



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVIII] THURSDAY, FEBRUARY 16, 2017/MAGHA 27, 1938

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

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT VALIDATION OF OCCUPANCY AND ALLOTMENT OF CERTAIN LANDS OF EXCESS VACANT LAND VESTED IN THE STATE GOVERNMENT (UNDER THE URBAN LAND (CEILING AND REGULATION) ACT, 1976) BILL, 2017.

GUJARAT BILL NO. 9 OF 2017.

A BILL

to provide for validation of occupancy and allotment of certain lands of excess vacant land vested in the State Government under sub-section (3) of section 10 of the Urban Land (Ceiling and Regulation) Act, 1976 and whose possession had been taken over by the State Government prior to the 30th March, 1999 and for the matters connected therewith or incidental thereto.

WHEREAS the Government of India had enacted the Urban Land (Ceiling and Regulation) Act, 1976 to provide for the imposition of a ceiling on vacant land in urban agglomerations and for the acquisition of such land in excess of the ceiling limit; 33 of 1976.

AND WHEREAS in view of sub-section (2) of section 1 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, the said Repealing Act shall apply to any other State from the date on which the Legislature of the State adopts the Act by passing a resolution in that behalf under clause (2) of article 252 of the Constitution of India; 15 of 1999.

AND WHEREAS the Gujarat State Legislature had adopted the said Repealing Act, 1999 by resolution on *the* 30th March, 1999 and thus it has come into force in the State of Gujarat with effect from the 30th March, 1999;

AND WHEREAS the Urban Land (Ceiling and Regulation) Act, 1976 Act has thus been repealed by the Urban Land (Ceiling and Regulation) Repeal Act, 1999 with effect from the 30th March, 1999; 33 of 1976. 15 of 1999.

AND WHEREAS before the repeal of the said Act of 1976, certain excess vacant lands have been vested in the State Government under the provisions of the said repealed Act ;

AND WHEREAS the State Government is required to allot such surplus excess land vested in it in the manner as provided in the said repealed Act;

AND WHEREAS the residential structures had already come up on such excess vacant land the possession of which had been taken over by the State Government prior to the 30th March, 1999;

AND WHEREAS the persons belonging to the lower economic strata of the society in the urban agglomerations have been in occupancy of the residential structures and as such are in the occupation of such excess vacant lands;

AND WHEREAS the State Government is of the view that it will cause great hardship to such occupants if steps are taken to remove them from such occupancy;

AND WHEREAS the State Government is committed to furthering equitable distribution of land in the urban agglomerations for the benefit of the economically weaker sections of the society;

It is hereby enacted in the Sixty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Validation of Occupancy and Allotment of Certain Lands of Excess Vacant Land Vested in the State Government (under the Urban Land (Ceiling and Regulation) Act, 1976) Act, 2017.

Short title and commencement.

(2) It shall be deemed to have come into force on the 15th December, 2016.

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

Bom. LIX
of 1949.

(a) "Corporation" means the Municipal Corporation as defined by clause (10) of section 2 of the Gujarat Provincial Municipal Corporations Act, 1949;

Definitions.

(b) "excess vacant land" means the land vested in the State Government the possession of which has been taken over by the State Government under the repealed Act before the 30th March, 1999;

(c) "occupant" means the person who is in occupation of the residential structure constructed on the excess vacant land from or prior to 1st January, 2011 till the date of coming into force of this Act and includes such person who as a result of a transaction or transactions during the period commencing from 1st January, 2011 and ending on 31st May, 2016 is in occupation of such structure on the date of coming into force of this Act;

(d) "occupancy price" means such sum of money as notified by the State Government which the occupant is obliged to pay for validating the occupancy;

(e) "prescribed" means prescribed by rules made under section 15;

(f) "repealed Act" means the Urban Land (Ceiling and Regulation) Act 1976;

(g) "residential structure" means an abode of any type on the excess vacant land used by the occupant for the purpose of personal habitation and includes any appurtenant livelihood activities within the said structure;

33 of 1976.

(h) "State Government" means the Government of Gujarat.

Validation of
Occupancy
and
Allotment of
Excess
Vacant
Land.

3. Notwithstanding anything contained in any other law or in any judgment, decree or order of any competent Court, the State Government may validate the occupancy and allot certain lands of the excess vacant land vested in it, whose possession was taken over under the repealed Act in the manner as provided hereinafter.

Application
for
Validation of
Occupancy
of Land and
Allotment
thereof.

4. The occupant of the residential structure shall, for the purpose of validation of his occupancy of land and allotment thereof, make an application, in the prescribed form along with such fee as may be prescribed towards the occupancy price as may be determined by the State Government in this behalf, to the Mamlatdar within a period of three months from the date of coming into force of this Act or within such time as may be extended by the State Government by an order, from time to time.

**Documents
to be
submitted
with
Application.**

5. (1) The occupant shall, alongwith his application shall submit a copy of notice given to him under sections 61 and 202 of the Gujarat Land Revenue Code, 1879 Bom. V of 1879. and the orders thereunder, if any.

(2) The occupant shall, in order to claim the occupancy, submit alongwith his application of the oldest possible origin, any one or more of the following documents, namely:-

- (i) Ration Card;
- (ii) Aadhaar Card;
- (iii) Passport;
- (iv) Driving Licence;
- (v) Voter ID card;
- (vi) Electricity bill;
- (vii) Property tax bill;
- (viii) Water Charges bill;

Provided that the occupant, may in support of his claim of his occupancy, also submit the copy of the sale deed or agreement for sale or an instrument for possession, if any.

(3) The occupant shall, for the purpose of his identity, submit alongwith his application any one or more of the following documents, namely:-

- (i) PAN card;
- (ii) Aadhaar card;
- (iii) Passport;
- (iv) Driving License;
- (v) Voter ID card.

6. The Mamalatdar shall, after receiving the application under section 4, issue a notice in such form as may be prescribed inviting thereby the objections from any person within a period of one month from the date of such notice with regard to the claim of occupancy made by the occupant.

**Notice for
Inviting
Objections by
Mamalatdar.**

7. (1) In case where the objections have been received pursuant to the notice under section 6, the Mamalatdar shall consider the same and after giving an opportunity of being heard to all concerned and considering the claims made by them, may either grant the application of the occupant or reject the same.

**Decision of
Mamalatdar.**

(2) In case where the occupant's application is not rejected under sub-section (1) and the Mamalatdar is satisfied about the genuineness of the claim of the occupant in respect of the residential structure taking into consideration the relevant documents, he shall issue a notice to the occupant directing thereby him to make the remaining payment towards the occupancy price for the purpose of validation of occupancy and allotment of the excess vacant land:

Provided that for arriving at such satisfaction as referred to above, the Mamalatdar may also take into consideration any data of house to house survey carried out by either the Central Government or the State Government, as the case may be, old records of Ration card and Electoral roll or any other document or documents, as he deems fit, which may be available in his office or in any other public office.

(3) The occupant shall, within a period of one month of the receipt of the notice under sub-section (2), make the necessary payment as envisaged in the notice, failing which his application shall be deemed to have been rejected.

(4) After the necessary payment as provided under sub-section (3) is made, the Mamalatdar shall pass an order, in such form as may be prescribed, of validation of occupancy and allotment of the excess vacant land in the manner and subject to such conditions as the State Government may prescribe.

Bar of transfer of allotted land.

8. No occupant in whose favour an order is made under sub-section (4) of section 7 for allotment of land or his heirs shall transfer such land before the expiry of fifteen years from the date of such order.

Consequences in the event of failing to make an application.

9. In case where the occupant of any residential structure fails to make an application as provided under section 4 within the prescribed time limit, the occupant shall be removed from such residential structure and the Mamalatdar shall take the possession of the same treating the residential structure as the encroachment on the excess vacant land in the manner as laid down under the provisions of the Gujarat Land Revenue Code, 1879.

Bom. V of 1879.

Appeal.

10. (1) Any person making a claim including the occupant, being aggrieved by any order of the Mamalatdar passed under sub-section (4) of section 7, may prefer an appeal before the Appellate Officer within a period of sixty days from the receipt of such order:

Provided that if the Appellate Officer is satisfied that such person was prevented from preferring an appeal within the prescribed time limit for sufficient cause, he may entertain the appeal even after such prescribed time limit but not exceeding six months:

Provided further that in case where appeal is preferred by any person or the occupant, the same shall not be entertained unless the payment is made as is determined by the State Government under section 4 while making an application by the occupant.

(2) The State Government may appoint, by notification in the *Official Gazette*, as many Deputy Collectors as the Appellate Officers for different areas or for part of any area as it may deem necessary.

(3) The Appellate Officer shall, after affording an opportunity of being heard to such person, may confirm, revise or dismiss the order against which the appeal is preferred.

11. (1) Any person, including the occupant, being aggrieved by any order of the Appellate Officer made under sub-section (3) of section 10, may prefer revision application before the Special Secretary, Revenue Department (Appeal) within a period of sixty days of such order and his decision shall be final: **Revision.**

Provided that in case where the revision application is preferred by any person or the occupant, the same shall not be entertained unless the payment is made as is determined by the State Government under section 4 while making an application by the occupant.

(2) The Special Secretary, Revenue Department (Appeal) may constitute the special benches at Surat, Vadodara and Rajkot for entertaining the applications made under sub-section (1).

12. No Civil Court shall have any jurisdiction to deal with or decide any question which the Mamalatdar, the Appellate Officer or the Revision Authority is empowered to deal with or decide by or under this Act and no injunction shall be granted by any Civil Court in respect of any action taken or to be taken in pursuance of any power by or under this Act. **Bar of Jurisdiction of Civil Court.**

13. Any payment made as provided under section 4 by the occupant along with the application or any payment made under section 10 for preferring an appeal or for preferring revision application under section 11 shall be refundable in case where the application, or the appeal or the revision application is rejected or dismissed, as the case may be. **Payment under sections 4, 10 and 11 to be refundable.**

Indemnity. 14. No suit or other legal proceedings shall lie against the State Government or any officer of the State Government in respect of anything which is in good faith done or intended to be done by or under this Act.

Power to make rules. 15. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out all or any of the purposes of this Act.

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

(3) Any recession or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to remove difficulties. 16. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

Repeal and savings. 17. (1) The Gujarat Validation of Occupancy and Allotment of Certain Lands of Excess Vacant Land Vested in the State Government (under the Urban Land (Ceiling and Regulation) Act, 1976) Ordinance, 2016 is hereby repealed. **Guj. Ord. 6 of 2016.**

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The Government of India had enacted the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976) to provide for the imposition of a ceiling on vacant land in urban agglomerations and for the acquisition of such land in excess of the ceiling limit. In view of sub-section (2) of section 1 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, the said Repealing Act shall apply to any other State from the date on which the Legislature of the State adopts the Act by passing the resolution in that behalf under clause (2) of article 252 of the Constitution of India. The Gujarat State Legislature had adopted the said Repealing Act, 1999 by a resolution on the 30th March, 1999 and thus it came into force in the State of Gujarat with effect from the 30th March, 1999. The Urban Land (Ceiling and Regulation) Act, 1976 had thus been repealed by the Urban Land (Ceiling and Regulation) Repeal Act, 1999 with effect from the 30th March, 1999.

Before the repeal of the said Act of 1976, certain excess vacant lands had vested in the State Government under the provisions of the said repealed Act, the possession of which had been taken over by the State Government. The State Government is required to allot such surplus excess land vested in it in the manner as provided in the said repealed Act. However, in certain cases, the residential structures had already come up before the 30th March, 1999 on such excess vacant land the possession of which had been taken over by the State Government. The average holding size of the excess land occupied by the person concerned is in the range of twenty-five Sq. Mtrs. to seventy Sq. Mtrs. which itself suggests that most of the said persons belong to the weaker sections of the society in the urban agglomerations who have been in occupancy of the residential structures and as such are in the occupation of such excess vacant lands.

The State Government allots the excess vacant land for the intended purpose particularly for housing for the economically weaker sections of the society. However, some of the excess vacant land had constructions, and therefore, the possession of such lands was taken along with constructions, such lands could not be allotted for the intended purpose since the said lands had constructions mostly residential and in some cases industrial and commercial in nature.

The said occupants, particularly residential occupants have an infirm title over these lands and hence are unable to access the formal financial system for the purpose of credit, up-gradation and expansion of their housing requirements. Therefore, this form of residential housing is slowly dilapidating over the time and this is causing a grave risk to public health. In addition, the occupants are also

living under the threat of dispossession, further deepening sense of vulnerability among the lower economic strata.

On the other hand, the State Government has adopted a policy of providing housing at affordable prices for the lower and middle class of the society so as to bring about an overall improvement in the standard of living and for rehabilitation of slums and poor housing stock in urban areas. While the encroachment for residential purposes on Government and private lands classified as slums have the benefit of the slum rehabilitation policy, residents on excess vacant lands could not benefit from the policies for up-gradation of housing for the urban poor and lower middle class. It is, therefore, necessary to afford an opportunity to these residents to validate their occupancy and thus enable them to enjoy the benefit of housing as part of the overall policy to provide housing for all.

The State Government is of the view that it will cause great hardship to such occupants if steps are taken to remove them from such occupancy. The State Government is committed to furthering equitable distribution of land in the urban agglomerations for the benefit of the economically weaker sections of the society.

The State Government has, therefore, decided to validate the occupancy and allot certain lands of these excess vacant land whereon the residential structures have been constructed by the occupants who are in possession of such excess vacant land on the date of coming into force of the Gujarat Validation of Occupancy and Allotment of Certain Lands of Excess Vacant Land Vested in the State Government (under the Urban Land (Ceiling and Regulation) Act, 1976) Ordinance, 2016 in order to mitigate the grave hardships which they may have to otherwise face. Occupancy shall be validated in case where a person who is in occupation of the residential structure constructed on the excess vacant land from or prior to 1st January, 2011 till the date of coming into force of the said Ordinance or who as a result of a transaction or transactions during the period commencing from 1st January, 2011 and ending on 31st May, 2016 is in occupation of such structure on the date of coming into force of the said Ordinance and in view of this, no occupancy shall be validated in case where a person claims to have come into possession of such residential structure on or after 1st June, 2016.

As the Legislative Assembly of the State of Gujarat was not in session, at that time, the said Ordinance was promulgated on 15th December, 2016 to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on *clauses* explain, in brief, the important provisions of the Bill:-

- Clause 1.-** This clause provides for short title and commencement of the Act.
- Clause 2.-** This clause defines certain terms used in the Bill.
- Clause 3.-** This clause provides for validation of occupancy and allotment of certain lands of the excess vacant land vested in the State Government.
- Clause 4.-** This clause provides for making an application for validation of occupancy of excess vacant land and allotment thereof.
- Clause 5.-** This clause provides for submission of the documents along with an application made by an occupant.
- Clause 6.-** This clause provides for issuance of a notice to invite the objections from any person with regard to the claim of the occupancy.
- Clause 7.-** This clause provides for decision of the Mamlatdar on the application made by the occupant for validation of occupancy and allotment of excess vacant land.
- Clause 8.-** This clause provides for bar of transfer of allotted excess vacant land before the expiry of fifteen years from the date of the order of validation of occupancy and allotment of excess vacant land.
- Clause 9.-** This clause provides that the occupant in the possession of the excess vacant land having residential structure shall be removed if he fails to make an application for validation of occupancy within the prescribed time limit; it also provides that the possession of the said land shall be treated as the anchroment on the excess vacant land.
- Clause 10.-** This clause provides for preferring an appeal by any person before the Appellate Officer.
- Clause 11.-** This clause provides for preferring a revision application by any person, before the Special Secretary, Revenue Department (Appeal).
- Clause 12.-** This clause provides for bar of jurisdiction of Civil Court to deal with and decide any question which the Mamlatdar, the Appellate Officer or the Revision Authority is empowered to deal with or decide.
- Clause 13.-** This clause provides that the payment made by the occupant under sections 4, 10 and 11 of the Act shall be refundable in a case when the application, Appeal or Revision application shall be rejected.
- Clause 14.-** This clause provides for usual indemnity for acts done in good faith.
- Clause 15.-** This clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of the Act.
- Clause 16.-** This clause empowers the State Government to remove difficulties arising within a period of two years from the commencement of the Act.

BHUPENDRASINH CHUDASAMA,

FINANCIAL MEMORANDUM

The Gujarat Validation of Occupancy and Allotment of Certain Lands of Excess Vacant Land Vested in the State Government (under the Urban Land (Ceiling and Regulation) Act, 1976) Act, 2017 seeks to provide for validation of occupancy and allotment of certain lands of excess vacant land vested in the State Government under sub-section (3) of section 10 of the Urban Land (Ceiling and Regulation) Act, 1976 and whose possession had been taken over by the State Government prior to the 30th March, 1999. The existing staff of the Department will perform the functions to carry out the objects of the Act. There would not be any financial liability on State exchequer on this count. Therefore, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 4.—This clause empowers the State Government to prescribe by rules, the form of application to be made by the occupant of the residential structure, for validation of occupancy and allotment of excess vacant land as also to prescribe the fee to be paid towards the occupancy price.

Clause 6.—This clause empowers the State Government to prescribe by rules, the form of notice to be issued by the Mamlatdar for inviting objections from any person with regard to the claim of occupancy made by the occupant.

Clause 7.—Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the form of order to be passed by the Mamlatdar, for validation of occupancy and allotment of excess vacant land as also to prescribe the manner in which and the conditions subject to which the order shall be passed.

Clause 10.—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, as many deputy collectors to be the Appellate Officers for different areas or part of any area, as it may deem necessary.

Clause 15.— Sub-clause (1) of this clause empowers the State Government to make the rules, by notification in the *Official Gazette*, to carry out the purposes of the Act.

Clause 16.— This clause empowers the State Government to make provisions not inconsistent with the provisions of the Act, by an order published in the *Official Gazette*, for removing the difficulties that may arise within a period of two years from the commencement of the Act.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Dated the 16th February, 2017.

BHUPENDRASINH CHUDASAMA.

By order and in the name of the Governor of Gujarat,

K. M. LALA,

Gandhinagar,

Secretary to the Government of Gujarat,

Dated the 16th February, 2017.

Legislative and Parliamentary Affairs Department.