

Bill Summary

The Enemy Property (Amendment and Validation) Second Bill, 2010

- The Enemy Property (Amendment and Validation) Bill, 2010 was introduced in the Lok Sabha on November 15, 2010 by the Minister for Home Affairs Shri P. Chidambaram. The Bill seeks to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
- The Principal Act defines “enemy” as a person or country which was an enemy under the Defence of India Rules, 1962. “Enemy property” is any property for the time being belonging to or held or managed on behalf of an enemy. These properties are vested in the Custodian of Enemy Property, appointed under the Act.
- The Bill states that enemy property shall continue to vest in the custodian irrespective of the death or extinction of the enemy. The custodian shall retain custody whether or not the heir of the enemy is an Indian citizen.
- The custodian can by order declare that such property vests in him and issue a certificate stating the same. The certificate shall be evidence of the property vesting in the custodian.
- The Act gives the central government the power to declare a transfer of enemy property void on certain grounds., such as: (i) a transfer made through oral will or gift, (ii) transfer made by concealment of enemy nationality, (iii) a transfer made without the permission of competent authorities such as the Reserve Bank of India if such permission is required, and (iv) without the permission of the custodian.
- The Bill makes certain additions to the power of the custodian. (a) The custodian can sell any immovable property vested in him. (b) The certificate of sale will be valid and conclusive proof of ownership of such property.
- Under the Act, the Central Government may direct the Custodian to divest enemy property to the owner or any other specified person. The Bill amends the Act such that the Central Government may direct the Custodian to divest enemy property only to the owner or lawful heir (if the owner is dead). The heir must provide proof through a succession certificate or similar declaration from a court of law.
- The Bill provides that any enemy property which was divested from the Custodian shall be re-vested in the Custodian unless the divestment was made by an order of the Central Government. If a property was divested through a court order, the owner or heir may retain the property only by furnishing proof to the satisfaction of the Central Government that he is (a) a citizen of India by birth, and (b) owner or heir to the property under legal succession laws.
- The Bill bars courts from ordering the divestment of enemy property vested in the custodian. The court cannot direct the central government to divest such property from the custodian either. However, courts can decide whether the property in question is enemy property or not.
- The Bill states that the amendments made in the Bill shall be deemed to be applicable from the date of enactment of the Act.

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