

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

7-21-88/LA

The Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988 (Goa Act No. 22 of 1988), which has been passed by the Legislative Assembly of Goa on 28-3-1988 and assented to by the President of India on 12-10-1988, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 2nd November, 1988.

The Goa Public Premises (Eviction of Unauthorised Occupants)

Act, 1988

(Goa Act No. 22 of 1988) [12-10-1988]

AN

ACT

to provide for the eviction of unauthorised occupants from the Public Premises and for certain incidental matters.

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988.

(2) It extends to the whole of Goa.

(3) It shall be deemed to have come into force on the 30th day of May, 1987.

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

(a) “estate officer” means an officer appointed as such by the Government under section 3;

(b) “Government” means the Government of Goa;

(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 fitting affixed to such building or part of a building for 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 Government, and includes any premises provided as residential accommodation to any member of the staff of the Goa State Legislature.

(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 (Central Act 1 of 1956), in which not less than fifty one percent, of the paid-up share capital is held by the Government or any Company which is a subsidiary (within the meaning of that Act) of the first mentioned Company;

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

(iii) any university established by the State of Goa;

(iv) any institute established or owned by the Government;

(v) any premises belonging to the Development Authorities/Board established under the State enactment.

(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 Government or the Statutory Authority;

(g) “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 Legislative Assembly of Goa, the Secretariat of the Legislative Assembly;

(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 that clause, the Corporation referred to therein; and

(iv) in respect of the public premises referred to, respectively, in items (iii), (iv) and (v) of sub-clause (2) of that clause, the University, Institute, Development Authority/Board as the case may be, referred to therein.

(h) “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, lease, leave and licence 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 Government may, by notification in the Official Gazette,—

(a) appoint such persons, being Gazetted Officers of Government or officers 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 Legislative Assembly of Goa shall be so appointed except after consultation with the Speaker:

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 power 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,—

(i) 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 seven days from 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 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 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 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, 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 authorised by the estate officer in this 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.

6. Power to remove unauthorised 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 erected, placed or raised on any public premises in contravention of the provision 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 officer, 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 arrear 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 arrear of land revenue.

7. Order of demolition of unauthorised 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 authorised by such authority, then, the estate officer may, in addition 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 a 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 12.

(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 on 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, if any, fixed by the appellate officer on appeal, and, on the failure of the person to comply with the order within such period, the estate officer or any other officer duly authorised 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 in such number of instalments, as may be specified in the order.

8. Power to seal unauthorised constructions.— (1) It shall be lawful for the estate officer, at any time, before or after making an order of demolition under section 7, 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 purpose 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.

9. Disposal of property left on public premises by unauthorised occupants.— (1) Where any person has been evicted from any public premises under section 5 or where any building or other work has been demolished under section 7, the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken 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 goods, materials, cattle or other animal have been removed from any public premises under section 6, the estate officer may, after giving fourteen days notice to the persons owning such goods, materials, 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 animals.

(3) Notwithstanding anything contained in sub-sections (1) and (2), 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.

(4) 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 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.

(5) The expression “costs”, referred to in sub-section (4), shall include the cost of removal recoverable under section 6 and the cost of demolition recoverable under section 7.

10. 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 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 make good the damages within such time and in such installments as may be specified in the order.

(3) 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 (Central Act 14 of 1978).

(4) 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.

11. Powers of estate officer.— 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 (Central Act 5 of 1908), when trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing 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.

12. Appeals.— An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 or section 8 or section 10 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 twelve 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 or section 10, within twelve 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 if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time; and

(c) in the case of an appeal from an order under section 8, within twelve days from the date of such order.

(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:

Provided that, where the construction or erection of any building or other structure or fixture or execution of any other work was not completed on the day on which an order was made under section 7 for the demolition or removal of such building or other structure or fixture, the appellate officer shall not make any order for the stay of enforcement of such order, unless such security, as may be sufficient in the opinion of the appellate officer, has been given by the appellant for not proceeding with such construction, erection or work pending the disposal of the appeal.

(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.

13. Finality of orders.— Save as otherwise expressly provided in this Act, every order made by an estate officers 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.

14. Offences and Penalty.— (1) If any person on unlawfully occupies any public premises, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that a person who, having been lawfully in occupation of any public premises by virtue of any authority (whether by way of grant, allotment or by any other mode whatsoever) continues to be in occupation of such premises after such authority has ceased to be valid, shall not be guilty of such offence.

(2) If any person who has been evicted from 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 five thousand rupees, or with both.

(3) Any magistrate convicting a person under sub-section (2), 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.

15. Offences under section 14 to be cognizable.— The Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply to an offence under section 14 as if it were a cognizable offence—

- (i) for the purposes of investigation of such offence; and
- (ii) for the purposes of matters, other than—
 - (1) matters referred to in section 42 of that Code; and
 - (2) arrest of a person except on the complaint of, or upon information received from,—
 - (a) Group A officer as may be appointed by the Government, in the case of an offence in relation to the public premises specified in sub-clause (1) of clause (e) of section 2;
 - (b) an officer equivalent to the rank of a Group A officer of the Government or where it is not possible to specify an officer of such equivalent rank, such executive officer as may be appointed by the statutory authority in the case of an offence in relation to the public premises specified in sub-clause (2) of clause (e) of section 2;
 - (c) such officer in the case of an offence in relation to the public premises belonging to the Development Authority, as may be appointed by the Government.

16. 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.

17. 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 or for the determination of the amount payable by way of interest on such arrears of rent or 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) Where any person from whom any cost of removal of any building or other structure or fixture, or, as the case may be, any goods, cattle or other animal is to be recovered under sub-section (2) or sub-section (3) of section 6, or any expenses of demolition are to be recovered under sub-section (5) of section 7, dies before any proceeding is taken for the recovery of such cost 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.

(3) Any amount due to the Government or the statutory authority from any person whether by way of arrears of rent or damages or cost of removal referred to in section 6 or expenses of demolition referred to in section 7 or interest referred to in sub-section (3) of section 10 or any other cost 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.

18. Recovery of rent, etc., as an arrear of land revenue.— If any person refuses or fails to pay the expenses of demolition payable under sub-section (5) of section 7 or the arrears of rent payable under sub-section (1) of section 10 or the damages payable under sub-section (2) or the interest determined under sub-section (3) of that section or the costs awarded to the Government or the statutory authority under sub-section (5) of section 12, or any portion of such rent, damages, expenses, interest 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.

19. Bar of jurisdiction.— No court shall have jurisdiction to entertain any suit or proceeding in respect of —

- (a) the eviction of any person who is in unauthorised occupation of any public premises; or
- (b) the removal of any building, structure or fixture or goods, cattle or other animal from any public premises under section 6; or
- (c) the demolition of any building or other structure made, or ordered to be made, under section 7; or
- (d) the sealing of any erection or work or of any public premises under section 8; or
- (e) the arrears of rent payable under sub-section (1) of section 10, or damages payable under sub-section (2), or interest payable under sub-section (3), of that section; or
- (f) the recovery of —
 - (i) costs of removal of any building, structure or fixture or goods, cattle or other animal under section 6; or
 - (ii) expenses of demolition under section 7; or
 - (iii) costs awarded to the Government or statutory authority under sub-section (5) of section 12; or
 - (iv) any portion of such rent, damages, costs of removal, expenses of demolition as costs awarded to the Government or the statutory authority.

20. Protection of action taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the Government or the statutory 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.

21. Power to make rules.— (1) The 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 of estate officers and the transfer of any proceeding 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 the sealing of any erection or work of any public premises shall be made under sub-section (1) of section 8;

(g) the rate at which interest shall be payable on arrears of rent specified in any order made under sub-section (1) of section 10, or damages assessed under sub-section (2) of that section;

(h) the manner in which appeals may be preferred and the procedure to be followed in appeals;

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

22. Validation.— Notwithstanding any judgment, 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 proceeding initiated or purported to have been done or taken under the public premises (Eviction of Unauthorised Occupants) Act, 1971 in respect of any public premises referred to in section 2 of this 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.

Secretariat, Annexe,
Panaji-Goa.
2nd November, 1988.

M. RAGHUCHANDER,
Secretary to the Government of Goa,
Law Department (Legal Affairs).