

Central Provinces And Berar Accommodation (Requisition) Act, 1948

63 of 1948

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An Act to provide for powers to requisition accommodation for certain purposes. Whereas it is expedient to provide for powers to requisition accommodation for providing residence for a person holding office of profit under the 2 [State Government] or for locating any public office of the 3[State Government] or any local authority; It is hereby enacted as follows :-- 1. Received the assent of the Governor-General on the 15th Oct., 1948; assent first published in the Central Provinces and Berar Gazette, Extraordinary, on the 18th October, 1948. 2. Substituted for the word "Government" by Madhya Pradesh Act XXIX of 1951, section 2. 3. Substituted for the word "Provincial Government" by A.O. 1950.

1. Short Title And Extent :-

(1) This Act may be cited as the Central Provinces and Berar Accommodation (Requisition) Act, 1948.

(2) It extends to the whole of 1[Vidarbha Region of the State of Maharashtra.]

1. Substituted vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960, clause 4(1).

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,--

(a) "accommodation" means any building or part of the building and includes -

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of building, and

(ii) any fittings or fixtures attached to any such building or part of such building or any furniture supplied by the owner for use in such building or part of building;

(b) "occupier" means a person in actual occupation of the accommodation;

(c) "owner" includes a mortgagee in possession, trustee, receiver or guardian.

3. Powers Of Requisition :-

(1) If, in the opinion of the State Government, it is necessary to requisition any accommodation for the purpose of providing residence for any person holding an office of profit under the 1[State Government or for locating any public office of] the 2[State Government] or local authority, it may, by an order in writing, requisition such accommodation and direct that the possession thereof shall be delivered within such period and to such 3[servant of the State Government] as may be specified in the Order :

Provided that the period so specified shall not be less than fifteen days from the date of the service of the Order :

Provided further that no building or part of a building exclusively used for the purpose of religious worship shall be requisitioned under this section.

(2) Any order passed under sub-section (1) shall be served on the owner as well as the occupier, if any, of the accommodation by delivering to such owner and occupier a copy of the order; but where the owner or the occupier is not readily traceable, or the

order cannot, in the opinion of the State Government, be served without undue delay, or where the ownership is in dispute or cannot be easily ascertained the service shall be deemed to have been effected if the order is published in the Gazette and a copy of such order is affixed on some conspicuous part of the accommodation, and thereupon the building or part of the building specified in the order shall be deemed to have been requisitioned.

(3) Where the State Government has requisitioned any accommodation in accordance with the foregoing provisions it may use or deal with it in such manner as may appear to it to be expedient until the accommodation is released from requisition.

1. Substituted for the words "Government or for locating any public office of the Centre or" by Madhya Pradesh Act XXIX of 1951, section 3(a).

2. Substituted for the words "office of the Provincial Government" by Central Provinces and Berar Act XXXIX of 1949 section 3.

3. Substituted for the words "servant of the Government" by Madhya Pradesh Act XXIX of 1951, section 3(b).

4. Compensation How Determined :-

(1) Whenever in pursuance of section 3 any accommodation is requisitioned, the owner shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say,--

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

(ii) where no such agreement can be reached, the State Government shall appoint as arbitrator, the District Judge or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the accommodation is situate;

(iii) at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(iv) 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 (1 of 1894), so far as the same can be made applicable and also to any reasonable expenses, if any, incurred in vacating the accommodation by the occupier 1[if such occupier is not entitled to compensation under subsection (2-A) of this section];

(v) an appeal shall lie to the High Court against the award of an

arbitrator;

(vi) 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) (a) The State Government may make rules for the purpose of carrying into effect the provision of this section.

(b) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe --

(i) the procedure to be followed in arbitrations under this section;

(ii) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal.

2[(2-A) Where the accommodation requisitioned in pursuance of section 3, is held by a tenant, the tenant shall be paid compensation as hereinafter provided, that is to say,--

(i) where the tenancy is one from month to month, the tenant shall be paid compensation equal in amount to a months rent; (ii) where the tenancy is one from year to year or for a fixed term not exceeding one year, the tenant shall be paid compensation equal in amount to two months rent; and

(iii) where the tenancy is one for a fixed term exceeding one year, the tenant shall be paid compensation equal in amount to three months rent.

Explanation.--For the purpose of this sub-section, "rent" means the rent payable by the tenant for the accommodation immediately before the date on which it is requisitioned.]

(3) The payment of compensation under this section to any person appearing entitled to it in the opinion of the State Government or the arbitrator, as the case may be, shall be a full discharge of the State Government from all liability in respect of such compensation but shall not prejudice any rights in respect of the accommodation which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

1. Inserted by Madhya Pradesh Act XXIX of 1951, section 4(a).

2. Inserted by Madhya Pradesh Act XXIX of 1951, section 4(b).

5. Release From Requisition :-

(1) Where any accommodation requisitioned under section 3 is to be released from requisition, the State Government shall release it in favour of the person from whom it was requisitioned; and where by reason of death or otherwise of such person the accommodation

cannot be so released, the State Government may, after such enquiry, if any, as it may in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom the possession of the accommodation shall be given.

(2) The delivery of possession of the accommodation in accordance with sub-section (1) shall be a full discharge of the State Government from all liabilities in respect of the accommodation, but shall not prejudice any rights in respect of the accommodation which any other person may be entitled by due process of law to enforce against the person to whom possession of the accommodation is given.

(3) Where the person to whom possession of an accommodation requisitioned under section 3 is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf the State Government shall cause a notice declaring that such accommodation is released from requisition to be affixed on some conspicuous part of such accommodation and publish the notice in the Gazette.

(4) When a notice referred to in sub-section (3) is published in the Gazette, the accommodation specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of the accommodation for any period after the said date.

6. Power To Call Information And Restrain Disposal Of Accommodation :-

The State Government may, with a view to requisitioning any accommodation under section 3 or determining the compensation payable under section 4, 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 accommodation as may be specified;

(b) direct that the owner, occupier or person in possession of the accommodation shall not without the permission of the State Government dispose of it, or where the accommodation is a building, structurally alter it, till the expiry of such period as may be specified in the order.

7. Power Of Entry And Inspection :-

The State Government may authorise any person to enter after giving reasonable notice, any premises and inspect such premises and any accommodation therein or thereon or the purpose of determining whether, and if so, in what manner an order under section 3 should be made in relation to such premises or accommodation, or with a view to securing compliance with any order made under this Act.

8. Liability For Ordinary Annual Repair :-

The owner of any accommodation requisitioned by the State Government shall remain liable for the ordinary annual repairs to such accommodation so long as the order of requisition subsists; and, in case such owner fails to execute such repairs, the State Government may get the repairs executed and deduct the cost of such repairs from the amount of compensation payable to such owner periodically.

9. Effect Of Provisions Inconsistent With Other Enactments :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any enactment for the time being in force, or any instrument having the force of law.

10. Protection Of Action Taken Under The Act :-

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 any order made under this Act.

11. Cognizance Of Offences Under The Act :-

No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an officer authorised by the State Government in this behalf.

12. Power To Use Force :-

Any officer authorised by the State Government in this behalf may take or cause to be taken such steps and use or cause to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing possession of any accommodation in

accordance with an order passed under section 3, or for securing compliance with, or for preventing or rectifying any contravention of, any order made under any provision of this Act rectifying any contravention of, any order made under any provision of this Act or for the effective exercise of any power conferred by any provisions of this Act.

13. Penalty :-

Any person who contravenes any provision of this Act or of any order made thereunder, or who obstructs the taking of possession under this Act shall be punished with imprisonment for a person which may extend to three years, or with fine, or with both.

14. Delegation :-

The State Government may, by order direct that any power conferred under this Act, shall in such circumstances and under such conditions, if any, as may be specified in that direction, be exercised by any officer or authority subordinate to it.

15. Repeal And Savings :-

(1) The Central Provinces and Berar Accommodation (Requisition) Ordinance, 1948, (XVIII of 1948), is hereby repealed.

(2) Any accommodation requisitioned, compensation paid, arbitrator appointed, rules, orders and authorisation made, notice published, direction given, repairs executed, any action taken under the said ordinance shall be deemed to have been requisitioned, paid, appointed, made, published, given, executed and taken under the provisions of this Act.