

Kerala Public Buildings (Eviction of Unauthorised Occupants) Act, 1968

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Act 25 of 1968

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Kerala Public Buildings (Eviction of Unauthorised Occupants) Act, 1968(Act No. 25 of 1968)Last Updated 3rd December, 2019Published in the Gazette Extraordinary No. 234 dated 24th September 1968.Received the assent of the Governor on 23rd September, 1968.An Act to provide for the eviction of unauthorised occupants from public buildings and for matters connected there with.Preamble. - Whereas it is expedient to provide for the eviction of unauthorised occupants from public buildings and for matters connected therewith;Be it enacted in the Nineteenth Year of the Republic of India as follows: -

1. Short title, extent and commencement.

(1)This Act may be called the Kerala Public Buildings [Eviction of Unauthorised Occupantso Act, 1968.(2)It extends to the whole of the State of Kerala.(3)It shall come into force on such date as the Government may by notification in the Gazette, appoint

2. Definitions.

- In this Act unless the context otherwise requires, -(aaa) ["estate officer" means an officer appointed as such by the Government under section 3;] [Inserted by Act No. 19 of 1986.](b)[Local authority means a panchayat at any level constituted under the Kerala Panchayat Raj Act, 1994 or a municipality constituted under the Kerala Municipality Act, 1994 or any other authority, by whatever name called, constituted under any law for the time being in force for the development of any local area] [Inserted by Act No. 16 of 2000.](c)"prescribed" means prescribed by rules made under this Act;(d)"public building" means any building or part of a building belonging to, or taken on lease or requisitioned by or on behalf of, the Government or local authority and includes -(i)the garden, grounds and outhouses if any appertaining to such building or part of a building [.....];

[Omitted by Act 16 of 1975.](ii)any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof [and] [Inserted by Act 16 of 1975.](iii)[all buildings, whether residential or non residential irrespective of categories or types, constructed by individuals or co-operative societies or other institutions with the aid of any loan from the Government.] [Inserted by Act 16 of 1975.](e)"rent", in relation to any public building, means the consideration payable periodically for the authorised occupation of the buildings and includes -(i)any charge for electricity, water or any other services in connection with the occupation of the building,(ii)any tax (by whatever name called) payable in respect of the building,Where such charge or tax is payable by the Government or the local authority, as the case may be;(f)"unauthorised occupation" in relation to any public building, means the occupation by any person of the building without authority for such occupation and includes the continuance in occupation by any person of the public building after the authority (whether by way of lease or any other mode of transfer) under which he was allowed to occupy the building has expired or has been determined for any reason whatsoever.

3. Appointment of estate officers.

- The Government may, by notification in the Gazette, -(a)appoint such persons, being Gazetted Officers of Government below the rank of District Collector, as they think fit, to be estate officers for the purposes of this Act:(i)[In the case of a local authority, the Secretary of the local authority and in the case of any other authority, the executive authority of that authority.] [Inserted by Act No. 16 of 2000.](b)define the local limits within which, or the categories of public buildings in respect of which, the estate officers shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.

4. Issue of notice to show cause against order of eviction.

(1)If the estate Officer is of opinion that any persons are in unauthorised occupation of any public building and that they should be evicted the estate officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.(2)The notice shall -(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 interests in, the public building, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.(3)The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public building, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.(4)Where the estate officer knows or has reason to believe that any persons are in occupation of the public building, 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. Eviction of unauthorised occupants.

(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by such person in support of the same and after giving him a reasonable opportunity of being heard, the estate officer is satisfied that the building is in unauthorised occupation, the estate officer may, on a date to be fixed for the purpose, make an order of eviction, for reasons to be recorded therein, directing that the public building shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be published by affixing it on the outer door or some other conspicuous part of the public building. (2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication under sub-section (1), the estate officer or any other officer duly authorised by him in this behalf may evict that person from, and take possession of, the public building and may, for that purpose, use such force as may be necessary.

6. Disposal of property left in public building by unauthorised occupants.

(1) Where any person has been evicted from any public building under section 5, the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public building has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public action any property left by such persons in such building. (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 Government or the local authority, as the case may be, on account of rent payable in respect of the public building or damages payable under sub-section (2) of section 8 or costs awarded under sub-section (5) of section 10, be paid to such person or persons as may appear to the estate officer to be entitled to the same: Provided that where the estate officer 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 civil court of competent jurisdiction and the decision of the court thereon shall be final.

7. Liability of unauthorised occupant to pay damages.

- Any person who is, or has at any time been, in unauthorised occupation of any public building shall be liable to pay for the whole period of such occupation, such damages on account of the use and occupation of such building as may be assessed by the estate officer having regard to such principles of assessment of damages as may be prescribed.

8. Power to recover rent and damages in respect of public buildings.

(1) Where any person is in arrears of rent payable in respect of any public building the estate officer may, by order require that person to pay such damages within such time and in such installments as may be specified in the order. (2) Where any person is liable to pay damages under section 7, the estate officer may, by order require that person to pay such damages within such time and in such

installments as may be specified in the order.(3)No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence produced by him in support of the same, have been considered by the estate officer.

9. Power of estate Officers.

- An estate officer shall, for the purpose holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(5 of 1908), when 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)requiring the discovery and production of documents;(c)any other matter which may be prescribed.

10. Appeal.

(1)An appeal shall lie from any order of the estate officer made in respect of any public building under section 5 or section 8 to the Collector of the District in which the public building is situate.(2)An appeal under sub-section (1) shall be preferred, -(a)in the case of an appeal from an order under section 5, within fifteen days from the date of publication of the order under sub-section (1) of that section ; and(b)in the case of an appeal from any order under section 8, within fifteen days from the date on which the order is communicated to the appellant;(3)Where an appeal is preferred from an order of the estate officer, the District collector may stay the enforcement of that order for such period and on such conditions as he deems fit.(4)Every appeal under this section shall be disposed of by the District Collector as expeditiously as possible.(5)The costs of any appeal under this section shall be in the discretion of the District Collector.(6)The appellate authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(5 of 1908) when 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)requiring the discovery and production of document;(c)any other matter which may be prescribed.

11. Power to obtain information.

- If the estate officer has reason to believe that any person are in unauthorised occupation of any public building, the estate officer or any other officer authorised by him in this behalf may require those persons, or any other person who, he has reason to believe, is in possession of information relating to the names and other particulars of the persons in occupation of the public building, to furnish such information within such time as may be specified in the requisition, and every person so required shall be bound to furnish the information in his possession accordingly.

12. Liability of heirs and legal representatives.

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

13. Recovery of rent etc. as arrears of public revenue due on land.

- If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 8 or the damages payable under sub-section (2) of that section or costs awarded to the Government or to local authority, as the case may be, under sub-section (5) of section 10, or any portion of such rent damages or costs, within the time, if any, specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector of the District in which the public building is situate, who shall thereupon proceed to recover the same as arrears of public revenue due on land.

14. Further mode of recovery.

- If the person refusing or failing to pay any of the amounts referred to in section 13 in receipt of any salary, the estate officer may notwithstanding the issue of a certificate to the Collector under the said section, require any person paying the salary to deduct from any payment of salary subsequent to the date of such requisition any such amount or any portion thereof as may be specified in the requisition and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Government or the local authority, as the case may be:Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempted from any requisition made under this section.Explanation. - For the purposes of this section, "Salary" includes, - (i)Wages(ii)Any annuity or pension;(iii)Any gratuity;(iv)Any fees, commissions, honoraria or profits in lieu of or in addition to any salary or wages; and(v)Any advance of salary.

15. Finality of orders.

- Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any suit, application or execution proceeding, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by under this Act.

16. Offences and penalties.

(1) If any person who has been evicted from any public building under this Act again occupies the building without authority for such occupation he shall be punishable with imprisonment for a 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 make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act. (3) If a person fails without reasonable cause or excuse to deduct and pay any amount as required under section 14, he shall be punishable with fine which may extend to ten rupees for every day during which the default continues. (4) A person shall not be proceeded against for an offence under sub-section (3) except at the instance of the Collector of the district in which the public building is situated. (5) The Collector may either before or after the institution of proceedings compound the offence referred to in sub-section (3).

17. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Government or a local authority or the appellate authority or the estate officer or any other officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

18. Power to make rules.

(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes 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 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 distribution and allocation of work to estate officers and the transfer of any proceedings pending before an estate officer to another estate officer; (d) the procedure to be followed in taking possession of public buildings; (e) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages; (f) the manner in which appeals may be preferred and the procedure to be followed in appeals; (g) any other matter which has 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 while it is one session in which it is so laid, or the session immediately following the Legislative Assembly makes any modification in the rule or decides 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.