

The Cantonments (Requisitioning of Immovable Property) Ordinance, 1948.

THE CANTONMENTS (REQUISITIONING OF IMMOVABLE PROPERTY) ORDINANCE 1948.

(Ordinance No. IV of 1948)

(28th January 1948) Whereas an emergency has arisen which makes it necessary to requisition immovable property within the limits of cantonments for purposes other than of the Cantonment Boards;

Now, therefore, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 as adapted by the Pakistan (Provisional Constitution) Order, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make and promulgate the following Ordinance :-

1. Short title and commencement.—(1) This Ordinance may be cited as "The Cantonments (Requisitioning of Immovable Property) Ordinance, 1948".

(2) It shall come into force at once and shall remain till it is withdrawn or ceases to operate.

(3) It extends to all the Cantonments excluding places of religious worship therein, in the territories of Pakistan

2 Requisitioning of immovable property —(1) If in the opinion of the Central Government it is necessary or expedient so to do, the Central Government

may by order in writing requisition any immovable property (excluding the places of religious worship) and make such further orders as appear to it to be necessary or expedient in connection with requisitioning.

(2) Where the Central Government has requisitioned any immovable property under the preceding sub-section it may use or deal with the property in such manner as it thinks fit.

(3) No Court shall be competent to grant any injunction or other order in relation to any proceeding before any officer exercising any power or discharging any function under sub-section (1).

(4) The provisions of sub-section (1) shall remain in force until immediately before the 1st day of January, 1962 and shall on that day stand repealed.

2.A. In the case of Rawalpindi Cantonment the Central Government may, either before or after taking possession of any building requisitioned under this Ordinance, require the owner of the building, by order in writing to complete the same or carry out within such period such repairs, improvements or alterations as may be specified in the order, and if the owner refuses to carry out the order or fails to carry it out within the specified period, the Central Government may carry it out or cause it to be carried out, and the cost of the completion or the repairs, improvements and alterations so carried out shall be deducted from the compensation to be paid under section 4j

3. Release of requisitioned property and delivery of the possession, etc.—(1) Where any property requisitioned under section 2 is to be released from requisition, the Central Government may after making such inquiry, if any, as it considers necessary, specify by order in writing, the person to whom possession of the property shall be given.

(2) The delivery of possession of the property to the person specified in the order made under sub-section (1) shall be a full discharge of the Government from all liability and all liability in respect of such delivery but shall not prejudice any rights in respect of the property which any other person may be entitled by the process of law to enforce against the person to whom possession of the property is so delivered.

3) Where the person to whom possession of any property is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Governments shall cause a notice declaring that the property is released from requisitioning to be published in the official Gazette and to be affixed on some conspicuous part of the property.

(4) When a notice referred to under sub-section (3) is published in the Official Gazette, the property specified in the notice shall cease to be subject to requisitioning on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof, and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the date of the said notification.

4. Compensation for requisitioned property.—Where any immovable property is requisitioned under this Ordinance, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say :—

(a) Where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached the Central Government shall under the rules to be framed by it under the clause fix a reasonable amount of compensation. The rules framed specifying the principles on which and the manner in which compensation is to be determined shall be notified in the official Gazette.

(c) The compensation fixed by the Central Government under clause (b) above shall be final and no suit or appeal shall lie against Government before any Court of law in that behalf.

5. Acquisition of Information relating to immovable property.—(1) The Central Government may, with a view to carrying out the purposes of this Ordinance, by order require any person to furnish to such authority as may be specified in the order such information in the possession relating to any immovable property as may be so specified.

(2) If any person fails to furnish the information required by order under sub-section (1) or furnishes any information which is false and which he either knows or has reason to believe to be false or does not believe to be true shall be punishable with imprisonment with a term which may extend to six months or with fine up to five hundred rupees or with both.

5.A The Central Government may make rules for carrying out the purposes of this Ordinance.

6. Powers to secure compliance with an order.—The Central Government may take or cause to be taken such steps and use or caused to be used such force as may in the opinion of that Government be reasonably necessary for securing compliance with any order made by it under the Ordinance.

7. Delegation of powers by Central Government. The Central Government may by order notified in the official Gazette direct that any power conferred or any duty imposed on it by this Ordinance shall in such circumstances and under such conditions, if any as may be specified in the direction be exercised or discharged by such officer as may be so specified.

8. Bar of suits or legal proceedings.—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules or order made thereunder.

(3) No suit or other legal proceedings shall lie against the Government for any damage caused or likely caused by anything in good faith done or intended to be done or intended to be done in pursuance of this Ordinance or any order made thereunder.

RULE THE DETERMINATION OF COMPEN SATION FOR REQUISITIONED PROPERTY

No. 671/49, dated the 12th August, 1949.—In pursuance of clause (b) of section,4 the Cantonments (Requisitioning of Immovable Property) Ordinance, 1948 (IV of 1948) the Central Government is pleased t mike the following Rules, namely;

1. The compensation determined under these Rules shall be compensation
2. (i) The compensation shall, if possible, be determined by agreement the owner of the immovable property and the Military Estate Officer.
(ii) Where no such agreement is reached within reasonable time n be the rent of the house on the basis of which the annual value is for the purposes of taxation in the assessment list prepared by the Cantonment Board concerned under section 66 of the Cantonments Act 1924 (II of 1924).
3. The owner of the house shall be liable for repairs to the house to keep It id condition, and in his default the Military Estate Office may do the i ax4 the cost thereof from the rent, provided that such deductions shall not in any one year exceed a sum equivalent to 3 months' rent as determined by these Rules.
4. The term "House" in these Rules means a building or let wholly or partially for residential purposes and includes:-
 - (i) any garden, grounds and outhouses appurtenant to such building or part of a building; and
 - (ii) any furniture supplied by the landlord for use in such buildings or part of a building.

CANTONMENTS (REQUISITIONING OF IMMOVABLE PROPERTY) ORDINANCE 1948

(Application to Balochistan)

No. D. 5575-B/52 dated 9th October, 1952 (Gazette 17th October, 1952) In exercise of the powers conferred by sub section (2) of section 95 of the Government of India Act, 1935 (26 Geo 5 Ch 2) the Governor General is pleased to direct that the Cantonment (Requisitioning of Immovable Property) Ordinance 1948 (IV of 1948) shall app;ly to Balochistan with the following modification namely;

For sub section (2) of section 1, fthe following shall be sustained:-

- (2) It shall be deemed to have come into force in Balochistan on the 28th day of January 1948.

PAKISTAN CANTONMENT PROPERTY RULES 1957

(1st January 1957)

No. 1/57 dated 1st January 1957. In exercise of the powers conferred by clauses (a) and (b) of section 111 of the Cantonments Act 1924 (II of 1924) Notification No. 936 dated the 26th June, 1925, as subsequently amended from time to time, the Central Government is pleased to make the following rules:

1. Short title, extent and commencement. (a) These rules may be called the Pakistan Cantonment Property Rules, 1957.

(b) These shall apply to all cantonments and shall come into force at once.

2. Definitions. (1) In these rules, unless there is anything repugnant in the subject or context:

(a) the 'Act' means the Cantonments Act, 1924.

(b) The 'Board' means the Cantonment Board.

(c) 'Bazar Area' means bazaar area as defined in rule 2 (b) of the Cantonment Land Administration Rules, 1937.

(d) 'Class C land' means land which is vested in the Board under section 108 of the Act;

(e) 'Executive Officer' means the Executive Officer of the Cantonment

(f) 'Fund' means the Cantonment Fund as defined in section 106 of the Act.

(g) 'Government' means the Central Government;

(h) 'Immovable property' includes land, benefit arising out of lands and attached to the earth or permanently fastened to things attached earth, but does not include standing timber, growing crops or grass.

(i) 'Movable property' includes standing timber, growing crops and grass, fruit upon and juice in trees, bark, lac, and property of every other description except immovable property.

(2) Other expression used in these rules which are defined in the Act or rules framed thereunder, are used in the same sense in these rules.

3. Registers of Cantonment property. (a) Registers of immovable and movable property which vest in and belong to the Board shall be maintained in the Forms No. Cantt 24-B, No. Cantt, 25-B, and No. Cantt.38-B prescribed in the Pakistan Cantonment Account Code 1955. Site plans of the immovable property will be recorded in the relevant register.

(2) All class C lands in respect of which rent is payable to Government shall be entered in the register schedule XIX prescribed under the Cantonment Land Administration Rules, 1937.

4. Purchase or lease of land other than land vested in the Government. Subject to the provisions of section 109 and 110 of the Act, the Board may purchase or taken on lease any immovable property (other than property which is vested in the Government for the purposes of the Central Government) that may be required for an immediate and definite purpose connected with the administration of the Government.

Provided that the Board shall not acquire any property except with the sanction of Government or the appointed authority.

5. Application for Acquisition of land under the Land Acquisition Act, 1894.-(1) While making an application to Government under section 110 of the Act, for acquisition of any immovable property, the Board shall state clearly, the necessity for acquisition thereof, and shall also submit an approximate estimate of compensation to be paid and of land revenue, if any, to be remitted.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be paid by the Executive Officer after obtaining the orders of the Board in the normal way and thereupon the said property shall vest in the Board.

(3) Where any land is required for a new Street or for the improvement of an existing street, the Board may proceed to acquire (in the manner laid down under section 110 of the Act) in addition to the land to be occupied, by the street, the land necessary for the sites of the.

buildings to be erected on both sides of the Street and such land shall be deemed to be required for the purposes of the Act.,

6. Transfer to Cantonment Board of land vested in the Government.—(1) When any land in the cantonment which is vested in Government is required by the Board for a purpose connected with the administration of the cantonment, the Board may apply to the Government for the grant of land stating the reasons and purposes.

The Government may transfer the land to the Board on such conditions, as it may deem fit.

(2) If the land applied for is already occupied for any purpose, its transfer to the Board shall be governed by the provisions of rule 7 of the Cantonment Land Administration Rules, 1937.

(3) If the land is required for an object from which the Board may derive income, it may be transferred to the Board on such conditions and on payment of such annual rent as Government may consider equitable:

Provided that no rent shall be charged for Class C land in Bazar Area:

Provided further that in special circumstances, land may be transferred free of rent. , `

7. Resumption by Government.—(1) If at any time.

(i) the land transferred by the Government to the Board is not used for the object for which it was granted

(ii) there has been, in the opinion of the Government, any breach of the conditions on which it was transferred

(iii) the land is required for a public purpose ;

the Government may resume the land without payment of any compensation other than the amount paid by the Board for such transfer and the market value at time of resumption of any buildings, works or improvement, subsequently erected, executed or made thereon by the Board, as the case may be.

(2) The amount of compensation shall be decided by the Government in such case.

(3) No compensation may be payable for buildings or works constructed or erected in contravention of the terms of the transfer.

8. Transfer of immovable property by Cantonment Boards.- Immovable property which vests in and belongs to the Board shall not be transferred to any person by the Board by way of sale, mortgage, exchange, or otherwise except with the previous sanction of the Government and in such manner and on such terms and conditions as the Government may approve either generally for any class of cases or specially in any particular case. `

9. Provisions governing the leasing of Cantonment property.—(1) No class 'C' land should be leased or otherwise alienated by the Board save in accordance with such orders as the Government may issue in this behalf.

(2) Subject to the provisions of sub-rule (1) regarding class 'C' land and section 200 of the Act, regarding public markets and slaughter-houses, Cantonment Fund buildings may be leased by the Board on the following conditions –

(i) that a reasonable rent is reserved and made payable during the whole term of the lease;

(ii) that the lease is not granted without the previous sanction of the Board for any term exceeding five years and not exceeding ten years without the previous sanction of the Director, Military Lands and Cantonments or for any term exceeding ten years without the previous sanction of the Government or the appointed authority

Provided that the Executive Officer may grant a lease of any Cantonment Fund building for a term not exceeding five years, the annual rent of which does not exceed three hundred rupees; and the Cantonment Board may delegate its functions under this rule to the Executive Officer either generally for any class of cases or specifically in any particular case, and

(iii) that every lease agreement shall—

(a) specify in clear terms the purpose or purposes for which the leased property may be used by the lease;

(b) contain such other conditions as may be considered necessary and as may be prescribed by Government from time to time; and

(c) contain a clause empowering the authority sanctioning the lease to abrogate the lease and enter upon and resume possession in the event of the property being used for any other purpose without the consent of such authority;

(iv) the lease agreement shall be executed in such form as may be prescribed by the Government.

(v) the Executive Officer may summarily remove from the property any lessee who has contravened any provisions of the lease agreement;

(vi) the Executive Officer shall allot buildings owned or hired by a Board for use as a residence of a Cantonment servant on such terms and conditions as may be prescribed in this behalf by general or special orders of the Government; and

(vii) residential accommodation specially built or procured for the residence of the Executive Officer or a Cantonment servant shall not ordinarily be allowed to be occupied by others.

10. Power to transfer immovable property to the Central Government.—Notwithstanding anything contained in these rules, the Board may, at the instance of the Government, transfer to the Government any immovable property which vests in and belongs to it under section 108 of the Act on payment of such compensation and on such conditions as may be agreed upon in each case:

Provided that no trusts or public rights subject to which any property, endowment and funds may be held by the Board, shall be affected by such transfer.

11. Powers to acquire and transfer movable property.—Subject to the provisions of section 109 of the Act, the Board may acquire any movable property that may be required for the purposes of the Act, and may dispose of by sale or otherwise any movable property belonging to it in accordance with the principle laid down in Pakistan Cantonment Account Code, 1955:

Provided that the Executive Officer may dispose of by sale or otherwise any such property, not exceeding two hundred rupees in value and provided further that the Cantonment Board may delegate its functions to the Executive Officer either generally for any class of cases or specifically in any particular cases.

12. Saving of provisions of Local Authorities Loans Act, 1914.— Nothing in these rules shall affect the provisions of the Local Authorities Loans Act, 1914 (IX of 1914), under which except as provided thereby and by the rules made thereunder, no Board may for any purpose borrow money upon, or otherwise charge its property or fund.

13. Transfer of immovable property belonging to the Provincial Government and Local Bodies to the Board.—When any land or other immovable property, which vests in the Provincial

Government or belongs to a Local Body under the administrative control of the Government, is required by the Board for a purpose connected with the administration of the Cantonment, the shall apply to Central Government for procuring the said land or property.

The expenses and other charges incurred in connection with the procurement * of such land or property shall be payable by the Executive Officer under the orders of the Board out of the Cantonment Fund

Nothing in this rule shall debar the Board from purchasing land or property from a local authority by agreement.

14 Suits —All suits in respect of Cantonment property and fund and covered by the provisions of the aforesaid rules, shall be instituted, represented, defended, withdrawn or compromised by the Board or any other person so authorised by the Board in this behalf
The Executive Officer shall report particulars of all suits for information to the Board and the Director, Military Lands and Cantonments.

15. Interpretation.—The power to interpret these rules vests with the Government whose decisions shall be final.