

AZAD JAMMU AND KASHMIR TENANCY (AMENDMENT)

ACT OF 1952.

Whereas it is necessary to amend the Tenancy Act in force in

Azad Kashmir so as to make it conform to the Shariat in its application to Muslims, it is hereby enacted as follows :-

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Short Title:- This Act may be called the Azad Kashmir Tenancy (Amendment) Act of 1952.

Amendment of section 59 of Tenancy Act:- For section 59 of the Azad Kashmir Tenancy Act the following shall be substituted, namely :

"(59) (1) When a Muslim Tenant having a right of occupancy in any land dies the right shall devolve on his heirs in accordance with the provisions of the Muslim Personal Law (Shariat);

Provided that when the occupancy rights are held by a female as a limited owner under Customary Law, succession shall open out on the termination of her limited interest to all persons who would have been entitled to inherit the property at the time of the death of the last full owner had the Muslim Personal Law (Shariat) been applicable at the time of such death, and in the event of the death of any of such persons before the termination of the limited interest mentioned above, succession shall devolve on his heirs and successors existing at the time of the termination of the limited interest of the female as if the aforesaid such person had died at the termination of the limited interest of the female and had been governed by the Muslim Personal Law (Shariat):

Provided further that the share which the female limited owner would have inherited had the Muslim Personal Law (Shariat) been applicable at the time of the death of the last full owner shall devolve on her if she loses her limited interest in the property on account of her marriage or remarriage and on her heirs under the Muslim Personal Law (Shariat) if the limited interest terminates because of her death.

(2) When a non-Muslim tenant having a right of occupancy dies the right shall devolve :-

(a) on his male lineal descendants, if any, in the male line of descent, and

(b)

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failing such descendants, on his widow, if any, until she dies or remarries abandons the land or is under the provisions of this Act ejected therefrom; and

(c) failing such descendants, and widow on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom, and

(d)

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failing such descendants and widow, or widowed mother or if the deceased tenant left a widow or widowed mother than when her interest terminates under clause (b) or (c) of this sub-section on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and their relatives :

Provided with respect to clause (d) of this sub-section that the common ancestor occupied the land.

Explanation :- For the purpose of clause (d) land obtained in exchange by the deceased tenant or any of his predecessors in interest in pursuance of the provisions of sub-section (1) of section 58-A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him.

(3) As among descendants and collateral relatives claiming under sub-section (2) the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(4) When the widow of a deceased tenant succeeds to a right of occupancy under sub-section (2) she shall not transfer the rights by sale, gift or mortagage or by sub-lease for a term exceeding one year.

(5) If a deceased tenant has left no person on whom his right of occupancy may devolve under sub-section (1) or sub-section (2) as the case may be, the right shall be extinguished.