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LEGISLATIVE SUPPLEMENT

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PART - I**HARYANA GOVERNMENT****LAW AND LEGISLATIVE DEPARTMENT****Notification**

The 1st April, 2021

No. Leg.11/2021.— The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 1st April, 2021 and is hereby published for general information:-

HARYANA ACT NO. 11 OF 2021

**THE HARYANA RECOVERY OF DAMAGES TO PROPERTY DURING
DISTURBANCE TO PUBLIC ORDER ACT, 2021**

AN**ACT**

to provide for recovery of damages to properties caused by persons during disturbances to public order by an assembly, lawful or unlawful, including riots and violent disorder and for constitution of Claims Tribunal to determine the liability, to assess the damages caused and to award compensation in the State of Haryana and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Seventy-second Year of the Republic of India as follows:-

- 1.** (1) This Act may be called the Haryana Recovery of Damages to Property During Disturbance to Public Order Act, 2021.
- (2) It extends to the whole of the State of Haryana.
- (3) It shall come into force on such date, as the State Government may, by notification, appoint.
- 2.** In this Act, unless the context otherwise requires,-
 - (a) “Claims Commissioner” means an officer designated as such by the State Government, who shall not be below the rank of Sub-Divisional Magistrate;
 - (b) “Claims Tribunal” means the Claims Tribunal constituted under section 6 of this Act;
 - (c) “damages” means loss, injury or deterioration caused by any act or omission by any person to property of Central Government or State Government or another person during disturbance to public order;
 - (d) “disturbance to public order” means disturbance caused by an assembly, lawful or unlawful and includes a riot, revolt or violent disorder;
 - (e) “independent valuation agency” means an agency as notified by the State Government under sub-section (6) of section 5 for the purposes of this Act;
 - (f) “legal representative” means a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued;
 - (g) “member” means the member of the Claims Tribunal including its Presiding Officer;
 - (h) “person” shall have the same meaning as defined under section 11 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860);
 - (i) “property” includes immoveable and moveable properties of all kinds including vehicles, livestock, jewellery, goods and such like properties, whose minimum value is one thousand rupees;
 - (j) “State” means the State of Haryana;
 - (k) “State Government” means the Government of the State of Haryana in the administrative department.

Short title, extent
and
commencement.

Definitions.

Inviting of applications for claim of compensation.

3. (1) On receipt of information of damage to any property consequent to any disturbance to public order, the police officer in charge of a police station shall immediately report the occurrence of the incident along with the copy of first information report to the District Magistrate.

(2) On receipt of report along with copy of the first information report under sub-section (1), the District Magistrate shall issue a publication inviting application for claims for compensation for damages caused by persons involved in the disturbance to public order in such manner and within such time period, as may be prescribed.

Preparation of report by District Magistrate.

4. The District Magistrate shall prepare a report on the basis of first information report and the applications received for compensation for damages and submit the same to the State Government within such period, as may be prescribed.

Procedure for filing application for claim.

5. (1) The application for claim for compensation for damages shall be filed along with the report of an independent valuation agency before the District Magistrate in such form, manner and along with such fees, as may be prescribed within a period of twenty-one days from the date of publication inviting applications under sub-section (2) of section 3.

(2) The claims for compensation may be filed by the owner or his legal representative to whom the damages have been caused.

(3) In case of property owned by the Central Government or the State Government or any organization owned and controlled by the Central Government or the State Government, the claim for compensation shall be filed by the head of office or any officer authorized in this regard by the head of office.

(4) In case of property owned by a company, trust, university, society or a statutory board, the claim for compensation shall be filed by the officer authorized in this regard by such company, trust, university, society or statutory board.

(5) The Commissioner of Police or Superintendent of Police of the district may file an application claiming compensation on account for the cost of requisition of police or paramilitary forces from outside the State for managing the disturbances to public order where such disturbance to public order has led to damages.

(6) The State Government shall, by notification in the Official Gazette, notify list of independent valuation agencies, having experience in banking or insurance sector, who may submit valuation reports along with the application of claim for compensation.

Constitution of Claims Tribunal.

6. (1) The State Government shall, on the report submitted by the District Magistrate, may constitute one or more Claims Tribunal, by notification in the Official Gazette, for such incident and for such jurisdiction, as may be specified in the notification, for the purpose of adjudicating upon application for claims for compensation for damages and to perform the functions assigned to it under this Act.

(2) The Claims Tribunal shall be presided over by a person from amongst the Haryana Superior Judicial Services to be designated as such in consultation with the Chief Justice of the High Court of Punjab and Haryana and where it consists of two or more members, the other members of the Claims Tribunal, shall be from amongst the officers of the State Government not below the rank of Additional Deputy Commissioner.

(3) Where two or more Claims Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business amongst them.

(4) The Claims Tribunal may seek assistance of persons having experience in the field of banking, valuation, insurance or accounts.

Officers/officials of Claims Tribunal.

7. The State Government shall provide such number of officers/officials to the Claims Tribunal, as it may deem fit for exercising the powers and performing the function under this Act, on such terms and conditions of service, as may be prescribed.

Functions and powers of Claims Tribunal.

8. (1) The Claims Tribunal shall determine the liability, assess the claims for compensation forwarded to it and determine the monetary value of the damages and on such determination, award suitable compensation related thereto and its apportionment thereof.

(2) The compensation so determined shall be payable, in such proportion as may be determined by the Claims Tribunal, by the persons leading, organizing, planning, exhorting, instigating, participating or committing the disturbance to public order that led to the damages.

9. The District Magistrate, after constitution of the Claims Tribunal shall submit the applications for claims for compensation for damages received under sub-section (2) of section 3 to the Claims Tribunal for adjudication.

Claims for compensation to be forwarded to Claims Tribunal by District Magistrate.

10. (1) The Claims Tribunal shall issue summons to the persons leading, organizing, planning, exhorting, instigating, participating or committing such incident that led to damages as per the report submitted by the District Magistrate and also to the person submitting the application for claims for compensation, mentioning the date and time fixed on which it shall hear the applications for claim.

Summons to parties.

(2) In case any person to whom summons have been issued fails to appear before the Claims Tribunal on the date and time fixed for hearing the application, the Claims Tribunal may effect the service by publication, in such manner, as may be prescribed.

(3) The Claims Tribunal shall proceed ex-parte against any person, who fails to appear before it inspite of service of summons under sub-section (2):

Provided that a person who has been proceeded ex-parte may file an application for recalling the order and if he satisfies the Claims Tribunal that he was prevented by any sufficient cause from appearing when the order was passed or that summons were not duly served, the Claims Tribunal may set aside the order whereby such person was proceeded ex-parte.

(4) The Claims Tribunal may seek a report from the District Magistrate of the property owned by the person who have been proceeded ex-parte and the District Magistrate shall furnish a report of the property owned by and details of bank accounts of such person within a period of fifteen days to the Claims Tribunal.

(5) The District Magistrate may seek information with regard to such property and bank accounts from the Commissioner of Police or the Superintendent of Police, as the case may be, or from an officer or any bank or any other Government agency and such officer shall be duty bound to provide such information, as may be available or obtained by him to the District Magistrate.

(6) The Claims Tribunal on receipt of the report under sub-section (4) may proceed to issue an order of attachment of property and the bank accounts of the person concerned to compel his presence and the officer to whom such order of attachment of property or bank account is issued shall be duty bound to comply with such order immediately on its receipt:

Provided that before proceeding for attachment of property under this sub –section, the Claims Tribunal shall follow the procedure as provided under Order XXXVIII, rule 5 of the Code of Civil Procedure, 1908 (Central Act No.5 of 1908).

11. The person against whom the summon under section 10 has been issued by the Claims Tribunal, at or before the first hearing or within such further time as the Claims Tribunal may allow, which shall not be later than twenty-one days from the date of service of summons or publication under sub-section (2) of section 10, to file a written statement and such written statement shall form part of the record.

Appearance of parties and filing of written statement.

12. (1) The Claims Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and rules made thereunder. The Claims Tribunal shall have power to regulate its own procedure including the fixing of places and times of its sitting.

Procedure of Claims Tribunal.

(2) The Claims Tribunal on a perusal of documents and written statements and after receiving such evidence or hearing such oral arguments, as may be advanced shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided within a period of three months from the date of summons under sub-section (1) of section 10.

(3) The proceedings of Claims Tribunal under this Act shall, so far as it is practicable and in the interest of justice, be continued on day-to-day basis till its conclusion unless the Claims Tribunal finds the adjournment of the proceedings beyond the following day to be necessary for reasons to be recorded in writing.

(4) The Claims Tribunal shall have for the purpose of discharging its functions under this Act the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908), while trying a suit, 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 documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (Central Act No. 1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witness or documents.

Claims
Commissioner
and independent
valuation
agency.

13. (1) The Claims Tribunal may, if it so requires, appoint one or more Claims Commissioners not below the rank of Sub-Divisional Magistrate to assist the Claims Tribunal in estimating the monetary value of the damages caused by disturbance to public order.

(2) The Claims Tribunal may also engage independent valuation agency to assist the Claims Commissioner to assess the monetary value of damage to property.

(3) The Claims Tribunal shall have the power to issue such directions to the Claims Commissioner and independent valuation agency, as it deem fit and invest them with powers to summon evidence including video, audio or other recordings from private or public sources to assess damage.

(4) The remuneration to be paid to the independent valuation agency shall be such, as may be determined by the State Government.

(5) The Claims Commissioner shall submit a report along with the report of the independent valuation agency, if any, to the Claims Tribunal within such period, as may be granted by the Claims Tribunal.

Award of
compensation
and its
apportionment.

14. (1) The Claims Tribunal shall, after hearing the parties and on the basis of material available on record and the reports of the Claims Commissioner and independent valuation agency determine the liability of the person and the monetary value of the compensation to be awarded to each applicant.

(2) The Claims Tribunal while determining each claim for compensation, shall also decide the apportionment of the compensation recoverable from amongst the persons leading, organizing, planning, exhorting, instigating, participating or committing the incident that led to the damages.

(3) The Claims Tribunal shall, along with the award under sub-section (1), issue a certificate for recovery of damages for the amount so awarded. The Collector shall proceed to recover the amount on application for execution of the award, in the same manner as an arrears of land revenue:

Provided that the Claims Tribunal shall not award compensation higher than the compensation claimed by the applicant or ten crores rupees, whichever is less:

Provided further that no person shall be liable to pay more than one crore rupees.

(4) The Claims Tribunal may, for reasons to be recorded, also award exemplary damages, not exceeding the total amount of the compensation awarded for the incident of disturbance to public order leading to the damages and such damages shall be payable, jointly or severally, by the persons leading, organizing, planning, exhorting, instigating, participating or committing the incident that led to the damages:

Provided that such exemplary damages shall be paid into the Consolidated Fund of the State.

(5) The Collector shall have the power to issue an order of attachment of property or bank account of any person against whom award has been passed by the Claims Tribunal to pay compensation and such property or bank account shall remain attached till the person makes the payment of the amount due.

- (6) The compensation receivable on account of damages to any property-
- (i) owned by the Central Government or the State Government or on account of the cost of requisition of police or paramilitary forces from outside the State shall be deposited by the District Magistrate in the Consolidated Fund of the Union or the State, as the case may be;
 - (ii) owned by any organization owned and controlled by the Central Government or the State Government, shall be paid by the District Magistrate to such organization;
 - (iii) owned by a company, trust, university or society or a statutory board other than an organization under (ii) above, shall be paid by the District Magistrate to such company, trust, university or society or a statutory board, as the case may be;
 - (iv) owned by a person other than (iii) above, shall be paid by the District Magistrate to such person:

Provided that if any amount as compensation has been paid to the owner of any property damaged in incident (s), by the State Government or Central Government or any insurance company or any other agency in this behalf, the District Magistrate shall adjust such amount from the amount of compensation to be paid; and the amount so adjusted shall be paid to the State Government or Central Government or such insurance company or such other agency.

(7) The Claims Tribunal may while disposing of the applications for claims for compensation, may pass such orders regarding costs and expenses incurred in the proceedings, as it deems fit.

15. The Claims Tribunal may direct that in addition to the amount of compensation, simple interest not exceeding six percent per annum, shall also be paid. Award of interest.

16. Any person aggrieved by the award passed by the Claims Tribunal may file an appeal before the High Court of Punjab and Haryana: Appeal.

Provided that no appeal shall be entertained unless twenty percent of the amount of compensation so awarded by the Claims Tribunal is deposited with the Collector.

17. No Civil Court shall have jurisdiction to entertain any question relating to the claim for compensation and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act. Bar of jurisdiction.

18. The proceedings for compensation for damages to property under this Act shall be in addition to and not in derogation of any criminal liability undertaken or likely to be undertaken through criminal proceedings, if any, before any competent court of law. No bar on criminal proceedings.

19. Whoever, being bound by this Act fails to render or furnish assistance to the Claims Tribunal or the District Magistrate in execution of his duty under this Act, shall be punishable for offence under section 187 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860). General offence.

20. All proceedings before a Claims Tribunal shall be deemed to be judicial proceedings within the meaning of clause (i) of section 2 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974). Proceedings before Claims Tribunal to be judicial proceedings.

21. The Presiding Officer and other members, the Claims Commissioners, and the officers and other employees provided to the Claims Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860). Members and staff of Claims Tribunal to be public servants.

22. No suit, prosecution or other legal proceeding shall lie against any person authorized for anything which is in good faith done or intended to be done in pursuance of this Act and rules made thereunder. Protection of action taken in good faith.

Power to
remove
difficulties.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under sub-section (1) shall be laid, as soon as possible, before the State Legislature.

Power to make
rules.

24. The State Government may, by notification, make rules for carrying out the purposes of this Act.

BIMLESH TANWAR,
ADMINISTRATIVE SECRETARY TO GOVERNMENT HARYANA,
LAW AND LEGISLATIVE DEPARTMENT.