



The Colonization of Government Lands Act, 1912

Act 5 of 1912

Keyword(s):

Collector, Colony, Improvements, Tenant, Original Tenant

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THE COLONIZATION OF GOVERNMENT LANDS

PUNJAB ACT V OF 1912

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THE COLONIZATION OF GOVERNMENT LANDS

(PUNJAB ACT V OF 1912)¹

(21st June, 1912)

Amended, repealed or otherwise affected by—

- (i) Punjab Act No. III of 1920².
- (ii) Punjab Act No. XXXVIII of 1920.
- (iii) Government of India (Adaptation of Indian Laws) Order, 1937.
- (iv) Punjab Act No. XIII of 1941³.
- (v) Punjab Act VI of 1944⁴.
- (vi) Indian Independence (Bengal and Punjab Acts) Order, 1948 (G.G.O. 40).
- (vii) Adaptation of Laws Order, 1950.
- (viii) Adaptation of Laws (Third Amendment) Order, 1951.
- (ix) Punjab Act No. 25 of 1964, published in Punjab Gazette (Extra). Legislative Supplement, Part I, dated the 30th September, 1964.
- (x) A.O. 1968, published in R.H.P., dated the 1st February, 1969, pages 158—161.
- (xi) A.O. 1973, published in R.H.P. Extra., dated the 20th January, 1973, pages 91—112.

1. For Statement of Objects and Reasons, *see* Punjab Gazette, 1910, Part V, p. 176 ; for Report of the Select Committee, *see* Punjab Gazette, 1911, Part V, P. 429, and *ibid*, 1912, Part V, p. 85. The Act is applicable only to merged areas. It was extended to the erstwhile Pepsu areas by Punjab Act No. 5 of 1957.

2. For Statement Objects and Reasons, *see* Punjab Gazette, 1920, Part V. P. 8-9. It came into force on the 4th June, 1920.

3. For Statement of Objects and Reasons, *see* Punjab Gazette, 1941, p. 568.

4. For Statement of Objects and Reasons, *see* Punjab Gazette, Extra., 1944, p. 3515—52

PUNJAB ACT V OF 1912

An Act to make better provision for the colonization and administration of Government Lands in ¹[Punjab].

WHEREAS it is expedient to make better provision for the colonization and administration of Government lands in ¹[Punjab] ;

It is hereby enacted as follows :—

1. Title and local extent.—(1) This Act may be called the Colonization of Government Lands (Punjab) Act, 1912.

(2) It extends to ²[the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966].

2. Repeal.—The Government Tenants (Punjab) Act, 1893 is hereby repealed.

3. Definitions.—In this Act, unless there is something repugnant in the subject or context,—

“Collector” means the Collector of the district as described in the Punjab Land Revenue Act, 1887³ and includes (1) any officer appointed by the ⁴[State Government] to perform all or any of the functions and exercise all or any of the powers of the Collector under this Act, and (2) any Colonization Officer or Assistant Colonization Officer appointed as such before the commencement of this Act, whether or no such officer was by notification appointed to perform all or any of the functions of a Deputy Commissioner under the Act hereby repealed.

“Commissioner” includes any officer appointed by the ⁴[State Government] to perform all or any of the functions and exercise all or any of the powers of a Commissioner under this Act.

“Colony” means any area to which this Act shall be applied by order of the ⁴[State Government] and, unless the ⁴[State Government] otherwise directs any area to which the Government Tenants (Punjab) Act, 1893, has been applied.

1. Subs. for the words “East Punjab” (which had been inserted for the words “the Punjab” by Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 by Adaptation of Laws (Third Amendment) Order, 1951.

2. Subs. by A.O. 1968, for the word “Punjab” which was subs. for “East Punjab” by Adaptation of Laws Order, 1950.

3. Repealed, and replaced by H.P. Land Revenue Act, 1953,—*vide* H.P. Act No. 21 of 1976.

4. Subs. for the expression “Central Government” (which was subs. for “State Government” by A.O. 1968) by A.O. 1973. The word “State” was subs. for the word “Provincial” by Adaptation of Laws Order, 1950.

“Prescribed” means sanctioned by the ¹[State Government] under this Act or under the Act hereby repealed.

“Improvements” means such improvements as defined in section (4)(19) of the Punjab Tenancy Act, 1887² as the tenant is permitted to make under the conditions applicable to his tenancy.

“Tenant” means any person holding land in a colony as a tenant of ³[Government] and includes the predecessors and successors in interest of a tenant.

⁴“Original tenant” means any male, to whom a tenancy is first allotted by the Collector, and includes the male transferee of such a tenant and any male nominated by the Collector in accordance with the provisions of section 21 to succeed a female, to whom a tenancy was first allotted].

CHAPTER I

PRELIMINARY

4. **Application of the Act.**—This Act shall, unless the ¹[State Government] otherwise directs, apply to land to which the provisions of the Government Tenants (Punjab) Act, 1893, have been applied and to any other land to which the ¹[State Government] may by notification in the Official Gazette apply it and which at the time of the notification was the property of the ⁵[State Government] :

Provided that ⁶[unless the ¹[State Government] by general or special order otherwise directs] nothing in sections 20, 21, 22 and 23, or in the proviso to section 14, of this Act, shall ⁶[*****] apply ⁷[*****] to any class of tenancies created hereafter which the State Government may declare to be scheduled tenancies under this section.

1. Subs. for the expression “Central Government” (which was subs. for “State Government” by A.O. 1968) by A.O. 1973. The word “State” was subs. for the word “Provincial” by the Adaptation of Laws Order, 1950.

2. Repealed and replaced by H.P. Tenancy and Land Reforms Act, 1972 (No. 8 of 1974).

3. Subs. for the word “Crown” by Adaptation of Laws Order, 1950.

4. Added by Sec. 2 of Punjab Act, III of 1920.

5. Subs. for the words “Crown for the purposes of the Province” by Adaptation of Laws (Third Amendment) Order, 1951.

6. The words “unless the Local Government by general or special order otherwise directs” were inserted by Act XXXVIII of 1920 and in the same proviso the words “without the previous sanction of the Governor-General in Council” were omitted by the same Act.

7. The words “to tenancies specified in Schedule I of this Act, or” omitted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 (G.G.O. 40).

5. Power to withdraw a colony from the operation of the Act.—The ¹[State Government] may, at any time, by notification in the Official Gazette, withdraw a colony or any part of a colony from the operation of all or any of the provisions of this Act.

6. Applicability of the Punjab Tenancy Act.²—(1) Except as provided in section 7 of this Act, the Punjab Tenancy Act, 1887², shall not be applicable to tenancies held under this Act.

(2) Nothing in sub-section (1) of this section shall affect the application of the Punjab Tenancy Act, 1887², to any matter or dispute arising between ³[tenants of the ⁴[Government]] and their sub-tenants to which ⁴[Government] is not a party.

7. Applicability of the Punjab Land Revenue Act ⁵ and Punjab Tenancy Act ².—Subject to the provisions of this Act, the Punjab Land Revenue Act ⁵, and Chapter VII of the Punjab Tenancy Act ² and the rules made thereunder shall, in so far as they are applicable, apply to all proceedings under this Act. But nothing in the Punjab Land Revenue Act ⁵ or the Punjab Tenancy Act, 1887 ² shall be so construed as to vary or invalidate any condition entered in any statement of conditions issued by the ¹[State Government], and in particular shall not be so construed as to limit successions to tenancies otherwise than as provided in such statement of conditions.

8. Amendment of section 136(1) of the Punjab Land Revenue Act⁵.—Section 136(1) of the Punjab Land Revenue Act, 1887 ⁵, shall be amended by inserting after the words “Under section 49”, the words “or any Revenue Officer in a colony”.

9. Application of Chapter IV of Land Revenue Act, 1887 ⁵, to certain village sites.—Notwithstanding anything in section 4 of the Punjab Land Revenue Act, 1887 ⁵, the provisions of Chapter IV of that Act shall apply to all village sites in a colony.

1. Subs. for the expression “Central Government” (which was subs. for “State Government” by A.O. 1968) by A.O. 1973. The word “State” was subs. for the word “Provincial” by Adaptation of Laws Order, 1950.

2. Repealed and replaced by H.P. Tenancy and Land Reforms Act, 1972 (8 of 1974),

3. Subs. for the words “Government tenants” by Government of India (Adaptation of Indian Laws) Order, 1937.

4. Subs. for the word “Crown” by Adaptation of Laws Order, 1950.

5. Repealed and replaced by H.P. Land Revenue Act, 1953, *vide* H.P. Act No. 21 of 1976.

CHAPTER II

PROVISIONS RELATING TO TENANTS

10. Issue of statements of conditions of tenancies.—(1) The ¹[State Government] may grant land in a colony to any person on such conditions as it thinks fit.

(2) The ¹[State Government] may issue a statement or statements of the conditions on which it is willing to grant land in a colony to tenants.

(3) Where such statements of conditions have been issued, the Collector may, subject to the control of the Financial Commissioner, allot land to any person, to be held subject to such statement of conditions issued under subsection (2) of this section, as the Collector may by written order declare to be applicable to the case.

(4) No person shall be deemed to be a tenant or to have any right or title in the land allotted to him until such a written order has been passed and he has taken possession of the land with the permission of the Collector. After possession has been so taken, the grant shall be held subject to the conditions declared applicable thereto.

11. Legal effect of statements of conditions.—Subject to the provisions of this Act, the grant of any tenancy in accordance with any statements of conditions which have been or may hereafter be issued by the ¹[State Government] under the Government Tenants (Punjab) Act, 1893, or under this Act shall be deemed to be transfer of a land within the meaning of the Government Grants Act, 1895, and shall be governed by the provisions of the said Act.

12. Temporary absence.—Any condition included in any statement of conditions which imposes an obligation of residence shall not be deemed to have been infringed by reason only of the temporary absence of a tenant who has established a permanent residence in the estate in which his holding is situated.

13. Entries in record-of-rights or in annual record to be equivalent to entries in register issued under Act, III of 1893.—Where in any statement of conditions issued before the commencement of this Act reference is made to any register prescribed under the Government Tenants (Punjab) Act, 1893, then the record-of rights or the annual record shall, so far as may be, be deemed to be such a register.

14. Position of tenant holding hitherto under Act III of 1893.—Any

1. Subs for the expression "Central Government" which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for the word "Provincial" by Adaptation of Laws Order, 1950.

CHAPTER III

PROVISIONS RELATING TO PROPRIETORS

30. Acquisition of proprietary rights.—Notwithstanding anything entered in any statement of conditions issued under the Government Tenants (Punjab) Act, 1893, a tenant who, either in pursuance of any such condition or otherwise by agreement with, or under rules issued by the ¹[State Government], has acquired proprietary right in any land included in his tenancy shall in respect of such land cease to be subject to any statement of conditions issued under the above mentioned Act; Provided always that he shall in respect of such land be bound by the conditions set out in schedule II of this Act and be bound by the other provisions of this Act applicable to proprietors of land.

²[30-A. Rights of alienation in respect of, and rule of succession to, certain proprietary rights acquired by a female.—(1) Notwithstanding any custom and the provisions of any law to the contrary, when after the commencement of the Colonization of Government Lands (Punjab) (Amendment) Act, 1944, proprietary rights in any land are acquired by a female tenant, her rights of alienation of any such land shall be the same:—

- (a) if she succeeded to the tenancy directly or indirectly from a male tenant, as if the proprietary rights had been acquired by the last male tenant, and she had succeeded to such rights as his heir; and
- (b) if the tenancy was first allotted on account of some male person, either to her, or to another female to whom she succeeded either directly or in a continuous line of female succession, as if the proprietary rights, had been acquired by such male person and she had succeeded to such rights as his heir,

and in cases falling under clause (a) or clause (b) in the event of such female proprietor dying while in possession of the proprietary rights in question, the said rights shall devolve upon the person who would be entitled to succeed, if such rights had been acquired by the last male tenant, or the male person on whose account the tenancy was first allotted, as the case may be.

(2) Nothing herein contained shall be construed to alter the law of succession applicable to any female tenant, in respect of proprietary rights in land acquired by her, if the tenancy in such land was acquired by or accrued to her in circumstances other than those specified in sub-section (1).

(3) For the purposes of this section the expression “any such land” shall be deemed to include any land obtained in exchange for part or all of the land in which proprietary rights have been acquired.]

1. Subs. for the expression “Central Government” by A.O. 1968, by A.O. 1973. The word “State” was subs. for the word “Provincial” by Adaptation of Laws Order, 1950.

2. Added by Punjab Act VI of 1944, Sec. 3.

CHAPTER IV

SUPPLEMENTARY PROVISIONS

31. Mares, camels, or their progeny maintained under prescribed conditions not to be attached or sold.—No mare or camel or other animal maintained in accordance with any prescribed statement of conditions and no progeny, if less than eighteen months old, of any mare or camel so maintained, shall be liable to attachment or sale in execution of any decree.

32. Power of re-entry in case of squatters and trespassers.—When the Collector is satisfied that any person has taken or is in possession of land in a colony to which he has no right or title, the Collector may, in addition to any other powers he may possess, forthwith re-enter upon the land and resume possession of it and take possession of all crops, trees and buildings thereon on behalf of the ¹[Government] without payment of any compensation whatsoever.

33. Penalties.—If any person, without permission of a Revenue Officer of a grade to be specified by the ²[State Government] —

- (a) clears or breaks up for cultivation, or cultivates any land which is owned by, or is in the possession of the ¹[Government] and is not included in any tenancy or allotted residential enclosure or which has been set apart for the common purposes of a town or village community or section of the same or for a road, canal or watercourse; or
- (b) erects any building on any such land; or
- (c) fells or otherwise destroys standing trees on such land; or
- (d) otherwise encroaches on any such land; or
- (e) makes an excavation or constructs a water channel on any such land;

he shall, on complaint made by order of or under authority from the Collector, be punished on conviction ³[* * * *] with a fine not exceeding Rs. 200.

Explanation.—The felling of trees planted by an owner or tenant on any village road or water-course traversing his holding is not an offence under this section.

1. Subs. for the word "Crown" by Adaptation of Laws Order, 1950.

2. Subs. for the expression "Central Government" by A.O. 1968, by A.O. 1973. The word "State" was subs. for the word "Provincial" by Adaptation of Laws Order, 1950.

3. The words "by any Magistrate" omitted by Punjab Act No. 25 of 1964.

34. Additional powers of Collector in regard to offences.—When the Collector is satisfied that an act punishable under section 33 has been committed, he may in lieu of proceeding against the offender under that section or after conviction of the offender under that section :—

- (i) in the case of an offence under section 33 (a), confiscate the crops growing on any land cultivated in contravention of this Act or, if the crops have been cut, recover such sum as he may assess as the value thereof from the offender ;
- (ii) in the case of an offence under section 33(c), recover such sum as he may assess as the value of the trees or tree destroyed;
- (iii) in the case of an offence under section 33 (b) (d) or (e), cause the building or other encroachment to be demolished or removed or the excavation or channels to be filled up and levy the costs of so doing from the person responsible for such act.

35. Power to levy a cess for administration of common village expenses.—

(1) If in any estate the majority of the tenants and owners of the estate shall apply for the levy of a cess for village purposes, the Collector may order the payment of such a cess from the proprietors, tenants and inhabitants of the village in such way and at such rates as he holds to be suitable.

(2) Any cess leviable under this section shall be recoverable by suit under section 77 (3) (j) of the Punjab Tenancy Act, 1887 (XXI of 1887)².

36. Jurisdiction of Civil Court barred as regards matter arising under the Act.—A Civil Court shall not have jurisdiction in any matter of which the Collector is empowered by this Act to dispose, and shall not take cognizance of the manner in which the ¹[State Government] or Collector or any other Revenue Officer exercises any power vested in it or in him by or under this Act.

37. Public servants indemnified for acts done under this Act.—No suit shall lie against any public servant for anything done by him in good faith under this Act.

38. Legalization of orders passed previous to the Act.—(1) Any act hitherto done or order passed by the ¹[State Government] or by an officer holding the post of Colonization Officer, Assistant Colonization Officer or Settlement Commissioner, or exercising the powers of an Assistant Collector or of a Revenue Officer of higher class within any area to which the Government Tenants (Punjab) Act, 1893, has been applied or to which this Act may hereafter be applied, which is not contrary to the provisions of this Act shall be deemed to have been done or passed under this Act.

1. Subs. for the expression, "Central Government" (which was subs. for "State Government" by A.O. 1968) by A.O. 1973. The word "State" was subs. for the word "Provincial" by Adaptation of Laws Order, 1950.

2. This Act has been repealed and replaced by H.P. Tenancy and Land Reforms Act, 1972 (8 of 1974).

(2) In particular and without prejudice to the generality of the foregoing sub-section, no right of occupancy or right of ownership and no condition applicable thereto shall be invalidated by reason of—

- (i) the right having been granted before the particulars regarding it have been entered in a prescribed register ; or
- (ii) the prescribed register not having been signed by the tenant ; or
- (iii) the prescribed statement of conditions having been affixed to the prescribed register instead of being prefixed thereto :

Provided that if the register has not been signed by the tenant, the statement of conditions applicable to the tenancy shall be deemed to be that which was in force for tenancies of the same description at the time when the land was allotted.

¹[SCHEDULE I]

SCHEDULE II

(Referred to in section 30).

Conditions applicable to grantees who acquire proprietary right.

1. Exceptions of channels, rights to minerals, etc.—The ²[Government] does not grant to the grantee but hereby absolutely excepts and reserves to itself out of and in respect of the said lands (1) all grounds situate in the said lands or any part thereof already marked out, excavated or otherwise utilized for the distributary channels, and (2) all existing rights to and over all mines and minerals, coals, gold-washings, earth-oil and quarries in or under the said lands or any part thereof, together with all easements heretofore enjoyed by the ²[Government] in respect of the said lands or any part thereof. And it likewise excepts and reserves the right of the public to use existing thoroughfares traversing the said lands or any part thereof including a width of $1\frac{1}{2}$ *Kadams* on either side of survey base line, and also any lines of road which though not yet made, have been marked out upon the ground.

2. Power of Government entry to search for minerals, etc.—The grantee shall at all times permit the officers of the ²[Government] to enter and do all acts and things that may be necessary and expedient for the purpose of searching for, working, getting or carrying away any such mines and minerals, coals, gold-washings, earth-oil and quarries, and for the full enjoyment of the ground and of the rights herein before reserved to the ²[Government] to and over all mines and minerals, coals, gold-washings, earth-oil, quarries and easements in or under the said lands and all parts thereof.

1. Schedule I omitted by Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

2. Subs. for the word "Crown" by Adaptation of Laws Order, 1950.

3. Compensation for damage by entry.—The ¹[Government] agrees to pay the grantees compensation for all damages occasioned by the exercise of the rights reserved to itself in clauses 1 and 2. Such compensation shall be assessed by the Collector, and if the grantee is not satisfied with the finding of the Collector, he may appeal to the Commissioner.

4. Demarcation of boundaries.—The grantee shall duly comply with such directions as the Collector shall from time to time issue requiring him to construct boundary marks on the limits of the said land or any part thereof, and shall keep them when erected in good repair to the satisfaction of the Collector.

5. Arbitration.—In the event of any dispute arising between the ²[State Government] and the grantee as to the property and rights hereby reserved, to the ³[Government], or as to any matter in any way relating thereto, or as to any of the conditions of the grant, or as to any matter or thing any-wise connected therewith, the said dispute shall be referred for the opinion of the Commissioner whose decision shall be final and conclusive between the State Government and the grantee.

**THE COLONISATION OF GOVERNMENT LANDS (PUNJAB)
(HIMACHAL PRADESH REPEALING) ACT, 1984**

(Act No. 11 of 1984)¹

ARRANGEMENT OF SECTIONS

SECTIONS:

1. Short title and commencement.
2. Repeal of the Colonisation of Government Lands (Punjab) Act, 1912.

(Received the assent of the Governor, Himachal Pradesh on the 23rd May, 1984 and was published in Hindi and in English in R.H.P. Extra., dated the 1st June, 1984 at p. 942—943).

[Authoritative English text of the Sarkari Bhumi Ka Upniveshan. (Punjab) (Himachal Pradesh Nirsen) Adhiniyam 1984].

An Act to repeal the Colonisation of Government Lands (Punjab) Act, 1912 (Act No. 5 of 1912).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-fifth Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Colonisation of Government Lands (Punjab) (Himachal Pradesh Repealing) Act, 1984.

(2) It shall come into force at once.

2. Repeal of the Colonisation of Government Lands (Punjab) Act, 1912.—The Colonisation of Government Lands (Punjab) Act, 1912 (5 of 1912), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), is hereby repealed :

Provided that such repeal shall not affect—

- (a) any previous operation of the Act so repealed or anything duly done or suffered thereunder ; or
- (b) any right, privilege, obligation or liability acquired accrued or incurred under the Act so repealed ; or
- (c) any investigation legal proceedings or remedy in respect of any such right, privilege, obligation or liability as aforesaid ;

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced as if this Act had not been passed.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For the Statement of Objects and Reasons see. R.H.P. Extra., dated the 4th April 1984, p. 590