

# The Punjab Village Common Lands (Regulation) Act, 1961

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India

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### Act 18 of 1961

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The Punjab Village Common Lands (Regulation) Act, 1961(Punjab Act No 18 of 1961)for Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1958 page 1503.[Received the assent of the President of India on the 22nd April, 1961, and first published for general information in the Punjab Government Gazette (Extraordinary), Legislative Supplement, of the 4th May, 1966].An Act to consolidate and amend the law regulating the rights in shamilat deh abadi deh.Be it enacted by the Legislature of the State of Punjab in the twelfth Year of the Republic of India as follows:-

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

(1)This Act may be called the Punjab Village Common Lands (Regulation) Act 1961.(2)It extends to the whole of the State of Punjab.(3)It shall come into force at once.

### 2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Collector" means the Collector of the district in which the village is situated and includes an officer, not below the rank of an Assistant Collector of the First Grade, appointed by the State Government to perform the functions of a Collector under this Act;(b)"displaced person" means a person defined as such in the East Punjab Displaced Persons (Land Resettlement) Act, 1949, or the Patiala and East Punjab State Union Displaced Persons (Land Resettlement) Ordinance, 2006 Bk.;[(bb) 'hilly area' means - [Clause (bb) substituted by Punjab Adaptation of Laws (State and Concurrent Subject), Order, 1968.](i)Dhar Kalan Block in Gurdaspur District;(ii)Hoshiarpur, Bajwara, Bhunga, Talwara, Dasuya, Mahalpur, Balachaur and Saroya Blocks in Hoshiarpur District;(iii)Ropar, Majri, Nurpur Bedi and Anandpur Sahib Blocks in Ropar District,].(c)"house" includes a courtyard whether walled or not;(d)"inhabitant of a village" means a person, whether a proprietor or a non-proprietor, who ordinarily resides in the village;Provided that

temporary absence or absence in relation to employment elsewhere shall not effect his residence in the village;(e)"panchayat" means a panchayat constituted or continued under the Punjab Gram Panchayat Act, 1952, or the Pepsu Panchayat Raj Act, 2008 B.K., and includes a municipal committee of a municipality of the third class declared as such by section 10 of the Pepsu Municipal (Amendment) Act, 1956,(f)"prescribed" means prescribed by rules made under this Act;(g)"shamilat deh" includes -(1)lands described in the revenue records as shamilat deh excluding abadi deh;(2)shamilat tikkas;(3)lands described in the revenue records as shamilat, tarafs, pattis, pannas and tholas and used according to revenue records for the benefit of the village community or a part thereof or for common purposes of the village;(4)lands used or reserved for the benefit of village community including streets, lanes, playgrounds, schools, drinking wells, or ponds within abadi deh or gorah deh; and(5)lands in any village described as banjar qadim and used for common purposes of the village according to revenue records;Provided that shamilat deh at least to the extent of twenty-five per centum of the total area of the village does not exist in the village;but does not include land which -(i)becomes or has become shamilat deh due to river action or has been reserved as shamilat in villages subject to river action except shamilat deh entered as pasture, pond or playground in the revenue records;(ii)has been allotted on quasi-permanent basis to a displaced person;(iii)has been partitioned and brought under cultivation by individual landholders before the 26th January, 1950;(iv)having been acquired before the 26th January, 1950, by a person by purchase or in exchange for proprietary land from a co-sharer in the shamilat deh is so recorded in the jamabandi or is supported by a valid deed;(v)is described in the revenue records as shamilat taraf, pattis, pannas and thola and not used according to revenue records for the benefit of the village community or a part thereof or for common purposes of the village;(vi)lies outside the abadi deh and is used as gitwar, bora, manure pit or house or for cottage industry;(vii)[ \*\*\*\* ] [Omitted, by Punjab Adaptation of Laws (State and Concurrent Subjects) Order, 1968.].(viii)was shamilat deh, was assessed to land revenue and has been in the individual cultivating possession of co-sharers not being in excess of their respective shares in such shamilat deh on or before the 26th January, 1950; or(ix)is used as a place of worship or for purposes subservient thereto;(h)"shamilat law" means -(i)in relation to land situated in the territory which immediately before the 1st November, 1956, was comprised in the State of Punjab, the Punjab Village Common Lands (Regulation) Act, 1953; or(ii)in relation to land situated in the territory which immediately before the 1st November, 1956, was comprised in the State of Patiala and East Punjab States Union, the Pepsu Village Common Lands (Regulation) Act, 1954;(iii)"State Government" means the Government of the State of Punjab.

### **3. Lands to which this Act applies.**

(1)This Act shall apply, and before the commencement of this Act, the shamilat law shall be deemed always to have applied, to all lands which are shamilat deh as defined in clause (g) of section 2.(2)Notwithstanding anything contained in sub-section (1) or section 4, where any land has vested in a panchayat under the shamilat law but such land has been excluded from shamilat deh as defined in clause (g) of section 2, all rights, title and interest of the Panchayat in such land shall, as from the commencement of this Act, cease and such rights, title and interest shall be revested in the person or persons in whom they vested immediately before the commencement of the shamilat law and the panchayat shall deliver possession of such land to such person or persons:Provided that where a panchayat is unable to deliver possession to any such and on account of its having been sold

or utilised for any of its purposes, the rights, title and interest of the panchayat in such land shall not so cease but the panchayat shall, notwithstanding anything contained in section 10, pay to the person or persons entitled to such land compensation to be determined in accordance with such principles and in such manner as may be prescribed.

#### **4. Vesting of rights in Panchayats and non-proprietors.**

(1)Notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage or any decree or order of any court or other authority, all rights, title and interests whatever in the land,-(a)which is included in the shamilat deh of any village and which has not vested in a panchayat under the shamilat law shall, at the commencement of this Act, vest in a panchayat constituted for such village, and, where no such panchayat has been constituted for such village, vest in the panchayat on such date as a panchayat having jurisdiction over that village is constituted;(b)which is situated within or outside the abadi deh of a village and which is under the house owned by a non-proprietor, shall on the commencement of the shamilat law, be deemed to have been vested in such non-proprietor.(2)Any land which is vested in a panchayat under the shamilat law shall be deemed to have been vested in the panchayat under this Act.(3)Nothing contained in clause (a) of sub-section (1) and in sub-section (2) shall affect or shall be deemed ever to have affected the -(i)existing rights, title or interest of persons who though not entered as occupancy tenants in the revenue records are accorded a similar status by custom or otherwise, such as Dholdars, Bhondedars, Butimars, Basikhuopahus, Saunjidars, Muqararidars;(ii)rights of persons in cultivating possession of shamilat deh for more than twelve years without payment of rent or by payment of charges not exceeding the land revenue and cesses payable thereon;(iii)rights of a mortgagee to whom such land is mortgaged with possession before the 26th January, 1950.

#### **5. Regulation of use and occupation, etc. of lands vested or deemed to have been vested in panchayats.**

(1)All lands vested or deemed to have been vested in a Panchayat under this Act shall be utilised or disposed of by the Panchayat for the benefit of the inhabitants of the village concerned in the manner prescribed:Provided that where two or more villages have a common Panchayat the shamilat deh of each village shall be utilised and disposed of by the Panchayat for the benefit of the inhabitants, of that village:Provided further that where there are two or more shamilat tikkas in a village the shamilat tikka shall be utilised and disposed of by the Panchayat for the benefit of the inhabitants of that tikka:Provided further that where the area of land in shamilat deh of any village so vested or deemed to have been vested in a Panchayat is in excess of twenty-five per cent of the total area of that village (excluding abadi deh) then twenty-five percent of such total area shall be left to the Panchayat and out of the remaining area of shamilat deh an area up to the extent of twenty-five per cent of such total area shall be utilised for the settlement of landless tenants and other tenants ejected or to be ejected of that village and the remaining area of shamilat deh, if any, shall be utilised for distribution to the small landowners of that village subject to the provisions relating to permissible area and permissible limit of the Punjab Security of Land Tenures Act, 1953 and the Pepsu Tenancy and Agricultural Lands Act, 1955, as the case may be, by the Collector in

consultation with the Panchayat in such manner as may be prescribed.(2)The area of shamilat deh to be utilised for the purposes of the third proviso to sub-section (1) shall be demarcated by such officer in consultation with the Panchayat and in such manner as may be prescribed.(3)The State Government or any officer authorised by it in this behalf may from time to time, with a view to ensuring compliance with the provision of the second proviso to sub-section (1) or sub-section (2), issue to any Panchayat such directions as may be deemed necessary.(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.] [Inserted by section 3 of Punjab Act No. 19 of 1964.]

## **6. Appeal.**

(1)If any person is aggrieved by an act or decision of a Panchayat under section 5, he may, within thirty days from the date of such act or decision, appeal to the Collector who may confirm, reverse or modify the act or decision, or make such other order as he thinks to be just and proper.(2)The appellate order of the Collector shall be final.

## **7. Power to put panchayats in possession of lands vested or deemed to have been vested in it.**

(1)An Assistant Collector of the first grade having jurisdiction in the village shall on an application made to him by a Panchayat, after making such summary enquiry as he may think fit and in accordance with such procedure as may be prescribed, put the Panchayat in possession of the land or other immovable property in the shamilat deh of that village which vests or is deemed to have been vested in it under this Act and for so doing the Assistant Collector may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Punjab Tenancy Act, 1887.(2)An Assistant Collector of the first grade having jurisdiction in the village may, either suo motu or on an application made to him by a Panchayat or an inhabitant of the village eject in the manner and in accordance with the procedure referred to in sub-section (1), any person who is in wrongful or unauthorised possession of any land or other immovable property in the shamilat deh of that village which vests or is deemed to have been vested in the Panchayat under this Act.(3)An appeal against the order of the Assistant Collector shall lie to the Collector.(4)An appeal against the appellate order of the Collector shall lie to the Commissioner.(5)The period of limitation for an appeal under sub-section (2) and (3) shall run from the date of the order appealed against, and shall be-(a)thirty days, when the appeal lies to the Collector; and(b)sixty days, when the appeal lies to the Commissioner.

## **8. Saving of existing possession.**

(1)Where on any land in the shamilat deh immediately before it vests or is deemed to have been vested in a Panchayat under this Act, a person is in cultivating possession and his uncut and ungathered crops are standing thereon, he shall not be ejected from such land unless the crops have ripened and he has been allowed reasonable time to harvest them.(2)Any person aggrieved by any determination made by a Panchayat under sub-section (1) may, within thirty days thereof, appeal to

the Collector whose decision thereon shall be final.

## **9. Utilisation of income.**

- Any income accruing from the use and occupation of the lands vested or deemed to have been vested in a Panchayat shall be credited to the Panchayat Fund and shall be utilised in the manner prescribed.

## **10. Bar of compensation.**

- No person shall be entitled to any compensation for any loss suffered or alleged to have been suffered as a result of the coming into force of this Act or of the shamilat law.

## **10A. [ Power of Collector to cancel or vary leases etc. or lands vested in Panchayats. [Section 10A inserted by Punjab Act No. 19 of 1964, section 4.]**

(1)Notwithstanding anything contained in this Act or the Shamilat 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 lease, contract or agreement entered into by the Panchayat in respect 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 Panchayat 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 Shamilat 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 too 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.

### **11. Sale of land in Shamilat deh not to be pre emptible.**

- Notwithstanding anything contained in the Punjab Pre-emption Act, 1913, no sale of land in shamilat Deh made by a Panchayat shall be pre-emptible and no decree of pre-emption in respect of any such sale shall be executed after the commencement of this Act

### **12. Rent of shamilat lands to be recoverable as arrears of land revenue.**

- Any arrears of rent payable to a Panchayat in respect of any land in shamilat deh vested or deemed to have been vested in it under this Act or the shamilat law shall be recoverable as arrears of land revenue.

### **13. Bar of Jurisdiction of civil courts.**

- No civil court shall have any jurisdiction over any matter arising out of the operation of this Act.

### **14. Indemnity.**

- No suit, prosecution or other legal proceedings shall lie against the State Government or any person or authority for anything done or intended to be done in good faith in pursuance of the provisions of this Act

### **14A. [ Saving. [[Section 14A inserted by Punjab Act 19 of 1964, section 5.**

Note. - This Act has been repealed by section 15 of the H P. Village Common Lands Utilisation Act, 1974. The Act is relevant for reference as per provisions contained under section 3 and 4 of. HP Act No. 18 of 1974.,]]- Nothing contained in this Act or the Shamilat Law shall -(a)affect or shall be deemed over 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 Shamilat 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.]

## **15. Power to make rules.**

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-(a)the principles of which and the extent to and the manner in which the inhabitants of the village shall make use of lands vested or deemed to have been vested in a Panchayat;(b)the maximum and minimum area to be leased to any single person;(c)the prescribing of forms for such books, entries, statistics and accounts as may be considered necessary to be kept, made or compiled in any office or submitted to any authority;(d)determining the principles on which and the manner in which compensation may be paid under sub-section (2) of section 3;(e)the terms and conditions on which the use and occupation of any such land is permitted;(f)the manner and circumstances in which any such land may be disposed of, transferred or sold;(g)the purposes for which any such land may be given free of charge;(h)the regulation of procedure where a Panchayat is sued in its representative capacity;(i)the manner and the order of priority in which the excess area shall be utilised by the Collector under sub-section (1) of section 5;(j)the officer by whom and the manner in which the area of shamilat deh referred to in sub-section (2) of section 5 shall be demarcated; and(k)any other matter which can be or may be prescribed.

## **16. Repeal and Saving.**

- The Punjab Village Common Lands (Regulation) Act, 1953 and the Pepsu Village Common Lands (Regulation) Act, 1954 are hereby repealed:Provided that anything done or any action taken under any law so repealed shall deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action was taken under this Act.