

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

**5 of 1947**

**[01 January 1948]**

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

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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 1  
PRELIMINARY

### **1. Short Title, Commencement, Extent And Duration :-**

(1) This Act may be called the West Bengal Premises Requisition and Control Act, 1947. (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, direct. (3) It extends to the whole of West Bengal.

### **2. Definitions :-**

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 (Ben. Act III of 1923); (b) "Collector" means-- (i) in Calcutta, the First Land Acquisition Collector, and (ii) elsewhere, the Collector of a district, and includes any other officer appointed by the State Government to discharge the functions of a Collector under this Act whether in Calcutta or elsewhere; (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 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 a legal representative, as defined in the Code of Civil Procedure, 1908 (Act V of 1908) of the landlord; (d) "persons interested" means any person claiming an interest in compensation payable on account of requisition of any premises under this Act; (e) "premises" means any building or any part of a building or any hut or part of a hut and includes 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 also includes a room or rooms in an hotel, boarding house or lodging house; (f) "prescribed" means prescribed by rules made under this Act; (ff) "public purpose" includes providing residential accommodation for employees of the State Government where the provision of such accommodation is, in the opinion of the State Government, necessary in the interest of public service; (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 (Act V of 1908), of the tenant and a person continuing in possession after the termination of a tenancy in his favour.

#### **CHAPTER 2**

#### **REQUISITION OF PREMISES FOR ANY PUBLIC PURPOSES**

### **3. Power To Requisition :-**

(1) Whenever it appears to the State 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 either with or without any or all of the furniture, if any, in 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 in such manner as may be prescribed on the landlord, and where it relates to premises let out to a tenant, also on such tenant. (3) The State 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 until the expiry of such period not exceeding three months as may be specified in the order, the landlord, the tenant or any other person in occupation of the premises shall not let out the premises without the permission of the State Government or such other authority as may be specified in the order. (4) An order passed under sub-section (1) shall be final and whenever such order has been passed, the State 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 and to take possession of the premises requisitioned. (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 1908).

#### **4. Power To Order Vacation Of Premises Or For Execution Of Repairs :-**

(1) Where any premises are requisitioned under this Act, the Collector may by notice in writing-- (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: Provided further that no such notice shall be necessary where the premises are lying vacant, not being actually used either by the landlord or by the tenant, or where the premises are requisitioned for a person who is already in possession and such premises as a tenant; (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. (2) Where any person fails to comply with a n order under clause (aa) of sub-section (1), directing any furniture or other article to be removed, the Collector may cause such furniture or other articles to be removed and to be stored or sold 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 State Government or such other authority as may be empowered in this behalf by the State 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.

#### **5. Easement, Etc., Not To Be Disturbed :-**

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. Section

5A

- Landlord to maintain supplies and services and make necessary repairs in requisitioned premises (1) The landlord of any premises requisitioned under this Act, shall be bound at his own expenses to maintain therein such supplies and services as were provided by him for the premises immediately before the date of requisition and to make in the premises such repairs, not being petty repairs, as the Collector may consider necessary for the proper use and occupation thereof. Explanation.--For the purposes of this section, "petty repairs" means repairs which do not cost more than ten rupees on any one account in a period of twelve calendar months. (2) If, in respect of any premises, the Collector is satisfied that it is necessary to take any measures for the maintenance of any supply or service or for the making of any repairs which the landlord is under sub-section (1), bound to maintain or make, the Collector may, by order served in the prescribed manner, require the landlord to take such measures within such time as may be specified in the order for maintaining the supply or service or for making the repairs, as the case may be. (3) If the landlord fails to comply with an order made by the Collector under sub-section (2), the Collector may himself, if the estimated cost of the proposed measures does not exceed one hundred and fifty rupees, with the previous sanction of State Government where it so exceeds, cause the measures specified in the order to be taken and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord: Provided that the amount which may be so deducted in any year shall not exceed thirty-three and one-third per cent. of the total compensation payable to the landlord in respect of the premises for that year.

#### **6. Disposal Of Premises After Requisition :-**

When any premises have been requisitioned under sub-section (1) of section 3, the State Government may use or deal with them, for such public purpose and in such manner as may appear to it to be expedient.

#### **7. Power To Evict From Requisitioned Premises For Breach Of Terms Of Tenancy :-**

(1) Notwithstanding anything contained in any other law for the time being in force, where any person in occupation of any requisitioned premises-- (a) uses the premises or allows the premises to be used wrongfully or in such manner as, in the opinion of the Collector, deteriorates or is likely to deteriorate the condition of the premises materially; or (b) sublets without due authority the whole or any part of the premises; or (c) fails or neglects to pay the rent or other sum payable by him for the occupation of the premises or for the use of any furniture therein; or (d) otherwise acts in contravention of any of the terms, express or implied, of his tenancy or other like relationship created by the State Government in respect of the premises, the Collector may-- (i) 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 service of the notice; and (ii) recover as a public demand, the rent or other sum referred to in clause (c), which rent or other sum is hereby declared to be a public demand, without prejudice to any other mode of recovery that may lie therefor. (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.

### **8. Appeal :-**

Any person aggrieved by an order under section 7 may, within seven days of the receipt thereof, appeal in the 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, and after giving such person an opportunity of being heard pass an order determining the appeal.

### **9. Non-Compliance With Orders :-**

If any person fails to comply with an order made under clause (a) of sub-section (1) 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 and may,-- (a) if he is a Magistrate, enforce the delivery of possession of the premises in respect of which the order has been made to himself, or (b) if he is a Magistrate, apply to a Magistrate, or, in Calcutta to the Commissioner of Police, and such Magistrate or Commissioner, as the case may be, shall enforce the delivery of possession of such premises to him

## **10. Release From Requisition :-**

(1) Where any premises are to be released from requisition made under this Act, the State Government shall, after such inquiry as it deems necessary to make or to cause to be made, specify by order in writing the person to whom delivery of possession of the premises shall be made: Provided that where the public purposes for which any requisitioned premises were being used cease to exist, the State Government shall release the premises, as soon as may be, from requisition. (2) The delivery of possession of such premises to the person specified in the order made under sub-section (1) shall be a full discharge of the State Government from all liability of the State Government for any claim for compensation or other claim in respect of such premises for any period after the date of delivery but shall not prejudice any right in respect of such premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered. (3) Where the person specified in the order made under sub-section (1) cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf or fails to accept delivery on the date fixed by the Collector by a written notice for making delivery, the State Government shall publish in the Official Gazette a notice declaring that such premises are released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such premises. (4) When a notice referred to in sub-section (3) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person specified in the order made under sub-section (1); and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date. Section

### **10A**

- Duration of requisition For the removal of doubts, it is hereby declared that an order under sub-section (1) of section 3 shall remain valid and operative, and the State Government or any person in occupation of any premises requisitioned under the order as aforesaid shall continue to remain in possession thereof, so long as the public purpose exists. Section

### **10B**

- Compulsory release from requisition Notwithstanding anything

contained in section 10 or section 10A, the State Government shall release from requisition any property requisitioned or deemed to be requisitioned under this Act, on or before the expiry of a period of twenty-five years from the date of such requisition: Provided that the benefit of this section shall not be available until after the expiry of a period of five years from the date of coming into force of the West Bengal Premises Requisition and Control (Temporary Provisions) (Second Amendment) Act, 1986.

### CHAPTER 3

#### PROVISIONS REGARDING COMPENSATION

#### **11. Procedure For Fixing Compensation :-**

(1) Where any premises are requisitioned under this Act, there shall be paid to all persons interested person 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 State Government shall appoint a District Judge or an Additional District Judge as arbitrator; (c) the State 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 State Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation; (e) the Arbitrator shall in, determining the amount of compensation to be awarded to the landlord, have regard to the matters referred to in clauses (a), (b) and (c) of section 12: Provided that notwithstanding anything contained in section 12-- (1) in the case of an entire premises which was constructed after the commencement of the West Bengal Premises Requisition and Control (Temporary Provisions) (Second Amendment) Act, 1963 (West Ben. Act XXIX of 1963), the amount payable annually shall not exceed  $6\frac{3}{4}$  per cent of the sum total of the cost of construction of such premises and the market price of the land on the date of commencement of construction, together with one-half of the total amount of municipal rates and taxes payable annually in respect of such premises; (2) in other cases, the amount payable shall not exceed-- (i) where the premises were let out on rent for a continuous period of not less than six months and ending within six months before being requisitioned, such rent



by more than ten per cent., or (ii) where the premises were not so let out, such rent as would be reasonable having regard to the situation, locality and condition of the premises and the amenities provided therein and where there are similar premises in the locality, having regard also to the rent payable in respect of such premises; (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 relating to arbitration shall apply to arbitrations under this section. (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.