

## Ordinance XXVII of 1948

Karachi, the 30th November, 1948

## AN ORDINANCE FURTHER TO AMEND THE CANTONMENTS ACT, 1924

Whereas an emergency has arisen which renders it necessary to amend the Cantonments Act, 1924, for the purposes hereinafter appearing;

Now, therefore, in exercise of the powers conferred by section 42 of the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—This Ordinance may be called the Cantonments Act (1924) Amendment Ordinance, 1948.

(2) It shall come into force at once and shall be deemed to have taken effect on 15th day of August 1947.

2. *Amendment of section 21 Act II of 1924.*—In clauses (b) and (c) of subsection (1) of section 27 of the Cantonments Act, 1924 for the word "twelve" the word "six" shall be substituted.

## Regulation I of 1948

## A REGULATION TO PROVIDE FOR THE PROTECTION AND CARE OF THE PROPERTY OF EVACUEES FROM BALUCHISTAN

Notification No. F-5/31/47.—The following Regulations, which have been made by the Governor-General, were published in the Gazette of Pakistan Extraordinary, dated March 3, 1948.

Whereas it is expedient to provide for the protection and care of the property of evacuees from Baluchistan;

Therefore in exercise of the powers conferred by subsection (3) of section 95 of the Government of India Act, 1915, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor-General is pleased to make the following regulations:—

1. (1) This Regulation may be called the Baluchistan Protection of Evacuees Property Regulation, 1948.

(2) It extends to the whole of Baluchistan.

(3) It shall come into force at once.

2. In this Regulation unless the context otherwise require:—

(a) "Person" includes a corporation or association of persons, whether incorporated or not,

(b) "Prescribed" means prescribed by rules made under this Regulation,

(c) "Property" means all kinds of movable and immovable property but does not include,—

(i) cash deposits in Banks;

(ii) any actionable claims, otherwise than in relation to any undertaking or business of which the Custodian assumes possession of control;

(iii) debts other than those towards which payment is tendered voluntarily by debtors.

(d) "Evacuee Property" in Baluchistan which owing to the recent disturbances, the owner cannot personally occupy or superwise, or take delivery



of, from the place to deposit, or in the case of a corporation property which forms the assets of any business or undertaking, which has ceased wholly or partially to operate owing to the said disturbances.

(e) "Evacuee" means an owner of such property.

(f) "Rehabilitation authority" means any authority empowered under this Regulation.

(g) "Refugee" means any person who owns property in any prescribed territory outside Pakistan but who has been obliged to abandon it and come to Baluchistan, or was already in Baluchistan.

(h) "Chief Commissioner" means the Chief Commissioner of Baluchistan.

(i) "Custodian" means the Custodian of evacuee property and includes an Additional Custodian, a Deputy Custodian and an Assistant Custodian of evacuee property.

3. For the purpose of carrying out the provisions of this Regulation, the Chief Commissioner may, by notification in the Official Gazette, appoint:—

(a) a Custodian and an Additional Custodian of Evacuee Property for Baluchistan generally; and

(b) one or more Deputy Custodians and Assistant Custodians of evacuee property for such local areas as may be specified in the notification.

4. (1) The provisions of this Regulation and rules made thereunder shall have effect notwithstanding anything inconsistent therewith in any enactment other than this Regulation or in any instrument having effect by virtue of any such enactment.

(2) Every order purporting to be made or signed by a Custodian in exercise of any of the power conferred by or under this Regulation, shall be presumed, within the meaning of the Indian Evidence Act, 1872, to have been so made by the Custodian and no such order shall be called in question in any Court.

5. (1) Subject to the provisions of this Regulation, a Custodian may, by general or special order, with reference to the location or description of a specific or any class of evacuee property, assume possession of or control over the property mentioned in the order which shall be published in the Official Gazette. From the date of the Order, the holder of such property, if any, shall be deemed to be holding it on behalf of the Custodian and shall on demand, surrender possession of it to the Custodian or a person authorised by him in this behalf. The Custodian may take such measures as he considers necessary or expedient for preserving or safeguarding such property.

(2) Any person complying with the order of the Custodian shall not be liable to any suit, criminal prosecution or other legal proceedings by reason only of such compliance.

(3) The Chief Commissioner may by order:—

(a) vest or provide for and regulate the vesting in the prescribed Custodian such evacuee property as may be prescribed;

(b) vest in the prescribed Custodian the right to pool together and to transfer such evacuee property as may be prescribed to refugees or other persons resident in Baluchistan and owing property in the prescribed territories, outside Pakistan, on such terms and conditions as may be prescribed,



(4) When in pursuance of an order made, under sub-rule (3) any evacuee property or the right to transfer such property is vested in a Custodian, neither the vesting nor any proceedings in consequence thereof shall be invalidated or affected by reason only that at a material time:—

(i) some person who was or might have been interested in the property and who was an evacuee had died or had ceased to be an evacuee or;

(ii) some person who was so interested and who was believed by the Custodian to be an evacuee was not an evacuee.

6. (1) Whenever any Rehabilitation Authority requires any evacuee property for purposes of the Baluchistan Economic Rehabilitation Regulation, 1948, such authority shall send a written intimation to that effect containing all available particulars of the property to the prescribed Custodian. The property shall then be taken over by that authority on such terms and conditions as may be agreed upon by the Custodian and that authority.

(2) Persons who have been allotted any evacuee property by way of lease, by any Rehabilitation Authority, without compliance with the procedure laid down in subsection (1), shall be deemed to be tenants or lessees on such terms and conditions as may be agreed upon by the Custodian and the Rehabilitation Authority concerned and the said Authority shall be deemed to be a duly authorised agent of the Custodian for this purpose. It shall be duty of such Rehabilitation Authority to furnish all available particulars of the allotted property and of the allottee, to the Custodian, immediately or as soon as may be after the allotment.

7. (1) If any person is in unauthorised possession of any immovable evacuee property, a Custodian may, at his option, treat him either as a trespasser and eject him therefrom by serving on him an order to vacate the property in the prescribed manner or may treat him as a tenant of such property on such terms and conditions as may be agreed upon between him and the Custodian.

(2) If the unauthorised occupant who is treated as a tenant by the Custodian, refuses or fails to pay the agreed rent by the agreed date or to comply with any other of the agreed terms and conditions, he may be ejected from the property as a trespasser in the manner provided in subsection (1).

(3) The powers conferred on the Custodian by subsections (1) and (2) may be delegated by him to any Rehabilitation Authority, by a general or special order, to be published in the Official Gazette.

8. Failure to comply with an order so surrender possession of or to vacate any property, issued lawfully by the Custodian or his delegate, shall be deemed to be a cognizable offence, punishable with imprisonment of either description which may extend to two years or fine or with both.

9. (1) Subject to the other provisions of this Regulation any occupant or holder of evacuee property or any other person claiming an interest therein, may, by petition to the prescribed Custodian, ask for a declaration,

(a) that the property in question is not a evacuee property, or

(b) that it is evacuee property to a limited extent only.

(2) On receipt of such a petition, the Custodian may record such evidence as the petitioner can produce in support of his claim and may hold



such further inquiry into the matter as he may deem fit. At the close of the inquiry, the Custodian may pass an order allowing the claim on such terms and conditions as he may deem just or rejecting it in whole or in part.

10. No transfer of any rights, in or over any evacuee property, made by an evacuee, his agent, assign or attorney, on or after 15th August, 1944, shall be effective so as to confer any rights or remedies on the parties to such transfer on any person claiming under them unless—

(a) such transfer is registered with the prescribed Custodian within the prescribed time;

(b) the consideration is paid in front of the Custodian or in the case of past transfers, the transaction is proved to be a *bona fide* one for valuable consideration to the satisfaction of the Custodian, and

(c) the transferrer produces a certificate signed by the prescribed Income Tax Authority certifying that he has paid all taxes due from him to the Income-Tax Department in respect of his property, business or undertaking or has made satisfactory arrangements for their payment:

Provided that the Custodian may refuse to register any transfer if in his opinion, the transfer is one which is prejudicial to the prescribed objects.

11. If the original order is passed under section 7, section 9 or section 10 by a Deputy Custodian, an appeal shall lie at the instance of the aggrieved party to the Custodian of Evacuee Property, Baluchistan, who may dispose of the appeal himself or make it over for disposal to the Additional Custodian. The appeal shall be filed in such time as may be prescribed subject to the decision in such appeal if any, an order passed by a Deputy Custodian and any original or appellate order passed by the Custodian of Evacuee Property, Baluchistan, or the Additional Custodian, shall be final and conclusive and shall not be called in question in any Court, by way of further appeal or revision or in any original suit, execution application or other petition.

12. In relation to proceedings under this Regulation, involving the holding of an inquiry, the Custodian shall have all the powers of a Civil Court in respect of the summoning and examination of parties, witnesses or other persons who in the Custodian's belief, possess any relevant information of document, the discovery or production of documents and the use of such documents or their copies as evidence in the inquiry.

13. The Custodian shall have power—

(a) to take all proper measures necessary for carrying out his duties under the Regulation, and to incur expenditure incidental thereto:—

(b) to grant a lease in the prescribed form for any period not exceeding one year at a time of any immovable property and any undertaking or business of which he has taken possession, or which is ordered to vest in him;

(c) to execute receipts for lease money paid by lessees appointed by him or who have attorned to him, and for any debts due to any evacuee whose property, undertaking or business is in his possession or control which may be paid to him by the debtor;

(d) out of any money belonging to an evacuee in his possession or out of the income or proceeds of sale if necessary of evacuee property to pay—

(i) any taxes, duties, cesses, rates, which may be leviable by the



Pakistan Dominion or the Chief Commissioner or any local authority in relation to any property, undertaking or business of such evacuee, in his possession or control and to defray the costs of necessary repairs to such property;

(ii) sums due to a person having a claim against the reason or property of an evacuee, if the claim does not involve any complicated question of law or fact or if the claim is based on a decree or order of a competent Court;

(e) out of the money held by him on behalf of evacuee, to make payments to refugees or other prescribed persons in accordance with rules framed under this Regulation;

(f) to sell or direct the sales of any livestock, standing crops or any property in his possession which is subject to speedy and natural decay, or whose sale would, in the opinion of the Custodian, be for the benefit of the evacuee owner;

Provided that, if any such property consists of foodgrains exceeding Rs. 100 in value, it shall be offered for sale in the first instance to the Director of Food Supplies in Baluchistan.

(g) when any immovable property belonging to an evacuee whether existing in a demolished state or standing wholly or partially intact, through imminent risk of collapse or for any other reason, is a source of danger to persons in the vicinity thereof, to have it demolished and the debris cleared and in such a case to direct the sale of the material or the property salvaged from the debris;

(h) in so far as it may be necessary for carrying out any of the duties or exercising any of the powers imposed or conferred by or under this Regulation, to institute or defend, in his capacity as Custodian, any suit or legal proceedings in relation to any property, undertaking or business, in his possession or control or any property of which he is entitled, under this Regulation, to take possession;

(i) to prepare a scheme for pooling together immovable property belonging to evacuees, for their transfer to refugees or other prescribed persons in case the Chief Commissioner passes a vesting order under subsection (3) of section 5;

(j) to enter on any land or premises for purposes of any evacuee property or for taking it into possession and to authorise any other person to do so;

(k) to require any person to furnish the Custodian with such returns, accounts or other information in relation to Evacuee Property and to produce such documents as the Custodian considers necessary for the discharge of his functions under this Regulation;

(l) in general to do such other acts as may be necessary for bringing the provision of this Regulation into effective operation.

14. If action is taken by the Custodian under clause (g) of section 13, the expenditure incurred in that behalf shall be a charge on the properties involved in such proportions as may be prescribed and shall have priority over all other charges. Such expenditure may be met or recouped by the Custodian out of the income or proceeds accruing from the properties concerned.

15. The Chief Commissioner may levy fees in relation to any proceeding or inquiry held by a Custodian or in relation to any evacuee property of which the Custodian assumes control or possession or which may vest



in him by order of the Chief Commissioner. Such fees shall be payable by persons at whose instance or in whose interest the proceeding or inquiry is held or as the case may be, by the persons to whom such property is restored or by the owner, if his whereabouts are known and shall be a just charge on such property and in default of payment shall be recoverable as an arrear of land revenue.

16. Unless in the opinion of the Custodian, the restoration will be prejudicial to the prescribed objects the owner of any evacuee property shall be entitled to restoration thereof if he returns to Baluchistan to resume his residence or business in this Province on application to the Custodian and on payment of such excess, if any, of expenditure over receipts in respect of such property, undertaking or business, as appears from the Custodian's account books and of the fees leviable under section 15:

Provided that the Custodian shall give not less than 15 days public notice of every such application by proclamation in the locality, affixation on the property and any other method which he may consider suitable, and where the application is opposed, if the Custodian is not satisfied after necessary inquiry, concerning the title of the applicant, he shall refuse to deliver possession, and shall refer the applicant to a Civil Court;

Provided further that every lease validly granted by the Custodian or any Rehabilitation Authority shall have effect as against the owner or any claimant, until determined by lapse of time or operation of law.

17. The Custodian shall keep such books of account as may be prescribed in respect of all evacuee property coming into his possession, giving the prescribed details of income accruing from or expenditure incurred in relation to such property. The books shall be subject to regular audit in the manner prescribed.

18. No suit, prosecution or other legal proceeding shall lie against the Chief Commissioner or Custodian or any person acting under his direction, for anything which is in good faith done or intended to be done in pursuance of this Regulation or for any loss or damage caused to or in respect of any property which may be ordered to vest in the Custodian or of which he has assumed control or possession.

19. Save as otherwise expressly provided by or under the Regulation the ordinary Criminal and Civil Courts shall continue to exercise jurisdiction in matters within their competence.

20. The Chief Commissioner may, by notification in the Official Gazette makes such rules as appear to him to be necessary for carrying out the provisions or purposes of this Regulation.

### Regulation II of 1948

#### A REGULATION TO PROVIDE FOR ECONOMIC REHABILITATION IN BALUCHISTAN

Whereas it is expedient to provide for the economic rehabilitation in Baluchistan:

Therefore, in exercise of the powers conferred by subsection (3) of section 95 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor-General is pleased to make the following Regulation:—

1. *Short title, extent and commencement.*—(1) This Regulation may be called the Baluchistan Economic Rehabilitation Regulation, 1948.