

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLTAMENTARY AFFAIRS DEPARTMENT
MUZAFFARABAD

Dated the 14" Jan, 1987.

No. 119-123/LD-Leg (A) 87. The following Act of the Assembly

received the ascent of the President on the 8" day of January, 1987, is

hereby published for general information:-
(ACT III OF 1987)

AN

ACT

to amend the Pakistan Administration of Evacuee Property Act, 1957.

WHEREAS it is expedient to provide the measures for the

permanent social and economic rehabilitation of allottees of evacuee

property by granting them proprietary rights in such allotted evacuee
property;

AND WHEREAS it is necessary to amend the Pakistan
(Administration of Evacuee Property) Act, 1957, as in force in Azad
Jammu and Kashmir , for aforesaid purposes;

It is hereby enacted as follows:-

1. Short title, Extent and Commencement. - (1) This Act may be
called the Pakistan Administration of LEvacuee Property
(Amendment) Act, 1987.

(2) It shall extend to the whole of Azad Jammu and Kashmir

Territory.

(3) It shall come into force at once.

2. Definition.- In this Act, unless is anything repugnant in the

subject or contest.-

(a) "Act? means Pakistan Administration of Evacuee
Property Act, 1957, as adapted in Azad Jammu and
Kashmir;

(b) "Allottee' of Evacuee Property' shall mean the person or

persons holding the allotment of any evacuee property
under the Rehabilitation Act, 1956, as adapted in Azad
Jammu and Kashmir at the time of enforcement of this
Act and shall include any person to whom any evacuee

property is allotted in future under the said Act or any other law for the time being in force;

(c) 'Government' means the Azad Government of the State of Azad Jammu and Kashmir;

(d) 'Owner' shall mean the owner of the evacuee property is

shown immediately before the war of liberation in 1947 or his heir, survive or successor who by his personal law is entitled to inheritance;

(e) 'Rehabilitation Commissioner' mean the officer appointed as such by the Government under the

provisions of Pakistan Rehabilitation Act, 1956, as adapted in Azad Jammu and Kashmir.

Amendment of Section 6, Act XII of 1957.- In the Pakistan Administration of Evacuee Property Act, 1957 (Act XII of 1957), hereinafter referred to as the said Act, in Section 6, sub-section (2) shall be omitted.

Amendment of section 18 Act, XII of 1957.- In the said Act, in Section 18, after sub-section (6) the following new sub-section (7) shall be added and shall be deemed always to have been so added:-

“(7) The Government may, cancel the allotment of an evacuee property made in favour of any allottee, where it is proved, to the satisfaction of the Government, on the basis of inquiry made by the Rehabilitation Authority that the allottee has abandoned the allotted property or has consented to the cancellation of the allotment.”

Addition of Section 18-A_and 18-B, Act, XIT_of 1957.- In the said Act, after Section 18, the following new Sections shall be added namely:-

“18-A. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of the next following sub-sections the allottees holding allotment of evacuee property in Azad Jammu and Kashmir shall enjoy the proprietary right in respect of such property, however, that such allottee, and every other person to whom any such property is transferred, by the allottee whether by the way of sale, gift, mortgage or otherwise, shall hold the property subject to the conditions that, if the owner of such property shall return to Azad Jammu and Kashmir at the time when a plebiscite is about to be, or is being , held in the State of Jammu and Kashmir in accordance with the UNCIP resolution of the fifth day of January, 1949, and shall claim property the allottee or other person holding that property, shall surrender, the property in favour of the person who is declared to be the right-ful owner by the Custodian paying to the allottee or transferee, the cost of any improvement made in the property.

Provided that in the case where the Evacuee Property is held by any old tenant as defined in Government Order No.25/60, then, notwithstanding the grant of Proprietary rights to the allottees in respect of such Evacuee Property, the old tenant shall have the protection against the ejection to the extent indicated in para 1 (e) of the Government Order No. 25/60 and he

shall be liable to pay the rent of the allottee as provided therein.

(2) The proprietary right in pursuance of sub-section

(1) shall be granted by the Custodian to an allottee after satisfying himself about the genuineness of the claim and realising from such allottee the cost and other dues prescribed by the rules, in the form of 'Proprietary Rights Transfer Order' on the Certificate of Entitlement from the Rehabilitation Commissioner:-

Provided that such proprietary rights shall be granted to a refugee allottee without any cost.

Provided further that in case refugee allottee, after obtaining proprietary rights, transfer such property by the transferee thereof shall pay to the custodian the prescribed cost of property.

(3) The Rehabilitation Commissioner shall issue a Certificate under sub-section (2) after satisfying himself to the effect:-

(a) that the allottee is entitled to the

allotment of evacuee property in Azad

Kashmir;

(b) that the allotment has been made by the competent authority;

(c) that the allotment is within scale prescribed by the Government from time to time;

Provided that the land in respect of which an allottee has received 'compensation from the Government also be included for the purposes of entitlement to the maximum limit of entitlement; and

(d) That the allottee has failed a form of holding evacuee property prescribed by the custodian of evacuee property.

(4) The order Rehabilitation Commissioner refusing to issue a Certificate of entitlement shall be applicable to the Custodian and in case of acceptance of an appeal, his order shall be deemed as entitlement certificate and proprietary rights certificate shall be granted thereon.

(5) The period of limitation for appeal, under sub-section (4) shall be 90 days from the date of order.

(1) Notwithstanding anything contained contrary in any other law for the time being in force, and without prejudice to the generality of the powers which already vest in him, the Custodian may cancel any allotment of evacuee property in

the following cases:-

- (a) where an allottee has failed to comply with the terms and conditions of allotment within the meaning of Section 18 of the Act;
- (b) where an allottee has, to the satisfaction of the Custodian, voluntarily surrendered or abandoned the allotment;
- (c) where the allotment has been made in violation of law or is without jurisdiction;
- (d) where the evacuee property stands allotted to more than one persons and it is necessary to determine the entitlement to such allotment;
- (e) where an allotment is in excess of the prescribed scale and it is necessary to bring the allotment within scale in order to confer proprietarily rights in accordance with law, upon such allottee. The Custodian shall exercise the powers of Multiple Judge under Multiple Allotment Act, 1961, in cases processed or being processed for the grant of proprietary rights.

(2) The Custodian may eject summarily with the use of such force as may be necessary any person who is found in unauthorised possession of evacuee property or a person who is found by the Custodian to be an unsuitable person to hold such evacuee property or a person who in the opinion of the Custodian subsequently becomes unsuitable to hold such property.

(3) The orders passed by the Commissioner under sub-

section (3) and by Custodian under sub-section (4) of

Section 18-A and sub-section (1) of this Section shall be

final and shall not be called in question in any court or

authority."

Savings.- Notwithstanding any judgment, decree or order of any court including High Court, everything done, all actions taken, notifications issued, orders or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of the Pakistan Administration of Evacuee Property (Amendment) Ordinance, 1980 (Ordinance) XXXVIII of 1980 or its succeeding, Ordinances issued from time to time shall be deemed to have been validly done, taken, issued, made, initiated or exercised under this Act.

Repeal.- The Pakistan Administration of Evacuee Property
(Amendment) Ordinance, 1986 (Ordinance LXXVI of 1986) is
hereby repealed.

Sd/-
(Syed Atta Mohy-ud-Din)
Deputy Secretary Law

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