

THE AZAD KASHMIR ADMINISTRATION OF EVACUEE
PROPERTY RULES, 1957

(Passed under Council Order No. 330/57 dated 16-8-1957)

Whereas with a view to survey and rectify cases of mis-allotments and multi-allotments and in order to scrutinize the legality of possession of Evacuee Property ; and

Whereas for the better administration and maintenance of Evacuee Property, it is expedient to make rules ;

Therefore, in exercise of the powers vested in it under section 21 of Azad Kashmir Protection of Evacuee Property Act 1950 and Section 18 of the Azad Kashmir (Rehabilitation) Ordinance of 1952, the Azad Kashmir Government is pleased to make and promulgate the rules as under :-

1. These rules shall be called the Azad Kashmir Administration of Evacuee Property Rules 1957.

2. They shall come into force at once.

3. Definitions:- In these rules :-

(a) 'Custodian' shall mean the Custodian of Evacuee Property appointed by the Government under the Azad Kashmir Protection of Evacuee Property Act and shall not include a Deputy Custodian or an Assistant Custodian ;

(b) 'Government' shall mean the Azad Jammu and Kashmir Government ;

(c) 'Urban Evacuee Property' shall mean Evacuee Property situated within the Municipal or town area limits in Azad Kashmir and shall include residential houses and shops situated in places beyond such limits with respect to which the Custodian may by an order notify that these rules shall apply;

"Unauthorised person! shall mean a person in possession of Evacuee Property, directly or through some other person, without an authority from the Custodian or a Rehabilitation Authority and shall include a person whose authority to possess such property or allotment has been revoked by the

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Rehabilitation Authority or the Custodian ;

(e) 'Normal repairs' shall mean ordinary annual repairs to an Urban Evacuee Property such as white washing; patching, painting, etc. the cost of which does not exceed 15% of the annual rent of such property in a year ;

(f) 'General repairs' shall mean repairs to an Urban Evacuee Property the cost of which does not exceed 50% of the annual rent in a year ;

(g) 'Special repairs' to an Urban Evacuee Property shall mean such repairs the cost of which does not exceed six years rent of the property ;

(h) 'President' shall mean the President of Azad Kashmir.

Normal repairs:- (1) An allottee may carry out normal repairs to an Urban Evacuee Property in his possession once a year.

(2) The allottee shall render correct and true accounts of such repairs to the Deputy Rehabilitation Commissioner of the District where such property is situated within a period of two months after the completion of such repairs.

(3) The Deputy Rehabilitation Commissioner, on being satisfied, by making such inquiries as he may deem fit, that the amount claimed by the allottee has actually and properly been spent by him, shall debit the same against the rent of the property.

General repairs:- (1) The Deputy Rehabilitation Commissioner of the District within which an urban Evacuee Property is situated may permit an allottee in possession of such property to carry out general repairs to it :

Provided that the cost of such repairs does not exceed 30 % of the annual rent of that property.

(2) Where the Deputy Rehabilitation Commissioner is satisfied that for the purposes of preservation and maintenance in good order of an Urban Evacuee Property, it is necessary to carry out general repairs to it and the estimated cost of such general repairs exceeds 30% of the annual rent of the property, he may refer the matter to the Custodian and seek his orders.

(3) The Custodian may permit general repairs to an urban Evacuee Property if he is satisfied that such repairs are necessary for the preservation and proper maintenance of that property.

Special repairs:- (1) Special repairs to an urban Evacuee Property shall not ordinarily be allowed within a period of three years after such property has undergone general or special repairs, provided that the Custodian may when satisfied that the carrying out of such repairs within the period of the said three years is absolutely essential for saving the property from decay, allow special repairs within the said period of three years.

(2) Special repairs shall be allowed as sparingly as possible and the Custodian alone shall be competent to allow such repairs.

Repairs to Evacuee Property under the possession of a Department of the Government and recovery of its rent:- (1) The Head of a Department of the Government, when satisfied that an Urban Evacuee Property under the possession of his department is in the need of general or special repairs, may, after giving previous permission from the Deputy Rehabilitation Commissioner or the Custodian, as the case may be, carry out such repairs to the property out of the funds that may be otherwise at his disposal.

(2) The Head of the Department shall get these repairs done through the P.W.D. or a Private Agency as he may deem fit and shall submit true accounts of the expenditure undergone for such repairs for setting off against the rent of the property.

(3) The Custodian may, in deserving cases and in the interest of proper maintenance and preservation of Evacuee Property, relax the maximum limit of six years rent prescribed in case of special repairs and may allow the expenditure of higher amount.

The Head of the Department shall make payment of the rent of the building under possession of his department out of his budget grant and shall be responsible to make necessary arrangement of funds in the budget for this purpose.

Addition or alteration in the Urban Evacuee Property:- No addition or alteration in an Urban Evacuee Property shall be made, provided the Custodian may allow such addition or alterations in such property which he may consider necessary in the interest of proper maintenance of such property.

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Income yielding urban Evacuee property:- (1) An allottee of an income yielding Evacuee Property, such as shop, cinema, industrial concern, shall not be allowed expenditure on account of normal repairs to such property out of its rent. It will be the responsibility of the allottee himself to maintain such property properly and undergo this expenditure.

(2) The Custodian may permit general and special repairs to an income yielding Urban Evacuee Property out of its rent if he is satisfied that the allottee should be allowed this concession.

Survey of Urban Evacuee Property:- The Custodian shall make or cause to be made by the Deputy Rehabilitation Commissioner of the District within which property is situate a survey of Urban Evacuee Property in order to find out :-

- (a) Whether such property was properly maintained ;
- (b) Whether the rent of the property was properly assessed ;
- (c) Whether the rent of the property was being regularly paid ;
- (d)

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The property in the possession of unauthorised persons ;

(e) The property subjected to mis-allotments or multi-allotments to refugees ;

(f) Such allotment or multi-allotments to persons other than refugees which had been made in derogation to these rules or any rules or law in force for the time being ; and

(g) The property in possession of a refugee or a person other than a refugee in contravention of Rule 14.

The Custodian May :-

(a) take suitable steps for the preservation and maintenance in good order of such Urban Evacuee Property as may be found to be in need of such action ;

(b) either, himself or through the Deputy Rehabilitation Commissioner of the concerned district assess, reassess or cause to be assessed or re-assessed such rent of an Urban Evacuee Property as may be deemed proper, and in doing so may enhance or reduce the rent:

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Note:- While assessing or re-assessing the rent all matters that distinguished one property from the other in value and usefulness such as locality where the property is situated, its construction and capacity, shall be kept in view.

(c) take suitable steps for the regular realization of rent or arrears of rent of Urban Evacuee Property including that in the possession of a Department of the Government ;

(d) cause the ejectment of unauthorised persons found in possession of Evacuee Property or declared as such on revocation of their allotments ;

(e) himself cancel or cause to be cancelled mis-allotments or multi-allotments to refugees or persons other than refugees and re-allotted such property to deserving refugees ;

(f) cancel or cause to be cancelled allotments to persons other than refugees beyond 10% quota allowed and re-allot or cause to be re-allotted such property to deserving refugees; and

(g) cancel or cause to be cancelled the allotment of such property as is found to have been sublet in contravention of Rule 14 and take all steps permissible under law or any rule for the time being in force to dispossess a person or persons in possession of such property.

At no time more than 10% of the total available Evacuee Property shall be allotted or allowed to remain allotted to persons who are not refugee unless previous orders of the Government in this behalf have been obtained.

A person aggrieved by an order of an authority, other than the Custodian, passed under Rule 11 above, may appeal, within a period of 30 days, to the Custodian whose decision shall be final.

No person who is or may become hereafter in possession of, or acquire title to the possession of an urban Evacuee Property, by mean of an allotment or otherwise shall sublet the same to another person.

Explanation: The word 'sublet' shall include the placing of property in the possession of another person on any term

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whatsoever.

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Rendering of Accounts:- (1) The Deputy Rehabilitation Commissioner or the Deputy Custodian, when asked by the Custodian to do so, shall issue notice to a person in possession of multiple-allotments of urban Evacuee Property or an unauthorised person to render accounts within one month of the income derived by him of such property by way of rent, etc.

(2) The Deputy Rehabilitation Commissioner or the Deputy Custodian shall call upon such person to deposit in the treasury such amount of money as is found to have been realised by him as the income of such property after deducting there-from such amount as may be proved to have been spent on the repair of the property.

(3) Such arrears of income of rent mentioned above, if not paid within the time allowed, shall be recoverable as arrears of land revenue.

(4) Every person, when called upon to do so under clause (1) above, shall be bound to render true and accurate account within the period prescribed.

(5) A person aggrieved by an order passed under this clause may appeal to the Custodian within a period of 30 days.

A person aggrieved by an order under section 15 may appeal within 30 days to the Custodian whose order shall be final.

Notwithstanding anything contained in Rule 15, every person who is or has at any time, after one month of the coming in force of these rules, been in possession, supervision or management of urban Evacuee Property shall submit to the Custodian, or any person authorised by him in this behalf :-

(a) full information relating to such property including the date since when, or the period for which, he has been in possession, supervision or management thereof ;

(b) a detailed account of the rent, profits, income and other moneys recovered or benefits derived since the day, or for the period, he has been in possession, supervision or management thereof.

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Recovery of Rent and Maintenance of Accounts:- (1) The Deputy Rehabilitation Commissioner shall maintain a separate account of the urban Evacuee Property of each Evacuee situate within his district and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) At the close of each month Deputy Rehabilitation Commissioner shall furnish to the Custodian a statement of receipts and expenditure.

(3) The account shall be maintained on the prescribed form forming appendix 'A' to these rules.

A receipt shall be given for any money paid or recovered under the Protection of Evacuee Property Act, 1950, the Rehabilitation Ordinance 1952, or rules made thereunder.

The Accountant General shall furnish to the Custodian at the close of each month a statement of receipts and expenditure in respect of Urban Evacuee Property on the prescribed form (Appendix 'B').

(1) The Custodian shall maintain an account of the income and expenditure in respect of Urban Evacuee Property on the basis of information supplied to him by the Deputy Rehabilitation Commissioner and the Accountant General under rule 17 (2) & 19.

(2) The Deputy Rehabilitation Commissioner shall maintain a general register of the Urban Evacuee Property, in the prescribed form (appendix 'C').

(1) It shall be the responsibility of the Deputy Rehabilitation Commissioner to collect rent monthly from the allottees or person in possession of Urban Evacuee Property.

(2) The Deputy Rehabilitation Commissioner shall prepare every quarter a statement of such persons, who failed to pay the rent of the property in their possession or allotted to them, and shall submit a copy of the statement to the Custodian on the prescribed form (appendix 'C').

(3) The names of such persons who are Government Employees

and had failed to pay the monthly rent of the property shall be communicated by the Deputy Rehabilitation Commissioner to

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the Accountant General who shall deduct such arrears of rent from their salary bills.

Administration and Office Charges:- In accordance with the provisions of Rule 6(1) Azad Kashmir Administration of Evacuee Property Rules, 1952, the Accountant General shall open separate accounts for each Head mentioned there in and credit to each account the prescribed percentage of monthly income of Evacuee Property and communicate the same to the Custodian every month. All expenditure undergone under these Heads by the orders of a competent authority shall be debited to each Head.

The Deputy Rehabilitation Commissioner shall debit against the income of each property 10% of such income annually on account of administration and office charges as laid down in Rule 6 (i) Azad Kashmir Evacuee Property Rules, 1952.

(1) The Custodian may incur all expenditure by way of Administration and office charges such as payment of allowances to Deputy Custodian and other officials entrusted with the work of Administration and maintenance of Evacuee Property out of 10% income credited in terms of Rule 22 above.

(2) The Custodian shall draw such remuneration, for his duties in connection with the administration of Evacuee Property out of the Head of income mentioned in Rule 22 above, as the President may fix.

Miscellaneous:- The Deputy Rehabilitation Commissioner shall forthwith furnish to the Custodian information as follows in respect of the Urban Evacuee Property allotted, and the persons to whom it has been allotted, namely :-

(a) Name of the owner before 24th October, 1947, and his

present address, if known, and also his last address in Azad Kashmir ;

(b)

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a statement showing in detail the type and the situation of the property, its area or capacity and the purpose for which it was used before the aforesaid date ;

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any special features which may have been or may be taken into consideration in determining terms and conditions on which the property has been or may be lent ;

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(d) name of the allottee and his present address ; if a refugee, also his last address in the occupied area and the date on which he entered Azad Kashmir ;

(e) in cases of allotments to be made hereafter, a recommendation as to the most suitable terms and conditions.

Penalty and Prosecution:- (1) Whoever contravenes the provisions of Rule 14 shall be liable to imprisonment of either description for a term which may extend to two years or with fine upto Rs. 1000/- or with both.

(2) No Court shall take cognizance of an offence under these rules without the previous sanction in writing of Custodian.

(3) An infringement of the provisions of Rule 14 shall be deemed to be a cognizable and bailable offence.

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APPENDIX 'B' TO THE ADMINISTRATION OF
EVACUEE PROPERTY RULES, 1957,
FORM No. Cus/2

Office of the Accountant General,
Azad Kashmir Government, Muzaffarabad.

No. Dated

To :

* The Custodian,
Evacuee Property, S
Azad Kashmir Government,
Muzaffarabad.

Subject :- Statement of Income and Expenditure Evacuee Property.

(1) INCOME

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Headquarter Treasury M'abad,
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Mirpur.
Bhimber,
Kotli.
Pallandri,

Bagh.
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(2) EXPENDITURE

Head of expenditure

Repairs.

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. Payment of Decree,
Allowance to Employees.
. Other Office Charges,

Fall

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FORM:- 3.

APPENDIX 'C' TO THE AZAD JAMMU AND KASHMIR

Statement of persons who failed to pay the monthly

(TO REACH THE CUSTODIAN OF

Statement for the

+ Serial No. Particulars of Location of Monthly rent Period for Total

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of the Reg- the property, the property. assessed, which the — Amount to
ister Custo- rent is due. be realized,
dian No, I

Note:- 1. Separate statement for each category should be
Prepared (Government servant and non-
employees).

25 The statement should be sent in duplicate to the
Audit office and the Revenue Officer who will
return. One copy of the same duly completed in
columns 9 to 10.

3: The statement should reach to the Custodian by
the 10th of: the month proceeding quarter,

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ADMINISTRATION OF EVACUEE-PROPERTY RULES 1957

rent of the Evacuee Property under their

EVACUEE PROPERTY QUARTERLY)

quarter ending

Name and Parentage i 7 'i

with full address of Action of the Audit Office or the Revenue Authority collecting the amount.

the allottee, if Govt, Amount Treasury receipt No. Reference to Signature

Servant full partien- realized. Under which the re- the pay bills Revenue

lars of his place alized amount deposi- from which the Officer'

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