

**ADMINISTRATION OF EVACUEE PROPERTY (CENTRAL)  
RULES, 1950**

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## **ADMINISTRATION OF EVACUEE PROPERTY (CENTRAL) RULES, 1950**

S.R.O. 811 dated 28th September, 1950.- In exercise of the powers conferred by Sec. 56 of the Administration of Evacuee Property Act, 1950 (No. 31 of 1950), the Central Government is pleased to make the following Rules, namely:

### **1. Short title :-**

These Rules may be called the Administration of Evacuee Property (Central) Rules, 1950.

### **2. Definitions :-**

In these Rules:

(a) "The Act" means the Administration of Evacuee Property Act, 1950 (Act No. 31 of 1950).

(b) "Form" means a form appended to these Rules.

(c) "Section" and "sub-section" mean, respectively, a section and a

sub-section of the Act.

(d) All other terms and expressions used herein but not defined shall have the meaning respectively assigned to them in the Act.

### **3. Conditions of service of the Custodian General and other Officers :-**

(1) The Custodian General and all Officers appointed by or under him, shall, subject to any special contract to the contrary, be governed by the Central Civil Service Rules applicable to the class of officers to which the Custodian General or such officers belong.

(2) If any question arises as to the class of officers to which the Custodian General or any such officer belongs the decision of the Central Government thereon shall be final.

### **4. Omitted :-**

The Central Government may appoint as many Deputy and Assistant Custodians General as it may deem necessary to assist the Custodian General in the discharge of his functions. Such Deputy and Assistant Custodians General shall perform such functions as the Custodian General may assign to them.

### **5. Omitted :-**

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### **6. Manner of Inquiry under Sec 7 :-**

(1) Where the Custodian is satisfied from information in his possession or otherwise that any property or an interest therein is prima fade evacuee property, he shall cause a notice to be served, in Form No. 1, on the person claiming title to such property or interest and on any other person or persons whom he considers to be interested in the property.

(2) The notice shall, as far as practicable, mention the grounds on which the property is sought to be declared evacuee property and shall specify the provision of the Act under which the person claiming any title to, or interest in, such property is alleged to be an evacuee.

(3) The notice shall be served personally, but if that is not practicable, the rule 28.

(4) Where a notice has been duly served, and the party called upon to show cause why the property should not be declared as evacuee property, fails to appear on the date fixed for hearing, the Custodian may proceed to hear the matter ex parte and pass such order on the material before him as he deems fit.

(5) Where such party appears and contests the notice he shall forthwith file a written statement verified in the same manner as a pleading under the Code of Civil Procedure, 1908, stating the reasons why he should not be deemed to be an evacuee and why the property or his interest therein should not be declared as evacuee property. Any person or persons claiming to be interested in the enquiry or in the property being declared as evacuee property, may file a reply to such written statement. The Custodian shall then, either on the same day or on any subsequent day to which the hearing may be adjourned, proceed to hear the evidence, if any, which the party appearing to show cause may produce and also evidence which the party claiming to be interested as mentioned above may adduce.

(6) After the whole evidence has been duly recorded in a summary manner, the Custodian shall proceed to pronounce his order. The order shall state the points for determination, and the findings thereon with brief reasons.

**7. Notification of Evacuee Property under sub-section (3) of section 7 :-**

(1) The Custodian, after holding such enquiry, as he deems fit and on being satisfied that a particular property is evacuee property, shall notify the same in the Official Gazette or in any local newspaper or on the notice board kept for that purpose in his office. In the last mentioned case, the Custodian may, in addition, cause a copy of the notification to be affixed on the evacuee property.

(2) The notification shall be in Form 2 and shall give full particulars of the property regarding the location, municipal numbers, etc. In case of agricultural land, it shall specify, as far as possible, its khasra number and the village where it is situated. Any error or irregularity in the drawing up or the publication of the notification shall not be deemed to detract from the validity of such a notification or otherwise afford a valid defence to claim of the Custodian to the property as having vested in him.

(3) A list of all such evacuee property brought up-to-date in each State shall be published once a year, in the official Gazette or in such other manner as the Custodian deems fit.

**8. Notice to surrender possession under sub-section (4) of section 8 :-**

(1) On the publication of a notification under rule 7 a notice in Form 3 demanding surrender of possession may be served on the occupant or holder of evacuee property, calling upon him to surrender possession to the Custodian or a person authorised by him in this behalf within the time specified in the notice, provided that in any emergent case, the Custodian may require the occupant to give up possession immediately and the premises may be sealed at once.

(2) A notice under sub-rule (1) shall be signed by an officer not below the rank of Assistant Custodian.

## **9. Procedure under Sec. 9 :-**

(1) Where a notice has been duly served on the occupant or holder of the property under rule 8 and the possession is not delivered as required, the officer who issued the notice or any other officer not below the rank of a Deputy Custodian, may issue a warrant of eviction or seizure in Form 4. One copy of the warrant shall be forwarded to the officer-in-charge of Police Station within the territorial limits of which the property concerned is for the time being, to be found or such other officer as may be in charge of carrying out evictions or seizures, who shall forthwith take steps to effect the eviction or seizure with the use of such force as may be necessary.

(2) Every police officer to whom a warrant of eviction or seizure is sent for execution shall submit a weekly report to the Deputy Superintendent of Police having jurisdiction and a copy thereof to the Custodian, giving details of number of warrants entrusted to as well as executed by him together with such other particulars as may be necessary.

(3) A register of warrants shall be maintained by the Custodian and such register shall contain the following particulars:-

(a) Name of owner.

(b) Description of property.

(c) Name of the person against whom the warrant is to be executed.

(d) Date of issue and service of surrender notice.

(e) The Final result.

(4) The Custodian, the Additional Custodian or the Authorised Deputy Custodian of his own motion or on the motion of the party aggrieved, may stay any eviction proceeding pending disposal of the appeal against the order declaring the property to be evacuee property.

#### **10. Mode of taking possession of immovable property :-**

(1) Where, any evacuee property, which vests in the Custodian, is in the possession of either the evacuee himself or any other person, whether holding on behalf of or under, the evacuee or otherwise, but having no lawful title to the possession of such property enforceable against the Custodian, possession may be taken by evicting the person in possession of such property in accordance with the manner provided in the Act and these rules.

(2) Where such property is, at the time aforesaid, in the possession of one or more tenants or one or more lessees or licensees whom the Custodian cannot eject or, for any reason, does not want to eject, possession may be taken by serving on the tenants or the lessees or the licensees a notice directing them to pay the rent or the lease-money or the license fee, as the case may be, to the Custodian or to any person authorised by him to receive such payment. The notice may be served in any manner provided in rule 25. Where such property is an undivided share in joint property:

(a) If under some arrangement inter se the co-sharer, the evacuee was in separate possession of any part of the joint property, possession may be taken of such part in accordance with the manner provided in sub-rule (1) or sub-rule (2), whichever is applicable.

(b) In any other case, constructive possession may be taken by affixing a copy of the warrant for possession on a conspicuous part of the property, and if considered necessary by proclamation, by beat of drum in the locality in which the property is situated:

## **11. Mode of taking possession of tangible moveable property :-**

Where the property to be taken possession of is tangible moveable property, possession may be taken by actual seizure and after such seizure the Custodian may either keep the property in his own custody or entrust it to a supurdar on the latter furnishing security in Form No. 5. Provided that where the property is subject to speedy or natural decay or the expense of keeping it is likely to be out of proportion to its value, the Custodian may sell it forthwith.

## **12. Mode of taking possession of other moveable property :-**

(1) Where property to be taken possession of is a debt or a legacy or interest payable on a debt or a legacy, possession may be taken by serving the party liable with a notice, requiring such party to pay the same to the Custodian or any other person authorised by him to receive the payment.

(2) Where such property is a share in a joint-stock-company, not being a joint- stock-company referred to in sub-clause (2) (ii) of clause (f) of Section 2 of the Act, possession may be taken by informing the principal officer of such company that the share has vested in the Custodian.

(3) Where such property consists of Government or other securities, stock, or debentures, possession may be taken by serving upon the appropriate authority a notice requiring such authority to make all payments in respect of such securities, stock, or debentures to the Custodian or any other person authorised by him in this behalf.

(4) Where such property is a running business or a share in such business) the Custodian may take possession of the stock-in-trade and other assets of the business and may further take such steps as he considers necessary either for the continuance or for the winding-up of such business.



### **13. Preparation of inventory of moveable property :-**

Where the Custodian takes possession of any moveable property including any stock-in-trade or plant or machinery or any undertaking, he shall cause an inventory to be prepared of the property in Form No. 6, in triplicate, in the presence of not less than two residents of the locality. The inventory shall be signed by the person by whom it was prepared and each of the two witnesses and shall be countersigned by the Custodian. One copy of the inventory shall be made over to the supuidar (if any) and two copies shall be retained by the Custodian.

### **14. Cancellation or variation of leases and allotments :-**

(1) The Custodian shall not ordinarily vary the terms of a lease subsisting at the time he takes possession of immovable property or cancel any such lease or evict a person who is lawfully in occupation of such property under a lease granted by the lessor before he became an evacuee and not in anticipation of becoming an evacuee unless the Custodian is satisfied that the lessee has done or omitted to do something which renders him liable to eviction under any law for the time being in force.

(2) In case of a lease or allotment granted by the Custodian himself, the Custodian may evict a person on any ground justifying eviction of a tenant under any law relating to the Control of Rents for the time being in force in the State concerned, or for any violation of the conditions of the lease or the allotment.

<sup>1</sup>(3) The Custodian may cancel an allotment and evict the allottee if he is satisfied that-

(i) the allottee has secured the allotment by misrepresentation or fraud; or

(ii) the allottee is in possession of more than one evacuee property of the same kind, that is to say, more than one residential premises, more than one business premises or more than one

industrial premises; or

(iii) the allottee is in occupation or accommodation which, in the opinion of the Custodian, is in excess of the requirement of the allottee; or

(iv) the allottee or any person, normally residing with him or dependent on him, has built a house or otherwise acquired residential accommodation; or

(v) the allottee or any person, normally residing with him or dependent on him, has been granted by the Government a plot of land for constructing a house thereon; or

(vi) the allottee has obtained gainful employment in a place other than the place where the evacuee property allotted to him is situated :

(a) if the allottee or a person normally residing with him or dependent on him has let out his house or other residential accommodation referred to in Cl. (iv), unless the allottee has been served with a notice for a period of not less than three months ;

(b) if the allottee or a person normally residing with him or dependent on him has failed to construct a house on the plot of land allotted to him, unless the allottee has been served with a notice for a period of not less than six months.]

(4) Before cancelling, or varying the terms of a lease or before evicting any lessee the Custodian shall serve the person or the persons concerned with a notice to show cause against the order proposed to be made and shall afford him a reasonable opportunity of being heard.

(5) Nothing in this rule shall be deemed to abridge or limit the

power of the Custodian to cancel, or vary the terms of a lease relating to evacuee property, or to evict a lessee of such property where he is of the opinion that, for reasons to be recorded in writing it is necessary or expedient to do so for the preservation, or the proper administration or the management of such property or for carrying out any other object of the Act.

<sup>2</sup>[( 6 ) Notwithstanding anything contained in this rule, the Custodian of Evacuee Property in the <sup>3</sup>[State of Punjab] shall not exercise the power of cancelling any allotment of rural evacuee property on a quasi-permanent basis, or varying the terms of any such allotment except in the following circumstances:

(i) where the allotment was made although the allottee owned no agricultural land in Pakistan;

(ii) where the allottee has obtained land in excess of the area to which he was entitled under the scheme of allotment of land prevailing at the time of the allotment;

<sup>4</sup>[(iii) where the allotment is to be cancelled or varied-

(a) in accordance with an order made by a competent authority under S.8 of the East Punjab Refugees (Registration of Land Claims) Act, 1948;

(b) on account of the failure of the allottee to take possession of the allotted evacuee property within six months of the date of allotment;

(c) in consequence of a voluntary surrender of the allotted evacuee property or a voluntary exchange with other available rural evacuee property, or a mutual exchange with such other available property;

(d) in accordance with any general or special order of the Central

Government:]

Section 26<sup>5</sup> [ or Section 27 ] of the Act, within the prescribed time against an order passed by a lower authority or before 22nd July 1952)].

1. Subs. by Notification S.R.O. 1673, dated 21st May, 1954
2. Subs. by Notification S.R.O. 1290, dated 22nd July, 1952.
3. Subs. by Notification S.R.O. 667, dated 20th February, 1957.
4. Subs. by Notification S.R.O. 351, dated 13th February, 1953.
5. Subs. by Notification S.R.O. 667, dated 20th February, 1957.

**15. Procedure for restoration of property :-**

(1) An application for restoration of evacuee property shall be made to the Central Government or to any person authorised by the Central Government in this behalf.

(2) The application shall contain the names of the persons interested in the property sought to be restored and the facts on which the claim for restoration is based.

(3) The application shall be verified in the same manner as a plaint under the Code of Civil Procedure, 1908.

(4) Before any order is made on the application, the Central Government or the authorised person, as the case may be, shall cause an inquiry to be held through the Custodian-General or the Custodian or any other person.

(5)

(a) On receipt of the application, the Central Government or the authorised person, as the case may be, shall cause a notice of the application to be given to the party or parties named in the application and any other person who may otherwise appear to be

interested in the property or the proceedings.

(b) A public notice of the application shall also be issued in a local daily or a weekly newspaper at the expense of the applicant.]

**15A. Procedure for making applications for grant of certificates under Sec. 16 :-**

(1) An application <sup>1</sup>[ \* \* \* ] for restoration of evacuee property under sub- section (1) of Section 16 shall not be entertained unless-

(a) where an order declaring the property to be evacuee property was made before the 21st May, 1954 (hereinafter referred to as the "appointed date")-

(i) all appeals and revision-applications permissible under the Act against such order have either become time-barred on the appointed date or have been filed and disposed of before that date, and the application is made within sixty days of such date; or

(ii) where the period of limitation of filing such appeals or revision-applications has not expired on the appointed date, such appeals and revision applications have been filed and the application is made within sixty days of the Final order of the Custodian-General in the case;

(b) where an order declaring the property to be evacuee property is made after the appointed date-

(i) all appeals and revision applications permissible under the Act against such order have been Filed and the Custodian-General has made a Final order in the case ; and

(ii) the application is made within sixty- days of the Final order of the Custodian-General;

(c) where any proceedings for declaring the property to be evacuee property are pending on the appointed date and the application is made within sixty days of the Final order of the Custodian-General in the case.

(2) Notwithstanding anything contained in sub-rule (1), an application <sup>2</sup>[\* \* \* for restoration of evacuee property under sub-section (1) of Section 16 by an evacuee who migrated to West Pakistan from the State of Uttar Pradesh during the period between the 1st February, 1950 and 31st May, 1950 and who is permitted to return to India for permanent resettlement, may be entertained if it is made within sixty days of the appointed date or of the date of the return of the evacuee to India, whichever is later.

(3) Nothing in this rule shall apply to an application <sup>2</sup> [\* \* \*] for restoration of evacuee property under sub-section (1) of Section 16 which is pending on the appointed date.

1. The words "for a certificate" omitted by S.R.O. 667, dated 20th February, 1957.

2. The Words "for a certificate" omitted by S.R.O. 667, dated 20th February 1957.

**15AA. Certain applications for grant of a certificate under Sec. 16 may be entertained although made beyond time :-**

An application for restoration of an evacuee property made under sub-section (1) of Section 16 before the commencement of the Administration of Evacuee Property (Amendment) Act, 1954 (42 of 1954), which is pending on such commencement, may be entertained, notwithstanding that the period of limitation specified in rule 15A for making such an application had expired.]

**15B. Classes of persons to whom certificates under Sec. 16 may be granted :-**

<sup>1</sup>[ An order for restoration under Section 16 may be made in favour of the following classes of persons, namely :]

<sup>2</sup> [(1) Any person who, since the 1st day of March, 1947, has continued to reside in India and did not at any time migrate to Pakistan and whose property has been declared as evacuee property ;

(2)

(a) any person who, on or after the 1st March, 1947, migrated from India to

(b) any person who left for Pakistan before 15th October, 1952, on a temporary visit taking with himself a "No objection to return" certificate and-

(i) returned to India on or before 15th October, 1952, under a valid permit issued under Influx from Pakistan (Control) Act, 1949, as then in force, for permanent return to India : Provided that such person has not thereafter made any other journey to Pakistan except in similar circumstances and subject to the same conditions, or in the circumstances and subject to the conditions specified in Cl. (c) ; or

(ii) has returned or returns, on or after the 15th October, 1952, on the authority of an Indian passport, or repatriation certificate, or emergency certificate, or certificate of identity or, in the case of a seaman, a continuous discharge certificate, issued by a competent authority under any law regulating travel between India and Pakistan : Provided that such person has not thereafter made any other journey except in the circumstances and subject to the conditions specified in Cl. (c) ;

(c) any person who has left or leaves for Pakistan on or after the 15th October, 1952, on a temporary visit taking with himself an

Indian Passport or emergency certificate, or certificate of identity or, in the case of a seaman, a continuous discharge certificate issued by a competent authority under any law regulating travel between India and Pakistan and has returned or returns to India during the period for which any such travel document was or is valid;

(d) any person who came from Pakistan to India before the 18th October, 1949, under a valid permit issued under the Influx from Pakistan (Control) Act, 1949, as then in force, for permanent resettlement in India: Provided that-

(i) no member of the family of such person wholly dependent upon his earnings for the provision of the ordinary necessities of life has after his return remained behind in Pakistan with his approval or consent;

(ii) such person has not subsequently left for Pakistan except in the circumstances and subject to the conditions specified in Cl. (b) or Cl. (c); and

(iii) no member of the family of such person hereinbefore described has subsequently left for Pakistan with his approval or consent.

(3) Meos belonging to Alwar and Bharatpur districts in the State of Rajasthan, and Gurgaon District in the State of Punjab, who migrated to Pakistan but who have returned to India, before the 18th day of October, 1949 for permanent resettlement in India.

(4) Evacuees who migrated to West Pakistan from the State of Uttar Pradesh during the period between the 1st February, 1950 and 31st May, 1950 and who are permitted to return to India for permanent resettlement in accordance with the arrangements agreed upon by the Government of India and the Government of Pakistan.



Nationals of any foreign country who are not settled in Pakistan and who have not acquired any right to, or interest in, or benefit from, any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan: Provided nothing in this rule shall apply to any person who has settled in Pakistan and has been visiting India merely for the purpose of looking after his property or other interest.

1. Subs. by Notification S.R.O. 667, dated 20th February, 1957.

2. Subs. by Notification S.R.O. 1673, dated 21st May, 1954.

**15C. Conditions subject to which certificates under Sec. 16 may be granted :-**

<sup>1</sup> [An order for the restoration of any property under Section 16 may contain] all or any of the following conditions, namely:

(i) That the person to whom property is restored shall not evict any allottee except in the circumstances in which lessees can be evicted under any law for the time being in force;

(ii) where the person to whom the property is restored is given vacant possession of the property, he shall pay such compensation to the allottees in respect of any improvements made by them on the property as may be determined by the Custodian;

(iii) such other conditions as the Central Government may specify in the certificate.

1. Subs. by Notification S.R.O. 667, dated 20th February, 1957.

**16. Terms and conditions which a Custodian may impose while making an order for restoration of property under Sec. 16 :-**

Without prejudice to the generality of the provisions contained in Section 16 on the subject a Custodian may, while making an order for the restoration of any evacuee property under that section, impose any terms or conditions which he considers to be just and proper, having regard to the commitments already made, or action already taken by him in the exercise of his functions under the Act, or which otherwise seem to be necessary for carrying out the purpose of the Act.

**17. Omitted :-**

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**18. Enquiries under Sec. 22 in pending cases :-**

(1) The provisions of this rule shall apply to proceedings pending under Sec. 22 on the commencement of the Administration of Evacuee Property (Amendment) Act, 1953 (11 of 1953).

(2) In addition to the circumstances mentioned in the explanation to Section 22 the following shall be deemed to constitute a preparation for migration to Pakistan :

(i) Disposal of the bulk of ones household effects,

(ii) disposal of assets essential to ones profession, practice or calling or trade such as the disposal of medical books and equipment by a doctor, the disposal of law books by a practising lawyer and the disposal of his stock-in- trade by a trader, and

(iii) disposal of the tools and instruments by which a person earns his livelihood.

(3) After a notice has been served on a person against whom any proceedings are pending under Sec. 22 on the commencement of the Administration of Evacuee Property (Amendment) Act, 1953 (11 of 1953), if the person fails to appear on the date specified in the notice the Custodian shall proceed to give the findings exparte.

(4) If the party appears and puts in objections, his objections shall be decided after giving him a reasonable opportunity of adducing evidence in support of his objections. The Custodian may, in his discretion, allow any other party to produce evidence in rebuttal of such evidence and may himself call such evidence as he deems Fit.

(5) After hearing all the evidence, the Custodian shall proceed to pronounce his order.]

**19. Omitted :-**

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**20. Procedure for the confirmation of transfers under Sec. 40 :-**

(1) An application for confirmation under <sup>1</sup>[ sub-section (1) of Section 40 ] shall contain the following particulars, namely:

(a) Boundaries, Municipal number and location of the property and also khasra number in case of agricultural land.

(b) Particulars of transfer sought to be confirmed including the dates of the transfer and registration, if any, the addresses of the parties and the consideration paid or deferred.

(c) Particulars of any previous transfers in respect of the property.

(d) The name and address of the person in possession of the property transferred and the capacity in which such person is in possession.

(2) The application shall be verified in the manner prescribed in the Code of Civil Procedure, 1908, for verification of pleadings and shall be accompanied by a copy of the transfer deed in question and also a schedule containing the particulars of any other property owned, possessed or transferred by the transferor after 1st March, 1947.

(3) The application shall be presented by the transferor or the transferee personally or by any person claiming under, or lawfully authorized by either of them.

(4) The Custodian shall cause a notice in Form No. 7 to be served on the transferor or transferee, as the case may be, and may further cause a similar notice to be served on any person whom the Custodian considers to be interested in, or likely to be affected by the result of the application.

(5) A public notice shall also be published in a daily newspaper at the expense of the applicant.

(6) If any application referred to in sub-rule (1) is pending on the date these rules came into force, the applicant may, within thirty days from such date or within such period as the Custodian may by order specify, amend his application so as to bring it in conformity with these rules and may also make up the deficiency, if any, in the fee leviable on such application: Provided that the Custodian on sufficient cause being shown may extend the period prescribed by this sub-rule.

(7) In case the applicant fails to amend the application in accordance with sub-rule (6) the Custodian may dismiss the application or proceed to decide it on the material before him.

(8) After notices are served in accordance with the provisions of sub-rules (4) and (5) the Custodian shall after a summary enquiry proceed to determine the application.

(9) If a party making an application fails to appear on the date fixed when the case is called for hearing, the Custodian may dismiss the application for default or proceed to decide the application in the absence of the party, on the materials before him.

(10) Where the application is dismissed under sub-rule (9) the applicant shall be precluded from making a fresh application on the same facts with respect to the same property. But the applicant may apply within thirty days from the date the order of dismissal is

communicated to him for an order setting aside the dismissal and the Custodian, if he is satisfied that there was sufficient cause for non-appearance when the case was called for hearing, shall make an order setting aside the order of dismissal upon such terms as he thinks fit and shall fix a date for proceeding with the application.

(11) The Custodian shall refuse to confirm any transfer which he has reasonable grounds to believe to be colourable or benami.

<sup>2</sup> [(12) Where any evacuee property is auctioned in pursuance of sub-clause (v) of Cl. (b) of sub-section (5) of Section 40 the transferee shall be permitted to bid at the auction and if his bid is accepted, the amount actually paid by the transferee as consideration for the property shall be set-off against any bid made by him at the auction: Provided that if the amount bid by the transferee falls short of the amount actually paid by him he shall not be entitled to any refund of the balance.]

1. Subs. by Rule 19 omitted by Notification S.R.O. 1673, dated 21st May, 1954.

2. Ins. by Notification S.R.O. 1673, dated 21st May, 1954.

**20A. Application for obtaining previous approval under Sec. 40 in respect of transfers :-**

(1) An application for obtaining previous approval under Section 40 in respect of transfer shall contain the following particulars namely :

(a) Name and address of the transferor.

(b) Boundaries, Municipal number and location of the property as also khasra number in the case of agricultural land.

(c) Nature of the right proposed to be transferred.

(d) Whether any proceedings under the Act are pending for declaring the property to be evacuee property.

(e) The consideration agreed upon for the transfer of the property.

(2) Where an application is made for previous approval to the Custodian under Section 40 , the Custodian shall give such approval unless proceedings in respect of the property which is sought to be transferred are pending under the Act for declaring the property to be evacuee property.]

**21. Omitted :-**

xxx xxx xxx

**22. Omitted :-**

xxx xxx xxx

**23. Management of trust properties :-**

Trust properties may be managed by the Custodian in the same manner as other evacuee property, but in case of public trust of religious or charitable nature, recourse may be had to Section 92 of the Code of Civil Procedure, 1908 , if the circumstances so require.

**24. Leases of evacuee property :-**

Any evacuee property may be leased out by the Custodian for a period not exceeding the period specified in any general or special directions issued by or under the authority of the Central Government.

**25. Method of payment of amounts due to the Custodian :-**

(1) Rents, rates, lease money, sale proceeds and other amounts payable to the Custodian in respect of evacuee property under the Act or under these rules shall be tendered in cash or postal money order to the Cashier in the office of the Custodian or to any other

person who may be authorised by the Custodian in this behalf to receive such money.

(2) The person receiving the money on behalf of the Custodian shall issue a receipt in Form No. 8. Receipts issued by the person making realisation on behalf of the Custodian on the spot shall, however, be prepared in Form No. 9 by carbon process by using double-sided carbon paper.

(3) Crossed cheques may, at the discretion of the Custodian be accepted. In case of out-station cheques, the amount on account of bank commission should also be added to the amount due to the Custodian. No receipt for any cheque shall be valid discharge of any liability unless the cheque is cashed.

## **26. Administration and other charges :-**

(1) A fee equivalent to 10 per cent of gross realisations made from evacuee property shall be charged as administration charges from the date on which the property is taken over by the Custodian.

Explanation:- This sub-rule applies to part "C" States only.

(2) A fee equivalent to 10 per cent of gross realisation made from evacuee property shall be charged on account of maintenance and normal repairs from the date on which the property is taken over by the Custodian.

<sup>1</sup> [ (3) Nothing in sub-rule (1) or sub-rule (2) shall entitle the Custodian to recover any charges. On account of the Administration, maintenance or repairs of any evacuee property from the sale-proceeds thereof but where any such property is disposed of by sale, it shall be lawful for the Custodian to realise from the sale-proceeds only such amount as is, in his opinion, sufficient to defray the expenses incurred in connection with, or incidental to, the disposal of such property.]

(4) In addition to normal repairs the Custodian may also spend such amounts on special repairs to the property as are sanctioned by the Central Government or the Custodian General. Such expenditure on special repairs will in the first instance be met out of the income of the property and if there is not sufficient income, it will be debited against the capital value of the property.

1. Ins. by S.R.O. 1673, dated 21st May, 1954.

**27. Administration charges for moveable properties :-**

(1) Where any moveable evacuee property is returned under Section 16 , or is disposed of by sale or is otherwise released, the Custodian may recover such administration charges or other charges on account of the maintenance, repair, transport or storage of such property and subject to such conditions, if any, as the State Government may by general or a special order from time to time, direct.

(2) This rule applies to Part "C" States only.]

**28. Manner of service or publication of notice, summons or order :-**

Service or publication of any notice, summons or order under the Act or under these Rules shall be effected in one or more of the following modes namely:

(1) By giving or tendering it to the person concerned or his manager or agent, if any.

(2) By leaving it at the last known place of business of the person concerned or by giving or tendering it to some adult member of the family.



(3) By sending the notice, summons or order by registered post.

(4) By affixing the notice, summons or order on some conspicuous part of the

**29. Omitted :-**

xxx xxx xxx

**30. Examination of witnesses :-**

The Custodian shall be entitled to issue a commission for recording statement on oath of any person, as provided in Or.26 of the Code of Civil Procedure, 1908.

**30A. Transfer of cases :-**

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard or of his own motion and without such notice, the Custodian General or the Custodian may at any stage of any proceeding pending before any officer subordinate to him withdraw it to himself and-

(i) try to dispose of it himself; or

(ii) transfer it for trial or disposal to any other officer subordinate to him and competent to try or dispose of the same; or

(iii) re-transfer the same for trial or disposal to the officer from whom it was withdrawn.

(2) Where any case has been withdrawn under sub-rule (1), the officer who thereafter tries such case may, subject to any special direction in the case of any order of transfer, either retry it, or proceed from the point at which it was transferred or withdrawn.]

### **31. Appeals, review and revisions :-**

(1) All appeals under the Act shall, when they lie to <sup>1</sup>[\* \* \* \*] the Custodian, be filed within thirty days of the date of the order appealed against and when they lie to the Custodian General, within sixty days of such date.

(2) The petition of appeal shall be presented in person or through a legal practitioner or a recognised agent when the appeal lies to the Custodian <sup>2</sup>[\* \* \* \*.] Where an appeal lies to the Custodian General the petition of appeal may be sent by registered post.

(3) Every petition shall state succinctly the grounds on which the order appealed from is attacked and shall be accompanied by a copy of such order unless the appellate authority dispenses with such copy.

(4) Except as otherwise expressly provided in the Act or in these Rules, the procedure laid down in Or.61 of the Code of Civil Procedure, 1908, shall, so far as applicable, apply to the hearing and disposal of appeal under the Act.

<sup>3</sup>[(5) Any petition for revision when made to the Custodian-General shall ordinarily be made within sixty days of the date of the order sought to be revised. The petition shall be presented in person or through a legal practitioner or a recognised agent or may be sent by registered post. The petition shall be accompanied by a copy of the order sought to be revised and also by a copy of the original order unless the Revising Authority dispenses with the production of any such copy.]

<sup>4</sup>(6)\* \* \* \*.]

(7) <sup>5</sup>[ In computing the period of limitation provided in this rule-

(a) the provisions of Section 4 <sup>6</sup>[\* \* \* \*] and 6 <sup>7</sup>[\* \* \* \*] of the Indian

(a) the provisions of Section 4 [ ^ ^ ^ ^ ] and S.12 of the Indian Limitation Act, 1908<sup>7</sup> shall, so far as they are applicable, apply to all petitions of appeal or revision ;

(b) the provisions of Section 5 of the said Act shall, so far as they are applicable, apply to all petitions of appeal or revision, and shall be deemed to have applied to all such petitions made during the period commencing on the 5th day of June, 1956 and ending on the 29th day of September, 1956: Provided that where in respect of any appeal or revision application made to the Custodian or any officer subordinate to him any question arises whether the provisions of Section 5 of the said Act should be applied, the question shall be referred to the Custodian-General whose decision thereon shall be final.

(7A) Where any petition of appeal or revision has been dismissed by any authority during the period specified in Cl. (ft) of sub-rule (7) on the ground only that such petition was barred by limitation and that time could not be extended because S.5 of the Indian Limitation Act, 1908<sup>8</sup> was not applicable the petitioner may, not later than the 29th day of November, 1956, apply to the Custodian-General for restoration of the petition of appeal or revision, as the case may be, and the Custodian-General, if satisfied that the petitioner had sufficient cause for not filing the petition within time, may set aside the order dismissing the petition and thereupon such petition shall, subject to the other provisions of these rules, be heard on merits by the Custodian-General or if the Custodian-General so directs, by the authority which would have been competent to hear it, if the petition had not been dismissed on the ground aforesaid.]

(8) A notice of any appeal, revision <sup>9</sup>[\* \* \* \*] may be given, in addition to the person concerned, to any other person who in the opinion of the authority hearing the appeal, the revision <sup>9</sup> [\* \* \* \*] may be interested in the same.

(9) Any authority hearing any appeal or an application for revision may admit additional evidence before its final disposal or may remand the case for admission of additional evidence and report or

for a fresh decision, as such authority may deem fit.

1. The words "the District Judge nominated in this behalf or" omitted by Notification S.R.O. 667, dated 20th February, 1957.
2. The Words "or an especially nominated District Judge" omitted by The words "the District Judge nominated in this behalf or" omitted by Notification S.R.O. 667, dated 20th February, 1957.
3. Subs. by Notification S.R.O. 667, dated 20th February, 1957.
4. Clause (6) omitted by Subs. by Notification S.R.O. 667, dated 20th February, 1957.
5. Subs. by Notification S.R.O. 2183, dated 20th September, 1956.
6. The figure "5Z omitted by Notification S.R.O. 1385, dated 5th June, 1956.
7. See now the Limitation Act, 1963.
8. See now the Limitation Act, 1963.
9. The words "or review" omitted by Notification S.R.O. 667, dated 20th February, 1957.

**32. Fees :-**

(1) The following fees shall be payable in respect of petitions, appli- cations and appeals under the Act, except those presented or filed by an officer of the Custodian Department or any other public officer as such:

(I)	Appeals-		Rs. P.
	(i)	To the Custodian-General	20.00
	(ii)	To the Custodian or Additional Custodian <b>1</b> [* *]	10.00
		<b>2</b> [* * * *]	
(II)	Petitions-		
	For revision when made to the Custodian-General		10.00
(III))	Applications-		
	(i)	Any application under Sec. 16 for restoration of	10.00

	(i)	Any application under Sec. 40 for possession of property	20.00
	(ii)	Any application under Sec. 40 for confirmation of transfer-	
	(a)	Where the consideration for transfer does not exceed Rs. 1,000.	2.00
	(b)	Where the consideration for the transfer exceeds Rs. 1,000 but does not exceed Rs. 5,000	5.00
	(c)	Where the consideration for the transfer exceeds Rs. 5,000 but does not exceed Rs. 10,000	10.00
	(d)	In all other cases	10.00
	<b>3</b> [(iii) * * * * *]		
	iv	Any application for a copy of any document or order	0.20
	(v)	Any application riot otherwise provided for but made in relation to a proceeding under Sec. 7, 16 or 40-	
	(a)	When made to any Custodian-General	2.00
	(b)	When made to any other officers	1.00
	(vi)	Any application of a miscellaneous nature not otherwise provided for <b>4</b> [* * *]	0.20
(IV)	(a)	Applications under Sec. 23 for an intending evacuee being called upon to pay up the efficiency on the consideration paid by him for an evacuee property in Pakistan	5.00
	(b)	Application for a copy	0.20
	(c)	Application not otherwise provided for but made in connection with proceedings under Secs. 7, 16, 19, 22 and 40-	
	(i)	When made to the Custodian-General	2.00
	(ii)	When made to any other officers	1.00
	(iii)	Applications of a miscellaneous nature not otherwise provided for	0.20

(2) No officer authorised to receive any appeal, petition or application shall receive the same unless fee payable under this rule is paid in such manner as the Central Government may from time to time determine.

(3) A register shall be maintained in the office of every Custodian showing the fee paid in respect of every petition, application or appeal, and the entries shall be checked and countersigned by the officer by whom the petition application or appeal, as the case may be, is heard or by such other officer subordinate to him as he may authorise in this behalf.

1. The words "or the especially designated District Judge" omitted by Notification S.R.O. 667, dated 20th February, 1957.

2. Clauses (ii), (iii) and (iv) omitted by The words "or the especially designated District Judge" omitted by Notification S.R.O. 667, dated 20th February, 1957.

3. Omitted by Notification S.R.O. 1673, dated 21st May, 1954.

4. Omitted by Notification S.R.O. 1673, dated 21st May, 1954.

**33. Basic record of property to be maintained in property section :-**

(a) All immovable property taken possession of by the Custodian shall be recorded in a register in Form No. 10. Similar registers shall be maintained with respect to properties of intending evacuees.

(b) All moveable property taken possession of by the Custodian shall be recorded in a register in Form No. 11 and a slip in Form No. 12 shall be attached to each article. The officer entrusted with the custody of such property shall be responsible for its safe custody and for protecting it from loss, damage or deterioration. He shall maintain a suitable record of the property taken into custody with a view to facilitating check at any time of the article in hand with those shown as such in the Registers. He shall also arrange for periodical physical verification of the articles in hand.

(c) The account-books, title deeds, and other valuables and documents taken possession of by the Custodian shall be noted in the Register of Valuables in Form No. 13 and a slip in Form No. 12 shall be attached to each article.

Explanation.- When any property is disposed of by sale or otherwise the details of disposal shall be entered in the appropriate columns of the relevant registers.

#### **34. Powers of managers :-**

The manager appointed under sub-section (2) of Section 10 shall act under the general supervision and control of the Custodian and may exercise such powers as may be delegated in writing to him by the Custodian from time to time.

#### **35. Fees for inspection and copies :-**

(1) The following fees shall be payable by the person desirous of obtaining any copy from any record maintained under the Act or these rules: Rs. P.

(2) Any person interested in any evacuee property may, with the permission of the Custodian, inspect the record relating to such property on payment of fee of Rs. 2. Any person interested in any original case appeal, revision or review pending before the Custodian-General, or any Custodian may, with the permission of such officer, inspect the record of such case on payment of a similar fee.

(3) Such officer may authorize a person inspecting to take short notes (not verbatim in pencil.)

(4) The fees payable under this rule may be paid in a manner as the Central Government may from time to time determine.

#### **36. Seal :-**

The Custodian General and the Custodian shall have a seal which will bear the words Custodian General/Custodian of Evacuee Property.

### **37. Restitution :-**

When any property taken into possession as an evacuee property is subsequently declared by the Custodian or any other competent authority to be a non-evacuee property, the Custodian may, on the application of any party entitled to the actual possession thereof, take such action as will place the parties in the same position in which they were on the date of possession. For this purpose, the Custodian may order the person in occupation of the property to vacate the same and the Custodian may use such force or authorise the use of such forces as may be necessary for the purpose.

### **38. Receipts :-**

Income and other receipts on account of Evacuee property fall under the following categories: The head (C) is intended to cover receipts like interest on investment of surplus cash by the Custodian in approved Government securities under Section 10(2) (p) of the Act and other receipts which may not be allocated to any other head.

### **39. Maintenance of records and registers :-**

The following account records and registers shall be maintained by Custodian of Evacuee Property or by Officers authorised to act on their behalf.

(i) An index Register shall be maintained in Form No. 14 in which the names of evacuees shall be entered in alphabetical order. References to the pages of other registers in which the transactions of the evacuee are recorded shall be given on the relevant page of this-register.

(ii) A personal account shall be maintained in Form No. 15 for each evacuee in a bound register, with an index in an alphabetical order. Sufficient number of pages shall be set apart for each evacuee. The monthly total of receipts payments as recorded in the several individual registers shall be posted into the personal account of each evacuee at the end of each month, figures of administration charge and custodians fee being posted separately as distinct from totals of other expenditure.



(iii) A receipt and expenditure account of immoveable property shall be maintained in Form No. 16 for recording complete details of receipts and payments of all evacuee immoveable property other than agricultural land, and it shall also show, the name of the owner, full specifications of property and assessed rent recoverable in respect of each item. Particulars of factories and work-shops shall be recorded in a separate register in the same form. A separate account of receipts and expenditure shall be maintained in Form No. 17 in respect of Agricultural property. The entries in the registers shall be attested by the officer checking them.

(iv) Account of receipt and expenditure on account of moveable property belonging to each evacuee shall be maintained in Form No. 18. Separate registers shall be maintained in respect of identifiable and unidentifiable property. Disposal of this property by auction, sale or otherwise when made shall be indicated in this register. The results of the verification of ground balances of the articles with the book balances shall be recorded in this register. When the property is sold or leased by public auction the bids shall be recorded in the sales register (Form No. 19), the signature or thumb impression of the last bidder being obtained in column 11 of the form.

NOTE:- The intermediate bids in respect of property liable to fetch not more than Rs. 100/- may not be recorded in the register.

(v) Account of receipt and expenditure in respect of debts or claims due to evacuees shall be maintained in Form No. 20.

(vi) A rent demand and collection register for immoveable property (other than Agricultural) shall be maintained in Form No. 21 for showing the rent assessed on immoveable property let out on rent and the amount of rent actually realised.

(vii) A miscellaneous demand and collection register shall be maintained in Form No. 22 for recording recovery of amounts other than those recorded in the Rent Demand and Collection Register.

(viii) Income arising from the interest of evacuees in business concerns, e.g. shares in business profits, shall be accounted for in a register in Form No. 23.

(ix) In respect of agricultural land a register of demand and collection shall be maintained in Form No. 24. Demand in respect of all items brought on to the property register for agricultural land shall be recorded in this register, the name of evacuee owner, the allottee and the monthly rent fixed for each item of property shall also be shown therein. Demands, which will be collected by issue of rent bills and the realisations effected, shall be noted in the columns provided for the purpose.

(x) The Demand and Collection registers shall be reviewed and closed at the end of each year and the outstanding balances shall be struck and carried forward to the registers of the succeeding year. A certificate to the effect that all recoverable demands of the year have been noted in the registers and that the balances have been correctly carried forward to the succeeding years registers shall be recorded at the end of each register by a responsible officer.

(xi) A statement showing demands to the end of the previous month, recoveries made during the current month and the outstanding balances shall be forwarded to the Ministry of Rehabilitation, Government of India, through the Custodian-General not later than the 15th day of the succeeding month and causes of arrears if any and steps taken to clear them shall be explained in the statement.

(xii) A cash book in Form No. 25 shall be maintained to show all transactions of receipts and payments relating exclusively to evacuee property. Amounts received or paid on account of evacuee property shall be entered in the cash book on the date on which they are received or paid. The cash book shall be closed daily and the entries therein shall be checked and initialled daily by the Custodian or an authorised Gazetted Officer. Cash in hand shall be

deposited promptly into the Treasury. The cash in hand shall be verified at the end of each month by the Custodian or by any other Gazetted Officer nominated by him for the purpose and he shall record a signed and dated certificate to this effect in the cash book. In addition, surprise checks shall be made frequently at irregular intervals.

<sup>1</sup> [The Custodians will keep a separate account in Form No. 25-A of the amounts deposited in the Treasury in favour of the Pay and Accounts Officer. A copy of this account will be sent to the latter at the end of every month, duly verified by the Treasury Officer. The figures appearing in this account shall be reconciled with those of the Pay and Accounts Officer, monthly.]

1. Subs. by Notification S.O. 2102, dated 25th September, 1958

#### **40. Personal deposit account to be closed :-**

(1) The personal deposit accounts opened in the name of the Custodian of Evacuee Property or other officer authorized by the Government in this behalf for crediting receipts in respect of unacquired evacuee properties shall be closed with effect from 1st April, 1957, or such other date as may be prescribed. All receipts on account of unacquired evacuee property shall thereafter be

(2) The receipts on account of sale-proceeds and other receipts of unidentified evacuee moveable property and administration charges/Custodians fee thereon shall also be credited into the treasury in favour of the Pay and Accounts Officer, Ministry of Rehabilitation, New Delhi, for credit under a distinct suspense head "Sale-proceeds of unidentified evacuee moveable property" subordinate to "Section S-Deposit and Advance-Part IV-Suspense," and "XLVI-Misc.-Central, etc." respectively. When such receipts are credited into the treasury they shall be shown as credited to the Pay and Accounts Officer, Ministry of Rehabilitation, New Delhi, to whom a copy of the treasury challan (marked original) shall be forwarded in advance to enable him to watch the credits.]

#### **41. Payments :-**

Where repairs, etc. to evacuee property are carried out by the

Public Works Department, the Executive Engineer concerned shall send a schedule in Form No. 26 showing the charges incurred by him on such repairs etc. This charges shall be debited to the account of the property of the evacuee owner concerned. Where, however, the allottees in occupation of evacuee property are permitted by the Custodian to carry out minor repairs and to set-off the amount of expenditure actually incurred against the rent due, the gross amount of the rent shall be entered in the relevant Demand and Collection Register while the cost of repairs shall be noted in the appropriate column in the account of the property of the evacuee concerned.

**42. Omitted :-**

Municipal and other taxes paid in respect of evacuee property shall be debited to the account of the property of the evacuee concerned.

**43. Payment by Custodian :-**

(1) No payment shall be made except after the payee has presented his claim and the Custodian or an officer duly authorized by him in this behalf, after checking the same, has passed order of payment thereon.

<sup>1</sup> [(2) After the personal deposit accounts in the name of the Custodians have been closed as indicated in rule 40, all expenditure for maintenance, repairs, and the like of unacquired evacuee property and refund, if any, of the receipts, shall be drawn from the Pay and Accounts Officer, Ministry of Rehabilitation, on presentation of bills in accordance with the financial rules and regulations as may be laid down by the Central Government. All such charges shall be taken directly to the deposit to the head "Transactions on account of unacquired evacuee property" mentioned in rule 40.]

1. Subs. by Notification S.O. 2102, dated 25th September, 1958.

**44. Monthly Statement of charges :-**

At the close of each month, the Custodian will work out figures for administration charges in Form No. 27 in respect of receipts credited to the head mentioned in rule 40(1) and communicate them to the Pay and Accounts Officer for carrying out necessary adjustment in accounts by debiting the Deposit Head "S-Deposits and Advances, etc. transactions on account of unacquired evacuee property" per contra credit to "XLVI-Miscellaneous, Central" etc. The monthly totals of "gross realizations" and "administration charges/Custodians fee" as worked out in Form No. 25-A shall be reconciled with the corresponding figures in the classified abstract in Form No. 29.]

**45. Omitted :-**

The total monthly debits and credits in each ledger account shall be entered in a register in Form No. 28, any difference between the total credits and debits as per this register shall be agreed with the difference of total receipts and payments posted in the classified abstract in respect of the deposit head.

Note:- A certificate that the balances in the Personal Ledger Account of the evacuee have been reconciled with the cash in hand plus the amount shown in the treasury column of the cash book (vide rule 40 and with the classified abstract as provided above) shall be submitted by the end of month following that to which the accounts relate to the Ministry of Rehabilitation, Government of India, through the Custodian- General.

**46. Record of payments :-**

Each Custodian of evacuee property shall maintain a record of payments claimed from the Pay and Accounts Officer, in Form No. 29. He shall also compile monthly a statement of expenditure in Form No. 30 and send it to the Custodian-General-cum-Chief Settlement Commissioner for reconciliation with the office of the Pay and Accounts Officer, Ministry of Rehabilitation.]

**47. Omitted :-**

XXX XXX XXX

**48. Omitted :-**

If a form different from that prescribed in these rules is used, the prior approval of the Audit Officer who is responsible for the local audit of the accounts shall be obtained.

**49. Repeal :-**

The rules contained in the following notifications, namely :

(i) the Notification of the Government of Punjab in the Relief and Rehabilitation Department No. 8689-S (Rev.), dated the 29th August, 1951 ; and

(ii) the notification of the Government of Patiala and East Punjab States Union in the Rehabilitation Department No. 2, dated the 19th February, 1952, are hereby repealed: Provided that <sup>1</sup> [\* \* \* \*] anything done or any action taken in exercise of any power conferred by any of the said rules shall be deemed to have been done or taken under the corresponding provision of these rules.

5 [\* \* \* \*]

1. The Words "subject to the next succeeding proviso" omitted by S.R.O. 1381, dated 4th August, 1952.