

The East Punjab Refugees Rehabilitation (House-Building Loans) Act, 1948

PUNJAB

India

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Act 43 of 1948

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The East Punjab Refugees Rehabilitation (House-Building Loans) Act, 1948 East Punjab Act No. 43 of 1948 Statement of Objects and Reasons. - To achieve quicker rehabilitation of refugees of the urban class displaced from West Punjab and of refugees of Punjabi extraction from the rest of West Pakistan the Government have decided to give them the facility of loans for the purpose of building houses on sites sold to them with this object. His Excellency promulgated the East Punjab Refugees Rehabilitation (House Building Loans) Ordinance XIX of 1948 on the 3rd August, 1948. This bill is intended to replace the Ordinance which would expire in six weeks from the re-assembly of the East Punjab Legislative Assembly. "Published vide East Punjab Government Extraordinary dated the 27th September, 1948, page, 558. For Statement of Objects and Reasons, East Punjab Government Gazette (Extraordinary), 1948; for proceedings in the Assembly, East Punjab Legislative Assembly Debates, Volume III, 1948. Received the assent of His Excellency the Governor on the 15th November, 1948, and first published in the East Punjab Government Gazette (Extraordinary) of November 18, 1948. It is hereby enacted as follows :-

1. Short title and extent.

(1) This Act may be called the East Punjab Refugees Rehabilitation (House-building Loans) Act, 1948. (2) It extends to the whole of [Punjab] [Substituted for the words 'East Punjab' by the Adaptation of Laws Order, 1950.].

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a) "borrower" means an individual, company, co-operative society or association or body of individuals, whether incorporated or not to whom or to which a loan has been made under this Act; (b) "company" means

a company as defined in the Indian Companies Act, 1913 (VII of 1913);(c)"co-operative society" means a co-operative society [registered under] [Substituted for the word 'as defined in' by East Punjab 23 of 1949, section 2(a).] under the Co-operative Societies Act, 1912 (II of 1912);(d)"controlling authority" means the authority competent to sanction a loan under the powers conferred by this Act;(e)"Deputy Commissioner" means a Deputy Commissioner appointed under this Act;(f)"Financial Commissioner" means the Financial Commissioner, Rehabilitation, appointed under this Act;(g)"house" means a residential house, house-cum-shop and house-cum-workshop;(h)"prescribed" means prescribed by rules made under this Act;(i)"refugee" means a person displaced from the territory now comprised in Western Pakistan on account of civil disturbances or fear of such disturbances and who is for the time being resident in [India] [Substituted for the words 'the Indian Dominion or any State acceding thereto' by the Adaptation of Laws (Third Amendment) Order, 1951.];(j)["Registrar" means the Registrar, Co-operative Societies, Rehabilitation appointed under this Act.] [Added by East Punjab Act 23 of 1949, section 2(b).]

3. Controlling Authority.

(1)For the purpose of making loans to refugees to assist them in building their houses, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may appoint a Financial Commissioner, Rehabilitation [and a Registrar, Co-operative Societies, Rehabilitation] [Inserted by East Punjab Act 23 of 1949, section 3(a).] for the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] and either by name or designation, Deputy Commissioners, for such local areas as may be specified, and may by general or special order provide for the distribution or allocation of the work to be performed by them under this Act or the rules framed thereunder.(2)The Financial Commissioner, [the Registrar] [Inserted by East Punjab Act 23 of 1949, section 3(b).] or a Deputy Commissioner may, with the sanction of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government delegate any of his functions to any officer of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government whether by name or designation.

4. Limit and conditions of loans.

(1)The amount of loan which may be made to [an individual refugee] [Substituted for the word 'a refugee' by the East Punjab Act 23 of 1949, section 4(a).] under this Act shall not exceed Rs. [10,000] [Substituted for the word '20,000' by East Punjab Act 23 of 1949, section 4(a).].(1A)[The amount of loan which may be made to a company, a co-operative society or an association or body of individuals under this Act shall not exceed Rs. 5,000 per member of such company, co-operative society or association or body of individuals.] [Inserted by East Punjab Act 23 of 1949, section 4(b).](2)The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe condition subject to which a loan under this Act may be sanctioned.

5. Procedure for sanctioning loans.

(1)Any refugee may submit to the Deputy Commissioner within the local limits of whose jurisdiction he intends to build a house an application in the prescribed form, supported by an affidavit, stating

the amount of loan desired by him, the purpose for which it is desired and the manner in which the repayment of the loan, if granted to him is proposed.(2)The Deputy Commissioner if satisfied that the applicant is a refugee may -(a)if the application is for a loan of a sum not exceeding Rs. 5,000 sanction the loan to the extent of the amount stated in the application or any lesser amount as he may consider fit;(b)if the application is for a loan of a sum exceeding Rs. 5,000, forward it along with his recommendation as to the amount for which it may be sanctioned, to the Financial Commissioner.(2A)[Any company, co-operative society or association or body of individuals intending to build a house or houses may submit to the Registrar an application in the prescribed form supported by an affidavit, stating the amount of loan desired by it, the purpose for which it is desired and the manner in which the repayment of the loan, if granted to it, is proposed.(2B)The Registrar, if satisfied that all the members of the company, co-operative society, association or body are refugees, may -(a)if the application is for a loan of a sum not exceeding Rs. 5,000 per member of such company, co-operative society, or association or body, sanction the loan to the extent of the amount stated in the application or any lesser amount as he may consider fit;(b)if the application is for a loan exceeding Rs. 5,000 per member of such company, co-operative society, or association or body, forward it along with his recommendation as to the amount for which it may be sanctioned to the Financial Commissioner;](3)The Deputy Commissioner [or as the case may be, the Registrar] [Inserted by East Punjab Act 23 of 1949, section 5(a).] may, after consulting such authorities, if any, as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe, specify the conditions on which any loan sanctioned by him is made, and specify the instalments by which it is to be repaid.(4)The Financial Commissioner shall, after consulting such authorities, if any, as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe, either reject the application or accept it in whole or in part, and may specify the conditions on which the loan is to be made, and specify the instalments by which it is to be repaid.

6. Security for repayment of loans.

(1)When an application for loan has been sanctioned, the applicant shall execute a bond in the prescribed form undertaking to apply the money lent to the purpose or purposes for which, and to fulfil the conditions on which, the application has been sanctioned.(2)For a loan not exceeding Rs. 5,000 the applicant shall furnish one surety and for loans exceeding Rs. 5,000 two sureties, and the person and the property of the applicant as well as the surety or sureties, as the case may be, shall be liable for the repayment of the loan with interest and costs, if any, incurred in making or recovering the loan :Provided that the Controlling Authority may in any case exempt the applicant from furnishing a surety or sureties, as the case may be.(3)When the application has been made by a firm, company or co-operative society the bond shall be executed by a duly authorised representative thereof, and the bond shall thereupon be deemed binding on the said firm, company or co-operative society and the property of the said firm, company or co-operative society shall be liable for the repayment of the loan in the same manner as if the loan had been granted to an individual.(4)Any plant, building material or building which the borrower purchases or builds with or with the aid of the loan advanced to him along with the land on which the building is constructed shall, until the loan be repaid in full, not be liable to attachment or sale in the execution of the decree or order of any Court, and remain the sole and absolute property of the [State] [Substituted for the word

'Provincial' by the Adaptation of Laws Order, 1950.] Government and any transfer thereof or assignment of any right, title or interest therein, or the creation of any mortgage, encumbrance or any other charge thereon by the borrower shall be void against the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, unless it has been made with the previous consent of the Controlling Authority.

7. Loan how repayable.

- The loan together with all interest due thereon, if any, shall, except as provided in any bond executed by the borrower, be repayable by half-yearly instalments for a period of fifteen years :Provided that except as specified in the bond executed by the borrower the repayment of instalments and interest shall commence twelve months [after the completion of the building for construction of which the loan was taken or two years] [Inserted by East Punjab Act 23 of 1949, section 6(a)(i).] after the date of disbursement of the loan or of such instalment or instalments thereof as the borrower is prepared to accept [whichever period is earlier] [Inserted by East Punjab Act 23 of 1949, section 6(a)(ii).].Provided further that the purchaser may at any time pay up the whole of the balance of the principal plus interest on it [up to the date of payment[-] [Substituted for the words 'at 3 per cent per annum up to the date of payment' by East Punjab Act 23 of 1949, section 6(b).] [Inserted by East Punjab Act 23 of 1949, section 5(a).].

8. Inspection and supply of information.

- The borrower shall be bound -(a)to comply with any general or special order of the Controlling Authority relating to the inspection of the premises or building constructed or machinery and materials purchased or hired by the borrower, with the aid of the loan made to him; and(b)to furnish any information which the aforesaid authority may require relative to the purpose or purposes for which the loan was made, or the manner in which the loan has been or is being utilised.

9. Default in complying with an order under section 8.

- (i) If the borrower fails without reasonable cause to comply with any order under section 8, or(ii)if the Controlling Authority, after inspection provided for in section 8, or otherwise, is satisfied that the money lent is not being applied to the purpose or purposes for which it was lent or that the conditions on which it was lent are not being duly fulfilled,the Controlling Authority may declare notwithstanding anything contained in the bond executed by the borrower that the loan is immediately, recoverable and shall give notice or such declaration to the borrower and the surety or sureties, if any.

10. Appeal.

- Within six weeks of the receipt of the notice under section 9, the borrower may appeal against the declaration of the Controlling Authority to the [State] [Substituted by Adaptation of Laws Order, 1950, for 'Provincial'.] Government, and the decision of the [State] [Substituted by Adaptation of

Laws Order, 1950, for 'Provincial'.] Government, thereon shall be final.

11. Mode of recovery.

(1)When any loan or instalment or interest thereon falls due and is not paid on or before the due date, or when a loan has been declared immediately repayable under section 9, and subject to the order made on appeal under the last preceding section, the Controlling Authority may cause to be served on the borrower and the surety or sureties, if any, a notice calling upon them to pay the sums due within such time as may be fixed therein.(2)In case of default, all arrears of money payable to the [State] [Substituted by Adaptation of Laws Order, 1950, for 'Provincial'.] Government under this Act including interest chargeable thereon and costs, if any, incurred, may be realised as arrears of land revenue.

12. Finality of decision of the State Government.

- The decision of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government as to whether the conditions laid down in or under any of the provisions of this Act have been satisfied shall be final, and no suit shall be brought in any civil court to set aside or modify any order made thereunder, nor shall the same be questioned by any court of law in any proceedings whatsoever.

13. Bar to legal proceeding.

- No prosecution, suit, or other proceedings shall lie against the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or any Government Officer or other Authority vested with powers under this Act for anything in good faith done or intended to be done thereunder.

14. Power to make rules.

(1)The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make [rules] [For rules, see East Punjab Government Notification No. 3235, dated 20.10.1948, published in East Punjab Government Gazette, 1948, Part I, pages 934-39.] consistent with this Act for the carrying out of all or any of its purposes.(2)In particular and without prejudice to the generality of the foregoing power, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make rules regulating or determining all or any of the following matters, namely :-(i)the forms of the application to be made and deeds to be executed in respect of loans;(ii)the mode in which disbursement of loans is to be made to borrowers;(iii)the forms of notices to be given or declarations to be made by the Controlling Authority; and(iv)the design of and the materials to be used in the building of houses.

15. Repeal of Ordinance XIX of 1948.

- The East Punjab Refugees Rehabilitation (House-building Loans) Ordinance, 1948, is hereby repealed.