

Gujarat Requisitioned Property (Continuance of Powers) (Saurashtra Area) Act, 1958

GUJARAT

India

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Act 56 of 1958

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Bombay Requisitioned Property (Continuance of Powers) (Saurashtra Area) Act, 1958 Bombay Act No. 56 of 1958 [Dated 10th June 1958] For Statement of Objects and Reasons, see Bombay Government Gazette, 1958, Extra., Part V, p. 293. An Act to provide for the continuance of certain powers in relation to requisitioned property in the Saurashtra area of the State of Bombay. Whereas it is necessary to provide, in relation to property which, when the Saurashtra Public Security Measures Act, 1953 (Sau. Act XXI of 1953), expires, is subject to any requisition effected thereunder, for the continuance of certain powers theretofore exercisable under the said Act, and the rules made thereunder; It is hereby enacted in the Ninth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Bombay Requisitioned Property (Continuance of Powers) (Saurashtra Area) Act, 1958. (2) It extends to the Saurashtra area of the State of Bombay. (3) It shall be deemed to have come into force on the 1st day of April 1958, and shall cease to have effect on the 31st day of [December 1963] [The word and figures 'December 1963' were substituted for the word and figures 'December 1958' by Bombay 91 of 1958, Section 2.], except as respects things done or omitted to be done before the latter date; and section 7 of the Bombay General Clauses Act, 1904 (Bombay I of 1904), shall apply on the expiry of this Act as if it had then been repealed by a Bombay Act.

2. Interpretation.

- In This Act, unless the context otherwise requires, "requisitioned property" means property, whether moveable or immovable, which on the 31st day of March 1958, is subject to any requisition effected by or under Chapter V of the Saurashtra Public Security Measures Act, 1953 (Sau. Act XXI of 1953).

3. Continuance of requisitions.

- Notwithstanding the expiration of the Saurashtra Public Security Measures Act, 1953 (Sau. Act XXI of 1953), and any rules made thereunder all requisitioned property shall continue and be deemed to have continued to be subject to requisition until the expiry of this Act and the State Government may use or deal with any requisitioned property in such manner as may appear to be expedient: Provided that the State Government may at any time release from requisition any requisitioned property.

4. Release from requisition.

(1) Where any requisitioned property is to be released from requisition, the State Government after making such enquiry, if any, as it considers necessary, specify by order in writing the person to whom possession of the property shall be given. (2) The delivery of possession of the property to the person specified in an order made under sub-section (1) shall be a full discharge of the State Government from all liability in respect of such delivery', but shall not prejudice any rights in respect of the requisitioned property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered. (3) Where the person to whom possession of any requisitioned property, being immovable property, is to be given cannot be found, and has no agent or other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that the immovable property is released from requisition to be fixed on some conspicuous part of the property and publish the notice in the Official Gazette. (4) When a notice referred to in sub-section (3) is published in the Official Gazette the immovable property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to the possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

5. Power to acquire requisitioned property.

(1) Subject to the provisions of subsection (3), where any requisitioned property continues to be subject to requisition under section 3, the State Government may acquire it by serving on the owner thereof or, where the owner is not readily traceable or the ownership is in dispute, by publishing in the Official Gazette a notice stating that the State Government has decided to acquire the property in pursuance of this section. (2) Where a notice of acquisition is served on the owner of the requisitioned property, or published in the Official Gazette under sub-section (1), then at the beginning of the day on which the notice is so served or published the property shall vest absolutely in the State Government free from all encumbrances and the period of the requisition thereof shall end. (3) No requisitioned property, being immovable property, shall be acquired under this section except in the following circumstances, namely:-(i) where any works have, during the period of requisition, been constructed on, in or over land wholly or partly at the expense of the State Government, and the State Government decides that the value of, or right to use such works should be preserved or secured for the purposes of the State Government; or (ii) where the cost of restoring any land to its condition at the time of its requisition would in the determination of the State

Government be excessive having regard to the value of the land at that time, and the owner declines to accept the release from requisition of the land without payment of compensation from the State Government.(4)Any decision or determination of the State Government under sub-section (3) shall be final and shall not be called in question in any court.(5)For the purposes of clause (i) of sub section (3) "works" includes buildings, structures and improvements of every description.

6. Payment of Compensation.

- Where under this Act any requisitioned property is continued under requisition for a period and is thereafter released from requisition or is acquired, compensation for such continued requisition and, as the case may be, acquisition of the property shall be determined and paid in the manner and in accordance with the principles hereinafter set out, that is to say-(a)where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement;(b)where no such agreement can be reached, the State Government shall appoint as arbitrator the District Judge, or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the property or any portion thereof was situate at the time of requisition or acquisition, as the case may be;(c)the State Government may in any particular case nominate a person having special knowledge as to the nature of the property acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;(d)at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;(e)the arbitrator in making his award shall in the case of moveable property have regard to the market price of such property and in the case of immoveable property have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894), as adapted and applied to the Saurashtra area of the State so far as the same is applicable and whether the acquisition is of a permanent or temporary character:Provided that where any property requisitioned is subsequently acquired, the arbitrator in any proceeding in connection with such acquisition shall for the purposes of the provisions of the said section take into consideration the market value of the property at the date of its first requisition, and not at the date of its subsequent acquisition;(f)an appeal shall lie to the High Court against the award of the arbitrator;(g)save as provided in this Act and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

7. Power to obtain information.

(1)The State Government may, with a view to carrying out the purposes of sections 3 to 6, by order require any person to furnish to such authority as may be specified in the order, such information in his possession relating to any requisitioned property as may be so specified.(2)Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code (XLV of 1860).

8. Delegation of functions.

- The State Government may, by order notified in the Official Gazette, direct that any power conferred or any duty imposed on it by this Act shall in such circumstances and under such conditions, if any, as may be specified in the direction be exercised or discharged also by such officer not being in the opinion of the State Government below the rank of a Collector, as may be so specified.

9. Protection of action taken under the Act.

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder. (2) Save as otherwise expressly provided under this Act, 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 intended to be done in pursuance of this Act or any order made thereunder.

10. Rules.

(1) The State Government may make rules for the purposes 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 prescribe, (i) the procedure to be followed in arbitrations under section 6, and (ii) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on an appeal.