

# **THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

## **INTRODUCTION**

Central Government provides residential to accommodation its employees, Members of Parliament and other high dignitaries. Residential accommodation is allotted to them while they are in service or till the term of their office. It also provides temporary occupation of Guest Hostels, Holiday Homes, Tourist accommodation etc. After the retirement of the employees and officers or after the expiry of the term of the Members of Parliament the accommodation provided to them is to be vacated and surrendered to the Government. This facility as being misused by the employees, officers and even by the Members of Parliament and other high dignitaries by either not vacating or overstaying in the residential accommodation and not surrendering it to the Government. Similarly temporary occupation of Guest Hostels, Holiday Homes, Tourist accommodation etc. is to be vacated at the expiry of the term of allotment. To evict such unauthorised occupants the only course open was to file civil suits which was quite dilatory.

## **ACT 40 OF 1971**

To expedite eviction of such unauthorised occupants a Bill was introduced in the Parliament which was passed by both the Houses. It came on the Statute Book after getting assent from President on 23rd August, 1971 as 'THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971 (40 OF 1971)".

## **LIST OF AMENDING ACTS**

1. Act 61 of 1980.
2. The Public Premises (Eviction or Unauthorised Occupants) Amendment Act, 1984 (35 of 1984).
3. The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1993 (7 of 1994).

**THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**  
(No. 40 OF 1471)

[23rd August, 1971]

An Act to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows: --

**1. Short title, extent and commencement.** :- This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 16th day of September, 1958 except sections 11, 19, and 20 which shall come into force at once.

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

(b) "Estate Officer" means an officer appointed as such by the Central Government under section 3;

(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 fittings a fixed to such building or part of a building for the 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 Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980, under the control of the Secretariat of either House of Parliament for providing residential accommodation to any member of the staff of that Secretariat;

(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, in which not less than fifty-one per cent, of the paid up share capita) is held by the Central Government or any company which is a subsidiary (within the meaning of that Art) of the first-mentioned company.

(ii) any corporation (not being a company as company as defined in section 3 of the Companies Act, 1956 or a local authority) established by or under a Central Act and owned or controlled by the Central Government.

(iii) any University established or incorporated by any Central Act.

(iv) any Institute incorporated by the Institutes of Technology Act, 1961.

(v) any Board of Trustees constituted under the Major Port Trusts Act, 1963.

(vi) the Bhakra Management Board constituted under section 79 of the Punjab Reorganisation Act, 1966 and that Board as and when re-named as the Bhakra-Beas Management Board under sub-section (6) of section 80 of that Act; [xxx]

(vii) any State Government or the Government of any Union Territory situated in the National Capital Territory of Delhi or in any other Union Territory.

(viii) any Cantonment Board constituted under the Cantonments Act, 1924 (2 of 1924); and]

(3) in relation to the National Capital Territory of Delhi]-

(i) any premises belonging to the Municipal Corporation of Delhi, or any municipal committee or notified area committee, [xxx]

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority; and]

(iii) any premises belonging to, or taken on lease or requisitioned by, or on behalf of any State Government or the Government of any Union Territory.)

(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 capayable in respect of the premises, where such charge or tax is payable by the Central Government or the corporate authority; [(fa) "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 Secretariat of either House of Parliament, the Secretariat of the concerned House of Parliament.

(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.

(iv) in respect of the public premises referred to, respectively, in items (iii), (iv), (v) [(vi) and (vii) of sub-clause (2) of that clause, the University, Institute or Board, as the case may be, referred to therein, and

(v) in respect of the public premises referred to in sub-clause (3) of that clause, the Corporation, Committee or Authority, as the case may be, referred to in that sub-clause;]

(fb) "temporary occupation", in relation to any public premises, means occupation by any person on the basis of an order of allotment made under the authority of the Central Government, a State Government, the Government of a Union Territory or a Statutory Authority for a total period (including the extended period, if any) which is less than thirty days;]

(g) "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 of any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

## COMMENTS

(i) It has been held by the Supreme Court that the nationalized bank is a corporation established by a Central Act and it is owned and controlled by the Central Government. The premises belonging to nationalized bank are public premises. It has been further laid down that both residential and commercial premises are contemplated under the Act. Occupation by tenant who is holding over such public premises is an unauthorized occupant and the contention that the Estate Officer is not required by Act to be an officer well versed in law has been held to be unsustainable. *Ashoka Marketing Ltd. v. Punjab National Bank* - AIR 1991 Supreme Court -855.

(ii) It has been held that the term 'belonging to' used in section 2(e) (i) of the Act on a plain grammatical construction will include the concept of ownership. *Naresh Kumar v. VI th Addl. District Judge; Varanasi* 1991(1) RCJ 33 (Allahabad).

(iii) It has been held that premises belonging to Cantonment Board are not public premises. *M.S. Hussain v. VII Additional District & Session Judge, Kanpur* -1989 (2) RCJ 287.

(iv) It has been held that fixation of fair rent is out of the purview of the Act. *Bharar Gold Mines v. Kannappa* -1989 (I)RCJ 154.

(v) It has been held that even when the case in favour of the Central Government is determined and it becomes a statutory tenant under the Bombay Rent Act 1947 the premises shall still continue to be public premises in as much as the possessory rights vested in the Central Govt. shall be the determining factor and not the title alone. *S.R.B. Gaikwad v. Union of India* - AIR 1977 Bombay 220.

(iv) It has been held that a Government servant who has been allotted a quarter is nothing more than a licensee. Licence can be cancelled at any time. It may be that cancellation of this licence in a given set of circumstances may infringe some service rule or some obligation to provide a quarter to the Govt. servant concerned. If the cancellation is invalid or illegal or contrary to any rule of law, it will be open to challenge in appropriate proceedings. If the Govt. servant is transferred to some other place and started paying market rent, the cancellation of his allotment and eviction proceedings cannot be challenged in as much as such cancellation and eviction can be made with retrospective effect. *Hardwari Lal v. Estate officer* – AIR 1477 Delhi 268.

**3. Appointment of Estate Officers.-**The Central Government may, by notification in the Official Gazette,-

(a) appoint such persons, being Gazetted Officers of Government '[or of the Government of any Union Territory) or officers of equivalent rank of the Z1Statutory Authority, as it thinks fit, to be Estate Office as for the purposes of this Act; [xxx]

[ Provided that no officer of the Secretariat of the Rajya Sabha shall be so appointed except after consultation with the Chairman of the Rajya Sabha and no officer of the Secretariat of the Lok Sabha shall be so appointed except after consultation with Speaker of the Lok Sabha:

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 powers conferred, and perform the duties imposed, on Estate Officers by or under this Act.

## COMMENTS

(i) when section 3 of the Act authorises the appointment of an officer of a statutory body concerned as Estate Officer, and the officer so appointed alone is competent to issue notice under section 4 and pass order under section 5 of the Act it would be a case of statutory exception to the applicability of the rules of natural justice. In such a case there is no scope for applying the rules of natural justice and to hold that he is disabled to issue the notice and pass the order of eviction, as rules of natural justice only supplement the law and do not supplant it. *Indian Bank v. Blaze & Central (P) Ltd.* AIR 1986 Karnataka 258.

(ii) The words used under clause (a) of section 3 "as it thinks fit" are indicative of the fact that decision as to which person shall be treated by the Central Government to be of equivalent rank of a Gazetted Officer of the Government it is the subjective satisfaction of the Central Government alone which is relevant. Any other interpretation will make the said words "as it thinks fit" redundant. *Mumtaz Ali Khan v. Aligarh Muslim Univ* 1987 ALLJ 960.

**[3A. Eviction from temporary occupation.-** Notwithstanding anything contained in section 4 or section 5, if the Estate Officer, after making such inquiry as he deem expedient in the circumstances of the case, is satisfied that any persons who were allowed temporary occupation of any public premises are in unauthorised occupation of the said premises, he may, for reasons to be recorded in writing, make an order for the eviction of such persons forthwith and thereupon, if such persons refuse or fail to comply with the said order of eviction, he may evict them from the premises and take possession thereof and may, for that purpose, use such force as may be necessary.

**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) [XXX]

## COMMENTS

(i) It has been held that the order of eviction is liable to be set aside if the notice for eviction did not set out the particulars of the premises clearly. *Bhagat Singh v. DDA-1988(1) Rent Control Reporter 671 (Delhi)*.

(ii) It has been held that while proceeding under this section the Estate Officer must hold an enquiry. Principles of natural justice have to be complied with and the tenant has the right to present and defend his case and of being heard. *M/s Blaze & Central (Pvt.) Ltd. v. Union of India - AIR 1980 Karnataka 86*.

(iii) It has been held that where determination on jurisdictional bet as to whether certain premises in question are public premises or not raises complicated issue of title with respect proceeding to get the matter adjudicated upon by a court of competent civil jurisdiction. *M/s. Bharat Coking Coal Ltd. Vv. Estate Officer AIR 1991 NOC 3 (Patna)*.

(iv) It has been held that where the lease is determined by the landlord by a notice under section 106 of the Transfer of Property Act the occupant became an unauthorized occupant and was liable to be evicted under the Public Premises Act. *M/s Jain Ink Manufacturing Co. v. Life Insurance Corporation of India - Air 1981 SC670*.

**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 or any part 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 'ton 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 his 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.

## COMMENTS

(i) It has been held that there is no conflict between section 5 and Rule 4 of the Public Premises (Eviction of Unauthorized Occupants) Rules 1971 framed under section 18 of the Act which provide for personal service of the eviction order passed by the Estate Officer on the person to whom it is intended or on any other adult member of the family etc, inter all a, other modes of service stipulated in the Act. *Pushpa Glover v. D.D. A. 41 (1990) Delhi Law Times 171*.

(ii) It has been held that where New Delhi Municipal Committee was liable to rectify the water seepage and defective fire equipment in the space allotted in Palika Parking to make it habitable, the licensee is not liable to pay licence fee until the aforesaid defects are removed. Notices issued by N.D.M.C. were quashed. *Rajinder Prasad Jain v. N.D.M.C. 39 (1959) Delhi Law Times 138*

(iii) It has been held that where determination on jurisdictional fact as to whether certain premises in question are public premises or not raises complicated issues of title with respect thereto the Estate Officer can leave it to the parties to the proceedings to get the matter adjudicated upon by a court of competent civil jurisdiction. *M/s Bharat Coking Coal Ltd. v. State Officer- Air 1991 Noc 3 (Patna)*

(iv) It has been held that the question as to whether in a given case a person is inauthorized occupation of public premises has to be decided by the Estate Officer and the same cannot be adjudicated in proceedings initiated under Article 226. *Baij Nath v. Bank of Maharashtra - 1987 (1) Rent Control Reporter 685 (Delhi)*

(v)It has been held that a lasee is entitled to recover rent from sub-lessee till such time an order of eviction is enforced. In *R: Ganesh Trading Co. Pvt. Ltd. 1985 (1) Rent Control Reporter 58*.

(vi) It has been held that where shops were allotted on licence on the condition that the licensee would operate personal business therein but the licensee commenced partnership business, termination of licence is legal and he is liable to be evicted. *Suresh Chander Vohra v. Union of India -1987(1) Rent Control Reporter 630.*

**5A. 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 my 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 created, placed or raised on any public premises in contravention of the provisions 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 arrears of land revenue.]

**5E. 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 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 9.

(3) The estate officer 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.

**5C. 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 5B, 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.]

**6. Disposal of property left on public premises by unauthorised occupants.**(1) Where any persons have been evicted from any public premises under section 5, [or where any building or other work has been demolished under section 5B] the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken and 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.

(1A) Where any goods, materials, cattle or other animal have been removed from any public premises under section 5A, 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 animal.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A), 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.]

(2) 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 Central 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 or 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.

[2A) The expression "costs", referred to in sub-section (2), shall include the cost of removal recoverable under section 5A and the cost of demolition recoverable under; section 5B.]



## COMMENTS

It has been held that an order under this section calling upon occupants to vacate the premises cannot straightaway be passed without passing an eviction order envisaged under section 5 (1). *D. Nagaraj v. Union of India* - AIR 1991 Karnataka 60.

**7. 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 pay the damages within such time and in such installments as may be specified in the order.

[(2A) 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.] (3) 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.

## COMMENTS

(i) It has been held that if the Government fails to prove its ownership of alleged premises from which it has sought eviction of the unauthorized occupant, then it cannot claim damages. *Union of India v. I. S. Goyal & Co.* - 1991 Rajdhani Law Reporter (Note) (DB) 160.

(ii) It has been held that if the Government land is in unauthorised occupation and is used for religious purposes then the damages which are recoverable on that account are not to be commensurated with damages liable to be charged with respect to unauthorized occupation for commercial user. *S.S. Sanatan Dharam Singh v. Estate Officer* - 1973 RLR (Note) 54.

(iii) It has been held by the Hon'ble Supreme Court that time barred rent cannot be recovered under section 7. *New Delhi Municipal Committee v. Kalu Ram* - Air 1976 Supreme Court 1637.

**8. Power of estate officers.** -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, when trying a suit in respect of the following matters, namely:--

- (a) summoning and enforcing the 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

## COMMENTS

The estate officer will not be entitled to refuse an application to issue summon on the ground that it might cause delay in the trial or that the application is too vague *SK Murthy v. B Rao* AIR 1973 AP 309.

**9. Appeals.** - An appeal shall lie from every order of the estate officer made in respect of any public premises under [section 5 of section 5B [or section 5C] or section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situated 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;

(b) in the case of an appeal from an order [under section 5B or section 7, within twelve days] from the date on which the order is communicated to the appellant; [and]

[(C) in the case of an appeal from an order under section 5C, within twelve days from the date of such order:]

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,

(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 5E 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.

(6) For the purposes of this section, a presidency-town shall be deemed to be a district and the chief judge or the principal judge of the city civil court therein shall be deemed to be the district judge of the district.

## COMMENTS

(i) It has been held that in an appeal against the eviction order passed on the Estate Officer the appellant has no right to get an ex parte order of interim stay. Grant of stay during pendency of appeal is ancillary power. Unless there would be irreparable injury to the appellant no order of ex parte interim stay shall normally be passed. *Subhadra Singh v. Union of India - Air root Orissa 328.*

(ii) It has been held that when there is some substance or merit in the contention raised in the appeal it would be unfair and improper exercise of jurisdiction if interim orders are not granted staying eviction of the appellant. If such interim relief is granted in the presence of the respondent then it cannot be challenge under Article 226 of the Constitution of India. *Union of India v. Gulam Nabi Azad - 1990 Rajdhani Law Reporter (DB) 242.*

(iii) An appellant who is aggrieved by an order of the District Judge can seek judicial review of the order only under Article 226 and 227 of the Constitution of India. *Indian Bank v. Blaze & Central (Pvt) Ltd. - 1986 (1) RLR 560 Karnataka.*

(iv) It has been held that mere tendering of the order of the Estate Officer personally to the petitioner would not fulfill the statutory requirement of publication as is envisaged under section 9 read with section 5. *Parmanand Singh v. District Judge, Mirzapur - 1982 (2) RCJ 186.*

(v) It has been held that the District Judge is vested with power of stay the order of eviction passed by the Estate Officer. *Indian Bank v. M/s Blaze & Central (Pvt.) Ltd. - 1986 (1) RLR 561 Karnataka.*

(vi) It has been held that in Writ proceedings on the question of jurisdiction is to be adjudicated and no question of fact or mixed questions of fact and law and the statutory remedy under the Act is appeal under section 9 before the District Judge. *M/s Indoimex Agencies (Pvt.) Ltd. v. Life Insurance Corporation of India - Air 1983 Delhi 490.*

(vii) It has been held that the District Judge empowered to hear appeals under (his section acts as a persona designate and not as a court. *N. P. Berry v. Delhi Transport Corporation - ILR 1979 (Delhi) 1.*

(viii) It has been held that if the appellant fails to be present on the date fixed for hearing the appellate authority can dismiss the appeal for default which is valid and the appellate officer is not bound to adjudicate the appeal on merits. *R.R.K. Talwar v. Union of India - Air 177 Delhi 189.*

(ix) It has been held that when the appeal is dismissed on the ground that it was barred by limitation such finding based on requisite material of a Tribunal or a Court below is Sacrosanct for the writ court and cannot be interfered with. *Tara Singh v. Additional District Judge, Ferozepur - Air 1984 Punjab & Haryana 175.*

**10. Finality of orders.--** Save as otherwise expressly provided in this Act, every order made by an estate officer 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.

**11. Offences and penalty.** (1) If any person 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 my 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 any 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.

## COMMENTS

In interpreting any penal provision it is not permissible to give an extended meaning to the plain words of the section on the ground that a principle recognised in respect of certain other provisions of law requires that this section should be interpreted in the same way. *State of A.P. v. Andhra Provincial Potteries Ltd AIR 1973 SC 2429*

**[11A. Offences under section 11 to be cognizable.--**The Code of Criminal procedure, 1973 shall apply to an offence under section 11 as if it were a cognizable offence-

(i) for the purposes of investigation of such offence, and

(ii) for the purposes of matter, 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) a Group A officer as may be appointed by the Central 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 Central 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 Deputy Commissioner, in the case of an offence in relation to the public premises belonging to the Municipal Corporation of Delhi, as may be appointed by the Administrator of the Union territory of Delhi;

(d) the Secretary, New Delhi Municipal Committee, in the case of an offence in relation to the public premises belonging to the New Delhi Municipal Committee;

(e) the Secretary of a notified area committee, in the case of an offence in relation to the public premises belonging to that committee;

(f) such Director, in the case of an offence in relation to the public premises belonging to the Delhi Development Authority, as may be appointed by the Administrator of the Union territory of Delhi.]

**12. 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.

**13. 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, as the case may be, continued against the heirs or legal representatives of that person.

(1A) 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 5A, or any expenses of demolition are to be recovered under sub-section (5) of section 5B, dies before any proceeding is taken for the recovery of such cost or during the pendency thereof, the proceeding may be taken or, as case may be continued against the heirs or legal representatives of that person.]

(2) Any amount due to the Central Government or the [statutory authority) from any person whether by way of arrears of 4llent or damages or costs of removal referred to in section 5A or expenses of demolition referred to in section 5B or interest referred to in sub-section (2A) of section 7 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.

**14. 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 5B or] the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) [or the interest determined under sub-section (2A) of that section or the costs awarded to the Central Government or the [statutory authority] under subsection (5) of section 9 or any [portion of such rent, damages, expenses, interest) or costs; within the time, if any, specified therefore 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 arrear of land revenue.

## COMMENTS

For realisation of the amounts due an order under section 14 is the condition precedent. In the absence of such an order for recovery the collector cannot proceed to recover the amount as arrears of land revenue S.V. Motwani v. Collector of Delhi AIR 1974 Del 56.

**[15. 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 5A, or
- (c) the demolition of any building or other structure made, or ordered to be made, under section 5B, or
- (cc) the sealing of any erection or work or of any public premises under section 5C, or
- (d) the arrears of rent payable under sub-section (1) of section 7 of damages payable under sub-section (2), or interest payable under sub-section (2A), of that section, or
- (e) the recovery of
  - (i) costs of removal of any building, structure or fixture or goods, cattle or other animal under section 5A, or
  - (ii) expenses of demolition under section 5B, or
  - (iii) costs awarded to the Central Government or statutory authority under sub-section (5) of section 9, or
  - (iv) any portion of such rent, damages, costs of removal, expenses of demolition or costs awarded to the Central Government or the statutory authority.

### COMMENTS

(i) It has been held that section 15 does not bar the jurisdiction of court as envisaged under section 20 of the Arbitration Act, Where there is dispute regarding tenure of lease and there exists an arbitration agreement then even if the Estate Officer may have initiated action the matter may be referred to arbitration. M/s Oriental Building (e Furnishing CoLtd. v. Llnion of Indio - Suit No. 363 A of 1977 - decided on 24/4/198 1.

(ii) It has been held that after the premises are declared public premises by the Public Premises Act 1971, that Act alone will apply and the application of the Delhi Pen I Control Act is entirely excluded. Mis Indomer A garcier (Pvr.) Ltd. v. Life Inrurance Corporation ofIndia - C.W.P. No. 132/1979 decided on 2~3/1983.

16. Protection of action taken in good faith.--No. suit, prosecution or other legal proceeding shall lie against the Central Government or the S[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.

17. Delegation of powersI-The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by a State Government or an officer of the State Government.

18. Power to make rules.--(l) The Central 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:-

1. Substituted by section 12, ibia for section 15.

2. Inserted by Act 3LT of 1984, section 9 (with effect from 13-11-1984). 3. Substituted by Act 61 of 1980, section 2, for "Corporate Authority".

(a) the form of any notice required or authorised to be given under this Ad and the manner in which it may be served. (b) the holding of inquiries under this Act; ~ the distribution and allocation of ~ork to estate officers and the transfer of any proceeding pending before an estate officer to another estate officer; (d) the procedure to be followed in caking possession of public premises; (e) the manner in which damages forunauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages; [(ea) the rate at which interest shall be payable on arrears of rent specified in any order made under sub-section (I) of section 7, or damages assessed under sub-section (2) of that section;] 2[(ee) the manner in which the sealing of anperrection or work or of any public premises shall be made under sub-section (I) of section 5C;] cn the manner in which appeals may be preferred and the procedure to be followed in appeals;

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

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is session for a total period of thi rty days which may be comprised in one session or'(in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid.) both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only ia such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Repeal.--The Public Premises ~viction of Unauthorised Occupants) Act, 1958 is hereby repealed.

tO. Validation i--Notwithstanding any j udgment, decree or order of a ny cou rt, 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 proceedings initiated) or purported to have done or taken u nder the Public Premises OEviction of Unauthorised Occupants)-Act, 1958 (hereafter in this section referred to as the 1958-Act) shall be deemed to be as valid and effective as if such thi;rg or action was done or taken under the corresponding provisions of this Act which, under subsection (3) of section 1 shall be deemed to have come into force on the 16th day of September, 1958, and accordingly -(a) no suit or other legal proceeding shall be maintained or continued in any court for the refund of any rent or damages or costs recovered under the 1958-Act where such refund has been claimed merely on the ground that the said Act has been declared to be unconstitutional and void; and (b) no court shall enforce a decree or order directing the refund of any rent or damages or costs recovered under the 1958-Act merely on the gro~i~nd that the said Act has been declared to be unconstitutional and void.

1. inserted by Act 61 of 1980, section 13.

2. Inserted by Act U of 1984, section 10(witb effect fro~m 13-11-1984). 3. Substituted by Act 61 of 1980, section 13, for certnin words.

## The Public Premises (Eviction of Unauthorised

### Occupants) Rules, 1971'

1. Short title.--These rules may be called the Public Premises (Eviction of Unauthorised Occupants) Rules, 1971.
2. Definitions.--In these rules unless the context otherwise requires,--(a) "Act" means the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971); (b) "Form" means a form appended to these rules:
  - (c) all other words and expressions used hereinafter but not defined herein shall have the same meanings as respectively assigned to them in the Act.
3. Form of notices and orders.--A notice or order under the Act shall be in one of the appropriate forms appended to these rules.
4. Manner of service of notices and orders.--(1) In addition to any mode of service specified in the Act, a notice issued under sub-section (i) of section 4 or subsection (7) of section 5A or sub-section (1) of section 5B or sub-section (1) or subsection (1A) of section 6 or an order issued under section 3A or sub-section (1) of section 5 or sub-section (i) or sub-section (2) or sub-section (5) of section 5 or sub-section (1) or sub-section (2) of section 7 of the said Act shall be served by delivering, or tendering a copy of the notice or order, as the case may be, to the person for whom it is intended or to any other person in the family, or by sending it by registered post acknowledgment due in a letter addressed to that person at his usual or last-known place of residence or business.
  - (7) Where the copy of the notice or the order, as the case may be, under sub-rule (1) is delivered or tendered the signature of the person to whom the copy is so delivered or tendered should be obtained in token of acknowledgment of the service.
  - (3) In respect of a notice issued under sub-section (1) of section 4 or sub-section (2) of section 5A or sub-section (1) or sub-section (1A) of section 6 or sub-section (7) of section 5A or sub-section (1) or sub-section (3) of section 5A or sub-section (i) or sub-section (3) or sub-section (5) of section 5 or sub-section (i) or sub-section (2) of section 5 or sub-section (1) or sub-section (i) of section 7 of the said Act where the person or the adult member of the family of such person refuses to sign the acknowledgement, or where such person cannot be found after using all due and reasonable diligence, and there is no other adult member of the family of such person a copy of the notice or the order, as the case may be, shall be affixed on the outer door or some other conspicuous part of the ordinary residence or usual place of business of such person and the original shall be returned to the estate officer who issued the notice or the order, as the case may be, with a report endorsed thereon or annexed thereto stating that a copy has been so affixed, the circumstances under which it was done so and the name and address of the person, if any, by whom the ordinary residence or usual place of business was identified and in whose presence the copy was affixed.
  - (4) If a notice under sub-section (1) of section 4 or sub-section (7) of section 5A or sub-section (1) or sub-section (1A) of section 6 or an order issued under sub-section
1. (S. 11. XXXIII. dated 21st Nov 1971. Published Sec. (i). Vol. 1 Xth Edition, 1971.
2. Substituted by S. K. I f 11(1). In the Srptmher. I-X6. 3. Substituted by S. K. (I). dated 19th Dec 1971. 4. Inscribed by S. K. 711. dated 17th July. 1981.

in the Constitution of India Extra. Pt. II.

section (1) of section 5 or sub-section (1) or sub-section (2) or sub-section (5) of section 5-B or sub-section (1) or sub-section (2) of section 5 E or sub-section (1) or sub-section (2) of section 7 of the said Act cannot be served in the manner provided in sub-rule(1), the estate officer may, if he thinks fit, direct that such notice or order, as the case may be, shall also be published in at least one newspaper having circulation in the locality and he may also proclaim the contents of any notice or order in the locality by beat of drum.]

5. Holding of inquiries.-- (1) Where any person on whom a notice or order under this Act has been served desires to be heard through his representative he should authorise such representative in writing.

(2) The estate officer shall record the summary of the evidence tendered before him. The summary of such evidence and any relevant documents filed before him shall form part of the records of the proceedings.

6. Transfer of pending proceedings.--(1) On the application of any person to whom a notice under the Act has been served and after hearing him, if he desires to be heard, or of its or his own motion, the Central Government or any Gazetted officer especially authorised by the Central Government in this behalf by notification in the official Gazette may at any stage transfer any proceeding before an estate officer for disposal of the same.

(2) Where any proceeding has been transferred under sub- rule (1), the estate officer who thereafter is in charge of such proceeding may, subject any special directions in the order of transfer, either re-start it or proceed from the point at which it was transferred.

7. Manner of taking possession of public premises![(1) If any obstruction is offered, or is in the opinion of the estate officer likely to be offered-(a) to the taking possession of any public premises; or (b) to the sealing of erection or work or of the public premises, under the said Act, the estate officer or any other officer duly authorised by him in this behalf may before sunrise or after sunset-

(2) Where any public premises of which possession is to be taken under the Act is found locked, the estate officer or any other officer duly authorised by him in this behalf may either seal the premises or in the presence of two witnesses break open the locks or open or cause to be opened any door, gate or other barrier and enter the premises:

Provided that,--

(1) no entry shall be made into, or possession taken of a public premises before sunrise or after sunset;

(2) where any public premises is forced open, an inventory of the articles found in the premises shall be taken in the presence of two witnesses.

2[(3) The sealing under sub-section (1) of section 5-C of the Act shall be made in the following manners, namely:(i) affixing the office seal on outer door or any erection or work of any public premises after all other outlets and inlets to the erection or work or public premises have been properly bolted, locked or encircled with rope, wire or wire mesh;

1. Substituted by G.S.R. 1114(E)dated 23rd September, 1986. 2. Sub-sec. (3) inserted by G.S.R. 114(E) dated 23rd September, 1986.

(ii) where doors and windows have not been fixed to any erection or work or public premises or where the erection of work on public premises is of such a nature that it cannot be encircled with rope, wire or wiremesh in that case such erection or work or public premises shall be covered by wooden planks, iron or cement sheets and office seal affixed in a manner that no person can enter into or upon the erection or work or public premises without tampering the office seal: (iii) where any erection or work or any public premises is found locked, the lock may be broken or any door, gate or any other barrier caused to be opened in the presence of two witnesses and an inventory of the articles found in the premises shall be prepared in the presence of the two witnesses before affixing the seal in the manner aforesaid.] 8. Assessment of damages.--



In assessing damages for unauthorised use and occupation of any public premises the estate officer shall take into consideration the following matter, namely:

(a) the purpose and the period for which the public premises were in unauthorised occupation; (b) the nature, size and standard of the accommodation available in such premises; (c) the rent that would have been realised if the premises had been let rent for the period of unauthorised occupation to a private person; (d) any damage done to the premises during the period of unauthorised occupation;

(e) any other matter relevant for the purpose of assessing the damages.

9. Procedure in appeals.--(1) An appeal preferred under Sec. 9 of the Act shall be in writing, shall set forth concisely the grounds of objection to the order appealed against, and shall be accompanied by a copy of such order.

(2) On receipt of the appeal and after calling for and perusing the record of the proceedings before the estate officer, the appellate officer shall appoint a time and place for the hearing of the appeal and shall give notice thereof to the estate officer against whose orders the appeal is preferred, to the appellant and to the head of the department or authority in administrative control of the premises.

10. Repeal.- The Public Premises (Eviction of Unauthorised Occupants) Rules, 1958, is hereby repealed.

'[FORM A

Form of notice under sub-section (1) and Cl. (b) (ii) of sub-section (2) of Sec. 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 To Shri/Smt./Km. ...

Whereas I, the undersigned, am of opinion, on the grounds specified below that you are in unauthorised occupation of the Public Premises mentioned in the Schedule below and that you should be evicted from the said premises:

Substituted by G.S.R. 741, Sec. 3, dated 4th July 1981.

Grounds

Now, therefore, in pursuance of sub-section (1) of Sec. 4 of the Act, I hereby call upon you to show cause on or before the... why such an order of eviction should not be made.

And in pursuance of Cl. (b) (ii) of sub-section (2) of Sec. 4, I also call upon you to appear before me in person or through a duly authorised representative capable to answer all material questions connected with the matter along the evidence which you intend to produce in support of the cause shown, on.....at.....for personal hearing. In case, you fail to appear on the said date and time, the case will be decided ex parte.

Schedule

Date.....

Signature and seal of the Estate officer.

FORM AB Form of notice under sub-section (2) of Sec. 5-A of the Public Premises (Eviction

of Unauthorised Occupants) Act, 1971 To Sri/Smt./Km.

Whereas I, the undersigned, am of the opinion on the grounds specified below, that the building/structure/fixture erected, goods displayed/spread, cattle/animal brought on the public premises mentioned in the Schedule below is/are in contravention of the provisions of sub-section (1) of Sec. 5-A and

that the said building/structure/fixtute, erected, goods displayed/spread, cattle/animal brought on the said public premises should be removed from the said premises.

#### Grounds

Now, therefore, in pursuance of sub-section (2) of Sec. 5-A of the Act, I hereby call upon you to remove the said building/structures/fixtute erected, goods displayed spread, cattle/animal brought on the public premises mentioned in the Schedule below on or before the'... .... or to show cause why this should not be removed on or before the above mentioned date. In the event of your refusal or failure to comply with this notice within the period specified above, the said goods/animal, cattle/work, etc. shall be removed by the Estate Officer authorised by him and the cost of such removal shall be recovered from you as arrears of land revenue.

#### Schedule

Date..... Signature and Seal of the Estate Officer.

#### Form AA-I

Order under sub-section (2) of Section 5-A of the said Act To Shri/Smt./Km. .

Whereas, I the undersigned, is of the opinion on the grounds specified below that you have erected/placed/raised the building/immovable structure/fixtute on the public

1. This date should be a date later than 7 days from the date of issue of this notice. 2. Forms AA-I, AA-II and AB inserted by G.S.R: 1114(E) dated 23rd September 1986

premises mentioned in the Schedule below in contravention of the provisions of subsection (1) of Section 5-A of the said Act;

2. And whereas, by a written notice dated ..... you were called upon to remove or to show cause by .... why you should not remove such building/immovable structure/ fixtute from the said public premises;

And whereas you; have omitted/refused to show cause/remove such building/ immovable structure/structure from the said public premises;

And whereas I have considered the causes shown by you for not removing the said building/immovable structure/fixtute from the said public premises.

#### Grounds

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5-A of the said Act, I hereby order that the said building/immovable structure/fixtute be removed from the said public premises I hereby order Shri/Smt./Km..... to pay a sum of Rs. /- (Rupees....) assessed by me as cost of removal of the said building/ immovable structure/fixtute from the said public premises as an arrear of land revenue.

#### Schedule

Date.....

Signature and Seal of the Estate Officer.

#### FORM AA-II

Order under sub-section (3) of Section S-A of the said Act To Shri/Smt./Km.

Whereas, I the undersigned on the grounds specified below is of the opinion that the movable structure/fixture erected/placed/raised, goods displayed/spread, cattle/ animal, brought/kept on the public premises mentioned in the Schedule below by Shri/ Smt./Km.....is/are contravention of the provisions of sub-section (1) of Section 5-A of the said Act and that the said movable structure/fixture erected/placed/raised, goods displayed/spread, cattle/animal brought on the said public premises be removed from the said premises;

Grounds

Now, therefore, in exercise of powers conferred by sub-section (3) of Section 5A of the said Act, I hereby order that the said movable structure fixture, erected/placed, raised, goods displayed spread, canle/a nimal brought kept on the said i,ublic premises be removed from the said public premises I also hereby order Shri/Smt./Km..... to pay a sum of Rs. .... (Rupees .....) assessed by me as cost of removal of movable structure/ fixture erected placed/raised, goods displayed/spread, cattle/animal brought/kept on the said public premises as an arrear of land revenue.

Schedule

Dale.....

Signature and Seal of the Estate Officer.

FORM AB

Form of notice under proviso to sub-section (1) of Section 5-B of the Act To Shri/Smt./Km.

Whereas I, the undersigned is of the opinion on the grounds specified below, that you have erected/completed/commenced the work on the public premises specified below in the Schedule in contravention of, or not authorised by the competent authority and that the said work be demolished in the said premises.

Grounds

Now, therefore, in pursuance of proviso to sub-section (1) of section 5-B of the said Act, I hereby call upon to show cause on or before the..... why an order for demolition of such erection work may not be made.

Schedule

Dale.....

Signature and Seal of the Estate Officer.

2[FORM B

Order under sub-section (1) of Sec. 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

Whereas I, the undersigned, am satisfied for the reasons recorded below that Shri/ Smt./Km..... is/are in unauthorised occupation of the public premises specified in the Schedule below:

Reasons

Now, therefore, in exercise of the powers conferred on me under sub-section (1) of Sec. 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said Shri/Smt./Km. .... and

all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order.. In the event of refusal or failure to comply with this order within the period specified above the said Shri/Smt./Km.....and all other persons, concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

Schedule

Date.....

Signature and Seal of the Estate Officer.

This date should be a date after expiry of 7 days from the date of publication or the notice. Substituted by (S.H. 731. dated 14th July. 1961. Sec. 3

FORM BE

Notice/Order under sub-section (1) of Section 5-B of the said Act

To Shri/Smt./Km.

Whereas, I the undersigned, is satisfied for the reasons recorded below that the

work created/completed/commenced by Shri/Smt./Km..... on the public premises specified in the Schedule is in contravention of the provisions of the said Act, or not authorised by the competent authority;

And whereas, by a written notice dated'..... you were called upon to remove or to show cause by ..... why you should not remove such building/immovable structure/ fixture from the said public premises;

And whereas you have omitted/refused to show cause/remove such building/ immovable structure/fixture from the said public premises.

Reasons

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 5-B of the said Act, I hereby order Shri/Smt./Km. ....that the said work shall be demolished. In the event of your refusal or failure to comply with this order, the said work shall be demolished by the Estate Officer or the officer authorised by him and the expenses of such demolition shall be recovered from you.

Schedule

Date.....,

Signature and Seal of the Estate Officer.

FORM BE-I

Order under sub-section (2) of Section 5-B of the said Act.

To Shri/Smt./Km.

Whereas, I the undersigned, is of the opinion that the work erected/commenced by Shri/Smt./Km.....on the public premises specified in the Schedule is in contravention of the Act or not authorised by the competent authority.

Reasons

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 5-B of the said Act, I hereby direct Shri/Smt./Km..... 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 9.

Schedule

Date.....

Signature and Seal of the Estate Officer.

FORM BE-II

Order under sub-section (2) of Section 5-B of the Act Whereas in pursuance of the order under sub-section (1) of Section (i) of Section

Forms DH. I-I-1. II-II. I-C and I-D inserted by (S.R. 11-4(E) dated 23rd September 1971. This date should be a date not later than 7 days from the date of publication of the notice.

5-B of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the work erected/completed/commenced by Shri/Smt./Km..... on the public premises specified in the Schedule was demolished and the expenditure of such demolition are recoverable from the said Shri/Smt./Km.....

Now, therefore in exercise of the powers conferred by sub-section (5) of Section 5-B of the said Act, I hereby order Shri/Smt./Km..... to pay a sum of Rs..... (Rupees.....) as expenses of such demolition within.....(Date to be specified in order .....No. of instalments.

Schedule

Date.....

Signature and Seal of the Estate Officer.

FORM BC

Order under sub-section (1) of Section 5-C of the Act

Whereas, I the undersigned, is satisfied that the work erected/completed/commenced by Shri/Smt./Km..... on the public specified in the Schedule below is in contravention of the provisions of the said Act, or not authorised by the competent authority.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 5-C of the said Act, I hereby order that the said work shall be sealed forthwith.

Schedule

Date.....

Signature and Seal of the Estate Officer.

FORMED

Order under sub-section (2) of Section 5-C of the Act

Whereas, the work erected/completed/commenced by Shri/Smt./Km.....in contravention of the provisions of the said Act, or not authorised by the competent authority on the public premises specified in the Schedule below was sealed on.....in pursuance of order under sub-section (1) of Section 5-C of the said Act.

And whereas it is necessary for such seal to be removed for the purpose of demolition of such work erected/completed/commenced by Shri/Smt./Km. ....in contravention of or not authorised by the competent authority for the purpose of demolition of such work erected/completed/commenced by Shri/Smt./Km. ....

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 5-C of the said Act, I hereby order that the said seal from the said public premises be removed forthwith for demolition of such work erected/completed/commenced on the said public premises.

Schedule

Date.....

Signature and Seal of the Estate Officer.

FORM C

Form of notice under sub-section (1) of Sec. 6 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 Shri/Smt./Km.

Whereas, on the.....you were evicted from the public premises described in the Schedule below which was unauthorisedly occupied by you;

Now, therefore, in exercise of the powers conferred on me by sub-section (1) of Sec. 6 of the Act, I hereby give you notice that after fourteen days of the service of this notice on you, any property remaining on the said premises will be liable to be removed or disposed of by public auction. In case you desire to take possession of your property and to remove the same from the said premises you will be permitted to do so on written authority from the undersigned provided any arrears of rent/damage/costs due from you are paid within the said period of fourteen days. 'Schedule

Signature and Seal of the Estate Officer.

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2[FORM CC

Form of notice under sub-section (1-A) of Section 6 of the said Act To Shri/Smt./Km.

Whereas in compliance of the order made under sub-section (2) of Section 5-A of the said Act, the Estate Officer has removed the goods described in the Schedule below from the Public Premises No.....

Now, therefore, in exercise of the powers conferred on me by sub-section (1-A) of Section 6 of the said Act, I hereby give you notice, that after fourteen days of the service of the notice on you such goods as described in the Schedule below shall be disposed of by public auction. In case you desire to take possession of you such goods, you will be permitted to do so on written authority from the undersigned provided any arrears for rent/damages/cost due from you are paid within the said period of fourteen days..

Schedule

Date.....

Date.....

Signature and Seal of the Estate Officer. /

3[FORM D

Form of notice under sub-section (3) of Sec. 7 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 To Shri/Smt./Km.

Whereas I, the undersigned, am satisfied that you are/were in occupation of the public premises described in the Schedule below;

And whereas in exercise of the powers conferred on me by sub-section (1) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I consider that a sum of Rs.....(Rupees. ....) being arrears of rent from the .....day of.....19....., upto the ..... day of .....19 .....(both days inclusive) in respect of the said premises is due and payable by you to the Government Statutory Authority;

1. Form 'CC' omitted by GSR 1114(E) dated 23rd September 1986 which was earlier added by GSR 741.

dated 4th July. 1981.

1. Form CC inserted by G.S.R. 1114(E) dated 23rd September 1986. 2. Substituted by G.S.R. 741, dated 4th July. 1981. Sec- 3.

And whereas in exercise of the powers conferred on me by sub-section (2-A) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I consider that you are also liable to pay simple interest to the Government/Statutory Authority on the said arrears at the rate determined by the undersigned till its final payment; Now, therefore, in pursuance of sub-section (3) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby call upon you to show cause on or before the ..... why an order requiring you to pay the said arrears of rent together with simple interest should not be made.

Schedule

Dated..... Signature and Seal of the Estate Officer.

[FORM E Form of order under sub-sections (1) and (2-A) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To Shri/Smt./Km.

Whereas you are/were in occupation of the public premises described in the Schedule below.

And whereas, by a written notice dated.....you are/were called upon to show cause on/or before.....why an order requiring you to pay a sum of Rs....(rupees.....) being the rent payable together with simple interest in respect of the said premises should not be made;

And whereas I have considered your objections and/or the evidence produced by you;

And whereas you have not made any objections or produced any evidence before the said date;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby require you to pay the sum of Rs.....

In exercise of the powers conferred by sub-section (2-A) of Sec. 7 of the said Act, I also hereby require you to pay simple interest @ Rs. .... per annum on the above sum w.e.f. .... till its final payment.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

Schedule

Dated..... Signature and Seal of the Estate Officer/

[FORM F Form of notice under sub-section (3) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To Shri/Smt./Knt.

1. Substituted by G.S.R. 741, dated 4th June, 1981. section 3.

Whereas I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the Sch. I below:

And whereas, in exercise of the powers conferred on me by sub-section (2) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I consider the damages, amounting to Rs.....(rupees.....) are due for the period(s) and at the rate (s) shown in Sch. II below on account of unauthorised use and occupation of the said premises;

And, whereas, in exercise of the powers conferred on me sub-section (2-A) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I consider that you are also liable to pay simple interest to the Government/Statutory Authority on the said arrears at the rate determined by the undersigned till its final payment.

Now, therefore, under the provisions of sub-section (3) of Sec. 7 of the Act, I hereby call upon you to show cause on or before ..... why an order requiring you to pay the said damages together with interest should not be made.

Schedule I Schedule II

Period Rate at Amount Amount Balance in which assessed assessed paid arrears

Dated.....

Signature and Seal of the Estate Officer.]

[FORM G

Form of order under sub-sections (2) and (2-A) of Sec. 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To Shri/Smt./Km.

Whereas I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the schedule below:

And whereas by a written notice dated.....you are/were called upon to show cause on or before.....why an order requiring you to pay damages of Rs. ....together with simple interest for unauthorised use and occupation of the said premises should not be made;

And whereas I have considered your objections and/or the evidence produced by you;



And whereas you have not any objections or produced any evidence before the said date;

Now, therefore, in exercise of the powers conferred on me by sub-section (2) of Sec. 7-of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order you to pay the sum of Rs..... (Rupees.....) assessed by me as damages on account of your unauthorised occupation of the premises.

Substituted by G.S.R. 741, dated 4th July, 1981, Sec. 3.

nK AtMic Prmises Bvicrion of Unrrur~oriscd Occupanrs) Rulu, 1971

In exercise of the powers conferred by sub-section (2-A) of Sec. 7 of the said Act, I also hereby require you to pay simple interest at the rate of Rs. .... per annum on the above sum w.e.f..... till its final payment.

In the event of your refusal or failure to pay the damages or any instalment thereof within the said period or in the manner aforesaid the amount will be recovered as an arrear of land revenue.

Schedule

Dared.....

Signature and Seal of the Estate Officer~

FORM H

Form of order under Sec. 12 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To Shri/Smt./Km.

Whereas, there are reasons to believe that certain persons are in unauthorised occupation of the public premises described in the Schedule hereto annexed.

Now, therefore, in exercise of the powers conferred by Sec. 12 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 read with the notification of the estate officer.....

Thereby require you to furnish the information forms specified in Sch. II hereto annexed on or before .....

Schedule I

Schedule n Date ..... Signature and Seal of the Estate Officer or the Signature of the Officer authorised by the Estate Officer. Note.- Failure to comply with this order is an offence under the Indian Penal Code.

[FORM I

Certificate under Sec. 14 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, from the Estate Officer to the Collector This is to certify that an amount of Rs..... (Rupees.....) is due to Central Government/Statutory authority from Shri/Smt./Km. ....in respect of .....for the period from ..... to .....on account of rent/damages/expenses/costs/interest.

In pursuance of Sec. 14 of the Public Premises:(Eviction of Unauthorised Occupants) Act, 1971, I ..... Estate Officer, request you to proceed to recover the same as arrears of land revenue.]

Substituted by G.S.R. 741. dated 4th July. 1981. Sec. 3.

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The Public Premises (Eviction of Unauthorised Occupants) Act, 1971

FORM J

Notice under Section 13 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 To Shri/Smt./KIn.

Whereas Shri/Smt./Km..... (now deceased) was in unauthorised occupation of the public premises described in the Schedule below:

And whereas the amount of Rs. ....being arrears of rent/damages from .....day of .....19....., upto the (.....day of.....] 9....., In respect of the said premises had become due and payable by the said Shri.....to the Government:

And whereas you are the heir/legal representative of the deceased, Shri.....; Now, therefore, in pursuance of sub-section (2) of Sec. 13 of the Act, I hereby call upon you to show cause on or before the: .....why an order requiring you to pay the said arrears of rent/damages should not be made against you.

Schedule

Date. .... Signature and Seal of the Estate Officer. \*This notice should be dated within 7 days from the date of issue of the notice.

FORM K of Order under section '3A' of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 All persons concerned and in particular Shri/Smt..... Suit/Flat No. .... Servant Utr. No. .... Motor Cycle No. ....

Whereas, I the undersigned am satisfied for the reasons recorded below that Shri/ Smt. .... is in unauthorised occupation of the Public Premises specified in the Schedule below.

REASONS

Shri/Smt. .... allowed temporary occupation of the Public Premises specified in the Schedule below for the period from.....

He/She has been continuing to occupy the same even after the expiry of the said period of allotment without any authority.

Now, therefore, in exercise of the powers conferred on me under section 3A of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order that the said Shri/Smt ..... and all other persons who may be in occupation of the said premises or any part thereof to vacate the premises forthwith. In the event of refusal or failure to comply with this order, the said Shri/Smt. .... and all other concerned are liable to be evicted from the said premises, if need be, by use of such force as may be necessary.

Schedule Suit Flat No. .... Servant Utr. No. .... Signature and Seal

of the Estate Officer.....

1. Ins. by G.S.K. 7(Final dated 19th Decr. 1971).