

# Act No. XLIX of 1947

[PASSED BY THE DOMINION LEGISLATURE]

(Received the assent of the Governor General on the 31st December 1947)

## An Act to confer certain powers in respect of premises in the Province of Delhi

WHEREAS by reason of the shortage of accommodation in the Province of Delhi an emergency has arisen which makes it necessary to confer powers to requisition premises and to evict from Government premises persons continuing without authority to occupy those premises;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Delhi Premises (Requisition and Eviction) Act, 1947.

(2) It extends to the Notified area of the Civil Station, (Delhi), to New Delhi and to Karolbagh area. The Central Government may by notification in the official Gazette extend this Act to such other area or areas in the Province of Delhi as may be specified therein.

(3) It shall come into force at once.

(4) It shall remain in force till the 31st day of December, 1949, but the Central Government may by notification in the official Gazette extend it for further period of one year.

2. **Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "compensation" includes—

- (i) rent payable in respect of the premises requisitioned under this Act,
- (ii) damages for any injury to the premises,
- (iii) expenses on account of vacating or re-occupying the premises consequent on requisition and de-requisition,
- (iv) pecuniary loss due to requisitioning;

(b) "competent authority" means the Estate Officer to the Government of India, and includes any other person authorised by the Central Government by notification in the official Gazette to perform all or any of the functions of a competent authority under this Act:

Provided that in respect of any function performable after the making of an order under sub-section (1) of section 3 or sub-section (1) of section 8, references to the competent authority shall be construed as references to the competent authority making that order;

(c) "landlord" has the meaning assigned to it in the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947);

(d) "premises" means 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,
- (ii) any furniture supplied by the landlord for use in such building or part of a building, and
- (iii) any fittings affixed to such building or part of a building for mere beneficial enjoyment thereof;

(e) "public purpose" means any purpose which is so declared by rules made under this Act;

(f) "tenant" means any person by whom or on whose account rent is payable for any premises and includes every person for the time being deriving title under a tenant and also every person remaining in possession of the premises leased to him after the termination of the lease.

**3. Power to requisition.**—(1) Whenever it appears to the competent authority that any premises is needed or is likely to be needed for any public purpose it shall be lawful for him or for any other person, either generally or specially authorized by such authority in this behalf, after due notice to enter upon and inspect such premises for the purpose of determining whether and if so, in what manner an order under this section shall be made in relation to such premises or with a view to securing compliance with any order made under this Act.

(2) The competent authority, with a view to requisition any premises under this sub-section, may by an 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, occupier or person in possession of the premises shall not without the permission of the competent authority dispose of or structurally alter the premises.

(3) Where the competent authority decides that it is necessary to requisition the premises for any public purpose he shall call upon the landlord and the tenant or the person in possession by notice in writing to show cause within seven days why the premises should not be requisitioned.

(4) If after considering the cause if any, shown by the landlord or the tenant or the person in possession the competent authority is satisfied that it is necessary to requisition the premises for any public purpose he may make an order in writing to that effect:

Provided that where a landlord or tenant is using any premises for the residence of himself or his family the competent authority shall as far as possible provide alternative accommodation which in the opinion of the competent authority is suitable.

(5) A notice under sub-section (3) and an order under sub-section (4) shall be served on the landlord and where the notice or the order relates to premises in occupation of the tenant also on such tenant by delivering or tendering to such landlord and tenant a copy of the notice and the order. But where the landlord or tenant is not readily traceable and the notice and the order cannot be served without undue delay or where ownership of the premises is in dispute the notice and the order shall be served by publishing it in the official Gazette and by affixing a copy thereof to any conspicuous part of the premises to which it relates.

**4. Exclusion of certain premises from requisitioning.**—Nothing in section 3 shall empower the competent authority to requisition premises which are exclusively used for the purpose of religious worship or which are in use for a school, orphanage, or hospital.

**5. Appeal.**—Any person aggrieved by an Order of Requisition may, within seven days from the date on which it is communicated to him, appeal from such order to the Chief Commissioner, Delhi, on the ground that the provisions of this Act relating to requisitioning have not been complied with.

**6. Power to order vacation of premises.**—(1) Where the competent authority requisitions any premises under this Act, he may by notice in writing order the existing tenant or occupier, if any, to vacate the premises within ten days of the receipt of the notice.

(2) If any person fails to comply with an order made under sub-section (1) he shall be deemed to be a trespasser and the competent authority may take possession of the premises requisitioned forthwith.

(3) The right to take possession under this section shall not be affected by reason of any appeal preferred against the order of requisitioning.

**7. Compensation.**—(1) Where any premises are requisitioned under this Act, the amount of compensation 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 Central Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court;

(c) the Central 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 Central 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 (I of 1894) so far as they can be made applicable;

(f) an appeal shall lie to the District Judge against an award of an arbitrator;

(g) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(2) The compensation shall be paid by the competent authority to the person entitled thereto.

**8. Rights and liabilities of the Central Government.**—(1) Where any premises are requisitioned under this Act, the Central Government—

(i) may use or deal with the premises for such purpose as may be mentioned in the order of requisition;

(ii) may, without prejudice, to the liabilities it may be subject to in respect thereof, transfer by way of sub-lease the whole or any part of such premises;

(iii) may order the landlord to execute necessary repairs or repairs usually made to premises in that locality and as may be specified in the notice, within such time as may be mentioned therein and if the landlord fails to execute any repairs in pursuance of such order, the competent authority 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;

(iv) shall restore the premises in as good condition as they were in at the time when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force;

(2) Where any premises requisitioned under this Act or any material part thereof, are wholly destroyed or rendered substantially and permanently unfit for the purpose for which they were let by reason of fire, tempest or flood or violence of any army or of a mob or other irresistible force, the requisition shall at the option of the Central Government be void:

Provided that if the injury is occasioned by the wrongful act or default of the Central Government, the Central Government shall not be entitled to avail itself of the benefit of this section.

**9. Release from requisition.**—(1) Where any premises requisitioned under this Act are to be released from such requisition, the competent authority may, after such inquiry if any as he may in any case consider it necessary to make, specify by order in writing 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 the Central Government from all liabilities in respect of the premises, 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.

**10. Easements, etc., not to be disturbed.**—No landlord or any contractor, workman or servant employed by him shall without the previous written consent of the competent authority 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.

**11. Power to evict from Government premises for breach of terms of tenancy.**—(1) Where the person in occupation of any premises belonging to, or taken on lease or requisitioned by, the Central Government, 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 a grant from the Central Government in respect of the premises, or where any person is in occupation of any such premises without the authority of the Central Government, the competent authority may by notice served by post or otherwise, order such person or any other person found in occupation of the premises to vacate the premises within ten days of the receipt of the notice.

(2) Any person aggrieved by an order under sub-section (1) may within seven days of the receipt thereof appeal in writing to the Chief Commissioner, who may, after calling for a report from the competent authority and after making such further inquiry, if any, as he thinks fit, pass an order determining the appeal.

(3) Action may be taken under this section whether or not any proceedings for possession are pending in respect of the premises, and upon such action being taken the said proceedings shall forthwith be vacated.

**12. 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) Without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for—

- (a) the procedure to be followed in arbitrations and appeals under section 7;
- (b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal under section 7;
- (c) the procedure to be followed by a competent authority in inquiries under section 9;
- (d) for defining what are public purposes;
- (e) the procedure to be followed in taking possession of the premises requisitioned;
- (f) the manner of service of notices and orders.

**13. Saving as to orders.**—(1) Except as otherwise provided for in this Act no order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(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 (I of 1872), that such order was so made by that authority.

**14. Protection of action taken under this Act.**—(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.

(2) Save as is otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Central 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.

**15. Application of other laws not barred.**—(1) The provisions of this Act shall be in addition to and not in derogation of the provisions of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947).

(2) The provisions of this Act shall have effect notwithstanding anything contained in any other law or in any instrument having effect by virtue of any other law.

**16. Repeal.**—(1) The Delhi Premises (Requisition and Eviction) Ordinance, 1947 (XII of 1947), and the Delhi Premises (Requisition and Eviction) Amendment Ordinance, 1947 (XXI of 1947), are hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under either of the said Ordinances shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 13th day of August, 1947.