

The East Punjab Displaced Persons Land Re-settlement Act, 1949

PUNJAB

India

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Act 36 of 1949

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The East Punjab Displaced Persons Land Re-settlement Act, 1949Act 36 of 1949For Statement of Objects and Reasons, see East Punjab Government Gazette Extra-ordinary, 1949 pages 1015-1016; for proceedings in the Assembly, see East Punjab Legislative Assembly Debates, Volume IV, 1949, pages (7) 78-(7) 91.Received the assent of his Excellency the Governor General of India on the 17th November, 1949, and was first published in the East Punjab Government Gazette Extraordinary, dated the 19th November, 1949.An Act to provided for the allotment and leases of evacuee land in [Punjab]. It is hereby enacted as follows:-

1. Short title and extent.

(1)This Act may be called the East Punjab Displaced Persons (Land Re-settlement) Act, 1949.(2)It shall extend to the whole of [Punjab].

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"the Principal Ordinance" means the Administration of Evacuees Property Ordinance, 1949;(b)"allottee" means a displaced person to whom land is allotted by the Custodian under the conditions published with East Punjab Government notification No. 4892-S, dated the 8th July, 1949, and includes his heirs legal, representatives and sub-lessees;(c)"displaced person" means a land-holder in the territories now comprised in the province of [Punjab in Pakistan] [Substituted for the words 'West Punjab' by the Adaptation of Laws (Third Amendment) Order, 1951.] or a person of Punjabi extraction who holds land in the Provinces of North-West Frontier, Sind or Baluchistan or any State adjacent to any of the aforesaid Provinces and acceding to [- - -] [The words 'Dominion of' omitted by the Adaptation of Laws (Third Amendment) Order, 1951.] Pakistan, and who has since the 1st day of

March, 1947, abandoned or been made to abandon his land in the said territories on account of civil disturbances, or the fear of such disturbances or the partition of the country;(d)"land" means land which is not urban and is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes -(i)the sites of buildings and other structures on such land;(ii)a share in the profit of an estate or holding;(iii)any dues or any fixed percentage of land revenue payable by an inferior landowner to a superior landowner;(iv)a right to receive rent; and(v)any right of occupancy;(e)"lessee" means a displaced person to whom land is leased by the Custodian under the conditions published with East Punjab Government notification No. 4891/S, dated the 8th July, 1940, and includes his heirs, legal representatives and sub-lessees;(f)"present holder" means a person who is in occupation of the land allotted or leased to an allottee or lessee, as the case may be;(g)"Rehabilitation Authority" includes Financial Commissioner, Rehabilitation, the Commissioner of the Division, Director-General, Rehabilitation, Deputy Commissioner and Additional Deputy Commissioner of a district; Assistant Collectors of the first and second grades and a District Urban Resettlement Officer;(h)"urban land" means all land included within the limits of a Corporation, Municipal Committee, Notified Area Committee, Town Area, Small Town Committee and Cantonment as these limits stood on the 15th of August, 1947; and(i)words and expressions used in this Act but not defined, have the meaning assigned to them in the principal Ordinance.

3. Power of Custodian to earmark land in Shamlat.

- When the evacuee property consists of a share of an evacuee in shamlat land the Custodian shall be empowered to appropriate land by order out of the shamlat according to the share of the evacuee and the land so appropriated shall vest in the Custodian.

4. Right of allottee or lessee to possession.

- An allottee or lessee shall be deemed to have entered into constructive possession of the land allotted or leased to him with effect from Kharif, 1949, but he shall be entitled to take actual possession of any part of such land on which no crop is standing on the 1st December, 1949, and of the balance, from the 1st March 1950, or when the standing crops have been harvested by the present holder, whichever is later, but in any case by the 15th May, 1950.

5. Rights and obligation of the present holder.

(1)The present holder shall be entitled to keep possession of the land till such date as the allottee or lessee under the preceding section becomes entitled to actual possession thereof and from that date all rights, title and interest in the land of such holders shall cease and, except as provided in Section 9, he shall not be entitled to claim any damages or compensation on any ground whatsoever.(2)The present holder shall, unless another rate has been or is specified in this behalf, be liable to pay rent equal to two and a half times the land revenue in addition to the cesses for the time being in force for Kharif, 1949, and be [liable to pay two and a half times the land revenue in addition to the cesses for the time being in force at the time of entering into constructive possession in Rabi, 1950, and after] [

Substituted for the words 'liable to pay four times the land revenue in addition to the cesses for the time being in force or customary batai at his opinion to be decided mutually with the new allottee or lessee at the time of entering into constructive possession for Rabi, 1950, and after' by Punjab Act, 11 of 1950, section 2.].

6. Right of allottee or lessee to a share in rent.

- The rent realized from the present holder under sub-section (2) of Section 5 or from his sub-lessee or actual cultivator of the land under Section 8 shall be appropriated in the following order namely:-(a)toward the payment of land revenue and cesses;(b)towards the fees of, and other expenses incurred by, the Custodian in respect of that land; and(c)the balance after meeting the charges referred to in clauses (a) and (b) shall be paid to the allottee or lessee, in cash or at the option of the Custodian adjusted against any amount due from him to the Custodian.

7. Liability of the allottee or lessee.

(1)When the lease or allotment is in favour of more than one person, any liability imposed by this Act shall be the joint and several liability of each such person.(2)The liability of the allottee or lessee for the payment of the rent to the Custodian shall commence from Kharif, 1950, or when actual possession is surrendered to him, whichever is later.

8. Liability of the sub-lessee of the present holder.

- If for any reason the present holder abandons the land held by him the liability to pay rent for Kharif, 1949, and Rabi, 1950, may be enforced by the Custodian against the sub-lessee of the present holder or the actual cultivator of the land to the same extent and under the same procedure as it could be enforced against the present holder.

9. Termination of leases of land by evacuees in favour of non-evacuees.

(1)Notwithstanding anything contained in any law for the time being in force, all leases of land except such leases as the Custodian may by order exempt from the operation of this section, made by an evacuee in favour of a person other than an evacuee shall be deemed to have terminated on the 25th July, 1949, and the land shall be deemed to have vested under this Act in the Custodian with effect from the same date free from all rights of the lessee or persons claiming under such lessee.(2)Where any lease is determined under this section, there shall be paid compensation the amount which shall be determined 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 between the Custodian and the lessee, it shall be paid in accordance with such agreement.(b)Where no such agreement can be reached, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall appoint as arbitrator any Subordinate Judge having jurisdiction in the district where the land is situated.(c)At the commencement of the proceedings before the arbitrator the Custodian and the person to be compensated shall state what in their

respective opinions is a fair amount of compensation.(d)An appeal shall lie to the District Judge against an award of an arbitrator except in cases where the amount thereof does not exceed the amount prescribed in this behalf by the rule made by the [State] [Substituted for the word, 'Provincial' by the Adaptation of Law Order, 1950.] Government.(e)Save as provided in this section and in any rules made thereunder nothing in any law for the time being in force shall apply to arbitration under this section.(3)The compensation awarded shall be paid by the Custodian to the person entitled thereto according to the award :Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this section to pay the same to the person lawfully entitled thereto.

10. Delegation.

- The Custodian may, by general or special order, delegate to Rehabilitation Authority or such officers and persons as he considers fit, any of his functions under this Act.

11. Instruction not to require stamp and registration.

- Notwithstanding anything contained in any law for the time being in force, no instrument in writing giving effect to a transfer by the Custodian or Rehabilitation Authority of any land of an evacuee shall require stamp attestation or registration.

12. Orders not to be called in question.

- Except as provided in this Act, no order made or action taken in exercise of any power conferred by this Act, shall be called into question in any court or before any officer or authority.

13. Bar to legal Proceedings.

- No suit, prosecution or other legal proceedings shall lie against the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, the Custodian or Rehabilitation Authority or any person acting under their direction in respect of anything done or purported to have been done in pursuance of this Act.

14. Power to make rules.

(1)the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by notification in the official Gazette, make such rules as appear to it to be necessary or expedient for putting into effect the provisions of this Act.(2)Without prejudice to the generality of the powers conferred by sub-section (1) such rules may provide for all or any of the following matters, namely, -(a)the procedure to be followed in arbitration under section 9;(b)the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal;(c)the maximum amount of an award against which no appeal shall lie; and(d)any incidental supplementary matters for which the [State] [Substituted for the word 'Provincial' by the

Adaptation of Laws Order, 1950.] Government thinks it expedient for the purpose of this Act to provide.

15. Repeal of East Punjab Ordinance No. XIV of 1949.

- The East Punjab Displaced Persons (Land Resettlement) Ordinance, 1949, is hereby repealed but notwithstanding such repeal, any orders made, anything done or any action taken in the exercise of any powers conferred by or under the said ordinance and any liability incurred or proceeding commenced under the said Ordinance shall be deemed to have been made, done, taken, incurred or commenced in the exercise of the powers conferred by or under this Act.