

**THE PUNJAB PUBLIC PREMISES AND LAND (EVICTION AND RENT  
RECOVERY) ACT, 1973 (PUNJAB ACT 31 OF 1973)**

to provide for the eviction of unauthorized occupants from public premises and for certain incidental matters.

**COMMENTARY**

The chief effective sections 5 and 7(2) of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959, were declared ultra vires by the Supreme Court (discussed in commentary under section 5) vide AIR 1967 SC 1581 and hence the promulgation of a new enactment was called for after meeting the objections to the earlier Act. For Statement of Objects and Reasons see HG Gazette Notification No. 23-HLA of 1972/28, dated the 8<sup>th</sup> August 1972, Page 955, and P.G. Gazette (Extraordinary) dated the 9<sup>th</sup> July, 1973 pages 215-16.

The Haryana and Punjab Acts, are almost identical with minor variations which have been indicated in the context. Briefly these variation are :-

- (1) The Haryana Act is named as Haryana Act of 1972, and was published in the 23<sup>rd</sup> year of the Republic of India while the other is Punjab Act 31 of 1973 and published in the 24<sup>th</sup> year of the Republic of India.
- (2) The Haryana Act came into force, with the exception of sections 11, 18 and 19 on the 10<sup>th</sup> August, 1959, and the Punjab Act came into force with the exception of section 11, 18 and 19 on the 27.1.1959.
- (3) Sections 11, 18 and 19 came into force on the 9-11-1972 in Haryana (being the date of notification) and on 6-7-1973 in Punjab (for the Same reasons).
- (4) The variations in definitions have been shown in the context separately under section 2.

- (5) In sections 6 (2), 13(2), 14, 15 and 16 the Haryana Act use the words `local authority' for `corporate authority' in the Punjab Act.
- (6) The Punjab Act contains additional words `on conviction by an Executive Magistrate' before the words `be punishable' in section 11(1).
- (7) In the Haryana Act the word `the' occurs in place of the word `legal' in the Punjab Act before `proceeding' in section 13(1).
- (8) In section 17 (3) the Haryana Act uses the words `House of the State Legislature' in place of `State Legislature' in the Punjab Act.

Haryana Act 24 of 1972/ Punjab Act 31 of 1973

Be it enacted by the Legislature of the State of Haryana / Punjab in the (Twenty-third- in Hr.) (Twenty-fourth- in Punjab) Year of the Republic of India as follows:-

1. Short title, extent and commencement :- (1) This Act may be called the Haryana/[Punjab] Public Premises and Land (Eviction and Rent Recovery) Act, [1972- in Hr.] [ 1973- in Pb.]
2. It extends to the whole of the State of Haryana / Punjab.
3. It shall be deemed to have come into force on the [10<sup>th</sup> day of August, 1959- in Hr.] [27<sup>th</sup> November, 1959- in Pb.] except sections 11,18 and 19 which shall come into force at once.

**As in Punjab only.**

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

(a) “Collector” mean the Collector of the district and includes any other officer appointed by the State Government for performing the functions of the Collector under this Act;

(b) “corporate authority referred to in sub-clause (i), or

- (i) any local authority referred to in sub-clause (i), or
  - (ii) any company or Corporation referred to in sub-clauses (ii)
- and (iii).

of clause (e) of this section

(c) “estate” has the meaning assigned to it in the Punjab Land Revenue Act, 1887;

(d) “premises” means any land, whether used for agricultural or non-agricultural purposes, or any building or part of a building and includes, -

- (i) the garden, grounds and out-houses, if any, appertaining to such building; or part of a building or part of a building and
- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(e) “public premises” means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government and includes any premises belonging to, or taken on lease by or on behalf of –

- (i) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (ii) any company as defined in section 3 of the Companies Act, 1956 (1 of 1956), in which not less than fifty – one per cent of the paid up share capital is held by the State Government [and omitted in H.P.]
- (iii) any Corporation [ not being a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), or a local authority] established by or under a Central Act as defined in clause (7) of

section 3 of the General Clauses Act, 1897, or a Punjab Act owned or controlled by the State Government;

- (f) “prescribed” means prescribed by rules made under this Act;
- (g) “rent” in relation to any public premises, means the consideration payable periodically for the authorized 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 called) payable in respect of the premises;

Where such charge or tax is payable by the State Government or the corporate authority.

### **Clause (i) as in Himachal Pradesh only**

“[any co-operative Society registered or deemed to have been registered under the Himachal Pradesh Co-operative Societies Act, 1968 – in HP only

### **COMMENTARY**

1. Collector. According to the definition the term includes any officer appointed by Govt. for performing the functions of Collector. All the Sub-Divisional Officers of State of Punjab thus act as Collector within their respective jurisdiction. Cf. *Dharam Vir v Commissioner, Patiala*. 1982 Rev: L.R. 285 = 1982 PLJ 157.
2. Public Premises. In the case of the Patiala Central Co-operative Bank more than 51 per cent of its shares are held by the State Govt. and the Bank is registered under the Companies Act and therefore the premises of the Bank leased out to a third person are public premises. Vide S.2 (e) *Dharam Vir V. Commissioner, Patiala* 1982 Rev. L.R. 285 = 1982 PLJ 157. Similarly premises belonging to or taken on lease by or on behalf of a

municipal committee, NAC, Zila Parishad, Panchayat, Panchayat Samiti or Improvement Trust are public premises. Ravinder Kumar v. State of Punjab. 1982 REV. L.R. 77 = 1983 PLR 3 SN. Even premises owned by Punjab University, which is inter – State body corporate, are public premises under clause (c). Vinod Sood v Punjab University. 1983 Land L.R. 193.

3. Effect of Haryana Common Purposes Land (Eviction and Rent Recovery) Act (No 15) of 1985. This Act defines “ common purposes land” as under :-

2. **Definition.** In this Act unless the context otherwise requires “common purposes land” means the land reserved for the common purposes of a village, under section 15 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act. 1948, the management and control whereof vests in the State Government of the Gram Panchayat under section 23-A of the aforesaid Act.”

And section 3 of this (Haryana Act 15 of 1985) runs as under :-

3. Notwithstanding anything contained in any law for the time being in force, the provisions of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 shall apply to common purposes Land which shall be deemed to be public premises for the purposes of the said Act.

Haryana Act 15 of 1985 received the assent of the President of India on the 4<sup>th</sup> December, 1985 and was published in. Haryana Gazette (Extra.) on 17.12.85 vide Legislative Dept. notification no. Leg-16/85, dated public premises.

### **Applicable to both Haryana and Punjab**

3. Un-authorised occupation of public premises- For the purposes of this Act. A person shall be deemed to be in unauthorized occupation of any public premises.

- (a) Where he has whether before or after the commencement of this Act entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant; or.
- (b) Where he being an allottee, lessee or grantee, has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such public premises; or
- (c ) Where any person authorized to occupy any public premises has, whether before or after of the commencement of this Act. –
  - (i) sub-let, in contravention of the terms of allotment, lease or grant, without the permission of the State Government or of any other authority competent to permit such sub-letting, the whole or any part of such public premises, or
  - (ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorized to occupy such public premises.

Explanation :- For the purpose of clause (a), a person shall not merely by reason of the fact that he has paid any rent be deemed to have entered into possession as allottee, lessee or grantee.

## **COMMENTARY**

The Word ‘thereof’ in clause (a) of this section shows that in order that a person may be deemed to be in unauthorized occupation he must have entered into possession of public premises before the property was sold to Govt., he could not be said to have entered into the possession of public premises, because the property then belonged to the original owners (in this case the former Maharaja of erstwhile Patiala State). The title under which the property was possessed is not very relevant for this purpose. In this case the appellants were not even allottees, lessees or grantees so that clause (b) also did not apply, nor did (c) and therefore they were not in unauthorized possession. Raj Kumar

Divender Singh V Punjab State. A.I.R. 1973 SC 66; 1972 PLJ 592 Rent CR 780 : (1973) 3 SCC 401.

By reference to clause (b) of this section it is clear that when the lease, grant or allotment is determined and thereafter the premises are not vacated the occupation thereof will be unauthorized. When the lease was terminated according to law, the owner will be entitled to invoke summary machinery under section 5 for the vacation thereof and claiming other relief under section 7. Dharam Vir, V Commissioner, Patiala. 1982 Rev. L.R. 285 = 1982 PLJ 157. The Punjab University was allowed to function as an inter State body corporate by virtue of section 72 (2) of the Punjab Re-organisation Act. The premises owned by it are public premises and on the expiry of the possession and would be liable to be evicted as also to pay rent and damages for use and occupation. Vinod Sood V Punjab University. 1982 Rev. L.R. 193.

Where though Govt. was the owner of certain property but a person was already in possession before the property vested in Govt it was held that such person cannot be said to have entered into unauthorized possession of public premises. The Court is not much concerned with the title under which such a person was in possession. What is relevant is the possession of the property before it was transferred to Govt. Banwari V State of Haryana , 1983 PLJ 6.

- 4 **Issue of notice to show cause against order of eviction.** (1) if the Collector is of opinion that any persons are in unauthorized occupation of any public premises situate within his jurisdiction and that they should be evicted, the Collector 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, 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 ten days from the date of issue thereof.

(3) The Collector shall cause the notice to be affixed on the outer door or some other conspicuous part, of the public premises, or of the estate in which the public premises are situate, and in such other manner as may be prescribed where upon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the Collector knows or has reasons to believe that any persons are in occupation of the public premises, then without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

## **COMMENTARY**

The jurisdiction of the Collector to issue a notice under this Section accrues only if the person to whom notice to be issued is in unauthorized possession of public premises. Where it is established that such possession was not unauthorized the notice of issued becomes without jurisdiction. *Raj Kumar Divender Singh V State of Punjab*. AIR 1973 SC 66= 1972 Rent CR 780.

This section deals with the issuance of notice only and does not contemplate the passing of any orders. After the issue of notice the orders are to be passed under the next section when the cause shown by the unauthorized occupier, if any has been taken into



consideration under Section 9 Mukhtir Sing V Harbans Singh 1981 Rev. L R 498. the premises owned by or leased by or on behalf of Punjab University are public premises in view of clause (e) of Section 2. Where a notice was served by the Registers of the University on the occupier of its premises, the lease whereof had expired and had not been renewed, did not give any reasons, it was held that in the circumstances no reasons were required to be stated. It was enough if the notice mentioned that the lease had expired and that he was in unauthorized occupation and should deliver vacant possession by the specified date. Vinod Sood V Punjab University. 1983 Rev. L.R. 193.

Where proceedings for the recovery of damages were initiated by the Collector under Section 7 and during the pendency of these proceedings but before passing final orders, the Collector issued a notice under this Section for the eviction of the occupant. It was held that there is nothing illegal in this course and therefore the eviction order could not be set aside on this ground. MC Bhatinda V SDO (Civil). 1983 PLJ 352.

Where the writ petitioner was served with a notice at least once to appear in the Court of the Estate Officer, on a certain date, whereon he absented himself and thereafter he was 2 or 3 more opportunities to present his case, But he did not show himself, it cannot be said that the petitioner was not given an opportunity of a hearing by the Estate Officer. Tara Singh V Addl D.J. Ferozepur. A.I.R 1984 P& H 175 = 1985 Rev. L.R. 17. (1984) 1 Land L.R. 27.

**5. Eviction of unauthorized persons:-** (1) If, after considering the cause if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Collector is satisfied that the public premises are in unauthorized occupation, the Collector 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 or of the estate in which the public premises are situate.

(2) If any person refuses or fail to comply with the order of eviction within thirty days of the date of its publication under sub section, (I), the Collector or any other officer duly authorized by him in this behalf may evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

## **COMMENTARY**

Under the next proceeding Section 4 the Collector has only to form an opinion that a person is in unauthorized occupation of public premises, before he can send him a show cause notice why he should not be evicted. If after hearing him and considering the evidence that such person may produce, the Collector is satisfied that the public premises are in unauthorized possession he may make an order of eviction giving reasons therefore and he is able to effectuate his order summarily.

Against an order under this Section and not under Section 4 which is intended merely for the issue of a notice as stated above. An appeal is maintainable only under Section 9. cf. *Mukhtiar Singh V Harbans Singh*. 1981 Rev. L.R. 498. Where the open space situate between railway quarter and railway bungalow was held to be the railway property and it was occupied by some person unauthorisedly, the estate officer issued him a notice after satisfying himself about unauthorisedly, occupation. The occupier failed to appear to show cause the order of eviction passed was held to be proper. *Ayodhya Prasad V Union of India*. AIR 1983 MP 39.

On the other hand at common law under the CPC the aggrieved party gets the benefit of a trial by an ordinary court under ordinary law with a right of appeal, revision, etc. But this section make a short shrift of the whole affair by an executive order, subject no doubt to an appeal but that too is to an another executive officer, the Commissioner. Such a provision and another like section 7(2) under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 were struck down by the Supreme Court on the ground that they provided tow alternative remedies, one more drastic than the other, at the discretion of the executive officer, thus resulting in discrimination. *Northern India Caterers V Punjab State*. AIR 1967 SC 1581. By inserting section 15, this Act has

barred the jurisdiction of the civil court to entertain any suit for eviction or for recoveries, etc. made under the old Act of 1959 as well as barred suits for refund of rents assessed thereunder. The only point worth considering now seems to be whether in the absence of a procedure for determining what essentially is lis requiring judicial determination, it would be reasonable to confer this power on an executive officer. c.f. *Raja Sahib of Nalagarh v Punjab State*. AIR 1969 Delhi 194.

Where the Chandigarh Administration had been extending the period of lease in the case of some of the tenants after enhancing rent of their tenancies but it did not do so in other cases it was held that Govt. being owner of the leased property it was competent to extend the lease period in one case and not in another case if in that particular case the tenant's conduct and performance were not to their satisfaction, and this did not involve discrimination of *Tilak Raj V Chandigarh Administration* – AIR 1976 P & H 238 (DB).

Where some land was said have been gifted by the residents of a village to the PWD some time in 1965-66 and the petitioner raised a structure over it. The respondents wanted to invoke the provisions of this Act for the purpose of evicting the alleged encroacher. It was found that there was no document showing the transfer of land in favour of the PWD. Any transfer of land even by gift is inconceivable in 1965-66. Then, also no mutation for the transfer of the land had been sanctioned, nor was there any proof for the transfer of land. Even if the petitioner was trespasser he was entitled to hold the premises against every body except the owner. The govt. not being the owner could not invoke the Act. *Ram Narain V State of Punjab* 1984 Rev. L.R. 344.

6      **Disposal of Property left on public premises by unauthorized occupants.** (1) where any persons have been evicted from any public premises under section 5, the Collector 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 sell by public auction any property remaining on such premises.

(2) Where any property is sold under sub-heading (1) the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the State Government or the [local – Hr.]/corporate – in Pb.] authority on account of arrears of rent or damages or cost, be paid to such person or persons as may appear to the Collector to be entitled to the same:

Provided that where the Collector is unable to decide as to the person or persons to 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.

**7. Power to recover [ rent or – in Hr. only] damages in respect of public premises as arrears of land revenue** (1) Where any person is in arrears of rent payable in respect of any public premises, the Collector 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 unauthorized occupation of any public premises the Collector 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.

(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 be made any until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Collector.

### **COMMENTARY**

The word ‘payable’ in this section means ‘legally recoverable’ The section does not create any new rights. Thus if the recovery of an amount is barred by the law of limitation, it would not be possible for the authorities to collect such amount as it could

not be said to be 'payable' The pay ability of arrears of rent has to be determined in accordance with law and this section provides only a special procedure but does not constitute a source or foundation of a right to claim a debt which is otherwise time-barred. *Sate of Orissa V Arun Kumar*. AIR 1976 SC 1637.

Where the liability to arrears of rent in respect of occupation of public premises is outstanding on the date of demand and the claim is not time barred, the arrears of rent as also damages for unauthorized occupation can be recovered under this Act even though the premises were let prior to the commencement of this Act. *Yash Pal Dhawan V Commissioner Ferozepore*. 1982 Rev L.R. 442 = PLJ 466 = 1982 PLR 741 relying on *State of UP v Anand Sarup*. AIR 1974 SC 125. But time barred claims cannot be so recovered.

**2. Limitation.** In a case from Chandigarh where this Act is applicable it was said that the Estate Officer under this section could order payment of damages if the claim is otherwise not time barred. The law of limitation has to be taken notice of. If a suit would be barred on the date when an application under this section is made. Then the arrears become irrecoverable. But if the suit would be within time, then the claim cannot be denied merely because it is ought to be recovered under this section. In calculating limitation the period during which the stay obtained by the party remained operative has to be excluded. *Northern India Caterers v DJ, Chandigarh*. 1983 PLR 457 (DB.)

**(8) Power of Collector :-** The Collector shall for the purpose of holding any enquiry 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.

## COMMENTARY

The Collector acting under this section and section 4,5, and 7 performs important judicial functions like the determination whether a person is in unauthorized occupation and fixing liability and he is therefore a judicial tribunal, who would therefore be under an obligation to pass a speak order in regard to the contentions raised before him, particularly when they go to the root of the matter. In the absence of a reasoned order it could be declared illegal and void. *Chatter Singh v State of Punjab*. 1981 Rev. L.R. 156.

**9. Appeals :-** (1) An appeal shall lie from every order of the Collector made in respect of any public premises under section 5 or section 7 to the Commissioner.

### 10 Public Premises and Land Eviction Act

- (2) An appeal under sub-section (1) shall be preferred -
- (a) in the case of an appeal from an order under section 5, within thirty days from the date of publication of the order under sub-section (1) of that section; and
- (b) in the case of an appeal from an order under section 7, within thirty days from the date on which the order is communicated to the appellant :

Provided that the Commissioner may entertain the appeal after the expiry of the said period of thirty days 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 Collector, the Commissioner may stay the enforcement of that order for such period and on such conditions as he deems fit.

- (4) Every appeal under this section shall be disposed of by the Commissioner as expeditiously as possible.
- (5) The costs of any appeal under this section be in the discretion of the Commissioner.

## COMMENTARY

The appellate authority in this section is not prescribed by name. To determine whether the appointment of Commissioner is as 'personal designata' or as a particular member of a class, it is to be seen whether the appointment is by name only or by virtue of his occupation or post held by him. It seems obviously the latter case so that any officer who holds the post of Commissioner concerned will be the proper forum of appeals. cf. *Badrinath v Estate Officer* . AIR 1977 J & K 39.

An appeal under this section in relation to common purposes land as understood in Punjab Gram Panchayat (Common Purposes Land Eviction and Rent Recovery Act, 1976, shall lie to the Joint Director of Panchayats vide PG notn. No. SO. 73/PA 20/76S.4/76 dated 3.12.76.

It cannot be urged that since nobody has been designated or specified as Commissioner under the Act an appeal does not lie. A reference to section 7-A of the Punjab Village Common Lands (Regulation) Act, 1961 clearly states that for the purposes of appeal under this section 9 in respect of the Common Lands Act, the Commissioner under the latter Act shall be deemed to be Commissioner as the Divisional Commissioner and includes any officer not below the rank of Joint Director Panchayats for performing the function of Commissioner. Cf. *Mukhtiar Singh v Harbans*, 1981 Rev. L.R. 498 (See page 15 infra)

10. **Finality of orders :-** Save as otherwise expressly provided in this Act, every order made by the Collector or Commissioner 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.

## **COMMENTARY**

This section gives general immunity to the order of a Collector or Commissioner passed under the Act against any probe or injunction by a civil court, while section 15 specifically bars the jurisdiction of the court from entertaining suits or proceedings in respect of evictions under section, 5 of rents and damages recoverable under section 7 and costs under section 9(5) of this Act. Even an application for revision will not lie to the Financial Commissioner against an order of Commissioner. Where an appeal was rejected by the Addl. Commissioner as also the application for review the F.C. declined to intervene. *Harbans Singh v Punjab State*. 1979 LLT 4.

Where an Act gives finality to an order of a special tribunal the jurisdiction of the civil court must be held to be excluded if there is adequate remedy to do what a civil court would normally do in a suit. But this provision does not exclude cases where the tribunal has not complied with statutory provisions or principles of judicial procedure. c.f. *Dhula Bhai v State of MP*; MIR 1969 SC 78

The principles governing the bar to the jurisdiction are, that such a bar in the cases of civil nature is not to be presumed unless the provision excluding such jurisdiction is made in clear and unambiguous language. c.f. *Manphool v Dulichand*: AIR 1969 Raj 169 (FB). Whenever a statute provides such exclusion it must be strictly construed and confined only to the four corners of statutory bar. *Naib Singh v Bajo Ram* : AIR 1969 J&K 9. Also see AIR 1969 SC 439. The basis of inherent jurisdiction of the court is the Civil Procedure Code (section 151 and this cannot be enlarged even because of extraordinary situation. AIR 1965 SC 1449. Even the High Court can assume such jurisdiction.

11. **Offences and penalty:** - (1) 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 [on conviction by an Executive Magistrate- in Pb. Only] be



punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

- (2) Any Executive Magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

12. **Power to obtain information:** - If the Collector has reason to believe that any persons are in unauthorized occupation of any public premises, the Collector or any other officer authorized by him in this behalf may require those persons or any other persons 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 representative:** - (1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, [the – in Hr] [legal – in Pb.] proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(2) Any amount due to the State Government or the [local – in Hr] [corporate – in Pb] authority from any person whether by way of arrears of rent or damages or costs 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 arrears of land revenue.:-** If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or the costs awarded to the State Government or the [local –in Hr][corporate – Pb] authority under sub-section (5) of section 9 any portion of such rent, damages or costs, within the time. If any, specified therefore in the order relating thereto, the Collector shall proceed to recover the amount due as arrears of land revenue.

15. **Bar of jurisdiction:-** - No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorized occupation of any public premises or the recovery of the arrears of rent payable under sub-section (1) of section 7 or the damages payable sub-section (2) of that section or the costs awarded to the State Government, or the [local – in Hr][Corporate – in Pb.] authority under sub-section (5) of section 9 or any portion of such rent, damages or costs.

16. **Protection of action taken in good faith :-** No suit, prosecution or other legal proceeding shall lie against the State Government or the [local – Hr.] [ Corporate – in Pb.] authority or the Commissioner or the Collector 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. **Power to make rules :-** (1) The State Government may, by notification, make rules for carrying out the purpose 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 :-

- (a) the form of any notice required or authorized to be given under this Act and the manner in which it may be served;
- (b) the holding of enquiries under this Act;
- (c) the procedure to be following in taking possession of public premises ;
- (d) the manner in which damages for unauthorized occupation may be assessed and the principles which may be taken in account in assessing such damages;
- (e) the manner in which appeals may be preferred and the procedure to be in appeal;

(f) 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 the [House of the – in Hr.] State legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in 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.

18. **Repeal** : The Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959, is hereby repealed.

## COMMENTARY

When an Act is repealed and another Act is brought on the statute book on the same subject from the date on which the earlier ...Act was repealed retrospectively then the action taken under the repealed Act can be deemed to have been taken under the new Act. Chatter Singh v State of Punjab. 1981 Rev, L.R. 156.

19. **Validation**: - Notwithstanding any judgment, decree or order of any court, anything done or any action taken (including rules or orders made, notice issued, evictions ordered or effected, damages assessed, rents or damages or costs recovered and proceedings initiated) or purported to have been done or taken under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 (hereinafter in this section referred to as the 1959 Act) shall be deemed to be as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act which, under sub-section (3) of section I shall be deemed to have come into force on the [19<sup>th</sup> day of August, 1959, - in Hr] 27<sup>th</sup> day of November 1959- in Pb.] 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 1959 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 degree or order directing the refund of any rent or damages or costs recovered under the 1959 Act merely on the ground that the said Act has been declared to be unconstitutional and void.