

The East Punjab Damaged Areas Act, 1949

PUNJAB

India

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Act 10 of 1949

- Published on 9 April 1949
- Commenced on 9 April 1949
- [This is the version of this document from 9 April 1949.]
- [Note: The original publication document is not available and this content could not be verified.]

The East Punjab Damaged Areas Act, 1949Act 10 of 1949For Statement of Objects and Reasons, see East Punjab Government Gazette Extraordinary, 1949 page 54; for proceedings in the Assembly, see East Punjab Legislative Assembly Debates, Vol. III, 1949 pages (20) 46 to (20) 47.Received the assent of His Excellency the Governor of East Punjab on the 9th April, 1949, and was first published in the East Punjab Gazette Extraordinary, dated the 11th April, 1949.An Act to provide for salvage and disposal of property and clearance of debris in riot-stricken urban areas.

1. Short title, extent and commencement.

(1)This Act may be called that East Punjab Damaged Areas Act, 1949.(2)It extends to all urban area in [Punjab] [Substituted for the words 'East Punjab' by the Adaptation of Laws Order, 1950.](3)This section and sections 2 and 3 shall come into force at one; and the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] Government may, by notification, direct that the other provisions of this Act or any provisions thereof specified in the notification shall come into force in any urban area on such date as it may be notification appoint, (vide Punjab Government Gazette Extraordinary, 1949, P. 54-G.)

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"building" means a building as defined in sub-section (2) of section 3 of the Punjab Municipal Act, 1911 (Punjab Act III of 1911) (hereinafter referred to as the Municipal Act);(b)"damaged area" means any area which is for the time being declared by notification under section 3, to be a damaged area;(c)"debris" means any building material of a building in a damaged area which has been destroyed, damaged or demolished since the 3rd of March, 1947 or which may be destroyed, damaged or demolished after the date of the notification under section 3 in respect thereof, but it does not include the building material of such portion of any building as is substantially intact.(d)"Municipality " means a municipality as defined in sub-section (9) of section 3 of the Punjab Municipal Act, (Punjab Act III

of 1911).(e)"Prescribed" means prescribed by rules under this Act.(f)"small town" means a small town as defined in clause (e) of section 2 of the Punjab Small Towns Act (Punjab Act II of 1922) (hereinafter referred to as the towns Act).(g)"Salved property" means any movable property other than debris, which has been salved, recovered or removed from any damaged area since the 3rd of March, 1947 under the orders of the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] Government, a local authority or any other competent authority and which is lying undisposed of on the date of the notification under section 3, or any other such property which may be salved, recovered or removed from any damaged area thereafter or any other property which may be declared to be salved property by the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] Government by notification; and(h)"urban area" means any area administered by a Municipal Committee, a town committee or a notified area committee.

3. Power to declare areas to damaged area.

- The [State] Government may, by notification, declare any urban area or any portion thereof to be a damaged area, and may, in the like manner add to, amend, vary or rescind any such notification.

4. Power to add to, amend or vary the provisions of the Municipal Act and the Towns Act for purposes of damaged areas.

(1)The [State] Government may, by notification, declare that -(a)the provisions of the Municipal Act (Punjab Act III of 1911) for purposes of its application to the damaged area of any urban other than a Small Town;(b)the provisions of the Towns Act (Punjab Act II of 1922), for purposes of its application to the damaged area of any Small Town;shall be added to, amended or varied in such manner as may be specified in the notification.(2)On the issue of a notification under sub-section (1), the provisions of the Municipal Act or the Towns Act, as the case may be, shall, for the purposes aforesaid, be deemed to have been added to, amended or varied in the manner specified in the notification.

5. Power to make orders in respect of damaged areas in urban areas.

(1)When on the issue of a notification under the last preceding section, any provisions of the Towns Act ceases to have effect in the damaged area of a Small Town, or any provisions of the Municipal Act ceases to have effect in the damaged area of any other urban area, the [State] Government may, without prejudice to any power which it may exercise under the last preceding section, make orders in place of or in substitution for the said provisions of the Municipal Act or the Towns Act.(2)All orders made under sub-section (1) shall be published by notification, and shall on such publication have effect in the damaged area concerned as if enacted in the Municipal Act or the Towns Act, as the case may be.(3)Any order which has effect as if enacted in the Municipal Act shall be deemed to be a provision of the said Act, for the purposes of its extension to the damaged area of any notified area under clause (f) of sub- section (1) of Section 242 of the said Act.

6. Power to make retrospective notification and orders.

- The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws, Order, 1950.] Government may direct that any notification issued under sub-section (1) of section 4 or order made under sub-section (1) of section 5 shall have effect from a date not earlier than the 3rd day of March 1947, and such notification or order shall take effect accordingly.

7. Possession of debris and salvaged property pending its disposal.

(1)The [State] Government may prescribe the authority in whom and the manner in which possession of any debris or salvaged property shall vest pending its disposal in accordance with or under the provisions of this Act.(2)Any person in possession of debris of salvaged property not belonging to him, otherwise than in accordance with the provisions of sub-section (1) shall forthwith report the fact to the Magistrate of the District and shall deposit such property in such manner as may be prescribed.(3)Whoever contravenes the provisions of sub-section (2) shall be deemed to have committed an offence punishable under section 403 of the Indian Penal Code (Act XLV of 1860).

8. Record of debris and salvaged property to be prepared.

(1)The [State] Government may prepare or cause to be prepared records in writing with such precision as may be possible and giving such details as may be prescribed, relating to the debris and the salvaged property of each damaged area.(2)An entry made in a record prepared in accordance with or under the provisions of this Act shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.(3)A record prepared under sub-section (1) shall on its completion, be open to inspection by the public in such manner as may be prescribed by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws, Order, 1959.] Government and the District Magistrate shall cause public notice of the date of its completion to be given at convenient places in the urban area in which the damaged area to which it relates is situated.

9. Power to sell salvaged property in certain cases.

(1)The [State] Government or any authority empowered in this behalf by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws, Order, 1959.] Government may, by general or special order, direct that any salvaged property which is subject to speedy or natural decay and an entry relating to which has been incorporated in the record prepared under the last preceding section shall be sold.(1)The details of any such sale including the price fetched by the property sold shall be incorporated in the said record.

10. Power to dispose of debris.

(1)The [State] Government may prescribe the manner in which debris shall be dealt with or disposed of, and the manner in which the proceeds thereof, if any, shall be distributed.(2)In case of any doubt

whether certain property is debris or not a certificate granted in this behalf by such authority as may be prescribed shall be final.

11. Appointment of Claims Commissioners.

- The [State] Government may, by notification, appoint a Claims Commissioner for the purpose of this Act for any damaged area.

12. Claims to salvaged property.

(1) Any person interested in any salvaged property or any proceeds thereof may within fifteen days from the date of completion of the record relating to it under section 8 or such longer period not exceeding thirty days, as the Claims Commissioner may allow, apply to the Claims Commissioner of the damaged area concerned for the restoration to him of any salvaged property to which he may be entitled, or for the payment to him of the proceeds thereof. (2) The application under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

13. Power of Claims Commissioner to dispose of claims and restore salvaged property.

(1) A Claims Commissioner on the receipt of the claims under section 12 may, after such notice to any other person concerned and after such enquiry as he may deem fit, make an order accepting or rejecting the claim in whole or in part and may on accepting the claim in whole or in part make over any salvaged property or any proceeds thereof, to any person appearing to him to be entitled to receive the property or the proceeds. (2) The making over of any salvaged property or any proceeds thereof to a person specified in an order under sub-section (1) shall be a full discharge of the Government or any other person or authority holding it under section 7, but shall not prejudice any rights in respect of the said property which any other person may be entitled by due process of law to enforce against the person to whom the property has been delivered.

14. Claims Commissioner to be a Court for certain purposes.

- For the purposes of section 13, the Claims Commissioner shall have the same powers of enforcing the attendance of witnesses and compelling the production of evidence as are vested in a court by the Civil Procedure Code, 1908 (Act V of 1908).

15. Power to impose fines and award compensation in respect of frivolous claims.

- Where any claim to any salvaged property or any proceeds thereof, whether made under section 12 or in the course of any proceeding before him, is dismissed or rejected, the Claims Commissioner may if he is of opinion that the claim was false, frivolous or vexatious, impose a fine not exceeding one thousand rupees on the person making it, and may while doing so direct that the whole or a portion

of it, if recovered shall be paid by way of compensation to any person who has opposed the claim.

16. Certain persons to be public servants.

- A Claims Commissioner and any person acting under his orders for the purposes of this Act, shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

17. Power to dispose of unclaimed property.

- Any salvaged property or any proceeds thereof in respect of which no claim has been received in accordance with the provisions of this Act, may be disposed of by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws, Order, 1950.] Government as prescribed.

18. General Indemnity.

(1) No prosecution, suit or other proceeding whatsoever shall lie against the [State] Government or any officer thereof or any local authority or any officer thereof, in respect of any action relating to debris or salvaged property including its delivery to any person between the 3rd March, 1947, and the date of the notification under section 3 relating to the damaged areas concerned. (2) No prosecution, suit or other legal proceedings shall lie against any local authority or against any officer thereof without the previous sanction of the [State] Government, for failure to comply with any provisions of the Municipal Act (Punjab Act III of 1911) or the Towns Act (Punjab Act II of 1922) since the 3rd March, 1947, till such date as may be notified by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws, Order, 1950.] Government.

19. Indemnity in respect of action under this Act.

- No civil or criminal proceedings shall be instituted for anything done or intended to be done under this Act or any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.

20. Saving as to orders.

- Except as provided in this Act, no proceeding or orders taken or made under this Act shall be called in question by any Court.

21. Power to make rules.

(1) The [State] Government may make rules for the purpose of carrying into effect the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all any of the following matters, namely:-(a) vesting of possession of debris or salvaged property pending its disposal; (b) depositing of salvaged property under sub-section (2) of section

7;(c)preparation and form of the records under section 8 and their publication;(d)disposal of debris or the proceeds thereof under section 10;(e)appointment of authority under sub-section (2) of section 10;(f)the for and contents of the application under section 12;(g)maintenance of records by a Claims Commissioner; and(h)disposal of unclaimed salvaged property or proceeds thereof.