



Government of West Bengal
Judicial and Legislative (Legislative) Department

West Bengal Act V of 1947

**The West Bengal Premises Requisition
and Control (Temporary Provisions)
Act, 1947**

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West Bengal Act V of 1947

THE WEST BENGAL PREMISES REQUISITION AND CONTROL (TEMPORARY PROVISIONS) ACT, 1947.

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THE WEST BENGAL PREMISES REQUISITION AND CONTROL (TEMPORARY PROVISIONS) ACT, 1947.

[Passed by the West Bengal Legislature.]

[Assent of the Governor General was first published in the *Calcutta Gazette*, Extraordinary, of the 1st January, 1948.]

An Act to provide for the requisition and control of premises in West Bengal.

WHEREAS it is expedient to provide for requisition and control of premises in West Bengal;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947. Short title, commencement, extent and duration.
 - (2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, direct.
 - (3) It extends to the whole of West Bengal.
 - (4) It shall remain in force only up to the 31st day of March, 1950, but the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period or periods not exceeding in the aggregate three years.
2. In this Act, unless there is anything repugnant in the subject or context—
- (a) "Calcutta" has the same meaning as in clause (11) of section 3 of the Calcutta Municipal Act, 1923;
 - (b) "Collector" means in Calcutta, the First Land Acquisition Collector and elsewhere, the Collector of a district or any other officer appointed by the Provincial Government to discharge the functions of a Collector under this Act;
 - (c) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises whether on his own account, or on account or on behalf or for the benefit, of any other person, or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant and includes a legal representative, as defined in the Code of Civil Procedure, 1908, a tenant who sublets any premises, and every person from time to time deriving title under a landlord;
 - (d) "persons interested" means any person claiming an interest in compensation payable on account of requisition of any premises under this Act;

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(Temporary Provisions) Act, 1947.*

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*(Chapter I—Preliminary—Chapter II—Requisition of
premises for any public purpose—Section 3.)*

- (e) "premises" means any building or part of a building or any hut or part of a hut which is, or is intended to be, let separately for residential or non-residential purposes and includes,—
- (i) the garden, grounds and out-houses (if any) appertaining to such building or part of a building or hut or part of a hut; and
- (ii) any furniture supplied by the landlord for use in such building or part of a building; and also includes a room or rooms in an hotel, boarding house or lodging house, but does not include a stall let at variable rents at different seasons of the year for the retail sale of goods in a market as defined in clause (59) of section 3 of the Calcutta Municipal Act, 1923;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "tenant" means any person by whom, or on whose account, rent is or but for a special contract would be, payable for any premises and includes a legal representative as defined in the Code of Civil Procedure, 1908, and a person continuing in possession after the termination of a tenancy in his favour.

Ben. Act
III of 1923.

Act V of
1908.

CHAPTER II.

REQUISITION OF PREMISES FOR ANY PUBLIC PURPOSE.

Power to
requisition.

3. (1) Whenever it appears to the Provincial Government that any premises in any locality are needed or are likely to be needed for any public purpose, it may, by order in writing, requisition such premises:

Provided that no premises exclusively used for the purpose of religious worship shall be requisitioned under this section.

(2) An order under sub-section (1) shall be served on the landlord, and where it relates to premises in occupation of a tenant also on such tenant in such manner as may be prescribed.

(3) The Provincial Government may, with a view to requisitioning any premises under sub-section (1), by order,—

- (a) require any person to furnish to such authority as may be specified in the order, such information in his possession relating to the premises as may be so specified;
- (b) direct that the landlord, tenant or any other person in occupation of the premises shall not without the permission of the Provincial Government dispose of or structurally alter the premises.

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Renumber section 4, as sub-section (I) of that section and,—

(I) in sub-section (I) of the said section, as so renumbered,—

(a) for clause (a), substitute the following clauses, namely :—

“(a) order the person in occupation of the premises, if any, to vacate the premises within a period of ten days from the service of the notice ;

(aa) order the landlord or the tenant, as the case may be, to remove the articles belonging to him, if any, and, where the premises are requisitioned without any furniture therein, such furniture, within a period of fifteen days from the service of the notice :

Provided that the Collector may, for reasons to be recorded in writing, extend the said period up to two months ;” ; and

(b) in clause (c), omit the words “to the landlord” ; and

(2) after sub-section (I) of the said section, as so renumbered, add the following sub-sections, namely :—

“(2) Where any person fails to comply with an order under clause (aa) of sub-section (I) directing any furniture or other articles to be removed, the Collector may cause such furniture or other articles to be removed and to be stored or sold by public auction in such manner as the Collector may think fit at the cost and risk of such person :

Provided that no furniture or other articles shall be sold by public auction in pursuance of the provisions of this sub-section without the previous sanction of the Provincial Government or such other authority as may be empowered in this behalf by the Provincial Government.

(3) Where any furniture or other articles are removed and are stored or sold by public auction in pursuance of the provisions of sub-section (2), the cost of such removal and of such storage or sale, as the case may be, may, without prejudice to any other mode of recovery, be deducted from the compensation payable or from the sale proceeds, if any, and the balance of the sale proceeds, if any, after such deduction, shall be paid to the owner of such furniture or other articles, as the case may be :

Provided that if any dispute arises as to the person or persons to whom the amount of such balance or any part thereof is payable, the Collector shall keep the amount in revenue deposit till there has been a settlement of the dispute.”

(Re-numbered, substituted, omitted and added by West Ben.
Act IV of 1949, section 4.)

[No. 44, dated the 2nd August, 1949.]

Renumber section 4, as sub-section (1) of that section and,—

(1) in sub-section (1) of the said section, as so renumbered,—

(a) for clause (a), substitute the following clauses, namely :—

“(a) order the person in occupation of the premises, if any, to vacate the premises within a period of ten days from the service of the notice ;

(aa) order the landlord or the tenant, as the case may be, to remove the articles belonging to him, if any, and, where the premises are requisitioned without any furniture therein, such furniture, within a period of fifteen days from the service of the notice :

Provided that the Collector may, for reasons to be recorded in writing, extend the said period up to two months ;” ; and

(b) in clause (c), omit the words “to the landlord”; and

(2) after sub-section (1) of the said section, as so renumbered, add the following sub-sections, namely :—

“(2) Where any person fails to comply with an order under clause (aa) of sub-section (1) directing any furniture or other articles to be removed, the Collector may cause such furniture or other articles to be removed and to be stored or sold by public auction in such manner as the Collector may think fit at the cost and risk of such person :

Provided that no furniture or other articles shall be sold by public auction in pursuance of the provisions of this sub-section without the previous sanction of the Provincial Government or such other authority as may be empowered in this behalf by the Provincial Government.

(3) Where any furniture or other articles are removed and are stored or sold by public auction in pursuance of the provisions of sub-section (2), the cost of such removal and of such storage or sale, as the case may be, may, without prejudice to any other mode of recovery, be deducted from the compensation payable or from the sale proceeds, if any, and the balance of the sale proceeds, if any, after such deduction, shall be paid to the owner of such furniture or other articles, as the case may be :

Provided that if any dispute arises as to the person or persons to whom the amount of such balance or any part thereof is payable, the Collector shall keep the amount in revenue deposit till there has been a settlement of the dispute.”.

(Re-numbered, substituted, omitted and added by West Ben. Act IV of 1949, section 4.)

[No. 44, dated the 2nd August, 1949.]

6. When the Provincial Government has requisitioned any premises under sub-section (1) of section 3, it may use or deal with it in such manner as may appear to it to be expedient. Disposal of premises after requisition

V of 1947.]

*(Chapter II—Requisition of premises for any public purpose
—Sections 4—6.)*

(4) An order passed under sub-section (1) shall be final and whenever such order has been passed, the Provincial Government shall direct the Collector to take such further action as is necessary in connection with the requisitioning of the premises in accordance with the provisions of this Act.

(5) Without prejudice to any other powers conferred by this Act, the Collector may authorise any person to enter and inspect any premises between sunrise and sunset for the purpose of determining whether, and if so in what manner, an order under this section should be made in relation to any premises or with a view to securing compliance with any order made under this Act.

(6) In connection with any inquiry under this Act the Collector may by written order require any person to produce for his inspection any documents relevant to the inquiry at such time and place, as may be specified in the order, and enforce the attendance of witnesses or compel the production of documents by the same means, and so far as may be, in the same manner as is provided in the case of a court by the Code of Civil Procedure, 1908.

Act V of
1947.

4. Where any premises are requisitioned under this Act, the Collector may by notice in writing—

- (a) order the existing tenant or occupier, if any, to vacate the premises within ten days of the receipt of the notice;
- (b) order the landlord to execute such repairs as may be specified in the notice within such time as may be specified therein;
- (c) if a landlord fails to execute any repairs in pursuance of an order under clause (b) the Collector may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

Power to
order
vacation
of
premises
or for
execution
of repairs.

5. No landlord or any contractor, workman or servant employed by him shall without the previous written consent of the Collector or except for the purposes of effecting repairs or complying with a municipal requisition, wilfully disturb any convenience or easement attached to any premises requisitioned under this Act, or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the premises.

Easement,
etc., not
to be
disturbed.

6. When the Provincial Government has requisitioned any premises under sub-section (1) of section 3, it may use or deal with it in such manner as may appear to it to be expedient.

Disposal
of
premises
after
requisition

4 *The West Bengal Premises Requisition and Control
(Temporary Provisions) Act, 1947.*

[West Ben. Act

*(Chapter II—Requisition of premises for any public purpose
—Chapter III—Provisions regarding compensation—
Sections 7—11.)*

Power to
evict
from
requisi-
tioned
premises
for
breach
of terms
of tenancy.

7. (1) Where any person in occupation of any requisitioned premises sublets without due authority the whole or any part of the premises or otherwise acts in contravention of any of the terms, express or implied, of his tenancy or other like relationship created by the Provincial Government in respect of the premises, the Collector may, by notice served in the prescribed manner, order such person or any other person found in occupation of the premises to vacate the premises within fourteen days of the receipt of the notice.

(2) Action may be taken under this section even if any proceedings for possession are pending in respect of the premises and upon such action being taken, the said proceedings shall forthwith be vacated.

Appeal.

8. Any person aggrieved by an order under section 7 may, within seven days of the receipt thereof, appeal in writing to the Commissioner of the Division who may, after calling for a report from the Collector and after making such further inquiry, if any, as he thinks fit, pass an order determining the appeal.

Non-com-
pliance
with
orders.

9. If any person fails to comply with an order made under clause (a) of section 4 or under section 7, the Collector or any person authorised by him in writing in this behalf, shall execute the order in such manner as he considers expedient.

Release
from
requisition.

10. (1) Where any premises requisitioned under this Act are no longer required for any public purpose, the Collector shall, after making such inquiry as he may consider necessary, by order in writing specify the person to whom possession of the premises shall be given.

(2) The delivery of possession of the premises to the person specified in an order under sub-section (1) shall be a full discharge of any liability of the Provincial Government to deliver possession to such person as may have a rightful claim to possession thereof, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession is given.

CHAPTER III.

PROVISIONS REGARDING COMPENSATION.

Procedure
for fixing
compensa-
tion.

11. (1) Where any premises are requisitioned under this Act, there shall be paid to all persons interested compensation the amount of which shall be determined in the manner, and in accordance with the principles hereinafter set out, namely:—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Provincial Government shall appoint a District Judge or an Additional District Judge as arbitrator;

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(Chapter III—Provisions regarding compensation—Sections 12, 13.)

- (c) the Provincial Government may, in any particular case, nominate a person having expert knowledge as to the nature of the premises requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;
- (d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;
- (e) the arbitrator in making his award shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as they can be made applicable;
- (f) an appeal shall lie to the High Court against an award of an arbitrator;
- (g) save as provided in this section and in any rules made under this Act, nothing in any law for the time being in force shall apply to arbitrations under this section.

I of 1894.

(2) Compensation shall also be paid in respect of any damage done to the premises during the period of requisition other than what may have been sustained by normal wear and tear or by natural causes. When the amount of such compensation can be fixed by agreement, it shall be paid in accordance with such agreement; where no such agreement can be reached, the matter shall be referred to the arbitrator.

12. *[(1)] In determining the amount of compensation which may be fixed by agreement under clause (a) of sub-section (1) of section 11, the Collector shall take into consideration—

Matters to be considered in fixing compensation by agreement.

- (a) the rent payable in respect of the premises;
- (b) if, in consequence of the requisition of the premises, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and
- (c) the damage or loss of income (if any) sustained by the person interested between the date of service of the order under sub-section (1) or under clause (b) of sub-section (3) of section 3, as the case may be, on such person and the date when the Collector takes possession of the premises.

13. The Collector shall enquire into the respective rights of all persons interested in the premises and shall decide whether the compensation shall be paid to any such person periodically or in lump. If the compensation is to be paid periodically the Collector shall, having regard to the terms and conditions under which a tenant may be in occupation

Persons with whom agreement is to be entered into.

(Chapter III—Provisions regarding compensation—Chapter
IV—Control of vacant premises—Sections 14—18.)

of the premises, also decide whether the agreement for payment of compensation referred to in section 11 shall be entered into with such tenant or with the immediate landlord of such tenant.

Deposit of
compensation
in
case of
dispute.

14. When a dispute arises as to the person or persons to whom the amount of compensation or any part thereof is payable or as to the apportionment of the same or any part thereof, the Collector shall keep the amount in revenue deposit, till there has been a settlement of the dispute.

CHAPTER IV.

CONTROL OF VACANT PREMISES.

Applica-
tion of the
chapter.

15. (1) The Provincial Government may, from time to time by notification published in the *Official Gazette*, declare that the provisions of this chapter shall apply to any local area or to any categories of premises in any local area specified in such notification.

(2) The publication of a notification under sub-section (1) shall be conclusive evidence that the provisions of this chapter have been duly applied to such local area or to such categories of premises as is specified in the notification.

(3) The Provincial Government may, by a like notification, declare that this chapter shall cease to apply in any local area or categories of premises in any area.

Restric-
tions on
lease.

16. After the issue of notification under sub-section (1) of section 15, no landlord shall let out his premises in any manner except as provided in this chapter.

Notice by
landlord.

17. (1) The landlord of any premises shall, within seven days after such premises falls vacant by reason of his ceasing to occupy such premises or by the termination of a tenancy in respect of such premises, give notice thereof to the Collector in the prescribed form and manner:

Provided that the notice in respect of premises lying vacant at the date of notification under sub-section (1) of section 15 shall be given within fifteen days of such date, notwithstanding any agreement that may have been made with any person previous to the date of such notification for letting out the premises.

(2) The landlord shall also give a similar notice to the Collector in respect of any vacant premises which he does not intend to let out to tenants stating the reasons thereof, and the Collector shall decide whether or not the premises shall be let out.

Procedure
of letting
out
premises
by the
Collector.

18. (1) On receipt of the notice under section 17, the Collector shall, in pursuance of any directions that the Provincial Government may give in this behalf from time to time, and after making such inquiry as he considers necessary, select a person to be inducted as a tenant in the

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(Chapter IV—Control of vacant premises—Chapter V—
Miscellaneous—Sections 19—22.)

premises and direct the landlord by a written order to put such person in possession of the premises on payment of one month's rent to the landlord as may be specified in the order:

Provided that the amount specified in the order as rent which the tenant has paid under this sub-section shall not be deemed to be the sum payable as rent in respect of such premises if it is in excess of what is permissible under the law for the time being in force, and the tenant shall be entitled to apply to the appropriate authority for fixation of fair and equitable rent in respect of such premises.

(2) Where the Collector does not find a tenant suitable for the premises within two weeks after the receipt of notice under section 17, he shall issue a permit in the prescribed form to the landlord allowing him to use or deal with such premises as he may think fit.

(3) If the landlord fails to comply with an order made under sub-section (1), the Collector or any person authorised by him in writing in this behalf shall execute the order in such manner as he considers expedient.

19. Notwithstanding anything contained in section 18, any premises in respect of which notice has been given under section 17 may be requisitioned under the provisions of this Act. Vacant premises may be requisitioned.

CHAPTER V.

MISCELLANEOUS.

20. (1) Whoever contravenes any provision of this Act, or fails or neglects to obey any order made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both. Penalty.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except on the complaint in writing of the Collector.

21. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court. Saving as to orders.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall presume, within the meaning of the Indian Evidence Act, 1872, that such order was so made by that authority.

22. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder. Protection of action taken under this Act.

[West Ben. Act V of 1947.]

(Chapter V—Miscellaneous—Sections 23, 24.)

(2) Save as is otherwise expressly provided in this Act no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Repeal and
saving.

23. (1) On the expiry of the West Bengal Premises (Requisition and Eviction) Ordinance, 1947, the provisions of section 8 of the Bengal General Clauses Act, 1899, shall apply as if it were an enactment then repealed by a West Bengal Act.

West B.
Ord. X
1947.
Ben. Act
of 1899.

(2) Any rules, orders and appointments made or anything done or any action taken or any proceedings commenced under any of the provisions of the said Ordinance shall continue in force in so far as they are consistent with this Act and shall be deemed to have been made, done, taken or commenced under the corresponding provision of this Act.

Power
to make
rules.

24. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of service of the orders referred to in sub-sections (2) and (3) of section 3;
- (b) the form and manner of service of notice referred to in section 4;
- (c) the form and manner of service of notice referred to in sub-section (1) of section 7;
- (d) the procedure to be followed in arbitrations and appeals under section 11, the period within which such appeals are to be filed, the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal and the fees to be paid to experts and assessors appointed under that section;
- (e) the form and manner of service of the notice to the Collector referred to in section 17; and
- (f) the form of permit referred to in sub-section (2) of section 18.