

# *Punjab Colonisation of Government Lands (Punjab) Act, 1912*

*Punjab Act 5 of 1912*

h1087

- Repealed in part and Amended by Punjab Act No. 38 of 1920.
- Amended by Punjab Act No. 3 of 1920.
- Amended by Government of India (Adaptation of Indian Laws) Order, 1937.
- Amended by Punjab Act No. 13 of 1941.
- Amended by Punjab Act No. 6 of 1944.
- Amended by the Indian Independence (Adaptation of Bengal and Punjab Act) Order, 1948.
- Amended by the Adaptation of Laws Order, 1950.
- Amended by the Adaptation of Laws (Third Amendment) Order, 1951.
- Extended to Pepsu Areas by Punjab Act No. 5 of 1957.
- Amended by Punjab Act No. 25 of 1964.
- Amended by Haryana Adoption of Laws Order

## **An Act to make better provisions for the colonization and administration of Government lands in [Haryana].**

Whereas it is expedient to better provisions for the colonization and administration of Government lands in [Haryana].

It is hereby enacted as follows:-

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

(2) It extends to [Haryana].

**Statement of Objects and Reason** - "Experience in the Chenab Colony having shown that in many respects the Government Tenants (Punjab) Act, 1893, was defective, an amending Act was passed by the Punjab Legislative Council in 1907. That Act never came into force. His Excellency the Governor General decided to withhold his assent to it. The opportunity was then taken of appointing a committee to investigate thoroughly the various problems of colony administration which had been suggested by the discussion of the Bill. Much of the action decided upon in pursuance of the recommendations of the Colonies Committee is such as can be carried out by executive order without the aid of legislation. Legislation is, however, also necessary. In many particulars the present Bill repeats the provisions of the Act, 1907, but it is shorter, simpler and less controversial measure

than the enactment which was voted. The main features of the Bill are :-

- (1) The substitution of an amended procedure to govern the grant of new tenancies and the record of particulars affecting them, the registers prescribed by the Act of 1893 being abolished.
- (2) The relaxation of the stringency of some of the conditions by which tenants have heretofore been bound, such as the residence conditions and the conditions relating to arboriculture, and the provision of alternative minor penalties in cases in which under the law heretofore in force forfeiture of the grantee's rights was the only penalty for breach of tenancy conditions.
- (3) Rules of succession are propounded more favourable to the tenants than the provisions of the Punjab Tenancy Act, 1887, which the Chief Court has held to govern colony occupancy tenants. The rules are tentative only and are liable to modification with reference to the criticisms that may be received on the Bill.
- (4) It is made clear that colonies who acquire proprietary rights in their holdings will cease to be subject to special colony conditions other than the customary obligations in the matter of mineral rights, maintenance of boundary marks, arbitration, and the like which are a feature of all tenures, originating in grants from Government, whether in the colony or elsewhere.
- (5) Power has been conferred on the Collector for the prevention of illicit squatting, and of unauthorised encroachments on Government lands,

roads and canal banks and on areas reserved for the common use of the village communities.

(6) The protection of tenancies against attachment and sale which was given by the Act of 1893 is continued. The restrictions on alienation heretofore in force are relaxed so as to sub-letting to a reasonably extent.

(7) Government having surrendered its income from ground rent levied on village sites, provision is made for the recovery of such rents, in future as village cesses leviable for the benefit of the common funds of the village. It will be for consideration whether some more definite provisions should be made as to the conditions under which the cess should be levied.

(8) Lastly, provision has been made for the validation of proceeding not covered by the terms of the Act of 1893 and for the definition as tenure under the Act of tenancies created otherwise than under the formalities of the registration procedure heretofore prescribed. The validating clauses, in so far as they remove flaws in title are designed to serve the interests of the colonists concerned no less than to cover irregularities and informalities of procedure".

Vide Punjab Government Gazette, 1910, Part V, pp. 176-77.

**2. Repeal.** - The Government Tenants (Punjab) Act, 1893 (III of 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, 1887 (XVII of 1887), and includes (1) any officer appointed by the [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 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 [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 [State] Government and, unless the [State] Government otherwise directs any area to which the Government Tenants (Punjab) Act, 1893 (III of 1893), has been applied.

"Prescribed" means sanctioned by the [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, 1887 (XVI of 1887), 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 [Government] and includes the predecessors and successors in interest of a tenant.

["Original tenant" means any male, to whom a tenancy is first allotted by the Collector and includes and 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 [State] Government otherwise directs, apply to land to which the provisions of the Government Tenants (Punjab) Act, 1893 (III of 1893), have been applied and to any other land to which the [State] Government may by notification in the official Gazette apply it and which at the time of the notification was the property of the [State Government]:

Provided that [unless the [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, [-] apply [to any class of tenancies created hereafter which the [State] Government may declare to be scheduled tenancies under this section.]

**5. Power to withdraw a colony from the operation of the Act.** - The [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.** - (1) Except as provided in section 7 of this Act, the Punjab Tenancy Act, 1887 (XVI of 1887), shall not be applicable to tenancies held under this Act.

2. Nothing in sub-section (1) of this section shall effect the application of the Punjab Tenancy Act, 1887 (XVI of 1887), to any matter or dispute arising between [tenants] of the [Government] and their sub-tenants to which [Government] is not a party.

**7. Applicability of the Punjab Land Revenue Act and Punjab Tenancy Act.** - Subject to the provisions of this Act, the Punjab Land Revenue Act,

and Chapter VII of the Punjab Tenancy Act 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 or the Punjab Tenancy Act, 1887 (XVII and XVI of 1887), shall be so construed as to vary or invalidate any condition entered in any statement of conditions issued by the [State] Government, and in particular shall not be so construed as to limit succession to tenancies otherwise than as provided in such statement of conditions.

**8. Amendment of section 136 (1) of the Punjab Land Revenue Act. -** Section 136 (1) of the Punjab Land Revenue Act, 1887 (XVII of 1887), 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 to certain village sites. -** Notwithstanding anything in section 4 of the Punjab Land Revenue Act, 1887 (XVII of 1887), the provisions of Chapter IV of that Act shall apply to all village sites in a colony.

## **CHAPTER II**

### ***Provision Relating to Tenants***

**10. Issue of statement of conditions of tenancies. -**

(1) [State] Government may grant land in a colony to any person on such conditions as it thinks fit.

(2) The [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 sub-section (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 [State] Government under the Government Tenants (Punjab) Act, 1893 (III of 1893), or under this Act shall be deemed to be transfer of a land within the meaning of the Government Grants Act, 1895 (XV of 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 (III of 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 tenants holding hitherto under Act, III of 1893.** - Any person who at any time before the commencement of this Act was a tenant from [Government] of land to which the Government Tenants (Punjab) Act, 1893 (III of 1893), applied and for which a statement of condition was issued under the Act, shall, notwithstanding any previous agreement or anything contained in the Punjab Tenancy Act, 1887 (XVI of 1887), or any other enactment now in force, be deemed to have accepted and to hold the lands of which he is a tenant in accordance with such statement of conditions:

Provided that unless such tenant shall, by deed executed and registered within twelve months from the date on which this Act comes into force, declare that the succession to his tenancy shall be in accordance with the statement of conditions applicable thereto, the succession to his tenancy shall be regulated by the provision of sections 20, 21, 22 and 23 of this Act.

**15. Purchaser to be tenant pending payment in full of purchase money.** - A purchase from the [Government] of land who has been placed in possession of the land by order of the Collector shall be deemed to be a tenant of such land until the full amount of the purchase money with any interest due thereon has been paid and the other conditions set forth in the statement of the conditions of sale issued by the Collector have been fulfilled.

**16. False information by a tenant.** - If any person who after the commencement of this Act has been put in possession of land in a colony as a tenant shall have given false information intending or having reason to believe that any officer of the [Government] may be thereby deceived regarding his qualification to become a tenant, he shall be deemed to have committed a breach of the conditions of his tenancy:

Provided that this section shall not apply to persons who have been in possession of a tenancy for more than three years or to any person who has acquired a right of ownership.

**17. Exchange.** - Subject to any order that he may receive from the Commissioner, the Collector may allow any tenant to exchange the whole or any part of his tenancy for other land in the colony, and the land so taken in

exchange shall in the absence of any special condition to the contrary recorded in writing by the Collector be deemed to be held on the same conditions and subject to the same obligations as the surrendered land was held.

**18. Rights of tenant not to be attached or sold.** - None of the rights or interests vested in a tenant from Government of land to which this Act applies shall be attached or sold in execution of a decree or order of any court or in any insolvency proceedings.

**19. Transfer of rights to be void.** - Except as provided in section 17, none of the rights or interests vested in tenant by or under the Government Tenants (Punjab) Act, 1893 (III of 1893), or this Act, shall without the consent in writing of the Commissioner, or of such officer as he may by written order empower in this behalf, be transferred or charged by any sale, exchange, gift, will, mortgage or other private contract, other than a sublease for not more than one year in the case of a tenant who has not acquired a right of occupancy and seven years in the case of a tenant who has acquired a right of occupancy. Any such transfer or charge made without such consent in writing shall be void, and if (after the commencement of this Act) the transferee has obtained possession, he shall be ejected under the orders of the Collector:

Provided that right of sub-letting conferred by this section shall not release any tenant from a condition requiring him to reside in the estate in which his tenancy is situated.

**[20. Succession to tenants acquiring otherwise than by succession.** - Subject to the provisions to section 14, when, after the commencement of this Act, any original tenant dies the succession to the tenancy shall devolve in the following order upto -

(a) the male lineal descendants of the tenant in the male line of descent.

(The term 'lineal descendants' shall include an adopted son whose adoption has been ratified by a registered deed);

(b) the widow of the tenant until she dies, or remarries, or loses her rights under the provisions of this Act;

(c) the unmarried daughters of the tenant until they die or marry, or lose their rights under the provisions of this Act;



[(d) the successor or successors nominated by the tenant by registered deed from among the following persons, that is to say, his mother, [his predeceased son's widow, his predeceased grandson's widow], his married daughter, his daughter's son, his sister, his sister's son; and the male agnate members of his family]

(e) the successor or successors nominated by the Collector from among the persons enumerated in clause (d) of this section.]

**[21. Succession to tenants acquiring by succession.** - When after the commencement of this Act, any male tenant, who is not an original tenant dies, or any female tenant dies, marries or re-marries, the succession to the tenancy shall devolve -

(a) in the case of a female, to whom the tenancy has been first allotted, on the successor nominated by the Collector from the issue of such female tenant, or from the male agnates of the person, on account of whose services the tenancy was allotted to her;

(b) in all other cases, on the person or persons, who would succeed if the tenancy were agricultural land acquired by the original tenant.]

**22. Acquisition of ownership not to affect nomination of heir.** - When a tenant has nominated a successor to this tenancy under section 20 (d) and subsequently acquires a right of ownership in the tenancy the right of succession of the persons so nominated shall, unless the deed of nomination expressly provides to the contrary, be unaffected by such acquisition of ownership.

**23. Revocation of nomination.** - When a tenant has, under section 20(d) of this Act, nominated a successor, he may at any time, whether before or after acquiring ownership, revoke such nomination, but not otherwise than by registered deed.

**24. Power to imposing penalties for breaches of conditions.** - When the Collector is satisfied that a tenant in possession of land has committed a breach of the conditions of his tenancy, he may, after giving the tenant an opportunity to appear and state his objections -

(a) impose on the tenant a penalty not exceeding one hundred rupees, or

(b) order the resumption of the tenancy:

Provided that if the breach is capable of rectification, the Collector shall not impose any penalty or order the resumption of the tenancy unless he has issued a written notice requiring the tenant to rectify the breach within a reasonable time, not being less than one month, to be stated in the notice and the tenant has failed to comply with such notice.

**25. Power of re-entry and provisions as to compensation in certain cases.** - Where an order resuming the tenancy has been passed under the last preceding section, the Collector may forthwith re-enter upon the land and resume possession of it, subject to the payment of compensation, to be fixed by the Collector, for uncut and ungathered crops and for the improvements, if any, that may have been made by the tenant:

Provided that if the tenancy be allotted to any other person, the amount of the compensation, if any, paid to the outgoing tenant shall be recoverable by the Collector from the incoming tenant.

**26. Provisions for re-entry on and compensation for building on sites allotted for residential purposes.** - In any case where a tenant has been allotted a site for residential purposes in consideration of his tenancy, and such tenancy has been resumed under the provisions of sections 24 and 25 of this Act, the Collector may re-enter on and take possession of such site:

Provided that the Collector shall fix and pay to the said tenant reasonable compensation for, or permit him to remove, any buildings or improvement made by him on such site.

**27. Saving of certain tenancies and conditions.** - (1) Nothing in section 24, 25 or 26 shall apply -

(a) [Omitted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948]

(b) any breach of a condition regarding arboriculture included in any statement of conditions other than a statement pertaining to tree planting tenants, [or]

[(c) any tenancy scheduled under the proviso to section 4 except to such extent as may be specified in the statement of conditions applicable to such tenancy.]

[ - ] Omitted by Punjab Act 6 of 1944, section 2 (b).

**28. Sums due to Government to be recoverable as arrears of land revenue.** - All sums due to be [Government] in respect of a tenancy granted in pursuance of the Government Tenants (Punjab) Act, 1893 (II of 1893), or under the provisions of this Act or of the rules and conditions issued thereunder, and all sums due on account of fines, confiscation, costs and penalties, shall be recoverable as if they were arrears of land revenue.

**29. Power to abrogate conditions.** - The [State] Government may, at any time by notification in the Official Gazette, abrogate any of the limitations and obligations imposed upon tenants as part of the conditions of their tenure.

## 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 (III of 1893), a tenant who either in pursuance of any such condition or otherwise by agreement with or under rules issued by the [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.

**[30A. 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 right 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 right shall devolve upon the persons how 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 assigned 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 right have been acquired.]

## 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 building thereon on behalf of the [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 [State] Government -

- (a) clears or breaks up for cultivation, or cultivates any land which is owned by, or is in the possession of the [Government] and is not included in any tenancy or allotted residential enclosure or which has been set apart from the common purposes of a town or village

community or section of the same or for a road, canal or water course;

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 [-] 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.

**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 proceedings 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, (XVI of 1887).

**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 [State] Government or Collector or any other Revenue Officer exercise 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 order passed previous to the Act.** - (1) Any act hitherto done or order passed by the [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, 1898 (III of 1898), has been applied for 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.

(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 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.

### **Schedule I**

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

### **Schedule II**

(Referred to in section 30)

**1. Exceptions of channels, rights to minerals, etc. -**

The [Government] does not grant to the grantee but hereby absolutely excepts and reserves to itself out of land in respect of the said lands (1) all ground situate in the said lands or any part thereof already marked out, excavated or otherwise utilized for the distributary channels, and (2) all existing right to and over all mines and minerals, coals, gold washings, earth oil and quarries in or under the said land or any part thereof, together with all easements heretofore enjoyed by the [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 1½ 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 [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 right herein before reserved to the [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.

**3. Compensation for damage by entry. -** The Government agrees to pay the grantees compensation for all damage occasioned by the exercise of the rights reserved to itself in clauses 1 & 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 lands 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 [State] Government and the grantee as to the property and rights hereby reserved, to the [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 anyway 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.