



The Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972

Act 12 of 1973

Keyword(s):

Public Premises, Rent, Unauthorised Occupation

Amendments appended: 29 of 1981, 6 of 2004

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.



The Gujarat Government Gazette EXTRAORDINARY PUBLISHED BY AUTHORITY

Vol. XIV]

TUESDAY, JUNE 26, 1973/ASADHA 5, 1895

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the president on the 15th June, 1973, is hereby published for general information.

S. S. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 12 OF 1973.

(First published, after having received the assent of the president in the "Gujarat Government Gazette" on the 26th June, 1973).

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

It is hereby enacted in the Twenty-third Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

Short title, extent and commencement.

Definitions.

2. In this Act, Unless the context otherwise requires,-

(a) "Competent Officer" means an officer appointed as such by the State Government under Section 3;

(b) "corporate authority" means any Municipal Corporation, Municipality, Panchayat or other Corporation referred to in clause (f) of this section ;

(c) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to the earth or permanently fastened to anything attached to the earth;

(d) "premises" means any land or any building or part of a building and includes;

(i) the garden, grounds and outhouses, if any, appertaining to such 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) "prescribed" means prescribed by rules made under this Act;

(f) "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 Municipal Corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949 or any Municipality constituted under the Gujarat Municipalities Act, 1963; Bom. LIX of 1949. Guj. 34 of 1964.

(ii) a panchayat constituted under the Gujarat Panchayats Act, 1961; and Guj. VI of 1962.

(iii) any Corporation (not being a company as defined in section 3 of the Companies Act, 1956) established by or under a Central or State Act and owned or controlled by the State Government; I of 1956.

(g) "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 called) payable in respect of the premises, where such charge or tax is payable by the State Government or the Corporate authority;

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

3. The State Government may, by notification in the *Official Gazette*,—

Appoint-
ment of
Competent
officers.

(a) appoint such persons, being gazetted officers of Government or officers of equivalent rank of the corporate authority, as it thinks fit, to be competent officers for the purposes of this Act; and

(b) define the local limits within which, or the categories of public premises in respect of which, the competent officers shall exercise the powers conferred, and perform the duties imposed, on competent officers by or under this Act.

4. If the competent officer is satisfied—

Issue of
notice to
show cause
against
order of
eviction.

(a) that the person authorised to occupy any public premises has—

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(ii) sub-let, without the Permission of the State Government or, as the case may be, the corporate authority, the whole or any part of such premises, or

(iii) Committed, or is committing such acts of waste as are likely to diminish materially the value, or impair substantially the utility, of the premises, or

(iv) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any public premises, or

(c) that any public premises are required for any other purpose of the State Government, or, as the case may be, the corporate authority to whom such premises belong,

the competent officer shall, notwithstanding anything contained in any other law for the time being in force 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 may be specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The competent officer shall cause the notice to be served by post or 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) Where the competent officer 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.

(5) If any person makes an application to the competent officer for extension of the period specified in the notice, the competent officer may grant the same on such terms as to payment and recovery of the amount claimed in the notice, as it deems fit.

Eviction of unauthorised occupants:

5. (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, by himself, or by advocate, attorney or pleader, the competent officer is satisfied that any of the reasons specified in sub-section (1) of section 4 exists, the competent 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; and there upon the order shall be deemed to have been duly served on all the persons concerned.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its service under sub-section (1), the competent officer or any other officer duly authorised by the competent officer 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.

(3) Notwithstanding anything contained in sub-section (2), where a person who has been ordered to vacate any public premises for the reasons specified in sub-clause (i) or (iv) of clause (a) of sub-section (1) of section 4 pays to the competent officer the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent officer as the case may be, within one month, of the date of service of the notice or such longer time as the competent officer may allow, the competent officer shall, in lieu of evicting such person under sub-section (2), cancel his order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Disposal of property left on public premises by unauthorised occupants.

6. (1) Where any persons have been evicted from any public premises under section 5, the competent 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. Such notice shall be served in the manner provided for service of notice under sub-section (3) of section 4.

(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 State Government or the corporate authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the competent officer to be entitled to the same:

Provided that where the competent officer 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. (1) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 4, where any person is in arrears of rent payable in respect of any public premises, the competent officer may, by issuing a notice to him, require that person to pay the same within such time, not less than ten days, and in such instalments as may be specified in the notice.

Power to require payment of rent or damages, in respect of public premises.

(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises, the competent 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 instalments as may be specified in the order.

(3) No order under 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 competent officer.

(4) The notice under sub-section (1) or (3) shall be served in the manner provided for service of notice under sub-section (3) of section 4.

8. A competent 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:-

V of 1908.

Power of competent officers.

- (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.

9. (1) An appeal shall lie from every order of the competent officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer in that district who has for at least ten years held a Judicial office in the state 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 fifteen days from the date of the service 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 fifteen days from the date on which the order is communicated to the appellant;

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen 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 competent officer, the appellate officer 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 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 the principal Judge of the Ahmedabad City Civil Court shall be deemed to be the district judge of the district, and the City of Ahmedabad shall be deemed to be a district.

Finality of
order.

10. Save as otherwise expressly provided in this Act, every order made by a competent 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.

Offences and
penalty.

11. (1) Any person who obstructs the lawful exercise of any power conferred by or under this Act shall, on conviction, be punished with fine which may extend to one thousand rupees.

(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 one 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 such person shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

Power to
obtain
information.

12. If a competent officer has reason to believe that any persons are in unauthorised occupation of any public premises or have committed any of the acts specified in clause (a) of sub-section (1) of section 4, the competent 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.

Liability of
heirs and
legal
representatives.

13. (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 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 corporate 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. 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 corporate authority under sub-section (5) of section 9 or any portion of such rent, damages or costs, within the time, if any, specified, therefor in the order relating thereto, the competent officer may issue a certificate for the amount due, to the Collector who shall proceed to recover the same as an arrear of land revenue.

15. (1) Without prejudice to any other provision of this Act, where any person to whom any public premises have been allotted is—

(a) an employee of the State Government or of a corporate authority, or

(b) an employee of a local authority, other than a corporate authority, who has executed an agreement as provided in sub-section (2),

and is in arrears of rent payable in respect of such public premises, the amount of rent in respect of such premises shall, on a requisition in writing made in that behalf by the competent officer be liable to be deducted from the salary or wages payable to such person. On receipt of such requisition the head of the department or office of the State Government, corporate authority, or as the case may be, local authority under whom such person is employed, shall deduct from the salary or wages payable to such person the amount specified in the requisition, and pay the amount so deducted to the competent officer in satisfaction of the amount due as aforesaid.

(2) An employee of a local authority other than a corporate authority, who is allotted any public premises may execute an agreement in favour of the State Government, or, as the case may be, the corporate authority to whom such premises belong, providing that the local authority by or under whom he is employed shall be competent to deduct from time to time from the salary or wages payable to him such amount as is specified in the agreement, and to pay the amount so deducted to the competent officer in satisfaction of any amount due by him in respect of the public premises allotted to him.

16. No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person on the ground that he is in unauthorised occupation of any public premises or for any other reason specified in sub-section (1) of section 4, or the recovery of 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 Corporate authority under sub-section (5) of section 9 or any portion of such rent, damages or costs.

17. No suit, prosecution or other legal proceeding shall lie against the State Government or the corporate authority or the appellate officer or the competent 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.

Power to
make rules.

18. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, 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 be made to provide for all or any of the matters, expressly required or allowed by this Act to be prescribed by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Repeal,
saving and
validation.

19. The Bombay Government Premises (Eviction) Act, 1955 and any other corresponding law providing for the eviction of occupants from public premises are hereby repealed : Bom.
II of
1956.

Provided that 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 been done or taken under the Act or law hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act, and shall be deemed to be, and to have always been, as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act, as if this Act had been in force when such thing was done or such action was taken.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXII] SATURDAY, SEPTEMBER 19, 1981/BHADRA 28, 1903

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinance promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the President on the 2nd September, 1981 is hereby published for general information.

K. M. SATWANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 29 OF 1981

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 19th September, 1981).

An Act further to amend the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972 for certain purposes.

It is hereby enacted in the Thirty-second Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Public Premises (Eviction of Unauthorised Occupants) (Amendment) Act, 1981. Short title:—

Amendment
of section 2
of Guj. 12 of
1973.

2. In the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, Guj. 12 of 1973, in section 2, in clause (f),—

- (a) in sub-clause (ii), the word "and" occurring at the end shall be deleted;
- (b) in sub-clause (iii), the word "and" shall be added at the end; and
- (c) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iv) any University established or incorporated by or under any law in the State of Gujarat or any institution recognised by the University Grants Commission or declared by the Central Government to be a University, in accordance with the provisions of clause (f) of section 2 or of section 3, as the case may be, of the University Grants Commission Act, 1956." Act III of 1958.



सत्यमेव जयते

The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XLV]

SATURDAY, MARCH 6, 2004/ PHALGUNA 16, 1925

Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, Having been assented to by the Governor on the 4th March, 2004 is hereby published for general information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 6 OF 2004.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 6th March, 2004).

AN ACT

further to amend the Gujarat Public Premises (Eviction of
Unauthorised Occupants) Act, 1972.

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Public Premises (Eviction of Unauthorised Occupants)(Amendment) Act, 2004. Short title.

Amendment of
section 2 of
Guj. 12 of 1973.

2. In the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972, in section 2, in clause (f),-

- (a) in sub-clause (iii), the word "and" occurring at the end shall be deleted;
- (b) in sub-clause (iv), the word "and" shall be added at the end; and
- (c) after sub-clause (iv), the following sub-clause shall be inserted, namely:-

"(v) a public trust registered under the Bombay Public Trust Act, 1950, as the State Government may, by notification in the *Official Gazette*, declare the premises of such trust to be of national importance or historical interest."

Guj. 12 of
1973.

Bom. 29 of
1950.