

Expired

Act No. XLVII of 1948

[PASSED BY THE DOMINION LEGISLATURE]

(Received the assent of the Governor General on the 4th September 1948)

An Act to make certain special provisions for the institution of suits by displaced persons

WHEREAS it is expedient to make certain special provisions for the institution of suits by displaced persons;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Displaced Persons (Institution of Suits) Act, 1948.

(2) It extends to all the Provinces of India.

2. Duration.—This Act shall remain in force for a period of three years only, but upon the expiry of the said period section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act had been then repealed by a Central Act.

3. Definition.—In this Act, "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area now forming part of Pakistan, has been displaced from, or has left, his place of residence in such area after the 1st day of March, 1947, and who has subsequently been residing in India.

4. Institution of suits by displaced persons.—Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in Court within the local limits of whose jurisdiction he or the defendant or any of the defendants where there are more than one at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, if—

(i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business, or personally works for gain in India and is not a displaced person;

(ii) the cause of action, wholly or in part, arises or has arisen in a place now situate within the territories of Pakistan;

(iii) the Court in which the suit is instituted is otherwise competent to try it; and

(iv) the suit does not relate to immovable property.

5. Validation of certain pending suits.—Any suit instituted by a displaced person after the 15th day of August, 1947, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4 shall, if pending at the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly.

Explanation.—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

6. Restoration of certain dismissed suits.—Where any suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4, had been dismissed solely on the ground that it had not been validly instituted, the Court shall, on application made within one month from the commencement of this Act, make an order setting aside the decree and shall proceed with the suit.

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7. **Restoration of suit where appeal dismissed.**—Where, in any appeal arising from a suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, a decree had been passed dismissing such appeal solely on the ground that the suit had not been validly instituted and the institution of such suit would have been valid if section 4 had come into force on the aforesaid day, the Appellate Court shall, on application made to it within one month from the commencement of this Act, make an order setting aside its decree and remand the suit to the Court of first instance for trial.

8. **Extension of period of limitation.**—Notwithstanding anything contained in section 3 of the Indian Limitation Act, 1908 (IX of 1908), or any special or local law, any suit instituted in pursuance of section 4 of this Act may be admitted after the period of limitation prescribed therefor when the plaintiff satisfies the Court that he was unable to institute the suit within such period owing to causes connected with his being a displaced person.

9. **Repeal of Ordinance XVIII of 1948.**—(1) The Displaced Persons (Institution of Suits) Ordinance, 1948 (XVIII of 1948) is hereby repealed.

(2) Notwithstanding such repeal, any suit instituted or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been instituted or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 21st day of July, 1948.