

# The Utilization of Surplus Area Scheme, 1960

PUNJAB

India

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### Rule THE-UTILIZATION-OF-SURPLUS-AREA-SCHEME-1960 of 1960

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#### 1. Short title.

- This scheme may be called Utilization of Surplus Area Scheme, 1960.

#### 2. Definitions.

(1) In this scheme, unless the context otherwise requires, -(a) "Act" means the Pepsu Tenancy and Agricultural Lands Act, 1955 (Act No. 13 of 1955); (b) "Biswedari ex-tenant" means a person -(i) who has been a tenant of a Biswedari, (ii) who does not own any land or owns or holds less than five standard acres of land, and (iii) who is found by the prescribed authority to have been deprived of his tenancy in an illegal or unauthorized manner; (c) "Biswedari" means a person, not being the founder of the estate, upon whom proprietary rights in land of that estate or part thereof were given by some specific order of a ruler of a covenanting State of the erstwhile State of Patiala and East Punjab States Union; (d) "Form" means a Form appended to the scheme; (e) "prescribed authority" means the Tehsildar or Naib-Tehsildar within the area of his jurisdiction; (f) "settler" means a person who is entitled on surplus area under this scheme and includes his heirs and successors-in-interest; (g) "tenant" means a person who, before he is ejected under sub-section (1) of Section 7-A, is to be allotted alternative land under the proviso to the aforesaid sub-section; and (h) "worker" means a person -(i) who does not own any land or owns less than five standard acres of land; (ii) who has been cultivating separately, for two years prior to the commencement of the Pepsu Tenancy and Agricultural Lands Act, 1955, the land of his father or grandfather whose area has been declared surplus, and (iii) whose cultivation as such is recorded in the Khasra Girdawari. (2) Words and expressions used and not defined in this scheme but defined in the Act or the Rules made thereunder shall have the same meaning as are assigned to them in the Act or the

Rules.

### **3. Application by landowner.**

- The landowner of a tenant shall make an application to the prescribed authority in Form I for allotment of land to his tenant out of the surplus area. Such an application shall be made within two months of the date of publication of the scheme in the Official Gazette or within such extended period as may, for reasons to be recorded, be allowed by the prescribed authority.

### **4. Application by tenant.**

- Any tenant may take an application to the prescribed authority in Form II for allotment of land out of the surplus area. Such an application shall be made within two months of the date of publication of this scheme in the official Gazette or within such extended period as may, for reasons to be recorded, be allowed by the prescribed authority.

### **5. Suo motu proceedings by prescribed authority.**

- Notwithstanding anything contained in paragraphs 3 and 4, proceedings for allotment of land out of the surplus area to any tenant may be initiated suo motu by the prescribed authority.

### **6. Procedure to be observed by prescribed authority.**

- When an application is made under paragraph 3 or paragraph 4 or when the prescribed authority suo motu starts proceedings under paragraph 5, he shall after hearing the parties concerned and making such summary inquiry as he may think necessary, record a finding on the following point :- (a) whether the landowner is desirous of ejecting his tenant; (b) whether the tenancy is liable to be terminated under sub-section (1) of section 7-A of the Act; (c) the extent of area required for allotment under section 7-A; and (d) the estate or estates for which the tenant indicates preference of allotment of land in case no area is available for allotment to him in the estate from which the landowner seeks ejectment.

### **7. Procedure for allotment of surplus area.**

(1) After the procedure prescribed by paragraph 6 has been followed the prescribed authority shall prepare a list of tenants in which the names of tenants of an estate shall be arranged in the same order as the extent of the area required for their settlement, with the smallest claimant coming on the top. Where more than one tenant have equal claims their names shall be arranged in alphabetical order in the English language. Illustration. - "A" is to be allotted four standard acres, "B" three standard acres, "C" two standard and "H", "G", "F", "E" and "D" each five standard acres. Their names shall be arranged as under :- C B A D E F G H (2) The prescribed authority shall also prepare a list of the surplus area available in an estate mentioning therein the field numbers of the surplus area in numerical order, such as, 1, 5, 10, 30, 60. Where there are killas and rectangles, the

numerical order of rectangles shall be observed first and then killas in each rectangle.(3)After the lists under the preceding sub-paragraph have been prepared the prescribed authority shall proceed to allot the surplus area to the tenants in the order of priority shown in the list prepared under sub-paragraph (1).

## **8. Allotment of land to overflow tenants.**

(1)Where due to insufficiency of surplus area in any estate any tenant cannot be allowed land in the estate from which he is to be ejected the prescribed authority may, having due regard to the preference of the tenant indicated under paragraph 6, allot him land in any estate in which surplus area is available. In making such allotment the prescribed authority shall endeavour to allot him land as near to his estate as may be possible.Explanation. - Allotment of land to such tenants shall be made -(i)in the Patwar Circle;(ii)in the Quanungo Circle, if no land is available in the Patwar Circle;(iii)in the Tehsil, if no land is available in the Quanungo Circle;(iv)in the District, if no land is available in the Tehsil;(v)in some other district, if no land is available in the District in which the estate from which the tenant is liable to be ejected is situate.(2)When more than one tenant are eligible for settlement in an estate other than the estate from which they are to be ejected, the principles mentioned paragraph 7, shall, as far as may be, apply in making allotments to them.

## **9. Allotment of surplus area to workers and Biswedari ex-tenants.**

(1)Any worker or Biswedari ex-tenant who is desirous of getting land out of the surplus area may make an application to the prescribed authority. The application by a worker shall be made in Form III and by a Biswedari ex-tenant in Form IV and shall be made within a period of two months of the date of publication of the scheme in the Official Gazette or within such extended period as may, for reasons to be recorded, be allowed by the prescribed authority.(2)On receipt of an application under sub-paragraph (1) the prescribed authority may, after making such summary inquiry as he may deem necessary, allot in each case up to five standard acres of land out of the surplus area, provided that -(i)in making allotments to tenants, Biswedari ex-tenants and workers the priority indicated in sub-section (3) of section 32-J of the Act shall be observed;(ii)no worker shall be settled on any land other than surplus area of his father or grandfather; and(iii)the allotment of land to a Biswedari ex-tenant shall be made in such a manner so that the land allotted to him together with the land owned or held by him does not exceed five standard acres.(3)In making allotment to Biswedari ex-tenants the provision of paragraphs 7 and 8 shall, as far as may be, apply.

## **10. Issue of certificate.**

- Every settler shall be given a certificate in Form V describing clearly the land allotted to him. A copy of the certificate shall be sent to the Patwari concerned and another copy shall be retained on the file for record.

## **11. Delivery of possession.**

(1) For the purpose of putting the settler in possession of the allotted area the prescribed authority shall first obtain the order of the Collector under section 32-F of the Act. On receipt of the order of the Collector the landowner shall deliver possession of the land mentioned in the order to the Patwari who shall deliver the same to the settler in whose favour the allotment order with regard to that land has been issued. Each settler shall be bound to take delivery or possession of the allotted land within a period of one month of the date of issue of the certificate under paragraph 10 or within such extended period as may for reasons to be recorded in writing, be allowed by the prescribed authority. (2) The possession of the land allotted to a settler shall be given after the crops are cut. If, however, the prescribed authority deems it necessary to deliver possession of the allotted land to any settler before the crops are cut a statement showing the crop and the area under the same shall be prepared by the Patwari before taking possession. A copy of the statement shall be furnished to the landowner as well as to the settler.

## **12. Conditions of settlement.**

(1) The settler - (a) shall be liable to pay all Government dues such as land revenue, surcharge, special charge, special assessment, abiana, betterment levy, consolidation fee, in respect of the land allotted to him, from the date he takes possession of the same; (b) shall be liable to pay the prescribed amount of compensation in the manner laid down in paragraph 13; (c) shall become full owner of the land allotted to him when all payments due in respect of such land have been made; and (d) shall not be competent to transfer his right in the land allotted to him to any person till all the dues in respect of the land are cleared, except for the purpose of raising a loan from a Land Mortgage Co-operative Bank by mortgaging the same. (2) In case the settler makes any default in the payment of whole of the amount of compensation or two successive instalments thereof, in the manner laid down in paragraph 13, the allotment, on such part thereof, as may be sufficient to realize the amount which remains unpaid at the time when default is committed, shall be liable to be cancelled.

## **13. Manner of payment of compensation.**

- The prescribed amount of compensation shall be paid by the settler in the following manner :- (1) The amount payable under section 32-J of the Act shall, if it is not voluntarily paid in lump sum, be paid :- (a) where it does not exceed 200 rupees, in six annual instalments, (b) where it exceeds 200 rupees, but does not exceed 500 rupees in eight annual instalments, (c) where it exceeds 500 rupees but does not exceed 1,000 rupees in ten annual instalments, (d) where it exceeds, 1,000 rupees but does not exceed 1,500 rupees in fifteen annual instalments; and (e) where it exceeds 1,500 rupees, in twenty annual instalments. (2) All instalments referred to in sub-paragraph (1) shall be equal in amount up to a rupee, the balance, if any, being payable with last instalment. (3) The lump sum or the first instalment of compensation shall be deposited in a Government treasury or a sub-treasury or paid to the prescribed authority within fifteen days of his taking possession and every subsequent instalment within fifteen days of the date on which it becomes due. Form I (See Paragraph 3)

Name and particulars of the petitioner/landowner	Whether he is a small landowner	The area from which ejectment of the tenant is sought and whether it was reserved	Particulars of the tenants whose ejectment is sought	Whether the tenant owns or holds any lands other than from which he is to be ejected and if so, its particulars
1	2	3	4	5

Form II(See Paragraph 4)

Name and particulars of the petitioner	Particulars of the area from which he is liable to ejectment under section 7-A	Particulars of the landowner or landowners from whose lands he is liable to be ejected	Particular of the area he owns or holds other than that mentioned in Column 2	Names of estates in order of preference where he likes to be resettled, if no area is available in his estate.
1	2	3	4	5