



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LXI] THURSDAY, OCTOBER 15, 2020 / ASVINA 23, 1942

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

PART - IV

**Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor**

The following Act of the Gujarat Legislature, having been assented to by the President on the 6th October, 2020 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 17 OF 2020.

(First published, after having received the assent of the President, in the "Gujarat Government Gazette", on the 15th October, 2020).

AN ACT

further to amend the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.

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

Short title and commencement.

1. (1) This Act may be called the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas (Amendment) Act, 2019.

(2) It shall come into force at once.

Amendment in section 2 of Guj. 12 of 1991.

2. In the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 (hereinafter referred to as “the principal Act”), in section 2, -

Guj. 12 of 1991.

(i) in clause (a), after the words and figure “under section 3”, the words “and includes an area of five hundred meters adjacent to the boundary of the disturbed area” shall be added;

(ii) after clause (c), the following new clauses shall be added, namely:-

“(d) “proper clustering of persons of one community” with all grammatical variations and cognate expressions shall mean, in relation to a geographical area, a small or large social unit or a group of living things who have something in common, such as norms, religion, values, or identity and often share a sense of place that is situated in a given geographical area;

(e) “transfer” for the purposes of this Act in relation to an immovable property means a transfer of right, title or interest in or over such property or the possession thereof by way of sale, gift, exchange, lease or otherwise and includes allowing possession of such property to be taken or retained-

(i) under an agreement to sale; or

(ii) under the power of attorney; or

(iii) in part performance of contract of the nature referred to the nature referred to in section 53A of the Transfer of Property Act, 1882; or

4 of 1882.

(iv) under any other document, whether registered or not or whether notarized or not, evidencing transfer of possession of such property.

(f) “re-development of immovable property” means and includes the action or process of developing something again or differently with or without demolishing the existing immovable property;

(g) “rehabilitation scheme” means a scheme made and specified as such for the purposes of this Act by notification in the *Official Gazette*, by State Government for relocating the persons displaced from the lands due to Government projects like rail, road, buildings, bridges, dams, and the like.

V of 1879. (h) “Collector” means the Collector appointed by the State Government under section 8 of the Gujarat Land Revenue Code, 1879.”.

3. In the principal Act, for the section 3, the following section shall be substituted, namely:-

Substitution of section 3 of Guj. 12 of 1991.

Declaration of disturbed area.

“3. (1) Where the State Government is of the opinion that, –

(i) having regard to the intensity and duration of riot or violence of mob and such other factors in any area of the State, the public order in that area was disturbed for a substantial period by reason of riot or violence of mob; or

(ii) polarization of persons belonging to one community has taken place or is likely to take place disturbing the demographic equilibrium of the persons of different communities residing in that area or that improper clustering of persons of one community has taken place or is likely to take place where the mutual and peaceful coherence amongst different communities may go haywire in that area; or

(iii) for the reasons stated in this sub-section, that area of the State has become prone to disturbance of public order,

it may, by notification in the *Official Gazette*,

(a) declare such area to be a disturbed area;

(b) specify the substantial period (hereinafter referred to as "the specified period").

Explanation. - In this section the word "riot" shall have the same meaning as in section 146 of the Indian Penal Code.

XLV of 1860.

(2) Where the State Government is of opinion that public order in the area declared as disturbed area under sub-section (1) has ceased to be disturbed, it may by notification in the *Official Gazette*, rescind the notification issued under sub-section (1) in relation to such area and on such rescission the provisions of this Act shall cease to apply to such area except as respects things done or omitted to be done under this Act and except as respects the application of the Gujarat Rents, Hotel and Lodging House Rates Control Act, 1947 to such area, as amended by this Act.”.

Bom. LVII of 1947.

Substitution of section 4 of Guj. 12 of 1991.

4. In the principal Act, for section 4, the following section shall be substituted, namely:-

Certain transfers of immovable property to be void.

“**4.** Notwithstanding anything contained in any law for the time being in force but subject to sub-section (1) of section 5, all transfers of immovable property situated in a disturbed area made during the specified period shall be null and void, with effect from the date of such transfer.”.

Amendment of section 5 of Guj. 12 of 1991.

5. In the principal Act, in section 5, in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely:-

“(b) On receipt of such application, the Collector shall hold a formal inquiry in the manner provided by the Gujarat Land Revenue Code, 1879, and after giving an opportunity to the applicant to be heard and after considering any evidence produced, decide whether –

Bom. V of 1879.

(i) the immovable property is sought to be transferred in terms of clause (e) of section 2;

- (ii) there is free consent of persons intending to be the transferor and the transferee;
- (iii) the transfer is for a fair value of immovable property proposed to be transferred;
- (iv) there is likelihood of polarization of the persons belonging to the community causing disturbance in demographical equilibrium of the persons belonging to different communities residing in the area in which the immovable property is proposed to be transferred;
- (v) there is likelihood of improper clustering of persons belonging to one community in the area in which the immovable property is proposed to be transferred and accordingly,-

(a) reject the application; or

(b) by an order in writing, give previous sanction to the proposed transfer of immovable property.

(c) The Collector shall decide the application made under sub-section (2) preferably within a period of three months from the date of receipt of application:

Provided that the Collector may extend the said period by recording reasons which necessitated extension of the said period.”.

6. In the principal Act, for section 5A, the following section shall be substituted, namely:-

**Substitution of
section 5A of
Guj. 12 of 1991.**

**Obligations of
transferor and
transferee who
have received
advantage under
null and void
orders.**

“5A. (1)(a) Where a transfer of immovable property is null and void under section 4, the transferor who has received any consideration for such transfer shall return the consideration to the transferee-

- (i) where such transfer is made before the date of commencement of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises

in the Disturbed Areas (Amendment) Act, 2019, within six months from the date of such commencement, or **Guj. of 2019.**

(ii) where such transfer is made after the date of such commencement, within six months from the date of such transfer.

(b) the transferee or any other person on whose behalf of such transferee (hereinafter in this section referred to as the 'agent' has possession of such immovable property shall restore the property to the transferor within the said period of six months.

(c) the transferee shall not make any improvement in the property and the Collector may, by an order, restrain the transferee to make any improvement in the property.

(2) (a) Where a transferor fails to return the consideration to the transferee within the said period of six months, or

(b) where a transferee or his agent fails to restore possession of the immovable property to the transferor within the said period of six months, the transferee in case of clause (a) of sub-section (1) and the transferor in case of clause (b) of sub-section (1) may make an application in such form and within such period as may be prescribed, to the Collector for making an order directing the transferor to return the consideration to the transferee or, as the case may be, directing the transferee to restore possession of the immovable property to the transferor.

(3) The Collector may at any time *suo motu* or on application made to him under sub-section (2), shall, after making a formal inquiry in the manner prescribed by the Gujarat Land Revenue Code, 1879 and after giving the transferor and the transferee or, as the case may be, his agent an opportunity of being heard and after considering any evidence which may be produced, make an order in writing directing the transferor to return such consideration to the transferee within such time as may be specified in the order or, as the case

Bom. V of 1879.

may be, an order in writing directing the transferee or his agent to restore the possession of the immovable property to the transferor within such time as may be specified in the order or make such other order as he deems fit.

- (4) (a) Where the transferor fails to return the consideration to the transferee within the time specified in the order made under sub-section (3), the Collector may recover the consideration from the transferor as an arrear of land revenue and pay the same to the transferee after deducting the expenses for such recovery.
- (b) Where the transferee or his agent fails to restore possession of the immovable property within the time specified in the order made under sub-section (3), the Collector may, notwithstanding anything to the contrary contained in any law for the time being in force, evict the transferee or his agent from the immovable property and take possession of such property and may, for such purpose use or cause to be used such force as may be necessary, and restore the possession of such property to the transferor.
- (5) Where a transferor fails to take possession of such property, the property shall temporarily be in the custody of the Collector and the Collector may take such measures as he considers necessary or expedient for securing and managing such property subject to the provision of the rules made in this behalf until the said property is disposed of by the Collector in the manner as may be prescribed.”.

7. In the principal Act, for section 6, the following section shall be substituted, namely:-

**Substitution of
section 6 of Guj.
12 of 1991.**

Appeal. “6. (1) Any person aggrieved by the decision of the Collector rejecting an application under sub-section (2) of section 5 may file an appeal before the State Government in such manner, within such time, and on payment of such fees, as may be prescribed:

Provided that if the Appellate Officer is satisfied that such person was prevented from preferring an appeal within the prescribed time limit for sufficient cause, he may entertain the appeal even after such prescribed time limit.

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

Insertion of new
sections 6A to 6E
in Guj. 12 of
1991.

8. In the principal Act, after section 6, the following sections shall be inserted, namely:-

Sections 4 and 5
not to apply to
certain transfer
of immovable
property in
rehabilitation
schemes.

“6A. (1) Nothing in section 4 and 5 shall apply to the transfers of immovable properties by the persons residing in such rehabilitation schemes of the State Government in the disturbed area, as may be specified by the State Government by notification in the *Official Gazette*.

(2) Nothing in section 5 shall apply where the State Government relocates the persons in any of its rehabilitation schemes falling in the disturbed area.

Redevelopment
of immovable
property.

6B. Any person who desires to redevelop the immovable property standing in his name in the revenue records for further transfer whole or part thereof after redevelopment, shall apply under sub-section (1) of section 5 for getting previous sanction of the Collector and thereupon, the remaining provisions of section 5 shall apply to such application *mutatis mutandis*;

Provided that previous sanction of the Collector shall not be required in case a person intends to redevelop his immovable property for his personal use.

Revision.

6C. The State Government may, on its own motion or on application, call for and examine the records of any order passed or proceeding taken under the provisions of this Act and against which no appeal has been preferred under section 7 for the purpose of

satisfying itself as to the legality or propriety of such order or as to the regularity of such procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

**Penalty for
contravention of
provisions of the
Act.**

6D. Whoever contravenes the provisions of section 4, or 5 shall on conviction be punished with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than rupees one lakh or ten per cent. of the value of property derived based on the *jantry* of the property, whichever is higher, shall be levied.

**Cognizable
offence.**

6E. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under section 6D shall be cognizable.”. **2 of 1974.**

**Insertion of new
sections 16A to
16C in Guj. 12 of
1991.**

9. In the Principal Act, after section 16, the following sections shall be inserted, namely:-

**Constitution of
Monitoring and
Advisory
Committee.**

“16A. (1) The State Government shall, as soon as may be after the commencement of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas (Amendment) Act, 2019, constitute a Committee called the Monitoring and Advisory Committee.

**Guj.17 of
2019.**

(2) The Monitoring and Advisory Committee shall consist of a Chairperson and such number of other official members as the State Government may deem fit.

(3) The Monitoring and Advisory Committee shall conduct or cause to be conducted studies in the disturbed areas to ascertain from time to time whether the proper clustering of people of the community is maintained.

(4) The Monitoring and Advisory Committee shall advise -

(a) the State Government either generally as regards any rules or for any other purpose connected with this Act;

(b) the Collector in discharge of his functions under this Act.

Additional Provisions.

16B. Notwithstanding anything contained in –

(1) the Gujarat Co-operative Societies Act, 1961, the persons seeking to register a co-operative housing society or Chairman or Secretary of the society shall, when a person before transferring his right, title or interest in his holding in a cooperative society in the specified area, along with the application for registration of such society, or as the case may be, before transferring his right, title or interest in his holding in such society shall file a self-declaration that no breach of section 4 or 5 shall take place due to registration of the co-operative housing society or transfer of right, title or interest in his holding in such society.

Guj. 10 of 1962.

(2) the Gujarat Provincial Municipal Corporations Act, 1949, the person shall, at the time of applying for the permission for getting building use of immovable property situated in the specified area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of sections 4 or 5;

Bom. LIX of 1949.

(3) the Gujarat Municipalities Act, 1963, the person shall, at the time of applying for the permission for getting building use of immovable property situated in the disturbed area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of section 4 or 5;

Guj. 34 of 1964.

(4) the Indian Registration Act, 1908, the registering authority shall not accept or register any document relating to immovable property situated in the specified area which is required to be compulsorily registered unless the order granting previous sanction of the Collector under section 5 is produced along with the document sought to be registered.

XVI of 1908.

**Special
Investigation
Team.**

16C. (1) The State Government shall constitute a Special Investigation Team for Police Commissionerate area comprising of Collector, Police Commissioner and Municipal Commissioner and for rest of area a team comprising of Collector, Superintendent of Police and Regional Municipal Commissioner of the concerned district.

(2) The special investigation team shall discharge the following functions, namely:-

(i) assist the State Government in forming opinion before declaration of any area to be a disturbed area under section 3;

(ii) assist the authorized officer in examining the cases as may be referred by the authority before grant of sanction or otherwise under section 5;

(iii) assist the Monitoring and Advisory Committee in gathering necessary information in regard to sub-section (3) of section 16A.

**Amendment of
certain Acts.**

16D. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

SCHEDULE

(See section 16D)

Sr. No.	Short title	Extent of Amendment.	
1	2	3	
1.	The Indian Registration Act, 1908. (XVI of 1908)	Amendment of section 17 of XVI of 1908.	In the Registration Act, 1908 in its application to the State of Gujarat, in section 17, in sub-section (1), - (i) to clause (e), after the existing proviso, the following proviso and Explanation thereunder shall be inserted, namely:- “Provided further that the registering authority shall not accept or register any document relating to immovable property situated in the disturbed area which is required to be compulsorily registered

			unless the order granting previous sanction of the Collector under section 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 is produced along with the document sought to be registered. <i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991”.	Guj. 12 of 1991. Guj. 12 of 1991.
2	The Gujarat Provincial Municipal Corporations Act, 1949. (Bom. LIX of 1949)	Insertion of new section 263B in Bom. LIX of 1949.	“263B. Permission for getting building use of immovable property situated in the disturbed area. The person shall, at the time of applying for the permission for getting building use of immovable property situated in the disturbed area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for	

			Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991. <i>Explanation.-</i> For the purpose of this section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”.
3.	The Gujarat Municipalities Act, 1963. (Guj. 34 of 1964)	Amendment of section 157 of Guj. 34 of 1964.	In the Gujarat Municipalities Act, 1964, in section 157, after sub-section (1), the following sub-section and the Explanation thereunder shall be inserted, namely:- “(1A) The person shall, at the time of delivering or sending notice to the Chief Officer for completion certificate for the permission for getting building use of immovable property situated in the disturbed area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.

Guj. 12 of 1991.

Guj. 12 of 1991.

			<i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”.
4	The Gujarat Co-operative Societies Act, 1961. (Guj. X of 1962)	Amendment of section 8 of Guj. X of 1962.	In the Gujarat Co-operative Societies Act, 1961, - (i) in section 8, after sub-section (1), the following sub-section and Explanation thereunder shall be inserted, namely:- “(1A) The persons seeking to register a co-operative housing society in the disturbed area shall, along with the application for registration of such society, file a self-declaration that no breach of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 shall take place due to registration of the co-operative housing society. <i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of

Guj. 12 of 1991.

		Amendment of section 26 of Guj. 12 of 1991.	Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”; (ii) the existing section 26 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section and Explanation thereunder shall be inserted, namely:- “(2) The Chairman or, as the case may be the Secretary of the co-operative society shall, before transferring the right, title or interest in the holding in a co-operative society in the disturbed area, file a self-declaration that no breach of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 shall take place due to transfer of right, title or interest in the holding in such society. <i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”.
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