

REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY RULES, 1953

CONTENTS

1. Short title
2. Definitions
3. Procedure to be followed by competent Authority for purposes of Section 3(1)
4. Order of Requisitioning
5. Breaking open of locks on requisitioned property
6. Repairs to requisitioned premises
7. Procedure to be followed in releasing the property
8. Acquisition of requisitioned property
9. Compensation
10. Arbitration
- 10A. Moneys deposited in Court
11. Appeals
12. Summoning of persons and witnesses and production of documents
13. Inspection of premises

REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY RULES, 1953

STATEMENT OF OBJECTS TO AND REASONS "During the war, lands and buildings were requisitioned under the Defence of India Act, 1939, and the rules made thereunder and such property continued to be subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947 (37 of 1947). As this Act was due to expire on 31st March, 1952 and as the Government of India had no powers to requisition any property outside Delhi, it was essential not only to take measures to ensure the continuance of the requisition of the premises already requisitioned under the Defence of India Rules, but also to secure powers for the Central Government to make fresh requisitions in order to meet its demands for residential and office accommodation outside Delhi. Government of India were, therefore, considering the introduction of suitable legislation to meet the above purposes for it was doubtful whether they could continue to rely, after the Constitution came into force, on the State Governments for requisitioning properties outside Delhi for the purposes of the Union. Before,

however, the proposed legislation could be presented to Parliament, a judicial decision was given to the effect that a State Government had no powers to requisition premises for any purpose of the Union, e.g., for allotment to a Central Government servant. A large number of houses in Bombay, Calcutta and other principal cities had, at the request of the Central Government, been requisitioned by the State Government under their laws and placed at the disposal of the Central Government. A difficult situation would, therefore, have arisen if these orders of requisition were allowed to be challenged in Courts and declared invalid. In order to avoid such difficulties an Ordinance-The Requisitioning and Acquisition of Immovable Property Ordinance, 1952 (3 of 1952)-was promulgated on 25th January, 1952. The Ordinance empowers the Central Government to requisition, for the purposes of the Union, any immovable property, and to acquire such requisitioned property under certain specified conditions. The principles and method according to which compensation shall be determined and paid for such requisitioning and acquisition have been laid down in Sections 8 and 9. Provision is made in Sections 10 and 11 for appeals against orders of the requisitioning and awards determining compensation. The Ordinance also validates every requisition made by a State Government where the requisitioned property is placed at the disposal of the Central Government or an officer or authority subordinate to that Government. The Ordinance repeals the Requisitioned Land (Continuance of Powers) Act, 1947 and the Delhi Premises (Requisition and Eviction) Act, 1947 (49 of 1947). As Act 49 of 1947 is repealed, the Ordinance makes certain amendments, mainly consequential, in the Government Premises (Eviction) Act, 1950 (27 of 1950). The present Bill seeks to replace the Ordinance by an Act of Parliament. [Gazette of India, 1952. Pt. II. Section 2, p. 55.]

1. Short title :-

These rules may be called the Requisitioning and Acquisition of Immovable Property Rules, 1953.

2. Definitions :-

In these Rules,

(a) 'Act means the Requisitioning and Acquisition of Immovable Property Act, 1952.

¹ "(aa) 'Court means a principal Civil Court of original jurisdiction in the district in which the property requisitioned or acquired is

situated";

(b) 'Form' means a form appended to these rules.

(c) 'Section' and 'Sub-section' mean respectively a section or sub-section of the Act.

1. Inserted by G.S.R. 654 dated 23.7.1958.

3. Procedure to be followed by competent Authority for purposes of Section 3(1) :-

A notice under clause (a) of sub-section (1) and order under clause (b) of sub-section (1) of Section 3 of the shall be in Form 'A'. [Form A appended to these rules]

4. Order of Requisitioning :-

The order of requisition under sub-Section (2) of Section 3 of the Act and the notice under sub-section (1) of Section 4 of the Act shall be issued in Form 'E'. [Form E appended to these rules]

5. Breaking open of locks on requisitioned property :-

Where the possession of a requisitioned property is not handed over in compliance with an order issued under sub-section (1) of Section 4 of the Act and the premises are found locked, the competent authority or any other person authorised by it in writing in this behalf may break open the lock in the presence of two witnesses and take possession of the property.

Provided that :-

(i) before any such action is taken the competent authority shall satisfy Itself that the order under sub-section (1) of Section 4 has been duly served on the party concerned and that the party is evading compliance with the order :

(ii) the powers under this rule shall not be exercised at any time after sunset or before sunrise ; and

(iii) where possession is taken In pursuance of the powers conferred by this rule, an inventory of the articles found in the premises shall be made in the presence of two witnesses and such articles shall be stored in safe custody.

6. Repairs to requisitioned premises :-

A notice under sub-section (2) of Section 5 of the Act shall be in Form 'F'. The time for execution of repairs to be specified in the notice shall be such as the competent authority may deem

reasonable having regard to the nature of repairs and other circumstances of the case. (Form F appended to these rules].

7. Procedure to be followed in releasing the property :-

(1) For the purpose of sub-section (2) of Section 6 the competent authority may, if it considers it necessary so to do, make or cause to be made by an officer empowered in this behalf by it, an enquiry to obtain information in respect of the following matters, namely,-

(i) the name and address of the person from whom the property was requisitioned;

(ii) the name and address of the person in possession of the property at the time the property was requisitioned ;

(iii) the name of the person who has been receiving compensation;

(iv) whether any alternative accommodation was provided to the occupants when the property was requisitioned or whether any compensation was paid to him for vacating the property, or whether the occupants, if any, relinquished their claims for preoccupation of the property ;

(v) whether the occupant was a bona fide tenant of the property or was an unauthorised occupant or has no claim in law for the restitution of the property ;

(vi) whether the owner of the property on whom the requisitioning order was first served, had sold the property and if so to whom ;

(vii) in case the property has been sold whether the owner has sold all rights in respect of the property ;

(viii) whether there is any objection to the property being derequisitioned in favour of the owner from whom the property was requisitioned;

(ix) the state of repairs of property at the time of enquiry ;

(x) whether any structure or articles belonging to Government have been erected or installed in the property and their value;

(xi) the condition of the property at the time of requisition and whether the property is in as good a condition as it was when possession thereof was taken subject to change caused by reasonable wear and tear or irresistible force ;

(xii) the estimated cost of restoration ; and

(xiii) any other matter that the competent authority may consider necessary for the purpose of specifying the person to whom possession of the property may be given.

(2) Before issuing an order of release under sub-section (1) of Section 6 of the Act, the authority to whom the powers of the Central Government have been delegated for this purpose, shall obtain the approval of the Central Government in the administrative Ministry concerned.

(3) An order under sub-section (2) of Section 6 shall be issued in Form 'G'. (Form G appended to these rules).

(4) A notice under sub-section (4) of Section 6 shall be in Form 'H'. [Form H appended to these rules].

8. Acquisition of requisitioned property :-

A notice under sub-section (1) of Section 7 of the Act calling upon the owner or any other person interested in a requisitioned property to show cause why the property should not be acquired, shall be in Form 'I'. A notice of actual acquisition shall be in Form 'J'. [Forms I and J appended to these rules.]

9. Compensation :-

(1) An authority to whom the powers of the Central Government have been delegated shall, as far as may be, associate with itself the local officer of the Central Government concerned with the property. In fixing compensation under clause (a) of sub-section (1) of Section 8, and obtain the approval of the Central Government in the administrative Ministry concerned, ¹[or of any officer authorised by that Government in this behalf.]

(2) Compensation for requisitioned property, other than agricultural land, shall be paid by the competent authority quarterly in arrears. In the case of agricultural land, the compensation shall be paid either annually or on release of the land, whichever is earlier. The compensation shall be paid either in cash or by cheque at the discretion of the competent authority.

²["(3) The competent authority shall, as soon as may be practicable after the making of a requisitioning order or the service of a notice of acquisition, communicate to each person interested an offer of what, in the opinion of the competent authority, is a fair amount of

compensation payable to such person in respect of the property requisitioned or acquired.

(4) If the owner of the property is not readily traceable or if there be no person competent to alienate the property or if the ownership of the property is in dispute or if there be any dispute as to the title to receive the compensation or as to the apportionment of the amount offered as compensation, the competent authority shall deposit in Court the amount of the compensation as determined by him under clause (a) of sub-section 9 of Section 8 . The competent authority shall at the same time submit to the Central Government a report setting forth the full facts of the case with all connected papers and apply for the appointment of an arbitrator. Where the compensation is recurring, the competent authority shall in cases covered by this sub-rule, deposit the amount in Court from time to time in arrear as it falls due.

(5)

(i) Every person interested to whom an offer is made under sub-rule (3) shall, within fifteen days of the receipt of the offer, communicate in writing to the competent authority his acceptance or otherwise of the offer. If he accepts the offer ; the competent authority shall enter into an agreement with him. on behalf of the Central Government in Form 'K'.³ [Form K appended to these rules].

(ii) In the following circumstances, the competent authority may, at his discretion make, ["to all eligible claimants"] 'on account' payment upto 80 per cent of the amount which, in his opinion, is likely to be assessed as compensation or recurring compensation as the case may be -

(a) When there is likely to be delay in assessing compensation ;

(b) where the competent authority has made an assessment but there is delay in reaching an agreement though there is a reasonable prospect of agreement being reached ; or

(c) where it is clear that an agreement cannot be reached.

(iii) If the competent authority makes an 'on account' payment under clause (ii), he shall enter into an agreement with the person to whom payment is made on behalf of the Central Government, in [Form 'L'] with such modification as the nature of the case may

require. [Form L appended to these rules].

(6) If any person to whom an offer is made under sub-rule (3) does not accept the offer or does not within fifteen days of the receipt of the offer communicate in writing to the competent authority his acceptance or otherwise of the offer, the competent authority shall, as soon as may

1. Added by S.R.O 3272 dated 19.10.1954.

2. Inserted by S.R.O. 3252 dated 30.9.1957.

3. Substituted by S.R.O. 502 dated 23.4.1960, and further by G.S.R. 563 dated 18.4.1960.

10. Arbitration :-

¹["(1) An arbitrator appointed under clause (b) of sub-Section 1 of Section 8 shall ordinarily complete the arbitration proceedings and give his award within four months. If for any reason he is unable to give within that period, ²[the Central Government or the authority to which the power of the Central Government under clause (b) of sub-section (1) of Section 8 has been delegated, may, if it thinks fit, whether the time for making the award has expired or not and whether the award has been made or not enlarge, from time to time, the time for making the award"].

(2) An arbitrator shall take down the evidence of each witness, not ordinarily in the form of question and answer, but in that of a narrative and shall sign it.

(3) Where before an arbitrator is able to finish the arbitration proceeding and make his award, a new arbitrator is appointed, the new arbitrator may deal with the evidence taken down by his predecessor as if such evidence had been taken down by him and may proceed with the arbitration proceedings from the stage at which his predecessor left it.

(4) The costs of arbitration and award shall be in the discretion of the arbitrator who may direct to, and by whom, and in what manner, they or any part thereof shall be paid, and in case an appeal is preferred to the High Court, such costs and the costs of the appeal shall be in the discretion of the High Court, who may direct to and by whom, and in what manner, they or any part thereof shall be paid.

³["(5) When the arbitrator has made his award he shall sign it and shall give notice in writing to the parties to the reference of the

making and signing thereof. He shall also send to the competent authority as well as to the person or persons to be compensated a copy of the award with a note appended thereto setting forth the grounds on which the award is based and ⁴ [shall also forward the award in original together with the records of the proceedings :-

(a) to the proper court if an appeal is preferred against the award within the period of limitation prescribed for preferring such appeal;

(b) to the competent authority if no such appeal is preferred within the said period].

(6) On receipt of a copy of the award, the competent authority shall

1. Substituted by S.R.O. 3224 dated 4.10.1954.

2. Substituted by S.R.O. 708 dated 25.3.1955.

3. Inserted by S.R.O. 3252 dated 30.9.1957.

4. Substituted by G.S.R. 1212 dated 10.12.1958.

10A. Moneys deposited in Court :-

". -If any money is deposited in Court under rule 9(4), [or rule 9(6)] the Court shall deal with It in the manner laid down in Sections 32 and Section 33 of the Land Acquisition Act, 1894 .]

11. Appeals :-

(1) Appeals under Section 10 shall be addressed to the Secretary to the Government of India in the administrative Ministry concerned with the requisitioned property. ⁴ ["Where the appeal relates to a property requisitioned in the Union territory, the appeal shall be addressed to the Administrator or if there is no Administrator, to the Chief Secretary of the territory concerned or if there is no Chief Secretary, to the Central Government. If, however, a party addresses an appeal in respect of any such property to the Central Government the Central Government may, if it thinks fit, hear the appeal itself and dispose it of or may direct the party to file it before the Administrator or the Chief Secretary, or may send the appeal to the Administrator or the Chief Secretary as the case may be for disposal."]

(2) Every appeal shall contain the grounds of appeal and shall be accompanied by a copy of the order against which the appeal is preferred.

*. Section 14 of the Act.

12. Summoning of persons and witnesses and production of documents :-

An order under Section 12 of the Act summoning and enforcing the attendance of any person and examining him on oath or requiring the discovery and production of any document shall be issued in Form 'B'. An order requisitioning public records from any Court or office shall be Issued in Form 'C' while an order Issuing commissions for examination of witnesses shall be In Form 'D'. (Forms B, C and D appended to these rules].

13. Inspection of premises :-

The competent authority or any officer, empowered in this behalf by such authority, by general or special order, shall not in exercise of the powers conferred by Section 14 , enter upon any property after sunset or before sunrise.