

**Public Premises (Eviction Of Unauthorized Occupants) Act,  
1971**

**40 of 1971**

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**Public Premises (Eviction Of Unauthorized Occupants) Act,  
1971**

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An Act to provide for the eviction of unauthorized occupants from public premises and for certain incidental matters. Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:-

**1. Short Title, Extend And Commencement :-**

- (1) This Act may be the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 16th day of September 1958 except sections 11, 19 and 20, which shall come into force at once.

**2. Definitions :-**

In this Act, unless the context otherwise require,-

(b) "Estate Officer" means an officer appointed as such by the Central Government under section 3;

(c) "premises" means any land or any building or part of building and includes,-

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(d) "prescribed " means prescribed by rules made under this Act;

(e) "public premises" means-

(1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction or Unauthorized Occupants) Amendments Act, 1980, under the control of the Secretariat of either House of Parliament for providing residential accommodation to any member of the staff of that Secretariat;

(2) 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 capital is held by the Central Government or any company which is a subsidiary (within the meaning of that Act ) of the first-mentioned company.

(ii) any corporation (not being a company as company as defined in section 3 of the Companies Act, 1956 or a local authority) established by or under a Central Act and owned or controlled by the Central Government.

(iii) any University established or incorporated by any Central Act.

(iv) any Instituted incorporated by the Institutes of Technology Act, 1961.

(v) any Board of Trustees constituted under the Major Port Trusts Act, 1963.

(vi) the Bhakra Management Board constituted under section 79 of the Punjab Reorganization Act, 1966 and that Board as and when re-named as the Bhakra- Beas Management Board under sub-section (6) of section 80 of that Act.

(vii) any State Government or the Government of any Union Territory situated in the National Capital Territory of Delhi or in any

other Union Territory.

(viii) any Cantonment Board constituted under the Cantonments Act, 1924 (2 of 1924); and

(3) in relation to the [National Capital Territory of Delhi],-

(i) any premises belonging to the Municipal Corporation of Delhi, or any municipal committee or notified area committee,

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority;

(iii) any premises belonging to, or taken on lease or requisitioned by, or on behalf of any State Government or the Government of any Union Territory.

(f) "rent", in relation to any public premises, means the consideration payable periodically for the authorized occupation of the premises, and includes-

(i) any charge for electricity, water or any other services 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 Central Government or the corporate authority;

(fa) "statutory authority", in relation to the public premises referred to in clause (e) of this section , means,-

(i) in respect of the public premises placed under the control of the Secretariat of either House of parliament, the Secretariat of the concerned House of Parliament.

(ii) in respect of the public premises referred to in item (I) of sub-clause (2) of that clause, the company or the subsidiary company, as the case may be , referred to therein,

(iii) in respect of the public premises referred to in item (ii) of sub-clause (2) of the clause, the corporation referred to therein.

(iv) in respect of the public premises referred to, respectively, it items(iii), (iv), [ (vi) and (vii)] of sub-clause (2) of that clause, the University, Institute of Board, as the case may be, referred to therein, and

(v) in respect of the public premises preferred to in sub- clause (3) of that clause, the Corporation, Committee or Authority, as the case may be, referred to in that sub-clause;]

(fb) "temporary occupation ", in relation to any public premises, means occupation by any person on the basis of an order of allotment made under the authority of the Central Government, a State Government, the Government of a Union Territory or a Statutory Authority for a total period (including the extended

period, if any) which is less than thirty days;

(g) "unauthorized 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 he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

Comment: "...To begin with, it is manifest that S. 2 (2) (g) does not use the word possession or the words entry into possession, at any point of time at all. The Section merely requires occupation of any public premises. Entry into possession connotes one single terminus, viz., the point of time when a person enters into possession or occupies the property whereas occupation is a continuous process which starts right from the point of time when the person enters into possession or occupies the premises and continues, until he leaves the premises. What is germane for the purpose of interpretation of Section 2 (2) (g) is whether or not the person concerned was in occupation of the public premises when the Premises Act was passed...." M/s. Jain Ink Manufacturing Company, Appellant v. Life Insurance Corporation of India AIR 1981 SUPREME COURT 670

### **3. Appointment Of Estate Officers :-**

The Central Government may, by notification in the Official Gazette,-

(a) appoint such persons, being Gazetted Officers of Government [ or of the Government of any Union Territory]

or officer of equivalent rank of the [ Statutory Authority] as it thinks fit, to be Estate Officers for the purposes of this Act;

Provided that no officer of the Secretariat of the Rajya Sabha shall be so appointed except after consultation with the Chairman of the Rajya Sabha and no officer of the Secretariat of the Lok Sabha shall be so appointed except after consultation with Speaker of the Lok Sabha :

Provided further that an officer of a Statutory Authority shall only be appointed as an Estate Officer in respect of the public premises controlled by that authority; and]

(b) define the local limits within which, or the categories of public premises 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.

### **3A. Eviction From Temporary Occupation :-**

Notwithstanding anything contained in section 4 or section 5, if the Estate Officer, after making such inquiry as he deems expedient in the circumstances of the case, is satisfied that any persons who were allowed temporary occupation of any public premises are unauthorized occupation of the said premises, he may, for reasons to be recorded in writing make an order for the eviction of such persons forthwith and thereupon, if such persons refuse or fail to comply with the said order of eviction, he may evict them from the premises and take possession thereof and may, for that purpose, use such force as may be necessary.

### **4. Issue Of Notice To Show Cause Against Order Of Eviction**

:-

(1) If the estate officer is of opinion that any persons are in unauthorized occupation of any public premises 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 interest in, the public premises,-

(i) to show cause, if any, against the proposed order on before such date as is specified in the notice, being a date not earlier than seven days form the date of issue thereof, and

(ii) to appear before the Estate Officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.]

(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 premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have duly given to all persons concerned

### **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 produced

by him in support of the same and after personal hearing, if any, given under clause (b) of sub-section (2) of section 4], the estate officer is satisfied that the public premises are in unauthorized occupation, the estate officer may make an order of eviction, for reasons 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 [ on or before the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later.] the estate officer or any other officer duly authorized by the estate officer in his behalf [ may, after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person] from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

#### **5A. Power To Remove Unauthorized Constructions, Etc :-**

(1) No person shall-

(a) erect or place or raise any building or[ any movable or immovable structure or fixture];

(b) display or spread any goods.

(c) bring or keep any cattle or other animal.

On, or against, or in front of, any public premises except in accordance with the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy such premises.

(2) Where any building or other immovable structure or fixture has been created placed or raised on any public premises in contravention of the provisions of sub-section (1), the estate officer may serve upon the person erecting such building or other structure or fixture, a notice requiring him either to remove, or to show cause why he shall not remove such building or other structure or fixture from the public premises within such period, not being less than seven days, as he may specify in the notice; and on the omission or refusal of such person either to show cause, or to remove such building or other structure or fixture from the public premises, or where the cause shown is not, in the opinion of the estate office, sufficient, the estate officer may, by order, remove or cause to be removed the building or other structure or fixture from the public premises and recover the cost of such removal from the person aforesaid as an arrears of land revenue.

(3) Where any movable structure or fixture has been erected, placed or raised, or any goods have been displayed or spread, or any cattle or other animal has been brought or kept, on any public premises, in contravention of the provisions of sub-section (1) by any person, the estate officer may, by order, remove or cause to be removed without notice, such structure, fixture, goods, cattle or other animal, as the case may be, from the public premises and recover the cost of such removal from such person as an arrears of land revenue.

#### **5B. Order Of Demolition Of Unauthorized Construction :-**

(1) Where the erection of any building or execution of any work has been commenced, or is being carried on, or has been completed on any public premises by any person in occupation of such public premises under an authority ( whether by way of grant or any other mode of transfer), and such erection of building or execution of work is in contravention of, or not authorized by, such authority, then, the estate officer may, in additions to any other action that may be taken under this Act or in accordance with the terms of the authority aforesaid, make an order, for reasons to be recorded therein, directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced, or is being carried on, or has been completed, within such period, as may be specified in the order]

Provided that no order under this sub-section shall be made unless the person concerned has been given by means of notice [ of not less than seven days] served in the prescribed manner, a reasonable opportunity of showing cause why such order should not be made.

(2) Where the erection or work has not been completed, the estate officer may, by the same order or by a separate order, whether made at the time of the issue of the notice under the proviso to sub-section (1) or at any other time, direct the person at whose instance the erection or work has been commenced, or is being carried on, to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under section 9.

(3) The estate officer shall cause every order made under sub-section (1), or, as the case may be, under sub-section (2) to be affixed on the outer door, or some other conspicuous part, of the public premises.

(4) Where no appeal has been preferred against the order of demolition made by the estate officer under sub-section (1) or where an order of demolition made by the estate officer under that sub-section has been confirmed no appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or , as the case may be, within the period, the estate officer or any other officer duly authorized by the estate officer in this behalf, may cause the erection or work to which the order relates to be demolished.

(5) Where an erection or work has been demolished, the estate officer may, by order, require the person concerned to pay the expenses of such demolition within such time and such number of installments, as may be specified in the order.]

### **5C. Power To Seal Unauthorized Constructions :-**

(1) It shall be lawful for the estate officer, at any time, before or after making an order of demolition under section 5B, to make an order directing the sealing of such erection or work or of the public premises in which such erection or work has been commenced or is being carried on or has been completed in such manner as may be prescribed, for the purposes of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on has, or have been sealed, the estate officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except-

- (a) under an order made by the estate officer under sub-section (2); or
- (b) under an order of the appellate officer made in an appeal under this Act.

### **6. Disposal Of Property Left On Public Premises By Unauthorized Occupants :-**

(1) Where any persons have been evicted from any public premises under section 5, [ or where any building or other work has been demolished under section 5B] the estate officer may, after giving fourteen days notice to the persons from whom possessions 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.

(1A) Where any goods, materials, cattle or other animal have been removed from any public premises under section 5 A, the estate officer may, after giving fourteen days notice to the persons owing such goods, material, cattle or other animal and after publishing the notice in at least one newspaper having circulation in the locality, dispose of, by public auction, such goods, materials, cattle or other animal.

(1B) Notwithstanding anything contained in sub-section (1) and (1A), the giving or publication of any notice referred to therein shall not be necessary in respect of any property which is subject to speedy and natural decay, and the estate officer may, after recording such evidence as he may think fit, cause such property to be sold or otherwise disposed of in such manner as he may think fit.]

(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 Central Government or the [statutory authority] on account of arrears of rent or damages or costs, 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.

(2A) The expression "cost", referred to in sub-section (2), shall include the cost of removal recoverable under section 5A and the cost of demolition recoverable under section 5B.

## **7. Power To Require Payment Of Rent Or Damages In Respect Of Public Premises :-**

(1) Where any person is in arrears of rent payable in respect of any public premises, the estate officer may, by order, require that



person to pay the same within such time and in such installments as may be specified in the order.

(2) Where any person is, or has at any time been, in unauthorized occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such installments as may be specified in the order.

(2A) While making an order under sub-section (1) or sub-section (2), the estate officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with simple interest at such rate as may be prescribed, not being a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978.]

(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of 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 both be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer.

## **8. Power Of Estate Officers :-**

An estate officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 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

## **9. Appeals :-**

(1) An appeal shall lie from every order of the estate officer made in respect of any public premises under [section 5 of Section 5B [or section 5C]] or section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer that district of not less than ten years standing as the district judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred.-

(A) in the case of an appeal from an order under section 5. within

twelve days from the date.