

THE JAMMU AND KASHMIR REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1968

(Act No. XXXV of 1968)

[Received the assent of the Governor on 16th October, 1968 and published in Government Gazette dated 19th October, 1968 (Ext.)]

An Act to provide for the requisitioning and acquisition of immovable property for the purposes of the State.

Be it enacted by the Jammu and Kashmir State Legislature in the Nineteenth Year of Republic of India as follows:-

1. Short title, commencement and extent

(1) This Act may be called the Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968.

(2) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

(3) It extends to the whole of the State.

2. Definitions

In this Act, unless the context otherwise requires,-

(a) "award" means any award of an arbitrator made under section 8;

1 Enforced w.e.f. 1-8-1969 by SRO-402, dt. 26-7-1969.

- (b) "competent authority" means any person or authority authorised by the Government by notification in the Government Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;
- (c) "landlord" means any person who for the time being is receiving, or is entitled to receive the rent of any premises, whether on his own account, or on account, or on behalf or for the benefit, of any other person or a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;
- (d) the expression "person interested" in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;
- (e) "premises" means any building or part of a building and includes.-
 - (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building;
 - (ii) any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "property" means immovable property of every kind and includes any rights in or over such property;
- (h) "tenant" means any person by whom or on whose account rent payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property

(1) Where the Government is of the opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the State, it may by an order notify that the property should be requisitioned:

Provided that no property or part thereof-

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- (a) which is bonafide used by the owner thereof as the residence of himself or his family, or
- (b) which is exclusively used either for religious worship by the public or as school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall be notified to be requisitioned.

(2) Upon such declaration the competent authority-

- (a) shall call upon the owner or any other person who may be in possession of the property by notice in writing to show cause, within fifteen days of the date of the service of such notices on him, why the property should not be requisitioned; and
- (b) may, by order, direct that neither the owner of the property nor any other person shall without permission of the competent authority dispose of or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(3) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may by order in writing, requisition the property and may, make such further orders as appear to it to be necessary or expedient in connection with the requisitioning.

Provided that where the requisitioned property consists of premises which are being used as residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (2) possession of the property shall not be taken unless the competent authority has provided such tenant with alternative accommodation which, in its opinion, is suitable.

COMMENTS

Right of holder of Shamilat land — Shamilat landholder has got the same rights in respect of the land as in the proprietary land and if a portion of the same comes under acquisition the landholder is entitled to its compensation in the same manner

as in the case of proprietary land.—*Union of India through Defence Estates Officer, Srinagar v. Mst. Freeni Boga* 2005 (2) JKJ HC-22

Dy. Commissioner Jammu requisitioned land comprised under Khasra no. 167, 168 situated at village Ban-Sultan (R.S. Pura) in terms of section 3 and 4 of the Act — The order was challenged on the grounds that the land was not required for public purpose, no show cause notice under section 3(2) of the Act was served and the petitioners are entitled to ownership rights under LB-6 and S. 432.—*Rajesh Kumar and Ors. v. Union of India and Ors.* 2005 (1) JKJ HC-511

Shamilat land — Shamilat lands are common lands in the villages which in fact were state lands prior to the year 1926 and rights over it subject matter of Boon No. 4 announced by the Maharaja of the State at the Raj Tilak Darbar on 25th February, 1926 which entails to land holders on particular Mahal to have a share in the land declared shamilat pro rata their holding that means they had proprietary right in the land in proportion of the size of their holdings which would hold on common with the other land holders.—*Union of India through Defence Estates Officer, Srinagar v. Mst. Freeni Boga* 2005 (2) JKJ HC-22

The property, which was sought to be taken over for public purpose i.e. for widening of road. The property of writ-petitioner was acquired for the said purpose. The petitioner constructed his house therein and under a package deal the property was taken over and amount of Rs. 8 lacs was settled as compensation and free plots to the resident owner against cash payment besides an amount of Rs. 1.46 lacs as incentive subject to handing over of the possession of land free from all encumbrances to the department before 01-8-1991. This package deal was accepted and deal was complete. Petitioner approached the court after ten years to challenge the deal with the plea that the land was acquired for widening of road but has been utilized for the construction of the shopping complex. The Hon'ble court while dismissing the writ petition has observed — "After acquiring the land under a package deal and under the circumstances indicated herein, it is evident that the property vests with the respondent-State free from all encumbrances. Petitioner ceases to have any lien or claim over the property after having received the sale consideration, compensation both for the land and structure as also incentive. The respondents- were/are at liberty to utilize part of the acquired property for public purpose for which it was acquired or even for any other public purpose." — "The petitioner has absolutely no right to challenge the decision or the acquisition on the ground raised in the writ petition. On other reason to refuse the relief that the petitioner has enjoyed the compensation for a period of ten years and came to challenge the acquisition of property handed over by him voluntarily under a package deal and by a valid sale deed, after a period of ten years."—*S. Naseeb Singh v. State and Others* 2005 (2) JKJ HC-97

Word "for Public Purpose" — meaning thereof. The construction of shopping complex to accommodate Shopkeepers who were uprooted on account of widening

of the road, cannot be said to be alien to Public purpose. Such act was held to be a larger public purpose.--*S. Naseeb Singh v. State and Others 2005 (2) JKJ HC-97*

4. Power to take possession of requisitioned property

(1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any other person duly authorised by it in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. Rights over requisitioned property

Where any premises are requisitioned under section 3 or section 21, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein and if the landlord fails to execute any repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. Release from requisitioning

(1) Subject to the approval of the Government the competent authority may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Provided that where the purposes for which any requisitioned property was being used cease to exist, the property shall, unless it is acquired under section 7, be released, as soon as may be from requisition.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any

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case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successor-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Government Gazette.

(5) When a notice referred to in sub-section (4) is published in the Government Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of army or of a mob or other irresistible force, the requisition shall, at the option of the Government, be void:

Provided that the benefit of this sub-section shall not be available to the Government where the injury to such property is caused by any wrongful act or default of the Government.

COMMENTS

Derequisition of property — Property having been requisitioned at instance of Central Govt. request has to be made by that Govt. under Section 21 — State Govt.

in such case cannot take action under Section 6.—*Zamindaran Committee Kareva v. State of J&K & Ors. 2003 (Sup.1), JKJ HC-251*

7. Power to acquire requisitioned property

(1) Where any property is subject to requisition, the Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Government Gazette a notice to the effect that the Government has decided to acquire the property in pursuance of this section:

Provided that before issuing such notice the Government shall call upon the owner of, or any other person who, in the opinion of the Government may be interested in such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Government Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:-

(a) where any works have, during the period of requisition, been constructed in or over, the property wholly or partially at the expenses of the Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Government under sub-section (3) shall be final and shall not be called in question in any Court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

COMMENTS

Award of interest on amount of compensation by Arbitrator — Act does not provide for either solatium or interest — Arbitrator granting interest @ 18% on amount of compensation disallowed in appeal. (1994) 4 SCC 737, (1996) 6 SCC 44, Rel.—*Parvesh Kumari and Ors. v. State of J&K & Ors. (with Cross Appeal) 2004 (2) JKJ HC-145*

8. Principles and methods of determining compensation

(1) Where any property is requisitioned or acquired under this Act, there shall be given compensation which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say:-

- (a) where the compensation can be fixed by agreement, it shall be given in accordance with such agreement;
- (b) where no such agreement can be reached, the Government shall appoint as arbitrator a person, who is a District Judge or Additional District Judge;
- (c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;
- (d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;
- (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;

- (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;
- (g) nothing in the Jammu and Kashmir Arbitration Act, 2002, shall apply to arbitrations under this section.

(2) The compensation for the requisitioning of any property shall consist of:-

- (a) recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and
- (b) such sum, or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:-
 - (i) pecuniary loss due to requisitioning;
 - (ii) expenses on account of vacating the requisitioned premises;
 - (iii) expenses on account of re-occupying the premises upon release from requisition; and
 - (iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

¹(3) The compensation payable for the acquisition of any property under section 7 shall in the absence of an agreement be the price which the requisitioned property would have fetched in open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition.

(4) Where there are several persons interested in the compensation, it shall be lawful for the Government, either on its own motion,

¹ Substituted by Act VI of 1977.

or on an application from any person interested to appoint the same or any other arbitrator to make an award or supplementary award in respect of the dispute.

COMMENTS

Just compensation — Interpretation of — While arriving at such a conclusion the Arbitrator has to take into consideration the guiding factor as provided by clause 3 of Sec. 8 i.e. the compensation payable shall be the price which the requisitioned property would have fetched in open market, if it had remained in the same condition as it was at the time of requisitioning and being sold on the date of acquisition. — *Union of India through Defence Estates Officer, Srinagar v. Mst. Freeni Boga 2005 (2) JKJ HC-22*

Land measuring 1809 Kanals and 16 Marlas situate in village Khufimoh and Zawoor Tehsil- Srinagar was requisitioned under the Act for Army on different dates — The Military Estates Officer Kashmir circle requested the Dy. Commissioner Srinagar to initiate action for the acquisition of the said requisitioned land — The formalities as required under the Act were completed and finally a notice calling upon the owners of the land to show cause within 15 days as to why the said land should not be acquired as provided under Sec. 7 (1) of the Act — The land owners did not object to it accordingly the prescribed authority requested the Govt. to issue necessary notification in this behalf — The Govt. issued the notification — On the request of Army authorities the prescribed authority estimated the cost of the land for orchard, maidani and other classes of land respectively on the basis of uniform rate of Rs. 6500/- per Kanal awarded for the adjacent land acquired in the same village — Respondent did not accept the offered rate and raised objections through her attorney though no objection was expressed to the acquisition — As there was no headway in the matter so she applied through her attorney to the prescribed authority for appointment of an Arbitrator in terms of Sec. 8(1)(b) of the Act and also claimed interest at bank rate and solatium at the rate of 15% — The Govt. vide SRO 156 appointed Additional District and Sessions Judge Srinagar as Arbitrator to make award in respect of rate of compensation of the land where objection regarding rate of compensation raised — The Arbitrator after taking evidence of the parties and considering the matter found that the respondent entitled to compensation at the rate of Rs. 15000/- per Kanal in respect of land under Khasra No. 2727/266/2582 measuring 22 Kanals and 4 marlas while taking support from a decision of District Judge, Srinagar in reference under Sec. 18 of the Act regarding a land situated adjacent to the land of the respondent and in addition held entitled to solatium at the rate of 15% on the aggregate compensation amount and interest at the rate of 6% on the enhanced unpaid amount and costs of Arbitration proceedings — Not satisfied by the award both parties filed appeals respectively in the High Court — The appeal filed by the appellant was dismissed by holding the amount of compensation fixed by Arbitrator on the basis of judgment to determine the market value of

the land while in appeal filed by the respondent the court found merit and observed that the respondent is entitled to amount of compensation assessed for the entire land of the respondent measuring 313 Kanals and 4 marlas and also interest at the rate of 6% on the enhanced unpaid amount from the date of taking over of the possession of land to the date of final recovery — The appellant aggrieved of the said judgment preferred Letters Patent Appeal — The DB dismissed the appeal on merits but set aside the order with regard to grant of interest.—*Union of India through Defence Estates Officer, Srinagar v. Mst. Freeni Boga* 2005 (2) JKJ HC-22

Award of interest on amount of compensation by Arbitrator — Act does not provide for either solatium or interest — Arbitrator granting interest @ 18% on amount of compensation disallowed in appeal. (1994) 4 SCC 737, (1996) 6 SCC 44, Rel.—*Parvesh Kumari and Ors. v. State of J&K & Ors. (with Cross Appeal)* 2004 (2) JKJ HC-145

Compensation — Acquisition of big chunk of land measuring 19 kanals — Sale price of a small piece of land measuring one and a half marlas, does not reflect of its true value — Evidence of Tehsildar based on no record that value of land was higher than awarded by Arbitrator, merely an opinion — Dismissal of appeal for enhancement by Single Judge, upheld in L.P.A.—*Parvesh Kumari and Ors. v. State of J&K & Ors. (with Cross Appeal)* 2004 (2) JKJ HC-145

Compensation — Apportionment — Apportionment statement and final assessment report recording names of parties in ownership column as co-sharers but in cultivation column names of respondents recorded — Rent since 1974 when requisition was made being received by contesting respondents and never challenged — Divisional Commissioner and Financial Commissioner determined unequivocally petitioner and performa respondents not entitled to any compensation as their names not reflected in cultivation column — Writ petition — Held :—*Sunder Singh v. State & Ors.* 2004 (2) JKJ HC-226

9. Payment of compensation

The amount of compensation under an award shall, subject to any rules made under this Act, be paid or given by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

10. Appeals from awards in respect of compensation

Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the

appellant was prevented by sufficient cause from filing the appeal in time.

11. Competent authority and arbitrator to have certain powers of civil courts

The competent authority and the arbitrator appointed under section 8, while holding an inquiry or as the case may be, arbitration proceedings under this Act, shall have all powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1977, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court, or office;
- (e) issuing commissions for examination of witnesses.

12. Power to obtain information

The Government or the competent authority may, with a view to carry out the purposes of section 3 or section 21 or section 6 or section 7 or section 8, by order require any person to furnish to such office, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

13. Power to enter and inspect

The competent authority, or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

14. Service of notice and orders

(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall-

- (a) in the case of any notice or order of general nature or affecting a class of persons, be published in the Government Gazette; and
- (b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for the service of summons in Rule 2, Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1977 (Act X of 1977); and
- (c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person-
 - (i) by delivering or tendering it to that person; or
 - (ii) if it cannot be so delivered or tendered by delivering or tendering it to any office of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part on the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;
 - (iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Government Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

15. Easement not to be disturbed

No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purpose of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

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16. Delegation of powers

The Government may, by notification in the Government Gazette, direct that the powers exercisable by it or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to the Government.

17. Protection of action taken in good faith

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit, or other legal proceeding shall lie against the Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

18. Bar of jurisdiction of civil court

Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, 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.

19. Penalty for offences

Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

20. Certain persons to be public servants

The Competent authority, every arbitrator and every officer empowered by the Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code, 1989.

21. Requisitioning of property at the instance of the Union
- (1) Where any immovable property situate in the State is required by the Union Government in connection with the purposes of the Union and a requisition in that behalf is received by the Government, the Government shall notify that such property be requisitioned.
 - (2) Upon such notification the provisions of the Act shall apply in the same manner as they apply in respect of the property requisitioned for the purpose of the State.
 - ✓ (3) The expenditure, if any, incurred by the Government in this behalf, shall be borne by the Union Government.

COMMENTS

Derequisition of property — Property having been requisitioned at instance of Central Govt. request has to be made by that Govt. under Section 21 — State Govt. in such case cannot take action under Section 6.—*Zamindaran Committee Kareva v. State of J&K & Ors. 2003 (Sup.1) JKJ HC-251*

22. Power to make rules

- (1) The Government may, by notification in the Government Gazette, 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 provide for all or any of the following matters, namely:-
 - (a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 7;
 - (b) the procedure to be followed in arbitration proceedings and appeals under this Act;
 - (c) the principles to be followed in determining the compensation and method of rendition of such compensation;
 - (d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;
 - (e) the manner of service of notices and order;
 - (f) any other matter which has to be, or may be, prescribed.

23. Validation of certain requisitions and acquisitions

(1) All immovable property which purports to have been requisitioned by the Government for any purpose of the State or of the Union under any law in force prior to the commencement of this Act, and which immediately before such commencement, was used or occupied by the State Government or by the Union Government or by an officer or authority subordinate to the State Government, or the Union Government, as the case may be, shall, as from the commencement of this Act, be deemed to be property duly requisitioned respectively under section 3 or section 21 of this Act, and every such requisition shall, notwithstanding any judgement, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made under this Act, and all the provisions of this Act shall apply accordingly:

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement:

¹[Provided further that where the Government is of the opinion that the rates of compensation, in respect of any property requisitioned before the commencement of this Act, are very low compared to the existing market rates, the Government may enhance the rate of compensation prospectively in accordance with the provisions of this Act and rules made thereunder.]

(2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by the Government for any public purpose, under any enactment for the time being in force in the State and which immediately before such commencement, was used or occupied by the State Government or the Union Govern-

¹ Second proviso added by Act XIV of 1969.

ment or by an officer or authority subordinate to the State Government or the Union Government, as the case may be, shall, notwithstanding any defect in or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of the acquisition.

24. Power to recover rent or damages in respect of requisitioned property as arrears of land revenue

(1) Subject to any rules that may be made in this behalf by the Government, any sum due by way of rent in respect of any requisitioned property which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

(2) Where any person is in unauthorised occupation of any requisitioned property, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the said property as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay the damages within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue.

25. Act to over-ride other laws

The provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in the State Land Acquisition Act, 1990, or any other law for the time being in force or in any instrument having effect by virtue of any such law.

¹[26. Omitted]

¹ Amendments made in J&K Public Security Act, 2003 having been incorporated in that Act, hence section 26 of this Act omitted.