

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIMENTARY AFFAIRS SECRETARIATE,
MUZAFFARABAD.**

Dated the 22nd October, 1980.

No. 6004/LD/80. The following Ordinance made by the president on the 22nd day of October, 1980 is hereby published for general information :-

(ORDINANCE CLXXXVIII OF 1980)

AN

ORDINANCE

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 proprietary rights in such allotted evacuee property;

AND WHEREAS the Government of Pakistan has also consented to the grant of such proprietary rights to the refugees in 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;

AND WHEREAS the President is satisfied that circumstances exist when render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and Commencement.**- (1) This Ordinance may be called the Pakistan Administration of Evacuee Property (Amendment) Ordinance, 1980.
 - (2) It shall extend to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall come into force at once.
2. **Definitions.**- In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (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 Ordinance 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 Jammu and Kashmir;
- (d) 'Owner' shall mean the owner of the evacuee property as shown immediately before the war of liberation in 1947 or his heirs survivors or successors who are by his personal law entitled to inheritance;
- (e) 'Rehabilitation Commissioner' means an officer appointed as such by the Government under the provisions of Pakistan Rehabilitation Act, 1956, as adopted in Azad Jammu and Kashmir.

3. **Addition of Section 18-A, Act XII of 1957.-** In the Pakistan Administration of Evacuee Property Act, 1957 (Act XII of 1957) as adapted in the Azad Jammu and Kashmir, after Section 18, the following shall be added, namely :-

"18-A. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provision of the next following sub sections the allottees holding allotment of evacuee property in Azad Jammu and Kashmir shall enjoy the proprietary rights in respect of such property so, however, that such allottee, and every other person to whom any such property is transferred, by the allottee whether by way of sale, gift, mortgage or otherwise, shall hold the property subject to the condition 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 the property, the allottee or other person holding that property shall surrenders the property in favour of the person who is declared to be the rightful owner by the Custodian paying to the allottee or transferee the cost of any improvement made in the property.

(2) The proprietary rights in pursuance of sub-section (1) shall be granted by the Custodian to every allottee after realizing 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.

(3) The Rehabilitation Commissioner shall issue a Certificate of the Entitlement 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 shall be excluded for the purposes of entitlement from the maximum limit of entitlement; and

(d) that the allottee has filed a form of holding of evacuee property prescribed by the Custodian of Evacuee Property.

(4) The order of Rehabilitation Commissioner refusing to issue a Certificate of entitlement shall be appealable to an officer authorised by Government in this behalf.

(5) An order of Custodian granting or refusing to grant proprietary rights under sub-section (1) shall be revisable by Divisional Bench of High Court.

(6) The Rehabilitation Commissioner or as the case may be the Custodian may review his own order to correct any clerical mistake or such omission which is apparent on the face of record:

Provided that no order shall be reviewed without notice to the parties likely to be affected by the review.

(7) The period of limitation for appeal review or revision under sub-sections (4) and (5) shall be 90 days from the date of order or the date on which it is communicated to person concerned whichever is later."

4. **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)

