

THE CENSUS (AMENDMENT) ACT, 1993

No. 11 OF 1994

[14th January, 1994.]

An Act further to amend the Census Act, 1948.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Census (Amendment) Act, 1993.

Substitution of new section for section 2.

2. For section 2 of the Census Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be substituted, namely:—

37 of 1948

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

Rule of construction respecting enactments not extending to Jammu and Kashmir. Amendment of section 4.

2A. Any reference in this Act to the Indian Penal Code, the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the corresponding enactment in force in that State.

45 of 1860.
1 of 1872.
2 of 1974.

3. In section 4 of the principal Act, in sub-section (2), after the word "census-officers", the words "with such designations as that Government may deem necessary" shall be inserted.

4. After section 4 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 4A.

"4A. Every local authority in a State shall, when so directed by a written order by the Central Government or by an authority appointed by that Government in this behalf, make available to any Director of Census Operations such staff as may be necessary for the performance of any duties in connection with the taking of census."

Staff of every local authority to be made available for taking census.

5. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 7A to 7H.

7A. (1) If it appears to the Central Government that, in connection with taking of a census,—

Requisitioning premises, vehicles, etc., for taking of a census.

(a) any premises are needed or are likely to be needed, or

(b) any vehicle, vessel or animal is needed or is likely to be needed,

that Government may by order in writing requisition such premises, or vehicle, vessel or animal, as the case may be, and make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Central Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

7B. (1) Whenever in pursuance of section 7A the Central Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

Payment of compensation.

(i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 7A immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 7A the Central Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the Central Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government in this behalf may decide:

Power to obtain information.

7C. The Central Government may, with a view to requisitioning any property under section 7A or determining the compensation payable under section 7B, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Powers of entry into and inspection of premises, etc.

7D. Any person authorised in this behalf by the Central Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 7A should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

7E. (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 7A may be summarily evicted from the premises by any officer empowered by the Central Government in this behalf.

Eviction from requisitioned premises.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

7F. (1) When any premises requisitioned under section 7A are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the Central Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the Central Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

Release of premises from requisition.

(2) Where the person to whom possession of any premises requisitioned under section 7A is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the Central Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Central Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

7G. The Central Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 7A to 7F shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be specified.

Delegation of functions of the Central Government with regard to requisitioning.

7H. If any person contravenes any order made under section 7A or section 7C, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Penalty for contravention of any order regarding requisitioning.

Amend-
ment of
section
8.

6. In section 8 of the principal Act, in sub-section (1), for the words "State Government", the words "Central Government" shall be substituted.

Amend-
ment of
section
10.

7. In section 10 of the principal Act, in sub-section (1), for the words "State Government" at both the places where they occur, the words "Census Commissioner" shall be substituted.

Amend-
ment of
section
11.

8. In section 11 of the principal Act, in sub-section (1),—

(i) for part (a), the following parts shall be substituted, namely:—

"(a) any census-officer or any person lawfully required to give assistance towards the taking of census who refuses to perform any duty imposed upon him by this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty, or

(aa) any census-officer or any person lawfully required to give assistance towards the taking of a census who neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or obeying any such order, or";

(ii) after part (c), the following part shall be inserted, namely:—

"(ca) any local authority which fails to comply with an order made under section 4A, or";

(iii) for the brackets, letters and words "(b) or (c) shall also be punishable with imprisonment which may extend to six months", the brackets, letters and words "(a), (b) or (c) shall also be punishable with imprisonment which may extend to three years" shall be substituted.

Substitu-
tion of
new
section
for
section
12.

9. For section 12 of the principal Act, the following section shall be substituted, namely:—

Sanction
required
for
prosecu-
tions.

"12. Without prejudice to the provisions of section 197 of the Code of Criminal Procedure, 1973, no prosecution under this Act shall be instituted except with the previous sanction,—

2 of 197

(a) in the case of a person who is employed or was at the time of commission of the alleged offence employed—

(i) in a company, as defined in section 3 of the Companies Act, 1956, in which not less than fifty-one per cent. of the paid-up capital is held by the Central Government or

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any company which is a subsidiary thereof within the meaning of that Act, or

(ii) by a corporation or a local authority established by or under a Central Act which is owned or controlled by the Central Government,

of the Central Government or of an authority authorised in this behalf by that Government; and

(b) in the case of a person other than referred to in clause (a) of the State Government.”.

10. After section 13 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 13A.

2 of 1974.

“13A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer or court shall take cognizance of any offence under part (a), (b) or (c) of sub-section (1) of section 11, except upon information received from or on a complaint made by, as the case may be, the Director of Census Operations or any officer authorised by him in this behalf.

Certain offences to be cognizable and triable summarily.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under part (a), (b) or (c) of sub-section (1) of section 11 may be tried summarily.”.

11. In section 14 of the principal Act, for the words “Presidency Magistrate or a Magistrate of the second class”, the words “Metropolitan Magistrate or a Judicial Magistrate of the first class” shall be substituted.

Amendment of section 14.

12. After section 15 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 15A and 15B.

“15A. No member of the census staff shall suffer any disability in service by reason of his being on census duty and the period spent by him on such census duty shall be deemed to be the duty under his lending employer and any duty performed under this Act shall not in any manner affect the right of promotion or other advancement in his original service.

Protection of service interests of members of census staff.

15B. No suit, prosecution or other legal proceeding shall lie against the Census Commissioner or any Director of Census Operations or any census-officer or any member of the census staff for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.”.

Protection of action taken in good faith.

13. In section 17 of the principal Act, for the opening portion beginning with the words “The Census Commissioner” and ending with the words “authorise in this behalf”, the words “Subject to the provisions of section 15, the Census Commissioner or any Director of Census Operations” shall be substituted.

Amendment of section 17.

Insertion of new section 17A.

14. After section 17 of the principal Act, the following section shall be inserted, namely:—

Power to extend the provisions of Act to other operations.

"17A. The Central Government may, by notification in the Official Gazette, extend the provisions of this Act, with such restrictions and modifications as it thinks fit, to pre-tests, pilot studies, census of houses which precede the population count and post enumeration check and evaluation studies or statistical surveys or any other operation as may be deemed necessary for the purpose of census."

Amendment of section 18.

15. In section 18 of the principal Act, in sub-section (2), the words "and providing for the manner of service of orders regarding requisitioning of premises, or vehicle; vessel or animal and the time within which the application may be made to it by any interested person aggrieved by the amount of compensation determined under section 7B for referring the matter to an arbitrator" shall be added at the end.