borrower or grantee -(a)in the case of a loan that it is immediately recoverable, and(b)in the case of a grant that it shall be treated as a loan;and shall give notice of such declaration to the borrower or grantee, as the case may be.(2)[The Controlling Authority may within six months of having passed orders under sub-section (1) withdraw these orders and pass such further order in relation thereto if he is satisfied that the grounds on which these orders had been passed no longer exist, or, if the

borrower or the grantee, as the case may be, has given a guarantee to the satisfaction of the Controlling Authority that there will not be any repetition of any of the grounds which had necessitated the orders under sub-section (1)] [Added by Punjab Act 16 of 1950, section 3.].

11. Appeal.

- Within six weeks of the receipt of the notice under section 10, the borrower or grantee may appeal against the declaration of the Controlling Authority, to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, and the decision of the [State] [Substituted for word 'Provincial' by the Adaptation of Laws Order, 1950.] Government thereon shall be final.

12. Mode of recovery.

(1)When any loan or instalment or interest thereon falls due and is not paid on or before the due date, or when a loan has been declared immediately repayable or a grant has been declared repayable as a loan under section 10 and subject to the order made on appeal under the preceding section, the Controlling authority may cause to be served on the borrower or, as the case may be, the grantee, a notice calling upon him to pay the sums due within such time as may be fixed therein.(2)In case of default all arrears of money payable to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under this Act including interest chargeable thereon and costs, if any, incurred, may be realized as arrears of land revenue :[Provided that before starting proceedings for recovery as arrears of land revenue, the Controlling Authority may, in his discretion, on the borrower furnishing two sureties to the satisfaction of the Controlling Authority, allow repayment along with interest in suitable instalments, covering in all a period of not more than three years from the date of passing orders under section 10 of this Act] [Inserted by Punjab Act 16 of 1950, section 4.].

13. Finality of decision of State Government.

- The decision of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government as to whether the conditions laid down in or under any of the provisions of this Act have been satisfied shall be final, and no suit shall be brought in any civil court to set aside or modify any order made thereunder, nor shall the same be questioned by any court of law in any proceedings whatsoever.

14. Bar to legal proceedings.

- No prosecution, suit or other proceeding shall lie against the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, or any Government officer or other authority vested with powers under this Act for anything in good faith done or intended to be done thereunder.

15. Power to make rules.

(1)The [State] Government may make [rules consistent with this Act for the carrying out of all or any of its purposes.] [For rules framed under the Act, see East Punjab Government Notification No. 10627/U, dated 4.8.1949, published in East Punjab Government Gazette, 1949, Part I, pages 740-745.](2)In particular and without prejudice to the generality of the foregoing power the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make rules regulating or determining all or any of the following matters, namely :-(i)the forms of the applications to be made and deeds to be executed in respect of loans or grants;(ii)the mode in which payment of loans and grants is to be made to borrowers and grantees; and(iii)the forms of notices to be given or declarations to be made by the Controlling Authority.

16. Repeal of Ordinance No. IV of 1948.

- The East Punjab Refugees Rehabilitation (Loans and Grants) Ordinance, 1948, is hereby repealed; and any rules made or notification issued, anything done and any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, issued, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of January, 1948.