

The Talwara Township (Periphery) Control Act, 1961

PUNJAB

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Act 34 of 1961

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The Talwara Township (Periphery) Control Act, 1961Act 34 of 1961Statement of objects and Reasons. - "This Bill seeks to check the haphazard growth of unauthorised structures on the periphery of the proposed Talwara Township, and Beas Dam which would gain added importance as the pace of construction of Beas Dam gradually develops. Many foreigners and important Indian Nationalists are expected to visit this township and mushroom growth on the periphery, if allowed, would create a poor impression. This will also help the town to develop in a planned manner and with healthy surroundings".Punjab Government Gazette Extraordinary, dated the 20th September, 1961, Page 1378.An act to check mushroom growth and ribbon-like development along roads of Talwara Township as well as its periphery.Be it enacted by the Legislature of the State of Punjab in the Twelfth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Talwara Township (Periphery) Control Act, 1961.(2)It extends to the area -(a)adjacent to and within a distance of three miles on all sides of the outer boundary of the land acquired for the Talwara Township; and(b)adjacent to and within a radial distance of three miles from the centre of Beas Dam.(3)It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires, -(1)"agriculture" includes horticulture and the planting and upkeep of orchard;(2)"building" has the same meaning as is assigned to it in clause (2) of Section 3 of the Punjab Municipal Act, 1911 (Act No. III of 1911);(3)["Deputy Commissioner" means the Deputy Commissioner of the Hoshiarpur District and includes any person for the time being appointed by the State Government, by notification in the Official Gazette, to perform all or any of the function of the Deputy Commissioner under this Act.] [Substituted by Punjab Adaptation of Laws (State and Concurrent subjects) Order, 1968.](4)"Commissioner" means the Commissioner of the Jullunder Division, and includes any person for the time being appointed by the State

Government, by notification to perform all or any of the functions of the Commissioner under this Act;(5)"prescribed" means prescribed by rules made under this Act;(6)"road" means a metalled or unmetalled road, whether a through fare or not, accessible to the public and maintained by the State Government or by local authority; and(7)the expression "erect or re-erect any building" has the same meaning as is assigned to it in clause (5) of Section 3 of the Punjab Municipal Act, 1911 (Act No. III of 1911).

3. Declaration of controlled area.

(1). The State Government may, by notification declare the whole or any part of the area to which this Act extends to be a controlled area for the purposes of this Act.(2)Not less than three months before making a declaration under sub- section (1) the State Government shall cause to be published in the Official Gazette, and in at least two newspapers printed in a language other than English, a notification stating that it proposes to make such a declaration, and copies of the notification or of the substances thereof shall be published by Deputy Commissioner in such a manner as may be prescribed at his office and in the area desired to be controlled.

4. Publication of plans of controlled area.

(1)The Deputy Commissioner shall within three months of the declaration under sub-section (1) of Section 3 deposit at his office and at such other places as he considers necessary, plans showing the area declared to be controlled area for the purposes of this Act, signifying therein the nature of the restrictions applicable to the controlled area.(2)The plans so deposited shall be in the form prescribed and shall be available for inspection by the public free of charge at all reasonable times.

5. Restriction in a controlled area.

- Except as provided hereinafter, no person shall erect or re-erect any buildings, or make or extend any excavation or lay out any means of access to a road in the controlled area save in co-ordance with the plans and restriction referred to in Section 4 and with the previous permission of the Deputy Commissioner.

6. Application for permission and the grant or refusal of such permission.

(1)Every person desiring to obtain the permission referred to in Section 5, shall make an application in writing to the Deputy Commissioner in such form or containing such information in respect of the building, excavation or means of access to which the application relates as may be prescribed.(2)On receipt of such application the Deputy Commissioner after making such enquiry as he considers necessary, shall be order in writing either -(a)grant the permission subjects to such conditions, if any as may be specified in the order, or(b)refuse to grant such permission.(3)When the Deputy Commissioner grants permission subject to conditions, or refuses to grant permission under sub-section (2), the conditions imposed or the grounds of refusal shall be such as area reasonable having regard to the circumstances of each case and the general public.(4)The Deputy

Commissioner shall not refuse permission to the erection or re-erection of a building, if such building is required for purposes sub- servant to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for such purposes.(5)The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the notification under sub-section (1) of section 3 was made, nor he shall impose any condition in respect of such erection or re-erection unless he is satisfied after hearing the applicant that there is a probability that the building will be used for a purpose or is designed in a manner other than that for which it was used or designed on the date on which the said notification was made.(6)If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner, no order in writing has been passed by the Deputy Commissioner, permission shall, without prejudice to the restrictions signified in the plans under section 4, be deemed to have been given without the imposition of any conditions.(7)The Deputy Commissioner shall maintain a register as may be prescribed with sufficient particulars of all cases in which permission is given or deemed to have been given or refused by him under this section, and the said register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefore.

7. Appeal.

(1)Any person aggrieved or affected by an order of the Deputy Commissioner under sub-section (2) of section 6, granting permission subject to conditions or refusing permission, may within sixty days from the date of such order prefer an appeal to the Commissioner.(2)The order of the Commissioner on appeal shall be final.

8. Compensation.

- A person whose application has been refused or whose application has been granted subject to conditions under sub-section (2) of Section 6, shall be entitled to claim compensation within three months of the order of the Deputy Commissioner under Section 6 or the order of the Commissioner under Section7, if any, as the case may be, for any injury, loss or damage actually suffered on account of the manner hereinafter provided.

9. Arbitration for compensation.

(1)An application for compensation shall lie to an arbitrator appointed by the State Government in this behalf.(2)Such arbitrator shall be a person who is or has been a District Judge or an Additional District Judge and he shall have all the powers of an arbitrator under the Indian Arbitration Act, 1940, and the provisions of the said Act shall, so far as may be, apply in relation to proceedings before him.(3)In computing the compensation to be awarded, regard shall not be had to any consideration for advantages to be gained or improvements to be made in any land or building in the controlled area, with reference to their development or intended development in the future, or to increase in value as a result of the development of the Talwara Township.(4)The arbitrator shall have power to reject the application after due enquiry or to make an award for compensation.

10. Saving.

- Nothing in this Act shall effect the power of Government or any other authority to acquire land or to impose restrictions upon the use and development of land comprised in the controlled area under any other law for the time being in force, or to permit the settlement of a claim arising out of the exercise of powers under this Act by mutual agreement.

11. Prohibition on use of land in controlled area.

(1) No land within the controlled area shall, except with the permission of the State Government, be used for purposes other than those for which it was used on the date of notification under sub-section (2) of Section 3, and no land shall be used for the purpose of a charcoal-kiln, pottery-kiln, lime-kiln, brick-kiln or brick field except under and in accordance with the conditions of a licence from the Deputy Commissioner on payment of such fees and under such conditions as may be prescribed. (2) The renewal of such licences may be made annually on payment of such fees as may be prescribed. (3) No person shall be entitled to claim compensation for any injury damage or loss caused or alleged to have been caused by the refusal to issue or renew a licence except in case where such kiln was in existence at the time of notification under sub-section (2) of Section 3, and in which case an application shall lie to the arbitrator within three months of the order of refusal in the manner provided in section 9.

12. Offence and penalties.

(1) Any person who - (a) erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of Section 5 or in contravention of any condition imposed by an order under Section 6 or Section 7, or (b) uses any land in contravention of the provisions of sub-section (1) of Section 11, shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention. (2) Without prejudice to the provisions of sub-section (1) [if the Deputy Commissioner, after making such enquiry as he considers necessary and after affording an opportunity of being heard to the person concerned, is satisfied that such person has committed a breach of the provisions of the said sub-section he may pass an order requiring that person] [Substituted by Punjab Act 13 of 1972, Section 2.] to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within three months of the order, may himself take such measures as may appear to him to be necessary to give effect to the order and the cost of such measures shall be recoverable from such person as an arrear of land revenue.

13. Trial of offences.

- No court inferior to that of a [Judicial Magistrate] [Substituted for the word 'Magistrate' by Punjab

Act 25 of 1964, section 2 and schedule.] of the First Class shall be competent to try any offence punishable under this Act.

14. Indemnity.

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

15. Exemption.

- Nothing in this Act shall apply to -(a)any building for residential purposes or solely for agricultural purposes in the abadi area of any village as defined in the revenue records;(b)the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a grave-yard, place of worship, cenotaph or samadhi on land which is, at the time of the notification under sub-section (2) of Section 3, occupied by or for the purpose of such place of worship, tomb, samadhi, cenotaph or grave-yard;(c)excavations (including Well) or other operations made in the ordinary course of agriculture;(d)the construction of an unmettalled road intended to give access to land solely for agricultural purposes.

16. Power to make rules.

(1)The State Government may by notification make rules to carry out the purposes of this Act, subject to the condition of previous publication.(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 in which the plans under section 4 are to be displayed and the matters to be contained therein;(b)the form in which applications under sub-section (1) of section 6, shall be made or the information to be furnished in such applications;(c)the regulation of the laying out of means of access to roads;(d)the fees to be charged for the grant and renewal of licences under section 11, and the conditions governing such licences,(e)principles and conditions under which applications for permission under this Act may be granted or refused.(3)Every rule made under this section shall be laid as soon as may be after it is made before [-] [Omitted by the Punjab Adaptation of Laws Order, 1970.] the State Legislature while it is in Session for a total period of ten days.

17. Repeal.

(1)The Talwara Township (Periphery) Control Ordinance, 1961 (Punjab Ordinance No. I of 1961), is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the Talwara Township (Periphery) Control Ordinance, 1961, shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 20th day of July, 1961.