THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

No.40 OF 1971
[23rd August, 1971]

An Act to provide for the eviction of unauthorised 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, extent and commencement.-(1) This Act may be called the Public Premises (Eviction of Unauthorised 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 requires, -----

(a) "corporate authority" means-----

(i) any company or Corporation referred to in sub-clause (1), or
(ii) the Corporation or any committee or the Authority referred to in sub-clause (2),

of clause (e) of this section;

(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 a 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 any premises belonging to or taken on lease or requisitioned by, or on behalf of, the Central Government, and includes-----

(1) 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 (1 of 1956) in which not less than fifty-one per cent.of the paid-up share capital is held by the Central Government; and

(ii) any Corporation (not being a company as defined in section 3 of the Companies Act, 1956 (1 of 1956) or a local authority) established by or under a Central Act and owned or controlled by the Central Government; and

(2) in relation to the Union territory of Delhi-----

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

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

(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 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;

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

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 officers of equivalent rank of the corporate authority, as it thinks fit, to be estate officers for the purposes of this Act; 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.

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 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, 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 premises, 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 reasons to believe that any persons are in occupation of the public premises, 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 he may produce in support of the same and after giving him a reasonable opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised 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 within thirty days of the date of its

publication under sub-section (1), the estate officer or any other officer duly authorised by the estate officer 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 estate officer may, after giving 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.
(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 corporate 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.

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 instalments as may be specified in the order.

(2) Where any person is, or has at any time been, in unauthorised 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 instalments 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 he may produce in support of the same, have been considered by the estate officer.

8.Powers of estate officers.-An estate officer shall, for the purposes 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 (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.

9.Appeals.-(1) An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 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 in 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 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 an order under section 7, within fifteen days from the date on which the order is communicated to the appellant:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the estate officer, the appellate officer 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 appellate officer as expeditiously as possible.

(5) The costs of any appeal under this section shall be in the discretion of the appellate officer.

(6) For the purposes of this section, a presidency-town shall be deemed to be a district and the chief judge or the principal judge of the city civil court therein shall be deemed to be the district judge of the district.

10.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 original 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 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 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.

12.Power to obtain information.-If the estate officer has reason to believe that any persons are in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him 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 proceeding for the determination of arrears of rent or 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 Central 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 in their hands.

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) of that section or the costs awarded to the Central 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 therefor in the order relating thereto, the estate officer 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 Central 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 Central Government or the corporate authority or the appellate officer or the estate officer 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.Delegation of powers.-The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by a State Government or an officer of the State Government.

18.Power to make rules.-(1) The Central Government may, by notification in the Official 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 proceeding pending before an estate officer to another estate officer;
(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 Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following 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 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.-The Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958) is hereby repealed.

20.Validation.-Notwithstanding any judgement, decree or order of any court, anything done or any 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 purported to have been done or taken under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958) (hereinafter in this section referred to as the 1958-Act) shall be deemed to be as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act which, under sub-section (3) of section 1 shall be deemed to have come into force on the 16th day of September, 1958, 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 the 1958-Act where such refund has been claimed merely on the ground that the said Act has been declared to be unconstitutional and void; and

(b) no court shall enforce a decree or order directing the refund of any rent or damages or costs recovered under the 1958-Act merely on the ground that the said Act has been declared to be

unconstitutional and void.