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The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953

Act 8 of 1953

Keyword(s):
Land, Landlord, Occupancy Tenant

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THE PUNJAB OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT, 1952

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[1]THE PUNJAB OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT, 1952

PUNJAB ACT NO. 8 OF 1953

The 15th April, 1953

[Received the assent of the President on the 14th April, 1953, and was first published in the Punjab Government Gazette (Extraordinary) of the 15th April, 1953.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1953	8	The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952	Amended by Punjab Act 13 of 1955[2] Amended by Punjab Act 31 of 1958[3] Amended by Punjab Act 29 of 1959[4] Amended by the Haryana Adaptation of Laws Order, 1968[5]

An Act to vest proprietary rights in occupancy tenants and to provide for payment of compensation to the landlords whose rights are extinguished and for certain consequential and incidental matters.

Short title, extent and commencement.

1. *(1)* This Act may be called the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952.

(2) It extends to the whole of the [6][Principal territories]

(3) It shall be deemed to have come into force on the 15th day of June, 1952.

1. For Statement of Objects and Reasons, *see Punjab Government Gazette* (Extraordinary), dated 1st October, 1952, pages 1061-62; for proceedings in the Assembly *see* Punjab Legislative Assembly Debates, 1953.
2. For Statement of Objects and Reasons, *see Punjab Government Gazette* (Extraordinary), 1955, page 21.
3. For Statement of Objects and Reasons, *see Punjab Government Gazette* (Extra.), 1958, page 10.
4. For Statement of Objects and Reasons, *see Punjab Government Gazette* (Extra.), 1959, page 10.
5. *See Haryana Government Gazette* (Extra), dated 29th October, 1968, pages 531-567.
6. Substituted for the words "State of Punjab" by the Haryana Adaptation of Laws Order, 1968.

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Definitions.

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

(*a*) "Apppointed day" means—

(*i*) in relation to any tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant of any land in the revenue records, the 15th day of June, 1952 ;

(*ii*) in relation to any tenant who obtains a right of occupancy in any land after the commencement of this Act, the date on which he obtains such right of occupancy ;

(*b*) "Collector" means the Collector of the district in which the land, in respect of which proprietary rights are vested in an occupancy tenant under this Act, is situate, and includes any officer not below the rank of an Assistant Collector of the First Grade specially empowered by the State Government to perform the duties of a Collector under this Act ;

(*c*) "Commissioner" and "Financial Commissioner" have the meanings respectively assigned to them under the Punjab Land Revenue Act, 1887 (Punjab Act 17 of 1887) ;

(*d*) "land", "land revenue" and "rent" have the meanings resepectively assigned to them in the Punjab Tenancy Act, 1887 (Punjab Act 16 of 1887);

(*e*) "landlord" means a person under whom an occupancy tenant holds land and to whom the occupancy tenant is, or but for a special contract would be, liable to pay rent for that land, and includes the predecessors and successors in interest of a landlord and shall for the purposes of section 4 include the mortgagee ;

(*f*) "occupancy tenant" means a tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant in the revenue records and includes a tenant who, after such commencement obtains a right of occupancy in respect of the land held by him whether by agreement with the landlord or through a court of competent jurisdiction or otherwise, and includes also the predecessors and successors in interest of an occupancy tenant.

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Vesting of proprietary rights in occupancy tenants and extinguishment of corresponding rights of landlords.

3. Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force on and from the appointed day—

(a) all rights, title, and interest (including the contingent interest, if any, recognized by any law, custom or usage for the time being in force and including the share in the Shamilat with respect to the land concerned) of the landlord in the land held under him by an occupancy tenant, shall be extinguished, and such rights, title and interest shall be deemed to vest in the occupancy tenant free from all encumbrances, if any, created by the landlord:

Provided that the occupancy tenant shall have the option not to acquire the share in the Shamilat by giving a notice in writing to the Collector within six months of the publication of this Act or from the date of his obtaining occupancy rights whichever is later;

(b) the landlord shall cease to have any right to collect or receive any rent or any share of the land revenue in respect of such land and his liability to pay land revenue in respect of the land shall also cease;

(c) the occupancy tenant shall pay direct to the Government the land revenue accruing due in respect of the land;

(d) the occupancy tenant shall be liable to pay, and the landlord concerned shall be entitled to receive and be paid, such compensation as may be determined under this Act.

Determination of compensation payable to landlord.

4. *(1)* Any landlord whose rights have been extinguished under section 3 may, within twelve months from the appointed day, apply to the Collector, in such form as may be prescribed, for the determination of the amount of compensation payable to him by the occupancy tenant :

Provided that the Collector may entertain the application after the expiry of the said period of twelve months if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

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(2) On receipt of an application under sub-section *(1)*, the Collector shall issue notice to the parties concerned and, after giving the parties an opportunity of being heard and after making such inquiry as may be prescribed, shall make an award determining the amount of compensation payable by the occupancy tenant to the landlord in accordance with the provisions of section 5.

(3) Where there is any dispute as to the person or persons who are entitled to the compensation, the Collector shall decide such dispute and if the Collector finds that more than one person is entitled to compensation, he shall apportion the amount thereof amongst such persons.

(4) Where the compensation is payable to a minor or to a person having a limited interest, the Collector may make such arrangements as may be equitable having regard to the interest of the minor, the parties concerned and their reversioners.

Principles of compensation.

5. The amount of compensation payable to the landlord under this Act shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say :—

(a) where the rent payable by the occupancy tenant is expressed in terms of the land revenue in respect of the land, the amount of compensation shall,—

(i) if the right of occupancy has been obtained on any of the grounds specified in section 5 of the Punjab Tenancy Act, 1887 (Punjab Act 16 of 1887), be equal to the annual rent (exclusive of land revenue and cesses) plus one anna for every rupee of the annual land revenue multiplied in each case by twenty ;

(ii) in any other case, be equal to the annual rent (exclusive of land revenue and cesses) plus two annas for every rupee of the annual land revenue multiplied in each case by twentyfive ;

Illustration (A) If the annual rent (exclusive of land revenue and cesses) is Rs. 50 and the land revenue payable annually is Rs. 160, then, in a case coming under clause (i), the amount of compensation will be (Rs. 50+ Rs. 10) X 20 = Rs. 1,200.

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Illustration (B) If the annual rent (exclusive of land revenue and cesses) is Rs. 50 and the land revenue payable annually is Rs. 160, then, in a case coming under clause (ii), the amount of compensation will be (Rs. 50+Rs. 20) X 25 = Rs. 1,750 ;

(b) where the rent payable by the occupancy tenant is not in any way expressed in terms of the land revenue in respect of the land [1][and subject to the condition that it shall in no case exceed a quarter of the market value of the land] the amount of compensation shall,—

(i) if the rent is paid in cash, whether as a fixed amount or at a fixed rate with reference to the area of the land, be equal to twenty times the average annual rent in respect of the land ;

(ii) if the rent is paid by a division or appraisement of the produce on the basis of batai, bear the same proportion to average market value of the land as the landlord's share of the produce bears to entire produce of the land ;

[2][* * * * * * * * * * *]

(iii) if the rent is paid partly in cash (whether as a fixed amount or at a fixed rate with reference to the area of the land) and partly as a share of the produce, be equal to twenty times the average annual rent in respect of the land.

[2][* * * * * * * * * * * *]

Explanation . For the purpose of determining the average market value of the land or average annual rent under this clause, the average of the market value of the land, or as the case may be, of the rent paid or payable, and in any case where rent is a share of the produce, the average of the price of the produce, during a period of fifteen years commencing from the 1st day of June 1935, shall be taken into account.

1. The words added to clause (b) by Punjab Act 13 of 1955.

2. Proviso to sub-clauses (ii) and (iii) omitted by *ibid.*

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[1][*(iv)* if in cases falling under sub-clauses *(i)* and *(iii)* it is not possible to determine the average annual rent, be one-fourth of the average market value of the land ;]

(c) where the share in the Shamilat has also vested in the occupancy tenant, the amount of compensation for it shall be equal to five times the land revenue.

Payment of compensation.

6. *(1)* The compensation awarded under this Act shall either be paid in cash or be deposited with Collector by the occupancy tenant within a period of three months of the date of the award :

Provided that the Collector may, having regard to the amount of compensation or for other reasons and after recording his reasons for so doing, allow the occupancy tenant to pay the compensantion in such six-monthly instalments, not exceeding in any case six years, as he thinks fit.

(2) Where the occupancy tenant makes a default in the payment of compensation in accordance with the terms of the award, the amount due may be recovered in the same manner as an arrear of land revenue.

Appeal, review and revision.

7. *(1)* An appeal shall lie from—

(a) any award or order made by the Collector, to the Commissioner ; and

(b) any order of the Commissioner, to the Financial Commissioner :

Provided that when an original award or order is confirmed on first appeal, a further appeal shall not lie.

(2) The Collector, the Commissioner or the Financial Commissioner may, either of his own motion or on the application made within ninety days of the party interested, review and on such review, modify, reverse or confirm any order passed by himself or by any of his predecessors in office; and such power shall be exercised subject to the provisions, so far as they may be applicable, of section 82 of the Punjab Tenancy Act, 1887 (Punjab Act 16 of 1887).

(3) With respect to all matters dealt with under this Act, the Financial Commissioner shall have the same power to call for, examine

1. Sub-clause (iv) to clause (b) inserted by Punjab Act 29 of 1959.

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and revise the proceedings of the Collector or the Commissioner as provided in section 84 of the Punjab Tenancy Act, 1887 (Punjab Act 16 of 1887).

(4) The period of limitation for an appeal under this section shall run from the date of the award or order appealed against and shall be as follows :—

(a) when the appeal lies to the Commissioner	..	sixty days.
(b) when the appeal lies to the Financial Commissioner	..	ninety days.

(5) In computing the period for an appeal from an award or order under this Act, the Indian Limitation *Act, 1908 (9 of 1908), shall apply.

(6) For the purposes of this Act, the Collector, the Commissioner and the Financial Commissioner may, in so far as may be necessary or expedient to do so, exercise all the powers of a revenue officer or a revenue court as the case may be under the Punjab Tenancy Act, 1887 (Punjab Act 16 of 1887).

Certain mortgages and charges not enforceable against land held by occupancy tenants.

8. Notwithstanding anything contained in any contract or in any law for the time being in force, no claim or liability, whether under any decree or order of a civil court or otherwise, enforceable against a landlord for any money which is charged on, or is secured by a mortgage of, any land held under him by an occupancy tenant, shall be enforceable against the land, and every such claim or liability shall be deemed to be a charge on the compensation payable to the landlord in respect of such land.

Act not to apply to certain evacuee property.

[1][**9.** *(1)* Nothing in this Act shall apply to evacuee property as defined in the Administration of Evacuee Property Act, 1950 (31 of 1950).

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Act shall, subject to the provisions of sub-section (3), apply to—

(a) a person who, after the commencement of this Act, obtains a right of occupancy from the

* *See* now the Limitation Act, 1963 (36 of 1963).

1. Substituted for section 9 by Punjab Act 31 of 1958.

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Central Government under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) ; and

(b) an occupancy tenant of a landlord who is an evacuee as defined in clause (d) of section 2 of the Administration of Evacuee Property Act, 1950 (31 of 1950).

(3) For the purposes of section 3 and sub-section *(1)* of section 4, the appointed date, in relation to a person referred to in sub-section *(2)*, shall, notwithstanding anything to the contrary contained in this Act or in any judgment, decree or order of any court, be,—

(i) in the case of a person who obtains a right of occupancy from the Central Government after the commencement of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) (Amendment) Ordinance, 1958, the date on which such right is obtained ; and

(ii) in any other case, the date of commencement of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) (Amendment) Ordinance, 1958.]

Bar of jurisdiction.

10. Save as otherwise expressly provided in this Act, every award or order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Act, shall be called in question by any court or before any officer or authority.

Bar to legal proceedings.

11. No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

Power to make rules.

12. *(1)* The State Government may, by notification in the Official 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 form and manner in which an application for determination of compensation may be made by the landlord;

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(*b*) the form of notice and the manner in which notices may be served under this Act ;

(*c*) the manner in which inquiries may be held under this Act ;

(*d*) the manner in which compensation may be paid ;

(*e*) the manner in which appeals and applications for review and revision may be filed ;

(*f*) any other matter which has to be or may be prescribed.

Repeal and saving.

13. The Punjab Occupancy Tenants (Vesting of Proprietary Rights)Act, 1951 (President's Act 8 of 1951), is hereby repealed but, notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action was taken.

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