

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 09TM JULY, 2021

NO.PAS/Legis-B-03/2019-The Sindh Evacuee Trust Properties (Management and Disposal) Bill, 2019 having been passed by the Provincial Assembly of Sindh on 04" June, 2021 and assented to by the Governor of Sindh on 02" July, 2021 is hereby published as an Act of the Legislature of Sindh.

THE SINDH EVACUEE TRUST PROPERTIES (MANAGEMENT AND DISPOSAL) ACT, 2019

SINDH ACT NO. XVII OF 2021

**AN
ACT**

to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trusts or institutions.

WHEREAS it is expedient to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trusts or institutions in the Province of Sindh.

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Evacuee Trust Properties (Management and Disposal) Act, 2019.

(2) It shall extend to the whole of the Province of Sindh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context-

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"Board" means the Evacuee Trust Properties Board constituted under section 3;

"Chairman" mean the Chairman of the Board;

"evacuee trust property" means the evacuee trust property attached to charitable, religious or educational trusts or institutions or any

other properties which form part of the Trust Pool constituted under this Act;

“Government” means the Government of Sindh;

“member” means a member of the Board;

“public dues” includes arrears of rent or any charges due in respect of any evacuee trust property;

“regulations” means regulations made under this Act;

“rules” means rules made under this Act;

“rural area” means the area other than the urban areas declared or notified, as the case may be;

Preamble.

Short title,
extent and
commencement.

Definition.

Gj) "scheme" means a scheme for the management and disposal of evacuee trust property;

(k) "Secretary" means the Secretary to the Board; and

(1) "urban areas" means the area situated within the limits of a metropolitan corporation, municipal corporation, a municipal committee, a town committee or a cantonment.

3. (1) There shall be a Board to be known as the Sindh Evacuee Trust Property Board, for the management and disposal of evacuee trust property.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of the following:-

(i) An eminent person of known integrity and competence Chairman with experience in the field of social work, to be appointed by the Chief Minister

(ii) | Three Members of Provincial Assembly, one from Members the minority members to be nominated by the Speaker Provincial Assembly of Sindh

(iii) Senior Member, Board of Revenue Sindh Member

(iv) Secretary Law, Government of Sindh Member

(v) Secretary Local Government, Government of Sindh Member

(vi) Secretary Home, Government of Sindh Member

(vii) Secretary Minorities Member

(viii) Commissioner or Deputy Commissioner of concerned Member Division/District.

(ix) one retired civil servant of Government of Sindh of BS- Member 20 or above, to be nominated by the Chief Minister

(x) one member of civil society to be nominated by the Member Chief Minister

(4) The Secretary Minorities shall also act as Convener/Secretary of the Board.

(5) The Chairman shall hold office for a period of four years, which may be extended for further one more term, on such terms and conditions as may be determined by the Chief Minister, and shall be the administrative and executive head of the Board. The provisions of sub-section (8) shall mutatis mutandis apply for the removal of Chairman.

(6) A member other than ex-officio member shall, unless he earlier resigns

Constitution of the Board.

from his office under sub-section (7) or is removed under sub-section (8), hold office for a period of three years on such terms and conditions as Government may determine.

(7) A member other than ex-officio member may at any time resign his office by writing under his hand addressed to Government.

(8) Government shall have the power to remove any member if he—

(i) is disqualified for employment in or dismissed from the Government service;

(ii) is or at any time has been convicted of an offence involving moral turpitude;

(iii) is or at any time has been adjudicated an insolvent; or

(iv) is of unsound mind and has been so declared by a competent court; or

(v) absents himself from three consecutive meetings of the Board without any reasonable cause; or

(vi) is found by Government to be acting in any manner pre-judicial to the objects of this Act or any scheme.

4. (1) The general supervision and control of all evacuee trust property shall, subject to any directions that may be given by Government, vest in the Board which shall take such action as it deems fit for the proper management, maintenance and disposal of such property in accordance with the provisions of this Act and the rules, scheme or directions made or issued thereunder.

(2) In particular and without prejudice to the generality of the foregoing powers, the functions of the Board shall be—

(a) to maintain a complete and authentic record of evacuee trust property;

(b) to prepare and submit, by the 31st of May each year, the annual budget estimates along with detailed statements of receipts and expenditure to Government for its approval;

(c) to buy out of surplus income, if any, or by taking loan from any statutory corporation with the approval of Government, any other property which may be considered to be beneficial for promoting the objects of this Act or any scheme;

(d) to sell, dispose of and transfer to such person or body and on such terms and conditions, as Government may direct or, with the prior approval of Government, make an endowment of, or otherwise manage evacuee trust property consistent with the objects of this Act or a scheme or for any other object approved by Government;

(e) to mortgage or lease any evacuee trust property in accordance with

Functions of the
Board.

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the instructions of Government;

to assess or re-assess the rent or lease amount of the evacuee trust property;

to extinguish, with the prior approval of Government, a trust or to wind up an institution the original object of which has wholly or partly ceased to exist;

to enter expenditure on repairs or maintenance of holy shrines not exceeding such amount as Government may approve;

to maintain religious shrines and provide facilities for the pilgrims;

to set up, or make grant-in-aid to orphanages, leper houses, widow houses, poor houses and educational, vocational, technical or health institutions and hospitals subject to the general control and directions of Government;

to order sealing of any evacuee trust property in an appropriate case pending payment of the Board's dues by the person concerned;

to undertake development programmes for increasing the productivity of agricultural land forming part of the Trust Pool and

for enhancing the commercial value of an evacuee trust property;

to invest money, with the prior approval of the Government, for any other social welfare or charitable purpose;

to setup with the prior approval of Government, any industrial or commercial undertaking;

to enter upon and inspect evacuee trust property;

to appoint such staff on such terms and conditions as may be approved by Government consistent with the sanctioned budget;

to exercise financial and administrative control over offices attached to or under it;

to prepare a scheme or schemes with the prior approval of Government for promoting the objects of this Act;

to institute and defend suits and proceedings in a court of law; and

to do all things which are expedient for the furtherance of the objectives of the Board.

5. (1) Save as hereinafter provided, the Board shall regulate the procedure for its meetings as may be prescribed by regulations.

(2) The meetings of the Board shall be called by the Chairman on such date,

Meeting of the
Board.

time and place as he may deem fit:

Provided that not less than one meeting shall be held in every two months.

(3) The Chairman shall preside at every meeting of the Board.

(4) If the Chairman is absent from any meeting, the members present shall elect from amongst themselves the Presiding Member to preside at the meeting, and the member so elected shall at that meeting exercise all the powers of the Chairman.

6. All evacuee trust property shall vest in Government.

1. For the purposes of management, maintenance and _ disposal of evacuee trust property, a Trust Pool consisting of the following shall be constituted, namely:-

(a) all evacuee trust property which immediately before the commencement of this Act falling under the Evacuee Trust Properties (Management and Disposal) Act, 1975 to the extent of the Province of Sindh or any other provincial law, for the time being in force, formed part of the Trust Pools constituted under this Act

(b) any evacuee property declared under section 8 to be evacuee trust property;

(c) Government property or any other property exchanged with any evacuee trust property;

(d) Any property purchased or constructed by the Board;

(e) sale proceeds of any evacuee trust property;

(f) all profits and income received or derived from any evacuee trust property;

(g) all rents and other amounts received, realized or recoverable in respect of evacuee trust property.

8. (1) If a question arises whether an evacuee property is attached to a charitable, religious or educational trust or institution or not, it shall be decided, by the Chairman whose decision shall be final and shall not be called in question in any Court.

(2) If the decision of the Chairman under sub-section (1) is that an evacuee property is evacuee trust property, he shall, by notification in the official Gazette, declare such property to be evacuee trust property.

(3) If a property is declared to be evacuee trust property under sub-section (2), the Chairman may pass an order cancelling the allotment or alienation, as the

Vesting of evacuee trust property.

Trust pool.

Declaration of
property as evacuee
trust property.

case may be, take possession and assume administrative control, management and maintenance thereof:

Provided that no declaration under sub-section (2) or order under sub-section (3) shall be made or passed in respect of any property without giving the persons having interest in that property a reasonable opportunity of being heard.

9. No evacuee trust property shall be liable to be proceeded against for any

claim in any manner whatsoever in execution of any decree or order or by any other process of court or other authority.

10. (1) An immovable evacuee trust property —

(a) if situated in a rural area and utilized bona fide under any Act, prior to June, 1964, or prior to commencement of this Act for allotment

against the satisfaction of verified claims; and

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if situated in an urban area and utilized bona fide under any Act for transfer against the satisfaction of verified claims in respect of which Permanent Transfer Deeds were issued prior to June, 1968, or prior to commencement of this Act, shall be deemed to have been validly transferred by sale and proceeds thereof shall be re-imbursed to the Board and shall form part of the Trust Pool.

(2) If a question arises whether a transaction referred to in sub-section (1) is bona fide or not, it shall be decided by the Chairman whose decision shall be final and shall not be called in question in any Court.

(3) If it is decided that a transaction referred to in sub-section (1) is bona fide or not, the Chairman may pass an order cancelling the allotment or transfer of such property:

Provided that no decision under sub-section(2) or order under sub-section (3), shall be taken or passed in respect of any property without giving person affected a reasonable opportunity of being heard.

11. (1) Government shall appoint a person to be Secretary from cadre officers of BS-19 or 20 to the Board on such terms and conditions as it may determine.

(2) Subject to the provisions of this Act, the Secretary shall discharge his functions and perform his duties under the general superintendence and control of the Chairman.

12. (1) The Chairman may, with the prior approval of Government and on such terms and conditions as the Board may determine, appoint Administrators, Deputy Administrators and Assistant Administrators and may also appoint such other officers and staff as may be necessary for the efficient performance of the functions of the Board.

Exemption of
property in trust
pool from process.

Validation of
certain transfers.

Appointment and
functions of
Secretary.

Appointment and
duties of officers and
staff.

(2) The Chairman may by general or special order, provide for the distribution or allocation of work to be performed by the persons appointed under sub-section (1).

13. All persons appointed under this Act, shall subject to any special contract to the contrary, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

14. Save as otherwise provided by this Act, no civil court shall have jurisdiction in respect of any matter which Government or an officer appointed under this Act is empowered under this Act to determine, and no injunction, process or order shall be granted or issued by any court or other authority in respect of any action taken or to be taken in exercise of any power conferred by or under this Act.

15. No suit, prosecution or other legal proceeding shall lie against Government, the Board or any person appointed under this Act in respect of anything which is done in good faith or done or intended to be done in pursuance of this Act, rules, regulations, or scheme or order made thereunder.

16. Save as otherwise provided in this Act, any person aggrieved by an order passed under this Act may, within thirty days of the passing of such order, prefer an appeal —

(a) in the case of an order passed by an Assistant Administrator or a Deputy Administrator, to the Administrator; and

(b) In the case of an order passed by an Administrator, not being an order passed in appeal by the Administrator confirming an order of an Assistant Administrator or a Deputy Administrator, to the Chairman.

17. Government may at any time, of its own motion or otherwise, call for the record of any case or proceedings under this Act, which is pending or in which the Chairman, an Administrator, a Deputy Administrator or an Assistant Administrator has passed an order, for the purpose of satisfying itself as to the correctness, legality or propriety of such an order, and may pass such order in relation thereto as Government thinks fit:

Provided that the record of any case or proceedings in which the Chairman, an Administrator, a Deputy Administrator or an Assistant Administrator has passed an order shall not be called for under this section on the application of any aggrieved person made after the expiration of fifteen days from the date of such order.

Officers and staff to be public servants.

Bar of jurisdiction.

Protection of action taken in good faith.

Appeal.

Revision.

18. The Chairman may, at any stage by order in writing, transfer a case pending before an Administrator or a Deputy Administrator or an Assistant Administrator to any other Administrator, Deputy Administrator or Assistant Administrator, as the case may be, and the officer to whom it is so transferred may, subject to such direction, if any, as may be given in the order of transfer, proceed from the stage at which the case was so transferred.

19. In computing the period of limitation provided for in sections 16 and 17, the provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply.

20. An appeal under section 16 and an application for revision shall be presented in such form and in such manner as may be specified by rules.

21. Government or any person authorized by the Chairman and every officer appointed under this Act shall, for the purposes of making any enquiry or hearing any appeal or revision under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters namely:-

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) requisitioning any public record from any court or office;

(d) issuing commissions for the examination of witnesses;

(e) appointing guardians or next friends of persons who are minors or of unsound mind;

(f) adding legal representatives of deceased applicants or claimants, as parties;

(g) restoration of cases dismissed in default;

(h) substituting the names of the rightful claimants;

(i) consolidation of cases;

G) any other matter which may be prescribed by rules made under this Act.

(2) The Chairman and every officer appointed under this Act shall be deemed to be a Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898), and any proceedings before the Chairman or any such officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of

Power to transfer cases.

Computation of limitation.

Form of appeal or revision.

Power of Chairman
etc., as Civil Court.

1860) and for the purposes of sections 196, 199 and 200 thereof.

22. Any person who is in occupation or possession of any property which he knows or has reason to believe to be an evacuee trust property and conceals or conceals or misrepresents facts regarding such property or misappropriates the proceeds of evacuee trust such property or abets such concealment, misrepresentation or misappropriation properties. shall be punishable with imprisonment for a term which may extend to three

years and with fine.

23. No court shall take cognizance of an offence punishable under this Act Cognizance of save upon a complaint in writing made by Chairman or an officer authorized by offence by courts. him in this behalf.

24. Any sum due to the Board in respect of any evacuee trust property which Recovery of arrears. is not paid within thirty days of its having become due shall be recoverable as an arrears of land revenue under the Sindh Land Revenue Act, 1967.

25. The Chairman, an Administrator, a Deputy Administrator or an Assistant Ejectment. Administrator may eject or cause to be ejected any person in possession or occupation of any evacuee trust property whose possession or occupation is not authorized by or under any of the provisions of this Act or who contravenes or may have contravened any of the terms and conditions under which the property is held by him, or who has failed to pay public dues, or has willfully caused damage to any such property or any person in occupation or possession of any evacuee trust property which is required for an object which is considered to be a public purpose by Government, after giving him notice, and for the purposes of such ejectment may use or cause to be used such force as may be considered necessary.

26. (1) Government may, by notification in the official Gazette delegate any of Delegation of powers. its powers under this Act to such authority or person and subject to such conditions, if any, as may be specified in the notification.

(2) Subject to the provisions of this Act and the rules, the Board may by resolution delegate all or any of its powers to the Chairman or any officer or authority, subject to such conditions, if any, as may be specified in the resolution.

(3) Subject to the provisions of this Act and the rules, the Chairman may by order in writing delegate all or any of his powers under this Act to an Administrator, a Deputy Administrator or an Assistant Administrator subject to such conditions, if any, as may be specified in the order.

(4) Any order passed by an Administrator, a Deputy Administrator or an Assistant Administrator, in exercise of any power delegated to him under sub-section (3), shall be subject to the provisions of sections 16 and 17 in the same manner and to the same extent as any other order passed by an Administrator, a Deputy Administrator or an Assistant Administrator, as the case may be, is so subject.

27. Any person who is entitled or required to attend before the Chairman or Appearance by any other authority in connection with any proceeding under this Act, otherwise counsel or agent. than when called upon to attend personally for examination on oath or

affirmation, may attend or be represented by his duly authorized agent and any

application, appeal or revision may be presented by counsel or such agent.

Explanation.- In this section, "counsel" means an Advocate or any person entitled or allowed to plead in any civil court.

28. Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

29. The Board may with the approval of Government, make regulations regarding appointments, promotions, conditions of service, pensionary and other benefits in respect of the officers and staff of the Board.

30. Subject to the provisions of this Act and the rules, the Board shall with the prior approval of Government, prepare one or more schemes for the management, maintenance and disposal of evacuee trust property and for the efficient performance of its functions.

31. The provisions of this Act and any rule or scheme or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law.

32. (1) The provisions of the Evacuee Trust Properties (Management and Disposal) Act, 1975 (Act No.XIII), to the extent of the Province of Sindh, are hereby repealed.

(2) Notwithstanding the repeal under sub-section (1), anything done, action taken, appointment made, order passed, rule or scheme made, notification or instructions issued, or purporting to have been done, taken, made, passed or issued by or under the repealed Act, immediately before the commencement of this Act, shall be deemed to have been validly done, taken, made, passed or issued under this Act and shall have effect accordingly, unless altered, amended, modified or repealed by the competent authority.

BY ORDER OF THE SPEAKER

Power to make rules.

Power to make regulations.

Preparation of scheme for management etc.

Act to override other laws.

Repeal and Savings.

PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ

SECRETARY

PROVINCIAL ASSEMBLY OF SINDH