The Telangana Land Encroachment Act, 1905

Act Act No.III of 1905. 20 sections. Bare Act with the official footnotes.

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Section 1. Short title and extent

This Act may be cited as [1][the Telangana Land Encroachment Act, 1905.] It extends to the whole of the [1][State of Telangana.]

[1] Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

Section 1-A. Definitions

[1][In this Act, unless the context otherwise requires,-

(a) "Collector" means any officer incharge of a revenue division and includes a Deputy Collector, a Sub-Collector and an Assistant Collector;

[2][(b) "Deputy Tahsildar" means the Deputy Tahsildar in independent charge of a taluk or Sub-Taluk, the dependent Deputy Tahsildar of a Sub-Taluk, or the Headquarters Deputy Tahsildar in whose jurisdiction the land is situate and includes a special Deputy Tahsildar;]

(c) "Tahsildar" means the Tahsildar in whose jurisdiction the land is situate and includes a Special Tahsildar.]

[1] Section 1-A inserted by Act No.15 of 1968.
[2] Substituted by Act No.22 of 1978.

Section 2. Right of property in public roads, etc., waters and lands

(1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water marks, and of rivers, streams, nalas, lakes and tanks, and all canals and water-courses, and all standing and flowing water, and all lands, wherever situated, save in so far as the same are the property,-

(a) of any zamindar, poligar, mittadar, jagirdar, shrotriemdar or inamdar or any person claiming through or holding under any of them, or

(b) of any person paying shist, Kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or

(c) of any person holding under ryotwari tenure, [1][XXX] or in any way subject to the payment of land-revenue direct to Government, or

(d) of any other registered holder of land in proprietary right, or

(e) of any other person holding land under grant from [2][the Government] otherwise than by way of licence,

and, as to lands, save also in so far as they are temple site or owned as house-site or backyard,

are and are hereby declared to be [3][the property of Government] except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.

(2) All public roads and streets vested in any local authority shall, for the purposes of this Act, be deemed to be [4][the property of Government].

Explanation:- In this section "high water mark" means the highest point reached by ordinary spring tides at any season of the year.

[1] The words "including that of a janmi in Malabar, or of a wargdar in South Canara," were omitted by the Andhra Adaptation of Laws Order, 1953.
[2] The word "Government" was substituted for "Crown" by the Adaptation of Laws Order, 1950.
[3] The words "the property of Government" were substituted for "Crown property" by the Adaptation of Laws (Amendment) Order, 1950.
[4] The words "the property of Government" were substituted for "Crown property" by the Adaptation of Laws (Amendment) Order, 1950.

Section 3. Levy of assessment on lands unauthorizedly occupied

[1][(1)] Any person who shall unauthorizedly occupy any land which is [2][the property of Government] shall be liable to pay by way of assessment,-

(i) if the land so occupied forms an assessed survey number or part thereof, the full assessment of such number

for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be, provided that, for special reasons, the Collector or subject to his control, the Tahsildar or Deputy Tahsildar may impose the full assessment of such number or any lesser sum irrespective of the area occupied;

(ii) if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village, as the case may be, or when no such rates exist in such manner as may be prescribed in rules or orders under section 8:

Provided that payment of assessment under [3][this sub-section] shall not confer any right of occupancy.

Explanation.- For the purposes of [4][this sub-section] occupation for an incomplete portion of a fasli may be deemed to be occupation for a whole fasli.

[5][(2) In the case of any class of land which is ordinarily granted on lease or licence, the Government may levy, in addition to the assessment imposed under sub-section (1), a further sum equivalent to the annual rent or fee which would normally be realisable thereon.]

[1] Section 3 was renumbered as sub-section (1), by Act XXV of 1958.

[2] The words "the property of Government" were substituted for "Crown property" by the Adaptation of Laws (Amendment) Order, 1950.

[3] Substituted for the words "this section" by Act XXV of 1958.

[4] Substituted for the words "this section" by Act XXV of 1958.

[5] Added by Act XXV of 1958.

Section 4. Conclusiveness of decision as to amount of assessment

The decision as to the rate or amount of assessment [1][rent or fee], payable under section 3 shall be recorded in writing and shall not be questioned in any civil court.

[1] Inserted by Act XXV of 1958.

Section 5. Liability of person unauthorizedly occupying land to penalty after notice

Any person liable to pay assessment under section 3 shall also be liable at the discretion of the Collector or subject to his control, the Tahsildar or Deputy Tahsildar to pay in addition by way of penalty,-

(i) if the land be assessed land, a sum not exceeding five rupees or, when ten times the assessment payable for one year under section 3 exceeds five rupees, a sum not exceeding ten times such assessment, provided that no penalty shall ordinarily be imposed in respect of the unauthorized occupation of such land for any period not exceeding one year;

(ii) if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 3 exceeds ten rupees, a sum not exceeding twenty times such assessment.

Section 6. Liability of person unauthorizedly occupying land to summary eviction, forfeiture of crops, etc

(1) Any person unauthorizedly occupying any land for which he is liable to pay assessment under section 3 may be summarily evicted [1][by the Collector, Tahsildar or Deputy Tahsildar] and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or anything deposited thereon shall also, if not removed by him after such written notice as [1][the Collector, Tahsildar or Deputy Tashildar] may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged [1][by the Collector, Tahsildar or Deputy Tahsildar] and any property so forfeited shall be disposed of as [1][the Collector, Tahsildar or Deputy Tahsildar] may direct.

(2) An eviction under this section shall be made in the following manner, namely:- By serving a notice in the manner provided in section 7 on the person reputed to be in occupation or his agent requiring him within such time as [1][the Collector, Tahsildar or Deputy Tahsildar] may deem reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector or of any Tahsildar or Deputy Tahsildar for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil jail of the district for the like period:

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under

sections 183, 186 or 188 of the Indian Penal Code in respect of the same facts.

[2][(3) Any person who unauthorisedly re-enters and occupies any land from which he was evicted under this section, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

[1] Substituted by Act No.15 of 1968.

[2] Inserted by Act No.22 of 1978.

Section 7. Prior notice to person in occupation

Before taking proceedings under section 5 or section 6 the Collector or Tahsildar, or Deputy Tahsildar, as the case may be shall cause to be served on the person reputed to be in unauthorized occupation of land being [1][the property of Government] a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under section 5 or section 6.

Such notice shall be served in the manner prescribed in section 25 of [2][the Telangana Revenue Recovery Act, 1864] or in such other manner as the [3][State Government] by rules or orders under section 8 may direct.

[1] The words "the property of Government" were substituted for "Crown property" by the Adaptation of Laws (Amendment) Order, 1950.

[2] Adapted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

[3] The word "State" was substituted for "Provincial" by the Adaptation of Laws Order, 1950.

Section 7-A. Encroachment by group of persons on Government land and their eviction

[1][(1) Where the District Collector knows or has reason to believe that a group or group of persons, without any entitlement and with the common object of occupying any land, which is the property of the Government, are occupying or have occupied any such land, and if such group or groups of persons have not vacated the land on demand by the District Collector or any officer authorised by him in this behalf, the District Collector shall, notwithstanding anything in this Act, order without any notice, the immediate eviction of the encroacher from the land and the taking of possession of the land; and thereupon it shall be lawful for any officer authorised by District Collector in this behalf to evict the encroachers from the land by force, taking such police assistance as may be necessary, and take possession of the land.

(2) Where, in any proceedings taken under this section, or in consequence of anything done under this section, a question arises as to whether any land is the property of the Government, such land shall be presumed to be the property of the Government until the contrary is proved.

(3) Notwithstanding anything in this Act, but subject to the provisions of section 12A, any order of eviction passed by the District Collector under sub-section (1) shall be final and shall not be questioned in any court.]

[1] Section 7-A inserted by Act No.23 of 1980.

Section 8. Power to make rules

The [1][State Government] may make rules or orders either generally or in any particular instance,-

(a) regulating the rates of assessment, [2][rent or fee] leviable under section 3;

(b) regulating the imposition of penalties under section 5;

(c) declaring that any particular land or class of lands which are [3][the property of Government] shall not be open to occupation;

(d) regulating the service of notices under this Act.

Such general rules or orders shall be made only after previous publication.

[1] The word "State" was substituted for "Provincial" by the Adaptation of Laws Order, 1950.

[2] Inserted by Act XXV of 1958.

[3] The words "the property of Government" were substituted for "Crown property" by the Adaptation of Laws (Amendment) Order, 1950.

Section 9. Recovery of assessment or penalty levied as arrears of land revenue

The amount of [1][assessment, rent, fee and penalty] imposed under this Act on any person unauthorizedly occupying any land shall be deemed to be land-revenue and may be recovered from him as arrears of land revenue under the provisions of the Telangana Revenue Recovery Act, 1864 [2][XXX].

[1] Substituted for the words "assessment and penalty" by Act XXV of 1958.

[2] The expression "or the Madras City Land Revenue (Amendment) Act, 1867, as the case may be" was omitted by the Andhra Adaptation of Laws Order, 1953.

Section 10. Appeal

(1) An appeal shall lie (a) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act, and (b) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (c) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar, Tahsildar or Collector under this Act, and the Board of Revenue [1][XXX] may revise any decision or order passed by any officer under this Act.

(2) Pending the disposal of any appeal or petition for revision under this Act, the Collector, [2][the District Collector or the Board of Revenue], as the case may be, may suspend the execution of the order appealed against or sought to be revised.

[1] The words "or the Local Government" were omitted by Madras Act V of 1936.

[2] These words were substituted for the words "the District Collector, the Board of Revenue or the Local Government" by Madras Act V of 1936.

Section 11. Limitation of appeal

No appeal shall be brought after the expiration of sixty days from the date of the decision or order complained of, provided that in computing the period of sixty days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the prescribed period.

Section 12. Document accompanying petition of appeal

Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Section 12-A. Power of Government to call for records and pass orders

[1][(1) The State Government may, in their discretion, at any time, either suo motu or on application made to them, call for and examine the records relating to any decision or order passed or proceeding taken by any authority or officer subordinate to them under this Act for the purpose of satisfying themselves as to the legality or propriety of such decision or order, as to the regularity of such proceeding and pass such order in reference thereto as they think fit.

(2) The State Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under sub-section (1) in respect thereof.]

[1] Inserted by Act XXV of 1958.

Section 13. Saving of operation of other laws in force

Nothing in this Act contained shall be construed as exempting any person unauthorizedly occupying land from liability to be proceeded against under any law for the time being in force:

Provided that if any penalty has been levied from any person under section 5 of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation.

Section 14. Bar of jurisdiction of Civil Courts

[1][No decision made or order passed or proceeding taken by any officer or authority or the State Government under this Act, not being a decision, order or proceeding affecting the title to the land of a person, shall be called in question before a Civil Court in any suit, application or other proceeding and no injunction shall be granted by any Court in respect of any proceeding taken, or about to be taken by such officer or authority or State Government in pursuance of any power conferred by or under this Act.]

[1] Substituted by Act No.23 of 1976.

Section 15. Validation of levy of penal assessment before the passing of Act. Saving of pending suits

Every proceeding taken by a Collector for the recovery of any sum of money by way of penal or prohibitory assessment or charge from any person who has unauthorizedly occupied any land hereby declared to be [1][the property of Government] shall, if such sum has been recovered prior to the passing of this Act, be deemed to have been lawfully taken, provided that this section shall not apply to any suits pending when this Act comes into force in a Court of First Instance or in a Court of Appeal or affect the validity and operation of any decree or order already passed by a court of competent jurisdiction.

[1] The words "the property of Government" were substituted for "Crown property" by the Adaptation of Laws (Amendment) Order, 1950.

Section 15-A. Certain persons deemed to be in unauthorized occupation of land

[1][Where a lease of land which is the property of the Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or

Where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf have passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders, shall for the purposes of sections 3 to 15, be deemed to be a person unauthorizedly occupying such land.]

[1] This section was inserted by Act XXIX of 1950.

Section 16. Saving of lands claimed by right of escheat or reversion

Nothing in this Act [1][save as provided in section 15-A] shall apply to any lands claimed by right of escheat [2][XXX] or reversion until such lands have been reduced into possession by [3][the State Government].

The provisions as per Act XXV of 1958.

"(1) if any difficulty arises in giving effect to the provisions of this Act, or of the principal Act as extended by this Act, in their application to the transferred territories, in consequence of the transition to the said provisions from the corresponding provisions of the Act in force therein immediately before the commencement of this Act, the State Government may, by order in the Telangana Gazette, make such adaptations or modifications of the said Act not affecting the substance, or make such provisions as appear to them to be necessary or expedient for removing the difficulty:

Provided that the power conferred by this sub-section shall not be exercisable after the expiration of three years from the commencement of this Act.

(2) If any difficulty arises in giving effect to the provisions of this Act, or of the principal Act as extended by this Act, (otherwise than in relation to the transition from the provisions of the corresponding Act in force before the commencement of this Act), in their application to the transferred territories, the State Government may, by order, make such provisions, not inconsistent with the purposes of this Act or of the principal Act as extended by this Act, as appear to them to be necessary or expedient for removing the difficulty.

Nothing contained in the Hyderabad Land Revenue Act (Hyderabad Act VIII of 1317 F.) shall apply in so far as it relates to any matter or proceeding dealt with in the principal Act as amended by this Act except as respects things done or omitted to be done before the commencement of this Act".

[1] These words, figure and letter were inserted by Act XXIX of 1950.
[2] The word "resumption" omitted by Act XXIX of 1950.
[3] The word "State" was substituted for "Provincial" by the Adaptation of Laws Order, 1950.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

SCHEDULE. FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 6 (official file, page 15)

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