

Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972

UTTAR PRADESH

India

Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972

Rule

UTTAR-PRADESH-PUBLIC-PREMISES-EVICTION-OF-UNAUTHORISED of 1972

- Published on 1 January 1972
- Commenced on 1 January 1972
- [This is the version of this document from 1 January 1972.]
- [Note: The original publication document is not available and this content could not be verified.]

Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972Last Updated 20th November, 2019

1. Short title and extent.

(1)This Act may be called the Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972;(2)It extends to the whole of Uttar Pradesh.

2. Definitions.

- In this act unless the context otherwise requires, -(a)"Corporate authority" means any company local authority corporation of society referred to in Clause (e) of this section;(aa)"law relating to land tenure" means the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, the Uttar Pradesh Urban Areas Zamindari Abolition and Land Reforms Act, 1956, the Jaunsar Bawar Zamindari Abolition and Land" Reforms Act, 1956, the Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960, the Uttar Pradesh Consolidation of Holdings Act, 1953, or the U.P. Imposition of Ceiling on Land Holdings Act, 1960. as amended from time to time;(b)"premises" means any land (including any forest land or trees standing thereon or covered by water or a road maintained by the State Government or land appurtenant to such road) or any building or part of a building and includes-(i)the garden, grounds, and out-houses, if any, appertaining to such building or part of a building, and(ii)any fittings or fixtures affixed to or any furniture supplied with such building or part of a building for the more beneficial enjoyment

thereof, but does not include land which for the time being is held by a tenure-holder under any law relating to land tenures.(c)"prescribed" means prescribed by rule made under this Act.(d)"Prescribed Authority" means an officer appointed as Prescribed Authority by the State Government under Section(e)"public" premises means any premises belonging to or taken on lease or requisitioned by or on behalf of the State Government, and includes any premises belonging to or taken on lease by or on behalf of -(i)any company as defined in Section 3 of the Companies Act, 1956, in which not less than fifty-one per cent of the paid-up share capitals held by the State Government: or(ii)any local authority; or(iii)any Corporation (not being a company as defined in Section 3 of the Companies Act, 1956 or a local authority) owned or controlled by the State Government: or(iv)any society registered under the Societies Registration Act, 1860, the governing body whereof consists, under the rules or regulations of the society, wholly of public officers or nominees of the State Government or both:and also includes, -(i)Nazul land or any other premises entrusted to the management of local authority (including any building built with Government funds on land belonging to the State Government after the entrustment of the land to that local authority, not being land vested in or entrusted to the management of a Gaon Sabha or any other local authority, under any law relating to land tenures):(ii)any premises acquired under the Land Acquisition Act, 1894 with the consent of the State Government for a company (as defined in that Act) and held by that company under an agreement executed under Section 41 of that Act providing for re-entry by the State Government in certain conditions:(f)"rent" in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises. And includes, -(i)any charge for electricity water or any other services or any other thing supplied in connection with the occupation of the premises,(ii)any tax (by whatever name called} payable in respect of the premises,where such charge or tax is payable by the State Government or the corporate authority and in the case of lease of any public premises by a corporate authority also includes premium and interest payable to such authority;(g)"unauthorised occupation" in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer under which or the capacity in which he was allowed to hold or occupy the premises} has expired or had been determined for any reason whatsoever and also includes continuance in occupation in the circumstances, specified in Sub-section (1) of Section 7 and a person shall not, merely by reason of the fact that he had paid any amount as rent, be deemed to be in authorised occupation."

3. Appointment of Prescribed Authority.

- The State Government may, by notification in the official Gazette, -(a)appoint such persons, being Gazetted Officers of the State Government or officers of equivalent rank or the corporate authority as it thinks fit to be Prescribed Authorities for the purposes of this Act, and(b)defined the local limits which, or the categories of public premises in respect of which, the Prescribed Authorities shall exercise the powers conferred and perform the duties imposed, on Prescribed Authorities by or under this Act.

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

(1) If the Prescribed Authority either of its own motion or on an application or report received on behalf of the State Government or the corporate authority, is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted the Prescribed Authority 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 interest in the public premises 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 Prescribed Authority shall cause the notice to be served either personally on all those persons concerned or by having it affixed on the outer door or some other conspicuous part of the public premises and in any other manner provided in the Code of Civil Procedure, 1908. (4) Where the Prescribed Authority knows or has reasons to believe that many persons are in occupation of the premises, then, without prejudice to the provisions of Sub-sections (3), he shall cause a copy of the notice to be served on every such person by registered post or by delivering or tendering it to that person or in such other manner as may be prescribed.

5. Eviction of unauthorized occupants.

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

6. Disposal of property left on public premises by unauthorised occupants.

(1) Where any persons have been evicted from any public premises under Section 5, the Prescribed Authority may, after giving not less than fourteen days' notice to the persons from whom possession of the public premises 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 auction any property remaining on such premises, including any material of demolished building or ungathered crop or fruit of trees. (2) Where any property is sold under Sub-section (1), the sale proceeds thereof, shall, after deducting the expenses of the sale and the amount, if any, due to the State Government or the corporate authority on account of arrears of rent or damages or costs, be paid to person or persons as may appear to the Prescribed Authority to be entitled to the same.

:Provided that where the Prescribed Authority 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, it may refer such dispute to the Civil Court of competent jurisdiction and the decision of the Court thereon shall be final.

7. Power to require payment of rent or damages in respect of public premises.

(1)Where any person is in arrears of rent for four months payable in respect of any public premises, the Prescribed Authority may, by order, require that person to pay the same within such time and in such installments as may be specified in the order, and on the failure of such person to pay the same or any installments thereof, he shall be deemed to be in unauthorised occupation of The public premises.(2)Where any person is, or has at any time been, in unauthorised occupation of any public premises, the Prescribed Authority may, having regard to such principles of assessment of damages as may be prescribed assess he amount of damages on account of the use and occupation of such premises and may by order, require that person to pay the amount within such time and in such installment 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 whom 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, the evidence he may produce in support of the same have been considered by the Prescribed Authority.

8. Powers of Prescribed Authority.

- The Prescribed Authority and the Appellate Officer shall, for the purpose of holding any inquiry or hearing any appeal under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V 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 matters which may be prescribed.

9. Appeals.

- The Prescribed Authority and the Appellate Officer shall, for the purpose of holding any inquiry or hearing any appeal under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V 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 matters which may be prescribed.

10. Finality of orders.

- Save as otherwise expressly provided in this Act, every order made by a Prescribed Authority or Appellate Officer under this Act shall be called in question in any original suit, application or execution proceeding and no injunction shall be granted by any Court or other authority in respect of any action taken in pursuance of any power conferred by or under this Act.

11. Offences and penalty.

(1) If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one thousand rupees, or with both. (2) Any Magistrate convicting a person under Sub-section (a) may make an order for evicting that person summarily and such person shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

12. Power to obtain information.

- If the Prescribed Authority has reason to believe that any persons are in unauthorized occupation of any public premises, the Prescribed Authority or any other officer authorized by it in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

13. Liability of heirs and legal representatives.

(1) Where any person against whom any proceedings for the determination of arrears of rent for the assessment of damages is to be or has been taken 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 representatives of that person. (2) Any amount due to the State Government or the Corporate Authority from any person whether by way of arrears of rent or damages or costs shall after the death of the person, be payable by his heirs or legal representatives but their liability shall be limited to the extent of the assets of the deceased that come into their hands and have not been only disposed of.

14. Recovery of rent, etc. as an arrear of land revenue.

- If any person refuses or fails to pay the arrears of rent payable under Sub-section (1) of Section 7 or the damages payable under Sub-section (2) to that section or the costs awarded to the State Government or the Corporate Authority under Sub-Section (5) of Section 9 or any portion of such rent, damages or costs, within the time, if any, specified thereof in the order relating thereto, the Prescribed Authority may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

15. Bar of jurisdiction.

- No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any public premises or the recovery of the arrears of rent payable under Sub-section (1) of Section 7 or the damages payable under Sub-section {2) of that Section or the costs awarded to the State Government or the Corporate Authority under Sub-section (5) of Section 9 or any portion of such rent, damages or costs.

16. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government or the Corporate Authority or the Appellate Officer or the Prescribed Authority in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

17. Government or Corporate Authority to be party.

(1)The State Government or the Corporate Authority as the case may be Shall be a party to every proceeding under the provisions of this Act.(2)In particular .and without prejudice to the generality of the provisions of Sub-section (1), the State Government or the Corporate Authority, as the case may be, shall have a right to produce evidence and cross-examine witnesses and to prefer an appeal under Section 9 against an order of the Prescribed Authority refusing to make an order of eviction under Section 5 or to make an order under Section 7 requiring a person to pay rent or damages.

18. Power to make rules.

(1)The State Government may, by notification in the official Gazette, make rule 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 Prescribed Authorities and the transfer of any proceeding pending before a Prescribed Authority to another Prescribed Authority;(d)the procedure to be followed in taking possession of public premises;(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 each House of State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in the successive sessions and if, during the said period both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or to 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.

19. Repeal and consequential amendments.

(1)The following enactment are hereby repealed, namely:(a)the Uttar Pradesh Government Premises (Rent Recovery and Eviction) Act, 1952;(b)the Uttar Pradesh Public Land (Eviction and Recovery of Rent and Damages) Act, 1959;(c)Sections 9,19,21,23, 24, 24-A, 24-B, 24-C, 24-D, 24-E, 24-F, 25 and 27 of the Uttar Pradesh Industrial Housing Act, 1955;(d)Section 69, 70, 71-A, and 72 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965;(e)Sub-section (2) of Section 372 of the 'Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959';(f)Sections 33, 34, and 35 of the Uttar Pradesh Public Land and Premises Laws (Amendment and Validation) Act, 1970.(2)In the Uttar Pradesh Industrial Housing Act, 1955, -(a)in Section 7 for the word 'eviction', the words 'securing the eviction' shall be substituted;(b)in Section 22, in Sub-section (1) the words and figures 'or sub-section (2) of Section 21' shall be omitted;(c)in Section 28, in Sub-section (2), the words and figures or Sub-section (2) of Section 21' in Clause (vii) and Clause (ix) shall be omitted.(3)In the Uttar Pradesh Avas Evam Vika & Parishad Adhiniyam, 1965, -(a)in Section 64 in Sub-section (1), in Clause (d), the words and figure 'and Chapter VII' shall be omitted;(b)in Section 68, the proviso thereto shall be omitted;(c)in Section 96, Sub-section (4) shall be omitted;(4)In the 2 [Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959], for Section 129-A the following section shall be substituted, namely:"129A. Application of Chapter VII of Act I of 1966 to {Mahapalika} premises. - The provisions of Chapter VII of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965, shall apply in, relation to any premises belonging to or vesting in the (Mahapalika) or taken on lease by the (Mahapalika) for the purposes of this Act as they apply in relation to 'Board premises' as defined in that Act and the references therein to the Board and matters prescribed under that Act shall respectively be construed as references to the (Mahapalika) and matters prescribed under this Act."(5)In the (United Provinces) Municipalities Act, 1916, for Section 120-A the following section shall be substituted, namely:"120A, Application of Chapter VII of U.P. Act 1 of 1966 to Board premises. - The provisions of Chapter VII of the Uttar Pradesh Avas Evam Vikas Padshad Adhiniyam, 1965, shall apply in relation to any premises belonging to or vesting in the Board or taken on lease by the Board for the purposes of this Act as they apply in relation to 'Board premises' as defined in that Act and the references therein to the Board as defined in that Act and to matters prescribed under that Act shall respectively be construed as references to the Board as defined in this Act and to matters prescribed in this Act."(6)In the United Provinces Town Improvement Act, 1919 -(a)In Section 57, the words, figures and letters 'and also for performing the functions referred to in Chapter VII of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965, As applicable to Trust premises under Section 95-A' shall be omitted;(b)for Section 95-A, the following section shall be substituted, namely:"95A. Application of Chapter VII of Act 1 of 1966 to trust premises. - The provisions of Chapter VII of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965, shall apply in relation to any premises belonging to or vesting in the Trust or taken on lease by the Trust for the purposes of his Act as they apply in relation to 'Board premises' as defined in that Act and the references therein to, the Board and the matters prescribed under that Act shall be construed respectively as references to the Trust and to prescribed under this Act."

20. Validation.

(1) Notwithstanding any judgment, decree or order of any court or authority anything done or action taken (including rules or orders made, notices issued, evictions ordered or effected, damages assessed, rents or damages or costs recovered and proceedings initiated or purposed to have been done or taken under any or the enactment referred to in Sub-section (I) of Section 19 (hereinafter in this section referred to as the repealed enactments) shall be deemed to be as valid and effective as if the provisions of Section 15 of this Act with necessary modifications has been enacted Initially as a part of the repealed enactment and accordingly: -(a) no suit or other legal proceeding shall be maintained or continued in any Court for the refund of any rent or damages or costs recovered under any repealed enactment where such refund has been claimed merely on the ground that the said repealed enactment has been declared to be unconstitutional and void; (b) no court shall enforce a decree or order directing the refund of any rent or damages or costs recovered under any repealed enactment merely on the ground that the said repealed enactment has been declared to be unconstitutional and void; (c) the taking of any proceeding or other action under this Act for the eviction for any unauthorised occupant from any public premises or for the recovery of rent or damages for the occupation of such premises or for recovery of costs of such proceedings, shall not be barred merely on the ground that like proceeding or other action under the repealed enactment has been declared to be unconstitutional and void and has on that ground been prohibited by any decree or order or any court. (2) Notwithstanding any judgment, decree or order of any Court or authority, and notwithstanding anything contained in Section 15 or Section 19, any suit or other proceeding for any of the reliefs mentioned in Section 15 instituted in any Court or initiated or purported to be initiated by any authority under a repealed enactment before the commencement of this Act, and pending at the commencement of the Uttar Pradesh Public Land and Premises Laws (Amendment and Validation) Act, 1970 (hereafter in this section referred to as the 1970 Act), either in the Court of first instance or in any Court of appeal or, revision or before such authority, shall stand transferred to the Prescribed Authority and the Prescribed Authority shall thereupon dispose of the same as proceeding under the relevant provision of this Act and in any proceeding -(a) the Prescribed Authority may proceed further from the stage from which the suit or proceeding is transferred, and may for that purpose treat any summons or notice issued, written statement or reply filed or evidence adduced in such suit or proceeding before the transfer, as notice issued by itself, or, as the case be, cause shown or evidence adduced before itself, under the relevant provision of this Act; (b) any objection referred to the District Judge under Section 10 of the Uttar Pradesh Government Premises (Rent, Recovery and Eviction) Act, 1952 or before the Civil Judge under Section 7 of the Uttar Pradesh Public Land (Eviction and Recovery of Rent and Damages) Act, 1959, before those sections were repealed by the 1970 Act shall be decided by the Prescribed Authority itself and any reference, suit or appeal under the said sections shall abate : Provided that where any such reference, suit or appeal has been decided before the coming into force of this Act the Prescribed Authority shall act according to such decision, which subject to the provisions of Section 9, shall be deemed to be final.

21. Repeal and Saving.

(1)The Uttar Pradesh Public Premises (Eviction for Unauthorised Occupants) Ordinance, 1972 (U.P. Ordinance No. 2 of 1972) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act has come into force on March 2, 1972.