

The Dispatch
D o c u m e n t s

Jammu and Kashmir Displaced Persons (Permanent Settlement) Act, 1971

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**THE JAMMU AND KASHMIR
DISPLACED PERSONS (PERMANENT SETTLEMENT)
ACT, 1971.**

ACT NO. X OF 1971.

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**THE JAMMU AND KASHMIR
DISPLACED PERSONS (PERMANENT SETTLEMENT)
ACT, 1971.**

ACT NO. X OF 1971.

[Received the assent of the Governor on 18th April, 1971 and published in Government Gazette dated 21st April, 1971 (Extra.)].

An Act to provide for the permanent settlement of displaced persons and for matters connected therewith.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-second Year of the Republic of India as follows :—

1. Short title and extent.—(1) This Act may be called the Jammu and Kashmir Displaced Persons (Permanent Settlement) Act, 1971.

(2) It shall extend to the whole of the State.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) 'displaced person' means any person who is a permanent resident of the State and who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area of the State occupied by Pakistan has, after the first day of March, 1947, left or been displaced from, his place of residence in such area and who has been subsequently residing outside such area in the State and also includes the successors-in-interest of any such person ;

(b) 'evacuee land' means land (as hereinafter defined) which has been declared as evacuee property under the Jammu and Kashmir State Evacuee's (Administration of Property) Act, 2006.

(c) 'land' means land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture and includes—

(i) the sites of buildings and other structures on such land ;

(ii) trees standing on such land ;

- (iii) any right of occupancy ;
- (d) 'prescribed' means prescribed by rules made under this Act ;
- (e) all other words and expressions used but not defined in this Act and defined in the Jammu and Kashmir State Evacuee's (Administration of Property) Act, 2006, have the meanings respectively assigned to them in that Act.

3. Power to transfer property for permanent settlement of displaced persons.—(1) The Government may, for the permanent settlement of any displaced person, transfer—

- (a) any land owned by the State ;
- (b) any land which has escheated to the State ;
- (c) any evacuee land acquired under section 4 ;

to such displaced person in such form and manner and on such terms and conditions as may be prescribed.

(2) For the purpose of transferring any land under sub-section (1), it shall be lawful for the Government to transfer the same to a displaced person jointly with any other person who is a permanent resident of the State.

(3) No displaced person, to whom land has been transferred under this section, shall—

- (a) use such land save for agriculture purposes or for purposes subservient to agriculture ;
- (b) transfer such land or any interest therein to any person :

Provided that nothing in this clause shall apply to any such transfer made in favour of—

- (i) the State ;
- (ii) the State Land Development Bank ;
- (iii) a Land Development Bank established under the provisions of the Jammu and Kashmir Co-operative Societies Act, 1960 ;
- (iv) a Co-operative Bank registered under the Co-operative Societies Act, 1960 ;

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- (v) any Scheduled Bank subject to the provisions of section 140 of the Transfer of Property Act, 1977 ;

as a security for any loan raised by such displaced person from the State or any such Bank as aforesaid.

(4) Where any land is used in contravention of clause (a) of sub-section (3), such land shall be resumed by the Government.

(5) Where any transfer is made in contravention of clause (b) of sub-section (3), such transfer shall be null and void and the land forming subject-matter of such transfer shall be resumed by the Government.

(6) Where any land is liable to be resumed under sub-sections (4) and (5), the Collector of the district within the local limits of whose jurisdiction such land or any portion thereof is situate may, on his own motion or otherwise and after such inquiry, as may be deemed necessary, take possession of such land which shall thereupon vest in the Government free from all encumbrances.

4. Power to acquire evacuee land for permanent settlement of displaced persons.—(1) If the Government is of the opinion that for the permanent settlement of any displaced person, it is necessary to acquire any evacuee land allotted to such displaced person, the Government may at any time acquire such evacuee land by publishing in the Government Gazette a notification to the effect that the Government has decided to acquire such evacuee land in pursuance of this section.

(2) Subject to the provisions of section 5, on and from the date of the publication of the notification under sub-section (1), the right, title and interest of any evacuee in the evacuee land shall be extinguished and the evacuee land shall vest absolutely in the Government free from all encumbrances :

Provided that the displaced person shall, so long as such land is not transferred to him under this Act, continue in possession thereof on the same conditions on which he held it immediately before the date of the said notification.

(3) It shall be lawful for the Government, if it is considered necessary to issue from time to time notification referred to in sub-section (1) in respect of—

(a) any class of evacuee land ; or

(b) all evacuee lands situated in a specified area ; or

- (c) any particular evacuee land.

5. Compensation for evacuee land acquired under section 4.—(1) Where an evacuee land is acquired under section 4, there shall be paid to the Custodian compensation which shall be determined by the Collector of the District where the land is situated or by such other officer as the Government may authorise in this behalf in accordance with the provisions of sections 23 and 24 of the Land Acquisition Act, 1900.

(2) Such compensation shall be deemed to be payable from the date of issue of the notification under sub-section (2) of section 4 and simple interest at the rate of 4 per cent per annum shall be payable on it from the date of issue of the said notification to the date of payment.

(3) For the purpose of determining the compensation the Collector of the District and the Officer authorised by the Government in this behalf shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1977, in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining a person on oath or affirmation ;
- (b) issuing summons for the examination of any witness or for local investigation ;
- (c) compelling production of any document ; and
- (d) passing such interim orders as may be necessary in the ends of justice.

(4) The mode of payment of compensation shall be determined by such rules (including rules providing for payment in non-interest bearing bonds) as may be framed in this behalf under this Act.

6. Act not applicable to certain lands.—Nothing in foregoing provisions of this Act shall apply—

- (a) to any land belonging to the State or an evacuee which is situated in any area declared to be a Municipality, Notified Area, Town Area or Cantonment Area under any law for the time being in force ; or
- (b) to any land belonging to the State or an evacuee which is situated in any area in respect of which a Town Planning Scheme is sanctioned under any Town Planning Law for the time being in force ; or

- (c) to any evacuee land other than such land which has been allotted under rules, forming annexure to Cabinet Order No.578-C of 1954 dated May 7, 1954 or under any Cabinet Order issued prior to the commencement of this Act.

7. Appeals.—(1) If the Custodian feels aggrieved by a decision of the Collector or of any officer authorised by the Government in any matter which he is empowered by this Act to decide, he may appeal—

- (a) to the District Judge ;

- (b) to the High Court, from an order made on appeal by the District Judge.

(2) A memorandum of appeal under sub-section (1) shall be accompanied by a Court fee of Rs. 5.

8. Limitation of appeals.—(1) The period of limitation for an appeal under section 7 shall run from the date of the decision appealed against, and shall be as follows :—

- (a) when the appeal lies to the District Judge.....60 days ;

- (b) when the appeal lies to the High Court.....90 days.

(2) In computing the period of limitation for an appeal under this section, the period requisite for obtaining copies of the decision appealed against, shall be excluded.

(3) The provisions of section 5 of the Jammu and Kashmir Limitation Act, 1995, shall apply to all appeals under this Act.

9. Power to make rules.—(1) The Government may, by notification in the Government Gazette, make rules to carry 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 terms and conditions subject to which land may be transferred to a displaced person ;

- (b) the circumstances in which and conditions subject to which an evacuee land may be acquired under this Act ;

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- (c) the manner in which the Collector of the District or any other officer authorised in this behalf by the Government may determine the compensation in respect of any evacuee land acquired under this Act ;
 - (d) the form and manner in which the compensation may be paid ;
 - (e) the manner in which any dispute as to who are the successors-in-interest of a displaced person may be determined ;
 - (f) the form and manner in which records or books of account may be maintained under this Act ;
 - (g) any other matter which is to be or may be prescribed under this Act.
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