

## Evacuee Interest Separation Act 1951 [Repealed]

### Chapter I - Preliminary

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(1) This Act may be called the Evacuee Interest (Separation) Act, 1951.

(2) It extends to the whole of India except<sup>1</sup>[the territories which, immediately before the 1st November 1956, were comprised in the States] of Assam, West Bengal, Tripura, Manipur and Jammu and Kashmir.

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1. Substituted for "the State" by 4 A.L.O. 1957.

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### Section 2 - Definitions

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In this Act, unless the context otherwise requires,-

(a) "appellate officer" means an officer appointed as such by the State Government under section 13;

(b) "claim" means the assertion by any person not being an evacuee, of any right, title or interest in any property-

(i) as a co-sharer or partner of an evacuee in the property; or

(ii) as a mortgage of the interest of an evacuee in the property or;

(iii) as a mortgagor having mortgaged the property or any interest therein in favour of an evacuee;

and includes any other interest which such person may have jointly with an evacuee and which is notified in this behalf by the Central Government in the Official Gazette:

(c) "competent officer" means an officer appointed as such by the State Government under section 4;

(d) "composite property" means any property which, or any property in which an interest has been declared to be evacuee property or has vested in the Custodian under the Administration of Evacuee Property Act, 1950 (XXXI of 1950) and---

(i) in which the interest of the evacuee consists of an undivided share in the property held by him as a co-sharer or partner of any other person, not being an evacuee; or

(ii) in which the interest of a evacuee is subject to mortgage in any form in favour of a person, not being an evacuee; or

(iii) in which the interest of a person, not being an evacuee, is subject to mortgage in any form in favour of an evacuee; or

(iv) in which an evacuee has such other interest jointly with any other person; not being an evacuee, as may be notified in this behalf by the Central Government, in the Official Gazette;

(e) "evacuee interest", in relation to a composite property ,means the right , title and interest of an evacuee in that property;

(f) "mortgage debt" means any liability in respect of a property due under any form of mortgage (including any usufructuary mortgage or mortgage by conditional sale) whether such liability is payable presently or in future, or under any decree or order of a court or otherwise, or whether ascertained or not, which

(i) in any case where it is incurred by any evacuee, is secured by the mortgage of the interest of the evacuee in the property in favour of a person, not being an evacuee;

(ii) in any case where it is incurred by a person not being an evacuee, is secured by the mortgage of the interest of such person in the property in favour of an evacuee;

but does not include any such liability of an evacuee arising out of any transaction entered into after the 14th day of August, 1947 unless such transaction has been confirmed by the Custodian under the Administration of Evacuee Property Act, 1950 (XXXI of 1950);

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "principal money", in relation to a mortgage deed executed by an evacuee, means-----

(i) in the case of a mortgage deed which has not been executed by way of renewal of a prior mortgage deed, the sum of money advanced by way of loan at the time of the execution of the mortgage deed;

(ii) in the case of a mortgage deed which has been executed at any time before the 1st day of January, 1940, by way of renewal of a prior mortgage deed the consideration for which the renewed mortgage deed was executed;

(iii) in the case of a mortgage deed which has been executed at any time after the 1st day of January, 1940, by way of renewal of a prior mortgage deed executed before that date, the sum of money which became due on the 1st day of January, 1940, on account of the money advanced on the prior mortgage deed and interest thereon up to the said date;

(iv) in the case of a mortgage deed which was executed at any time after the 1st day of January, 1940, by way of renewal of a prior mortgage deed which was also executed after that date, the sum of money advanced by way of loan at the time of the execution of the prior mortgage deed;

Explanation.- For the purpose of calculating the principal money in relation to any mortgage deed which has been executed by way of renewal of a prior mortgage deed, any sum of money advanced at the time of such renewal in addition to the sum of money which was due on the prior mortgage deed shall also be taken into account.

(i) all words and expressions used but not defined in this Act and defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950), shall have the meanings assigned to them in that Act.

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### Section 3 - Act to over-ride other laws

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Save as otherwise expressly provided in this Act, the provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

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