

THE AZAD KASHMIR EVACUEE PROPERTY RULES, 1952

In these rules, 'the Act' means the Azad Kashmir Protection of Evacuee Property Act, 1950.

The Central office of the Custodian of Evacuee Property Azad Kashmir shall be situated at Government Headquarters.

There shall be branch offices of the Custodian at such places where the Government directs.

Each of the branch offices shall be in the charge of a Deputy Custodian who will be assisted in his work by one or more Assistant Custodians if necessary.

The Custodian of Evacuee Property shall prescribe the various registers and forms for the purpose of maintaining accounts of Evacuee Property and shall issue directions in this respect from time to time.

In relation to proceedings under the Act involving the holding of an enquiry the procedure laid down in the Civil Procedure Code shall be followed, as, far as possible with the following modifications:-

(a) the record of the proceedings shall be kept as in the case where no appeal lies, subject to the further modification that

there shall be only one record in English or Urdu.

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All petitions under Sections 8 and 9 and all appeals under Section 10 shall be presented personally by the petitioner or the appellant or by an authorised agent or Pleader, except that where he happens to be an Evacuee he shall be entitled to send it by registered post. Any such petition sent by post, shall be considered to have been duly presented on the date on which it is received in the Custodian's office.

The powers conferred by Section 6, 8 and 9 and clause (d) (ii) of Section 13 shall be exercised and the order contemplated therein shall be passed only by the Custodian, the Additional Custodian and the Deputy Custodians in their respective jurisdictions, subject to the limitation that if the value of the property involved is more than Rs. 1,000/- or the amount of any claim awarded against the property of any

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evacuee under Section 13 (d) (ii) exceeds Rs. 200/- any order passed by a Deputy Custodian shall not become effective and be valid until confirmed by the Custodian to whom all such cases must be sent immediately for confirmation.

The powers conferred by clause (e) of Section 13 and Section 17 shall be exercised by the Custodian of Evacuee Property Azad Kashmir, and not by other Custodians, unless such powers are delegated to them under rule 9.

(e) Except with regard to the powers mentioned in the two

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preceding rules, the Assistant Custodians, if appointed, shall have the same powers, as the Deputy Custodian in the local areas for which they are appointed.

A petition under Section 8 or 9 shall be valid for purposes of jurisdiction according to the value of the property involved as a plaint in civil suits. A petition under Section 8 shall bear a Court fee of Rs. 10/- and that under Section 9 a Court fee of Rs. 1/- only.

An appeal under Section 10 against orders passed under Sections 8 and 9 shall be valid for purposes of jurisdiction as the original petition and against orders passed under Sections 6 and 7 according to the value of the property involved. An appeal against an order passed under Section 8 shall bear a Court fee of Rs. 10/- and that against an order passed under Section 6 or 9, a Court fee of Rs. 1/- only.

No Court fee shall be chargeable on any other application nor on any petition contemplated by Section 13 (d) (ii) or 13 (e) except an application given in the course of proceedings under Section 6, 8, 9 and 10 which shall be chargeable with a Court fee of Rs. 1/-.

(i) The following scales of fee shall be levied on all realization made by the Custodian on behalf of the evacuee :-

(a) 74 per cent, as Administration charges ;

b) 1% per cent, as Officer Charges ;

(c) 1' per cent, as Audit fee.

These fees shall be deducted monthly on realization and credited under the proper heads.

'Prescribed Custodian' shall mean :-

(a) (i) for the purposes of Section 4 of the Act, the Custodian of Evacuee Property, Azad Kashmir ;

(ii) for the purposes of Section 5 of the Act, in, relation to properties dealt with by any Rehabilitation Commissioner. The Custodian of Evacuee Property, Azad Jammu & Kashmir and in relation to other properties the Deputy Custodian of the area in which the property is situated subject to the limitation that the terms and conditions of allotment in case of properties valued at over Rs. 5,000/- shall be effective only if confirmed by the Custodian of Evacuee Property Azad Kashmir.

(iii) for the purpose of Sections 8 and 9 the Deputy Custodian of the Area in which the property is situated.

(b) 'Prescribed manner' for the purposes of Section 6 shall mean personal service of the order if that is possible and in case personal service cannot be effected or the occupant evades service by means of affixation of a copy of the order on the premises in question or by proclamation by beat of drum in the vicinity of the property or by both.

(c) 'Prescribed time' shall be :-

(i) for the purposes of Section 9 in relation to future, a period of sixty days counted from the date of execution of the instrument and in relation to past transfers, a period of sixty days from the date of commencement of the Act ;

(ii) for the purposes of Section 10, a period of 60 days counted from the date of the order appealed against provided that in computing this period, the time taken in obtaining a copy of the order appealed against shall be excluded.

(d) 'Prescribed Income Tax Authority' shall for the purposes of Section 9 mean the 'Collector of Taxation' Income Tax Branch, Azad Kashmir Government.

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(e) 'Prescribed proportions' for the purposes of Section 14 shall mean the proportions that the areas of the sites of the properties involved bear to one another.

(f) For the purposes of Section 9 and 17, the Custodians shall have regard for the following objects :-

(1) To arrange for and facilitate the resettlement and rehabilitation of refugees.

(2) To facilitate the rehabilitation of the economic life of the Azad Kashmir Territory.

The Custodian of Evacuee Property, Azad Kashmir may delegate all or any of his powers or functions under the Act, or under these rules to the Additional Custodians or any Deputy Custodians, subject to such conditions as he may deem fit.

No Court shall take cognizance of a complaint of an offence punishable under Section 7 of the Act unless the complaint is lodged in writing by the Deputy Custodian of the area in which the offence was committed or by the Additional Custodian or the Custodian of Evacuee Property, Azad Kashmir.

The Custodian of Evacuee Property, Azad Kashmir may of his own motion if he deems fit, transfer any proceedings before the Additional Custodian or a Deputy Custodian to any other Deputy Custodian or to the Additional Custodian or to himself, for disposal. The Deputy Custodian to whom such proceedings are transferred shall have the power to decide the matter in dispute irrespective of the fact that he is not the 'Prescribed Custodian' within the meanings of rule 8.

The form of lease to be granted under Section 13 (b) shall be such as may be specified by the Custodian having regard to the circumstances of each case.

Whenever an application under Section 8, 9 or 17 or an appeal under Section 10 of the Act, is presented to a Custodian, notice of the application or appeal as the case may be, shall be sent to the Rehabilitation Authority concerned, so that if the Authority so desires it may take part in the proceedings.

These rules may be cited as the Protection of Evacuee Property Rules, 1952.