

The Nagaland Eviction of Persons in Unauthorised Occupation of Public Land Act, 1971

NAGALAND

India

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Act 6 of 1971

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The Nagaland Eviction of Persons in Unauthorised Occupation of Public Land Act, 1971 Nagaland Act No. 6 of 1971 Last Updated 17th February, 2020 Published in the Nagaland Gazette, Extraordinary, dated the 5th November, 1971. [Received the assent of the President on 22nd October, 1971]. Be it enacted by the Legislative Assembly of the State of Nagaland in the Twenty-second Year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Nagaland Eviction of Persons in Unauthorised Occupation of Public Land Act, 1971. (2) It extends to the whole of the State of Nagaland. (3) It shall come into force in the district of Kohima and Mokokchung on the date on which the assent of the President is first published in the Nagaland Gazette, and shall come into force in the Tuensang district on such date as the Governor may, on the recommendation of the Regional Council, by public notification, direct.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Appropriate Officer" means - (i) in relation to a public land belonging to, taken on lease by, or requisitioned by or on behalf of, the State Government, such person as is authorised by the Governor or Nagaland to execute on his behalf any contract of assurance of property, made in exercise of the executive power of the State of Nagaland ; (ii) in relation to a public land belonging to, taken on lease by, or requisitioned on behalf of, any local authority, Government company or corporation owned or controlled by the State Government, such Officer of the local authority or Government company or corporation, as the case may be, as is empowered to enter into a contract on behalf of such local authority, Government company or corporation; (b) "Deputy Commissioner" includes an Additional Deputy Commissioner, a

sub-divisional Officer and any Officer not below the rank of a Magistrate of the first class, specially appointed by the State Government to perform all or any of the functions of the Deputy Commissioner under this Act ;(c)"Government company" has the meaning assigned to it in Section 617 of the Companies Act, 1956 ;(d)"land" includes buildings and other things attached to the earth or permanently fastened to things attached to the earth ;(e)"local authority" means a Town Committee established under the Assam Tribal Areas (Administration of Town Committees) Regulations, 1950, and includes any Area Council established under the Nagaland Village Area and Regional Councils Act, 1971 ;(f)"notification" means a notification published in the Nagaland Gazette;(g)"prescribed" means prescribed by rules made under this Act ;(h)"public land" means any land belonging to, or taken on lease by the State Government, a local authority, a Government company or a corporation owned or controlled by the State Government, and includes any land requisitioned by or on behalf of the State Government, but does not include-(i)[Omitted];(ii)any land within a reserved forest constituted under the Nagaland Forest Act, 1968 ; and(iii)any road or highway within the meaning of any law for the time being in force on the subject;(i)"unauthorised occupation", in relation to any public land, means the use or occupation by any person of the public land without authority, in writing, of the appropriate officer and includes-(1)continuance in occupation by any person of any public land after the authority (whether by way of lease or any other mode of transfer) under which occupation of public land was allowed, has expired or has been determined for any reason whatsoever, or(2)the occupation of any public land on ostensible payment of land revenue or rent, where such payment was not authorised by the appropriate officer.

3. Act to override custom or usage.

- The provisions of this Act shall have effect notwithstanding any custom or usage which permit, or purports to permit, the use or occupation of any public land by any person or group of persons without the sanction of the appropriate officer.

4. Duration of certain leases in absence of written contract or local law.

(1)In the absence of a contract or local law to the contrary, a lease of public land for agricultural or manufacturing purposes shall be deemed to be a lease from year to year terminable on the part of either lessor or lessee after six months' notice ; and a lease of public land for any other purpose shall be deemed to be a lease from month to month terminable on the part of either lessor or lessee by fifteen days' notice.(2)Every notice under sub-section (1) shall be in writing signed by or on behalf of the persons giving it, and either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party unless he has an agent empowered to accept such notice, in which case the notice may be tendered or delivered to such agent, and where such party cannot be found and no agent empowered to accept the notice on his behalf, the notice may be tendered to any adult male member of the family of such party, or if such tendering or delivery is not possible, such notice may be affixed to a conspicuous part of the property.

5. Issue of notice to show cause against order of eviction to unauthorised occupation from public land.

(1) If in respect of any public land, the Deputy Commissioner is of opinion that such land is in the unauthorised occupation of any person or persons, he shall issue a notice in such form and containing such particulars as may be prescribed, calling upon all persons concerned to show cause before such date, not being less than fifteen days after the date of the notice, as may be specified in the notice, why an order under sub-section (1) of Section 6 should not be made and shall cause it to be served in the manner referred to in sub-section (3). (2) A notice referred to in sub-section (1) shall, in addition to the prescribed particulars- (a) specify the grounds on which the order of eviction is proposed to be made; and (b) require all persons concerned, that is to say, all persons who are, or may be in occupation of, or claim interest in, the public land, to show cause, if any, against the proposed order on or before such date as is specified in the notice. (3) A notice issued under sub-section (1) shall be served by affixing it on a conspicuous part of the public land. (4) Where the Deputy Commissioner knows or has reason to believe that any persons are in occupation of the public land, then without prejudice to the provisions of sub-section (3) he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed. (5) A notice served in the manner referred to in sub-section (6) shall be deemed to have been duly served.

6. Order of eviction to persons in unauthorised occupation of the public land.

(1) If, after considering the cause, if any, showing by any person in pursuance of the notice issued under Section 5 and any evidence adduced in support thereof and after making such further inquiry, if any, as he may deem necessary, the Deputy Commissioner is satisfied that the public land is in unauthorised occupation, he shall make an order of eviction directing all persons in such unauthorised occupation to vacate the public land and deliver possession thereof to him, after removing any structure or other property therefrom, within fourteen days from the date of the order. (2) For the purpose of making an inquiry referred to in sub-section (1), the Deputy Commissioner or any person authorised by him in that behalf, may- (a) enter upon the public land and inspect, measure or demarcate the same at any time between sun-rise and sun-set; and (b) require, in such manner as may be prescribed, all persons concerned or any other person to furnish information relating to the names and other particulars of persons concerned and the person concerned or any other person so required shall be bound to furnish such information. (3) The Deputy Commissioner shall cause a copy of the order made under sub-section (1) to be served in the manner referred to in sub-section (3) of Section 5.

7. Power to recover damages.

- When an order of eviction has been made under sub-section (1) of Section 6 in respect of any public land, the Deputy Commissioner may make an order directing any person who is, or has at any time been, in unauthorised occupation of the public land to pay, for the period during which he has, or had been in such occupation, damages at such rate not exceeding the rate of rent prevailing for

similar lands with similar advantages in the vicinity, as may be prescribed, within such time, not being less than thirty or more than ninety days, as may be specified in the order :Provided that no such order shall be made against any person without giving him an opportunity of showing cause against the proposed order.

8. Deputy Commissioner's powers to enforce delivery of possession of public land by evicting the unauthorised occupants.

(1)if, in respect of any public land or part thereof, any person refuses or fails to comply with an order made under sub-section (1) of Section 6, within the time specified in that sub-section then the Deputy Commissioner shall evict that person from and take possession of, the public land and may, for that purpose, use such force as may be necessary.(2)The cost of obtaining possession of any public land after evicting the person in unauthorised occupation thereof shall be payable by such person within such time, not being less than thirty or more than ninety days from the date on which possession of the public land is taken or from the date of the public auction referred to in Section 10, whichever is the later, as the Deputy Commissioner may, by order, direct.

9. Damages and costs recoverable as public demands.

- Any sum payable by any person as damages or costs by an order of the Deputy Commissioner under this Act shall be recoverable as an arrear of land revenue.

10. Disposal of property of, on public land, by unauthorised occupants.

(1)Where any person has been evicted from any public land under Section 8, the Deputy Commissioner may remove or cause to be removed, or dispose of, by public auction, any property remaining on such land.(2)Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the State Government, local authority, Government company or corporation, as the case may be, on account of arrears of rents, damages or costs, be paid to such person or persons as may appear to the Deputy Commissioner to be entitled to the same :Provided that where the Deputy Commissioner is unable to decide as to the person or persons to whom the balance of the amount is payable, or as to the apportionment of the same, he may refer such dispute to the court of competent jurisdiction for a decision thereon.

11. Powers of the Deputy Commissioner.

- The Deputy Commissioner shall, for the purpose of any inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:(a)summoning and enforcing the attendance of any person and examining him on oath;(b)recording the discovery and production of documents ; and(c)any other matter which may be prescribed.

12. Appeal.

(1)An appeal shall lie from every order made by the Deputy Commissioner under sub-section (1) of Section 5 or under Section 7 in respect of any public land to an Appellate Officer who shall be the Commissioner of the State of Nagaland.(2)Every appeal referred to in sub-section (1) shall be referred within fifteen days from the date of service of the order on the person concerned :Provided that where the Appellate Officer is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of fifteen days, he may allow the appeal to be preferred within a further period of thirty days.(3)The Appellate Officer may stay the operation of any order made by the Deputy Commissioner under sub-section (1) of Section 6 or under Section 7 for such period and on such conditions as he may deem fit.(4)Every appeal preferred under this section shall be disposed of as expeditiously as possible in accordance with such procedure as may be prescribed.(5)The Appellate Officer may, after hearing the appeal, confirm, modify or reverse the order appealed from.(6)The cost of every appeal preferred under this section shall be in the discretion of the Appellate Officer.

13. Finality of orders.

- Save as otherwise expressly provided in this Act, every order made under this Act by the Deputy Commissioner or the Commissioner of the State of Nagaland, as the case may be, shall be final and shall not be called in question in any court and no injunction shall be granted by any court in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Act.

14. Bar to suits or other legal proceedings.

- No suit or other legal proceedings shall lie in any Court in respect of the eviction of any person who is in unauthorised occupation of any public land or the recovery of any damages or costs awarded under this Act or any portion of such damages or costs.

15. Liability of heirs and legal representatives.

(1)Where any person against whom any proceeding for determination of rent or for the assessment of damages or costs is to be, or has been taken, lies before the proceeding is taken or, during the pendency thereof, a proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.(2)Any amount due to the State Government, local authority, Government company or Corporation, as the case may be, from any person whether by way of arrears of rent or damages or costs, shall, after the death of such person, be payable by his heirs or legal representatives, but the liability of such heirs or legal representatives shall be limited to the extent of the assets of the deceased in their hands.

16. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government or the Deputy Commissioner for anything which is in good faith done or intended to be done by him in pursuance of this Act or any rule or order made thereunder.

17. Offences and penalties.

(1) If any person, who has been evicted from any public land under this Act, re-occupies such land without the sanction of the appropriate officer, he shall be punishable with imprisonment of either description for any term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. (2) Any magistrate convicting a person under sub-section (1) may summarily make an order for the eviction of that person from the public land and such eviction shall be without prejudice to any other action that may be taken against such person under this Act.

18. Power to make rules.

(1) The State Government may, by notification in the Nagaland Gazette, make rules for carrying out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely: (a) the form and particulars of any notice required or authorised to be given under this Act and the manner in which it may be served; (b) the holding of inquiries under this Act; (c) the procedure to be followed in taking possession of public land; (d) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages; (e) the manner in which an appeal may be preferred and the procedure to be followed in appeals; and (f) any other matter which is required to be, or may be, prescribed. (3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of the State of Nagaland while it is in session for a total period of seven days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modification in the rule or the Assembly agrees that the rule should not be made, 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.