

U.P. Flood Emergency Powers (Evacuation and Requisition) Act, 1951

UTTAR PRADESH

India

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Act 9 of 1952

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U.P. Flood Emergency Powers (Evacuation and Requisition) Act, 1951 U.P. Act No. 9 of 1952 The Act was passed by U.P. Legislative Assembly, on March 14, 1952, U.P. Legislative Council on March 18, 1952. It received the assent of the President of India, published in U.P. Gazette, dated June 7, 1952. For S. O. R. please see U.P. Gazette, Extraordinary, dated August 11, 1951. An Act [to make certain provisions for the purpose of protecting life and property from danger caused or threatened by floods. [Substituted by U.P. Act No. XX of 1964.]] [Whereas it is expedient to make certain provisions for the purpose of protecting life and property from the danger caused or threatened by floods.] [Substituted by U.P. Act No. XX of 1964.] It is hereby enacted as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Uttar Pradesh Flood Emergency Powers (Evacuation and Requisition) Act, 1951. (2) It extends to the whole of Uttar Pradesh. (3) It shall come into force at once.

2. Definitions.

- In this Act unless there is anything repugnant in the subject or context, - (a) "boat" includes a steamer; (b) "District Magistrate" includes a Sub-divisional Magistrate and a Tahsildar; (c) "owner" includes the pledgee or pawnee in possession and where the person in possession of the boat is a minor, the guardian of such minor; and (d) "State Government" means the Government of Uttar Pradesh.

3. Evacuation of areas.

(1)The District Magistrate may, if it appears necessary for the purpose of protecting life and property from the danger caused or threatened by flood, by order, direct that subject to any exemptions made by general order or special permission, all persons or any class of persons in any area to be specified shall remove themselves or be removed from it or to any specified part thereof and may do any other act which is necessary for this purpose.(2)Any order made under sub-section (1) for the removal of persons may specify-(a)the route or routes by which all or any class of persons are to remove themselves or be removed from the specified area;(b)the time or times by which they are to remove themselves or be removed from the specified area;(c)the place or places to which they are to proceed or be taken on removing themselves or being removed from the specified area;and may make such other incidental or supplementary provisions as may appear necessary or expedient for the purposes of the said order.

3A. [Power to divert flow or remove obstruction. [Added by U.P. Act No. XX of 1964.]

(1)Whenever the District Magistrate is of opinion that for the purpose of preventing an imminent danger to life or serious damage to property, caused or threatened by floods in any area, it is necessary in the public interest-(i)to divert the flow of the flooded water; or(ii)to remove wholly or in part any wall, embankment or any other object causing obstruction to the flow of such water in any direction;he may make such order, as he thinks necessary, for diverting the flow of such water or for the removal of such wall, embankment or object, as the case may be.(2)An order made by the District Magistrate under sub-section (1) shall be executed by such agency and in such manner as may be specified in the order]

4. Accommodation of evacuated persons.

- The District Magistrate may for the purpose of accommodating any persons who have left or have been removed from their houses in accordance with any order made under Section 3 take possession of any premises other than-(a)premises used for the purpose of religious worship, or(b)a private dwelling house in use as such.

5. Requisition of boats.

(1)The District Magistrate may, if it appears necessary with view to meeting or averting danger caused or threatened by floods to life and property of persons residing if any area, by written order requisition any boat and may make such further orders as may appear to him to be necessary or expedient in connection with such requisition.(2)A copy of the order shall be served on the owner of the boat, or where the owner is not readily traceable or the ownership is in dispute, by pasting a copy of the order at a prominent place in the vicinity where the boat is lying.(3)If the owner of the boat does not after service of the order in the manner provided in sub-section (2), place the boat in possession of the authority mentioned therein, such authority may seize the boat from any person

who may for the time being be in possession thereof.(4)Where the District Magistrate has requisitioned any boat, he may use or deal with it in such manner as may appear to him to be expedient.

6. Compensation for premises.

- Whenever the District Magistrate takes possession of any premises under Section 4 or requisition any boat under Section 5 the owner of the building or the boat, as the case may be, shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say, -(a)The District Magistrate shall determine the amount of compensation after taking into consideration -(i)in the case of a building, the rent payable for similar buildings in the locality; and.(ii)in the case of boat, the prevailing rates of hire for such boats;(iii)any damage done during the period of requisitioning to the premises or the boat; and(iv)any other material circumstances proved by the owner.(b)The amount of compensation so determined shall be offered to the owner and if he agrees to accept, it shall be paid to him.(c)Where the owner does not accept the amount, the question shall be referred to the Civil Judge having jurisdiction who shall determine the amount of compensation having regard to the consideration referred to in clause (a) aforesaid.(d)Decision of the Civil Judge shall be final and no appeal shall lie against it.(2)Save in so far as things may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to proceedings before the Civil Judge under this Act.

7. Power to issue directions to boat owners.

- Without prejudice to the provisions of Section 5, the District Magistrate may, during a period of flood emergency, require any person or persons owning or having in possession or under his or their control any boat to comply such directions as he may give in writing.

8. Entry and inspection.

- Any person authorised in this behalf by the District Magistrate may enter upon and inspect any premises or boat for the purposes of determining whether such premises or boat is fit for use and should be requisitioned under Section 4 or 5, as the case may be.

9. Orders regarding information and removal.

- The District Magistrate may, with a view to requisitioning any premises or boat determining the compensation payable therefor under Section 6 by order -(a)require any person to furnish to such authority as may be specified in the order, such information in his possession relating to the premises or the boat as may be specified;(b)direct that the owner or person in possession of the boat shall not without the permission of the District Magistrate dispose it or remove it till the expiry of such period as may be specified in the order, from the premises or place in which it is kept.

10. Preventing, removing of parts, etc.

- No owner of any boat or any person in possession thereof shall, after service of the order under Section 5, remove any part or any other accessory or in any way injure the boat so as to reduce the usefulness of such boat.

11. Release from requisition.

(1) Any premises taken possession of under Section 4 shall be returned to the owner or to the person from whom possession was taken-(a) where it is not utilized for the purpose mentioned in Section 4, upon the expiry of three months from the date of taking possession; (b) where it so utilized, upon the expiry of 12 months from the said date. (2) A boat requisitioned under Section 5, shall be released from requisition in favour of the owner or from the person from whom possession was taken before the expiry of three months from the date of taking possession. (3) When any premises are or about to be released from requisition under sub-section (1), the District Magistrate may, by order in writing, require any person in occupation of the whole or any part of such premises to vacate the same within a time to be specified and if such person fails to comply with the notice, he may cause him to be evicted from the premises and use such force as may be necessary for carrying out the orders. (4) The delivery of possession and payment of compensation for the boat or the premises to a person specified in the order made under sub-section (1) shall be full discharge of any liability of the State Government to deliver possession of the boat or the premises or to pay compensation to such person as may have rightful claim but shall not prejudice any right in respect of such boat or premises or compensation money which any other person may, by due process of law, be entitled to enforce against the person to whom possession has been delivered or payment made.

12. Protection.

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

13. Penalty.

- Any person who fails to deliver possession of any premises or boat to the District Magistrate under the provisions of Section 4 or 5 or delays or obstructs the taking of possession thereof or contravenes any other provision of this Act or of any order made thereunder, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

14. Power to arrest.

- Any police officer not below the rank of a Sub-Inspector may arrest without warrant any person who is reasonably suspected of having committed an offence under this Act.

15. Saving.

(1) No order made in exercise of any power conferred by or under this Act shall be called in question in any court. (2) Where any order purports to have been made or signed by any authority in exercise of any power conferred by or under this Act, shall within the meaning of the Indian Evidence Act, 1872, be presumed that such order was so made by that authority.

16. Power to make rules.

- The State Government may make rules to give effect to the purposes of this Act.