

The Haryana Requisitioning and Acquisition of Movable Property Act, 1975

HARYANA

India

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Act 9 of 1975

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The Haryana Requisitioning and Acquisition of Movable Property Act, 1975 Haryana Act No. 9 of 1975 Received the assent of the President of India on the 3rd March, 1975, and first published in Haryana Government Gazette (Extraordinary), dated March 14, 1975. An Act to provide for the requisitioning and acquisition of movable property in the State of Haryana. Be it enacted by the Legislature of the State of Haryana in the Twenty-fifth year of the Republic of India as follows :-

1. Short title and extent.

(1) This Act may be called the Haryana Requisitioning and Acquisition of Movable Property Act, 1975. (2) It extends to the whole of the State of Haryana.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "competent authority" means any person or authority authorised by the Government, by notification, to perform the functions of the competent authority under this Act for such area as may be specified in the notification; (b) "Government" means the Government of the State of Haryana; (c) "prescribed" means prescribed by rules made under this Act.

3. Power to requisition movable property.

(1) Where the competent authority is of the opinion that it is necessary or expedient so to do for the maintenance or improvement of services and supplies essential to the life of the community or for providing immediate relief to persons affected by floods, riots or strikes or for the efficient conduct of elections, or for any other public purpose, it may, by an order in writing, requisition any movable

property and may make such further order as appear to it to be necessary or expedient in connection with the requisitioning :Provided that no property used for the purpose of religious worship and no aircraft or anything forming part of an aircraft or connected with the operation, repair or maintenance of aircraft, shall be requisitioned.(2)Where the competent authority has requisitioned any property under sub-section (1), it shall vest in the Government for the period of the requisition and the Government may use or deal with it in such manner as may appear to it to be expedient.

4. Release from requisitioning.

(1)The competent authority may, at any time, release from requisition any property requisitioned under Section 3 and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken, subject only to deterioration caused by reasonable wear and tear.(2)Where any property is to be released from requisition, the competent authority may, after such enquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by an order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successor-in-interest of such person.(3)The delivery of possession of the requisitioned property to the person specified in the order made under sub-section (2) shall absolve the Government fully from all liabilities in respect of such property :Provided that nothing in this section shall prejudice any right in respect of the property which any other person may be entitled to under law to enforce against the person to whom the possession of the property is so delivered.(4)Where the person to whom the possession of any requisitioned property is to be given cannot be found, the competent authority shall cause a notice, to be published in the Official Gazette of the State, declaring that the property is released from requisition and the same may be claimed by such person within a period of sixty days from the date of publication of the notice.(5)When a notice referred to in sub-section (4) is published in the Official Gazette and the person referred to in the said sub-section does not claim the property specified in such notice within the period specified therein, the same may be sold by public auction in the manner prescribed under the orders of the competent authority.(6)The competent authority shall, within a period of one year from the date of sale, pay, after deducting the expenses of such sale, the proceeds of the same to the person who appears to him to be entitled thereto and after such payment no suit or legal proceedings to recover such sum or any part thereof shall be brought or instituted against the competent authority or the Government by any person claiming to be entitled thereto :Provided that nothing herein contained shall affect the liability of any person to whom any such sum has been paid by the competent authority under this sub-section to pay the same to the person lawfully entitled thereto.

5. Power to acquire requisitioned property.

(1)Where any property is subject to requisition, the competent authority may, if it is of opinion that it is necessary to acquire the property for any of the purposes referred to in Section 3, at any time acquire such property by publishing in the Official Gazette of the State a notice to the effect that the Government has decided to acquire the property in pursuance of this section :Provided that before issuing such notice, the competent authority shall call upon the owner of, or any person who, in the opinion of the competent authority, may be interested in, such property to show-cause as to why the

property should not be acquired; and after considering the cause, if any, shown by such person, the competent authority may pass such orders as it deems fit.(2)Where a notice referred to in sub-section (1) is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

6. Payment of amount for requisitioned property.

- The amount in respect of requisitioned movable property including vehicles and vessels, shall be the sum total of the following items :-(i)interest on the cost at which the owner had purchased the property calculated in a manner and at a rate, not being below three per cent or above six per cent, per annum, that may be prescribed :Provided that where the property has been obtained by the owner as a gift or its cost cannot be established by him to the satisfaction of the competent authority or its cost exceeds the current replacement price of the property, the current price of the same property or property which, in the opinion of the competent authority, is substantially similar to it, shall be taken to be its cost;(ii)an amount representing depreciation of the property during the period of its requisition calculated at a rate not exceeding thirty per cent per annum and in a manner that may be specified by the Government by a general or special order for any class of property;(iii)an amount for the loss of the use of the property or any of profits that might have been earned but for the requisition, at such percentage, not being less than three, per annum, as may be prescribed, of the cost referred to in item (i) above as reduced by depreciation calculated at the same rate for item (ii) above in such manner and for such period as may be so prescribed;(iv)any further amount that the Government may by general or special order specify :Provided that in the case of property for which the full consideration due under a hire-purchase agreement has not been paid, so much of the amount as relates to items (iii) and (iv) above shall be payable to the hirer and the balance representing items (i) and (ii) above shall be made over to the financier till he receives the full consideration and this provision shall over-ride any terms to the contrary in the hire-purchase agreement :Provided further that if during the period of requisition the property 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 an additional amount equal to the cost of making good the damage or, in the case of a total loss, an amount that would have been payable if the property had been acquired on the date of the loss. Such amount shall be determined in the manner set out in Section 7 :Provided further that the owner of the property or any other person interested therein may, within a period of thirty days from the date of communication of the order of the competent authority, prefer an appeal to the High Court. The High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

7. Payment of amount for acquisition of property.

- The amount payable in respect of the movable property acquired shall be the controlled price of the property, that is to say, the price fixed by an order under any law for the time being in force :Provided that, in respect of the property the price of which is not controlled or which is not new, the amount shall not exceed a sum equal to the price which would have been paid for its replacement on

the date of the acquisition, reduced by a sum equal to the depreciation of the property, calculated in the manner and at a rate not exceeding thirty per cent per annum as may be prescribed. In arriving at the price which would have been paid for the replacement of the property, no account shall be taken of any appreciation in the value thereof, after the date of requisition :Provided further that the owner of the property or any other person interested therein may, within a period of thirty days from the date of communication of the order of the competent authority, prefer an appeal to the High Court. The High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time :Provided further that where an agreement has been reached between the competent authority and the owner of the property or any other person interested therein, the amount agreed to shall, irrespective of its quantum, be payable, unless it is revised by the Government after giving to the owner of the property or any other person interested therein a reasonable opportunity of being heard.

8. Payment of amount.

- The amount determined by the competent authority for requisitioning or acquiring property shall be paid to the person or persons entitled thereto within such period, at such intervals and in such manner, as may be prescribed:Provided that where the payment of the amount 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 below three per cent or above six per cent per annum and with effect from such date or dates as the Government may specify by a general or special order :Provided further that nothing herein contained shall effect the liability of any person who may have received whole or any part of any amount paid under this Act, to pay the same to the person lawfully entitled thereto.

9. Power to obtain information and give directions.

- The Government or the competent authority may, with a view to carrying out the purposes of this Act, by order -(a)require any person to furnish such officer, as may be specified in the order, such information in his possession as may be specified therein relating to any property, which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act;(b)direct that the owner or person in possession of the property shall not without permission dispose it of till the expiry of such period as may be specified in the order.

10. Power to give effect to orders.

- The Government or the competent authority may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of the Government or the competent authority, be reasonably necessary for securing compliance with any order made by it under this Act.

11. Appeal.

(1)Any person aggrieved by an order made by the competent authority under Section 3, or Section 4,

or Section 5, may, within a period of thirty days from the date of service of the order, prefer an appeal to the Government :Provided that the Government may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)On receipt of an appeal under sub-section (1), the Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further enquiry, if any, as may be necessary, pass such orders, as it thinks fit and the order of the Government shall be final.

12. Competent authority and Government to have certain powers of Civil Court.

- The competent authority or the Government, while holding an enquiry, shall have all the powers of a civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely :-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of any document;(c)reception of evidence on affidavits;(d)requisitioning any public record from any court or office;(e)issuing commissions for examination of witness.

13. Delegation of powers.

- The Government may, by notification, direct that the powers exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government.

14. Protection of action taken in good faith.

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

15. Bar of jurisdiction of Civil Courts.

- No civil Court shall have jurisdiction in respect of any matter which the Government or the competent authority is empowered by or under this Act to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

16. Penalty for offences.

- Whoever contravenes any provision of this Act, or any rule or order made thereunder, or any order made under this Act, or obstructs the lawful exercise of any power conferred by or under this Act,

shall be punishable with an imprisonment which may extend to one year or with fine or with both.

17. Certain persons to be public servants.

- The competent authority and every officer empowered by the Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

18. Power to make rules.

(1)The Government may, by notification, make rules for carrying out the purposes of this Act.(2)Every rule made under this Act shall be laid, as soon as may be after it is made, before the House of the State Legislature while it is in session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, any rule is modified or annulled by the House, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Repeal.

- The East Punjab Movable Property (Requisitioning) Act, 1947 (East Punjab Act 15 of 1947), in its application to the State of Haryana, is hereby repealed.