

THE AZAD JAMMU & KASHMIR (EMERGENCY)
REQUISITION OF PROPERTY ACT, 1960

(ACT III OF 1960)

(Passed under Government order No. 168/60 dated 22-3-1960)

Whereas it is necessary to provide for special measures for the requisition of property in connection with the administration and development of the Azad Jammu and Kashmir Territory, it is hereby enacted as follows :-

1.

Short title, extent and commencement:- (1) This Act may be called the Azad Jammu and Kashmir (Emergency) Requisition of Property Act, 1960.

(2) It extends to the whole of the Azad Jammu and Kashmir Territory.

(3) It shall come into force at once and continue to remain in force for a period often years.

Definitions:- In this Act, unless there is anything repugnant in the subject or context :-

(1) 'owner' includes the occupier ;

(2) 'property' means any immovable property ;

(3) 'Government' means the Azad Jammu and Kashmir Government.

Requisition of property:- If, in the opinion of the Government, it is expedient or necessary so to do for the administration and development of the Azad Jammu and Kashmir Territory or for any other public interest connected therewith such as improvement of towns, construction or betterment of roads, waterways or other communications, development of commerce or industries, maintenance of supplies and services essential to the life of the community and other similar purposes, the Government may, by order in writing, requisition any property and may make such further orders as appear to Government to be necessary or expedient in connection with such requisition :

Provided that no property used by the public for the purpose of religious worship shall be requisitioned :

Provided further that the Government may exempt any particular property or class of properties or exclude any particular area from the operation of this Act.

Service of order of requisition:- (1) When an order of requisition has been made under Section 3, it shall be served on the owner of the property personally by delivering or tendering it to him or where the owner cannot be found it shall be served by leaving an authentic copy of the order with some adult male member of the family of such owner, or and, if no such adult male member can be found, the notice may be served by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain and also by affixing another such copy to some conspicuous part of the requisitioned property.

(2) Where the order of the requisition has been served under sub-section (1) in respect of a property, the Government may take possession of the property forthwith and may use or deal with the property in such manner as may appear to it to be expedient :

Provided that, notwithstanding any thing contained in Section 15, the Government shall not delegate its powers of taking possession to an officer other than one having a gazetted rank.

Acquisition of property:- (1) The Government may, if it thinks fit, acquire any requisitioned property and, if it proposes to so acquire, the Government shall direct an officer authorised under this Act to cause a public notice to be given at convenient places on or near the property to be acquired stating that the Government intends to acquire the property.

(2) Such notice shall state particulars of the property to be acquired, and shall require all persons interested in the property to appear personally or by agent before the officer mentioned in sub-section (1) at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the property, their objections (if any) to the acquisition of the property and particulars of their claims to compensation for their respective interests.

(3) Notice shall also be served to the above effect on the owner of such property and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested as reside or have agents authorised to receive service on their behalf within the revenue district in which the property is situated.

(4) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

(4-a) Every person required to make or deliver a statement under sub-sections (2), (3) and (4) shall be deemed to be legally bound to do so within the meaning of Sections 175 and 176 of the Pakistan Penal Code as in force in the Azad Jammu and Kashmir Territory.

(5) The officer authorised under sub-section (1) shall, after hearing all objections and after making such further enquiry, if any, as he thinks necessary, submit the case for the decision of the Government together with the record of the proceedings held by him and a report containing his recommendations on the objections.

(6) The Government, after considering the report made under sub-section (5), shall make a decision about the acquisition of the requisitioned property and such decision of the Government shall be final.

(7) The Government shall then publish in the official Gazette a notice to the effect that the Government has decided to acquire the requisitioned property. On and from the beginning of the day on which the notice is so published the requisitioned property shall vest absolutely in the Government free from all encumbrances and the period of such requisition of such property shall end.

For the purpose of enquiries under this Act, the officer authorised by the Government under sub-section (1) of Section 5 shall have the power to summon and enforce the attendance of witnesses, including the parties interested or any of them and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure.

Compensation for immovable property:- Whenever any immovable property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say:-

(a) Where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement ;

(aa) Where no such agreement can be reached, the Government shall assess compensation for the immovable property and the District Magistrate shall give immediate notice of the assessment to the person or persons interested ;

(aaa) (1) Any person interested who has not accepted the assessment may, by written application to the Government, require that the matter may be referred to an arbitrator ;

(ii) The application shall state the grounds on which objection to the assessment is taken;

Provided that every such application shall be made within six weeks of the service of the notice by the District Magistrate under clause (aa) or within three months from the date of Government's order of assessment, whichever period shall later expire.

(b) On receipt of such application, the Government shall appoint as arbitrator a person who holds a judicial office not inferior to that of a Subordinate Judge ;

(c) The Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose ;

(d) At the commencement of the proceedings before the arbitrator the Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation ;

TA.

(e)

(g)

(1)

433

The arbitrator in making his award shall have regard to the provisions of Section 23 and sub-section (2) of Section 35 of the Land Acquisition Act, 1894, as in force in the Azad Jammu and Kashmir Territory, so far as the same can be made applicable ;

Provided that :

(i) Subject to the provisions of clause (ii) of this proviso, the market value of any immovable property for the purposes of this Section shall be the market value of the property at the date of the order of its requisition under Section 3 ;

(ii) in awarding compensation for the requisition of any immovable property to which the provisions of Azad Kashmir Rent Restriction Act, 1952, or any other law for the time being in force, for the control of house rents, apply, the arbitrator shall have regard to those provisions, so that the compensation awarded may not exceed the amount of rent allowable in respect of such property by such Act or law ;

An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount specified in this behalf by rule made by the Government ;

Save as provided in this Section and in any rules made thereunder nothing in any law for the time being in force shall apply to arbitrator under this Section ;

Where there is any dispute as to the apportionment of compensation or any part thereof or as to the person to whom the same or any part thereof is payable, the District Magistrate after hearing the claimants or giving them an opportunity to be heard shall decide the dispute and make an award and shall give immediate notice of the award to the person or persons interested.

(2)

Any person interested who has not accepted the award made

under sub-section (1) may bring a suit in a Civil Court of competent jurisdiction for the determination of the dispute ;

7B.

TC.

434

434

Provided that no such suit shall be entertained unless it is instituted :

(a) if the person instituting it was present or represented before the District Magistrate at the time when he made his award, within six weeks from the date of District Magistrate's award;

(b) in other cases, within six weeks of the service of notice by the District Magistrate under sub-section (1) or within three months from the District Magistrate's award, whichever period shall later expire.

(3) Any person who has instituted a suit in the Civil Court under sub-section (2) shall produce evidence before the District Magistrate that he has instituted such a suit in the Civil Court within two weeks from the date of expiry of the period referred to in the proviso to sub-section (2), failing which the District Magistrate shall disburse the compensation according to the award made by him under sub-section (1).

When the compensation has been assessed under Section 7, the District Magistrate shall tender payment of such compensation to the persons entitled thereto :

Provided that when there is any dispute under sub-section (1) of Section 7A as to the apportionment of compensation or any part thereof or as to the person to whom the same or any part thereof is payable, or when any suit has been brought under sub-section (2) of the said Section and evidence of such suit has been produced before the District Magistrate under sub-section (3) of that Section, such payment shall not be made by the District Magistrate until an award has been made by him under sub-section (1) of that Section or until the final determination of the suit, as the case may be.

Recovery of money from allottee of requisitioned property:-

(1) If any requisitioned property is allotted to and placed in possession of any person, it shall be lawful, and shall be deemed always to have been lawful, for the Government to recover from such person such portion of the costs of litigation and repair incurred by it in respect of such requisitioned property as it may deem fit and a sum equivalent to the compensation payable by it under this Act in respect of such property for the period of such allotment and possession; and the recovery as aforesaid shall be

7D.

TE.

TF.

435

made in such instalments and by such dates as the authority making the allotment may fix from time to time.

(2) Any sum due from an allottee under sub-section (1), if not paid within the date fixed, as also the sum which, prior to the coming into force of this Section, became due from an allottee for the use and occupation of any requisitioned property and is outstanding, shall be recoverable as an arrear of land revenue under the Punjab Land Revenue Act, as in force, in the Azad Jammu and Kashmir Territory.

Transfer of acquired property to a Company:- When a requisitioned property acquired under Section 5 is transferred or proposed to be transferred to a company within the meaning of the Companies Act, 1913, such company shall enter into an agreement with the Government in such form as may be prescribed by the Government, and such agreement shall be published in the official Gazette.

Recovery of compensation paid in advance:- When any payment has been made in advance towards compensation to the owner of any requisitioned property with a view to acquire it and it is found, at the time of preparation of the final award, that an amount in excess of the compensation payable to the owner of such requisitioned property has been made, such excess amount whether paid before or after coming into force of this section shall be recoverable from such owner as an arrear of land revenue under the Punjab Land Revenue Act, as in force in the Azad Jammu and Kashmir territory.

Payment of compensation to the heirs of a deceased owner:- When a person entitled to receive compensation for requisition or acquisition, of any property under this Act dies and the amount of compensation payable in respect of such property does not exceed five hundred rupees, the compensation may be paid to any person claiming it, who appears to the Government to be entitled to receive such compensation, without requiring production of any Probate, Letter of Administration or Succession Certificate and such payment shall be a full discharge to the Government from all liability in respect of compensation but nothing in this Section shall affect the claim of any executor or administrator or other representative or any creditor of the deceased against the person to whom the payment has been made.

435

Release from requisition:- (1) Where any requisitioned property is to be released from requisition, the Government may restore it to the persons from whom the property was requisitioned or to his successor in interest or to such other person as may appear to the Government to be entitled to such restoration.

(2) The delivery of possession of the requisitioned property to the person referred to in subsection (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered :

Provided that when the person, to whom the requisitioned property is to be restored or released from requisition, willfully neglects or refuses to take delivery of the requisitioned property on being directed in writing to take possession of such requisitioned property by the Government, such requisitioned property shall be deemed and shall always be deemed to have been restored to such person within the meaning of this sub-section with effect from the date and time specified in the aforesaid direction.

(3) Where the person to whom possession of any requisitioned property is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and published in the Official Gazette.

(4) When a notice referred to in sub-section (3) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof, and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

Certain allottees to become tenants on de-requisition:- (1) When an immovable requisitioned property, situated in any area to which the Azad Kashmir Rent Restriction Act, 1952, or any other similar law for the time being in force, applies, which has been allotted to and placed in possession of any person for

commercial or industrial purposes, is to be released from requisition, the actual possession of it, notwithstanding the provision of sub-section (1) of Section 8, shall not be liable to be restored to any one, but such property may, subject to the provisions of sub-section (4) of that Section, be released from requisition only in the manner laid down in sub-section (3) thereof.

(2) Notwithstanding anything contained in any other law for the time being in force, when a : requisitioned property as aforesaid is released from requisition under sub-section (1), the allottee in possession of such property shall, on and from the date of its release from requisition, be deemed to be a tenant from month to month under the person or persons who, but for the provision of sub-section (1), would have been entitled to restoration of actual possession thereof under sub-section (1) of Section 8, at a rental equivalent to the amount of monthly compensation which, prior to the release of that property, was payable by him for it or, if that rent be not acceptable to either party to the aforesaid tenancy, at such standard rent as may be admissible or fixed under the provisions of the Azad Kashmir Rent Restriction Act, 1952, or any other similar law for the time being in force.

(3) The authority releasing such property from requisition shall inform, in the manner prescribed by rules, the fact of release thereof, to the person or persons referred to in sub-section (2).

(4) The Azad Kashmir Rent Restriction Act, 1952, or any other similar law for the time being in force, so far as it is applicable, shall apply to the tenancy referred to in sub-section (2).

Withdrawal from acquisition:- When the owner of any property which has been acquired under Section 5 is willing to receive back the property, the Government may, at any time before the payment of compensation, withdraw from the acquisition of any such property by notification published in the Official Gazette, and on such withdrawal, the property shall be restored to the possession of the owner, and with effect from the date of such restoration the property shall vest back in the owner in the rights which he had before such property was acquired.

Powers to enter on land and into premises to collect information:- With a view to requisitioning or acquiring any property, or determining the compensation payable under this Act, the Government may :

10.

11.

12.

12A.

438

438

(a) authorise any person to enter upon any land or into any premises and inspect such land or premises and any property thereon or therein; and

(b) by written order require any person to furnish to such authority such information in his possession relating to the property as may be specified in the order :

Provided that no premises shall be entered, without the consent of the occupier, unless at least twenty-four hours previous notice in writing has been given.

Penalty:- Any person who contravenes or attempts to contravene or abets, or attempts to abet a contravention of any order, made under this Act, or who willfully obstructs any person in doing any of the acts authorised or permitted under this Act or any rule made there-under shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding five hundred rupees or with both.

Offences by Corporation:- If the person contravening any order, made under this Act, is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Enforcement of surrender:- If any officer of the Government, duly empowered in this behalf, is opposed or impeded in taking possession under this Act of any property, he shall, if a Magistrate, enforce the surrender of the property to himself, and if not a Magistrate, he shall apply to a Magistrate and such Magistrate shall enforce the surrender of the property to him.

Eviction of allottees:- Notwithstanding anything contained in any other law for the time being in force, if any immovable property under requisition, which has been allotted to any person or is in unauthorised occupation of any person is required by the Government for any other use or purpose during the period of requisition or for restoring the property under section 8 on its release from requisition, the Government may, at any time by a written order, direct such person to vacate the property by such

date as may be specified in such order, and if such person does not vacate the property by the date so specified, the Government

12B.

12C.

13.

439

may evict such person from such property and may use or cause to be used such force for the purpose as may be necessary ;

Provided that no person shall be so evicted between sunset and sunrise.

Eviction when allottee erects or purchases house for residence:- Notwithstanding anything contained in any other law for the time being in force, if a person, to whom any requisitioned premises have been allotted for residential purposes, erects a house for such purposes or purchases a house for such purposes and secures vacant possession thereof, such person shall be evicted from the requisitioned premises under the provisions of Section 12 A if he does not voluntarily vacate the said premises as soon as the erection of the house has been completed or as soon as the house purchased by him is available for his occupation.

(1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under Section 5, by the officer therein mentioned and, in the case of any other notice, by order of the District Magistrate.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by affixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business or is known to have last resided or carried on business and by affixing a copy thereof in some conspicuous place in the office of the officer authorised under Section 5 or of the District Magistrate or in the Court House and also in some conspicuous part of the property to be requisitioned or acquired ;

Provided that, if the District Magistrate or the officer authorised under Section 5 shall so direct, a notice may be sent by registered post in a letter addressed to the person named therein at his last known residence, address of place of business in Azad Jammu and Kashmir Territory.

Offence under the Act is cognizable:- Notwithstanding anything contained in the Code of Criminal Procedure, 1898, as

439

14.

15.

16.

440

440

in force in the Azad Jammu and Kashmir Territory, an offence under section 10 shall be a cognizable offence within the meaning of clause (f) of sub-section (1) of Section 4 of the Code.

Protection of action takes under the Act:- (1) No suit prosecution or other legal proceeding shall lie against the Government of any person for any thing which is, in good faith, done or intended to be done in pursuance of this Act or any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by any thing, in good faith, done or intended to be done in pursuance of this Act or any order or rule made thereunder.

Delegation of functions:- The Government may, by order notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

Power to make rules :- (1) The Government may make rules and may from time to time alter and add to the rules so made for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

(a) procedure in making an order for requisition of property under Section 3 ;

(b) exemption of any property or class of properties or exclusion of any particular area from the operation of this Act ;

(c) the form of the order of requisition referred to in sub-section (1) of Section 4 ;

(d) the form of the notice of acquisition referred to in sub-section (1) of Section 5 ;

(e) manner and principle of assessment and payment of compensation in respect of properties requisitioned or acquired mentioned in Section 6 and clause (a) of Section 7 ;

(f) the procedure to be followed in arbitration under Section 7 ;

(g) the principles to be followed in apportioning the costs of

proceedings before the arbitration and on appeal under
Section 7 ;

(h) the maximum amount of an award against which no appeal
shall lie under clause (f) of Section 7 ;

(i) the form of the notice of release referred to in sub-
section (3) of Section 8 and procedure for release ;

Gj) the procedure to, be followed in making entry on a property
referred to in clause (a) of Section 9 ;

(k) manner of collection of information referred to in clause (b)
of Section 9 ;

(l) manner of enforcement of surrender referred to in Section
12;

(m) various forms and registers considered necessary for the

guidance of officers in all matters connected with the
enforcement of the law.