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GOVERNMENT OF THE KHYBER PAKHTUNKHWA AUQAF, HAJJ,  
RELIGIOUS AND MINORITY AFFAIRS DEPARTMENT.

NOTIFICATION

Peshawar Dated the 08<sup>th</sup> Feb, 2018.

No.SO(HR&MA)1-70/2018

.-In exercise of the powers conferred under section 27 of the Khyber Pakhtunkhwa Evacuee Trust Property (Management and Disposal) Act, 2014 (Khyber Pakhtunkhwa Act No. XLIV of 2014), the Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

**THE KHYBER PAKHTUNKHWA URBAN EVACUEE TRUST  
PROPERTY SCHEME RULES, 2017.**

1. Short title and commencement :---(1) These rules may be called the Khyber Pakhtunkhwa Urban Evacuee Trust Property Scheme Rules, 2017.

(2) They shall come into force at once.

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

(a) "Act" means the Khyber Pakhtunkhwa Evacuee Trust Properties (Management and Disposal) Act 2014, (Khyber Pakhtunkhwa Act No. XLIV of 2014);

(b) "Administrator", "Deputy Administrator" and "Assistant Administrator" means the Administrator, Deputy Administrator and Assistant Administrator appointed under section 12 of the Act;

(c) "assessment" means the assessment or re-assessment of rent under clause (f) of section 4 of the Act;

(d) "engineering staff" means the engineering staff of the Board;

(e) "prevailing market rate" means prevalent rate of rent of private or other building situated in the vicinity, where an evacuee trust property is located;

(f) "scheme" means the scheme prepared by the Board under section 29 of the Act;

(g) "special repairs" means the repairs other than the annual repair or any addition or alteration in the existing structure of an evacuee trust property involving expenditure of not less than two months' rent thereof; and

(h) "tenant" means the tenant of the evacuee trust property.

(2) All other words and expressions used but not defined in these rules, shall have the same meaning as assigned to them in the Act.

3. **Tenancy:---** (1) The tenant shall hold the property subject to the provisions of the Act and these rules.

(2) The tenant shall not make any addition or alternation or new construction without obtaining prior written permission from the Board.

(3) The tenant shall not transfer, assign, sublet or in any other manner alienate tenancy to any person.

(4) The tenant shall use the evacuee trust property only for the purpose for which the tenancy was granted by the tenant. If the tenant desires to use the residential premises for commercial purposes, he shall apply to the Board for the said purpose. The Board may grant the permission on such terms and conditions as to the rent and period as may be determined. The enhancement of rent on this account shall have no effect on periodical re-assessment of rent in accordance with these rules.

(5) The tenant shall be liable to pay the water, electricity, other charges and taxes.

4. **Regularization of possession:---** (1) An existing occupant of evacuee trust property whose possession has not been regularized may be treated as tenant, if-

- (a) he is in actual physical possession and the evacuee trust property is not already on rent with any person; and
- (b) he clears all arrears of rent and other dues if any, as assessed by the Board or the date of physical occupation whichever is later; and that such tenancy is approved by the concerned Administrator:

Provided that fifty percent surcharge shall be charged on the total rent assessed periodically since the date of occupation.

(2) Change of tenancy may be allowed by the Chairman in respect of the evacuee trust property subject to these rules in the following cases:

- (a) on the express consent, in writing of the previous tenant, thirty percent increase in the existing rent, payment of transfer fee equal to two years rent at the newly fixed rate in the case of residential evacuee trust property and equal to four years rent in the case of commercial evacuee trust property and payment of outstanding arrears of rent or any other dues outstanding; and

Provided that a residential-cum-commercial evacuee trust property shall be treated as a commercial evacuee trust property for the purposes of levy of transfer fee; and

- (b) on the demise of a tenant, the tenancy of the evacuee trust property shall be alienable in favour of the legal heir, indicated in the tenancy deed, subject to provisions of these rules.

(3) No existing tenement shall be sub-divided or partitioned for the purposes of change of tenancy.

(4) Evacuee trust properties which existed in the shape of open plots before independence and were encroached upon subsequently and unauthorized occupants set up clusters of houses thereon in the shape of haphazard, colony, their possession may be regularized in the manner laid down in the sub-rule (2).

(5) A vacant residential house or a shop or other building shall be rented out by public auction by the Assistant Administrator or Deputy Administrator concerned, as the case may be.

~~6. Period of tenancy:---The period of tenancy of evacuated trust property shall be such as may be specified in the instrument of tenancy.~~

6. **Lease of open plots:---**(1) An open plot comprising an area not exceeding five kanal may be leased out by public auction or by inviting tender, after wide publicity through the press and local mushtary munadi for residential or commercial purposes by the Board initially for a period of thirty (30) years renewable for a similar period:

Provided that if no bid or offer is received in three consecutive public auctions or tenders or the response is not worth consideration or is below the reserve price, the Board may allow lease at the negotiated rate plus the amount of non-refundable security to be decided on case to case basis.

(2) A site under an evacuee trust building which may be beyond repairs shall be leased out for development in manner as provided in sub-rule (1):

Provided that the right of first refusal shall be given to the occupant of the building in regard to its lease, subject to the terms and conditions to be laid down by the Board.

(3) The auction of open plots or sites shall be held by a Committee constituted by the Board comprising:-

(a) a representative of the Board not below the rank of Deputy Secretary to be nominated by the Chairman;

(b) Administrator concerned;

(c) Deputy Administrator or Assistant Administrator concerned; and

(d) a representative of District Revenue Officer or his nominee not below the rank of BPS-16;

Provided that three members shall constitute the quorum of the Committee.



(4) Lease exceeding thirty (30) years shall be subject to the approval of the Government.

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7. **Sale and purchase of evacuee trust property :---**(1) The Board with the prior approval of the Government, may dispose off evacuee trust property through sale.

(2) A committee comprising the following, after thorough inquiry, shall recommend the market price of the evacuee trust property:-

(a) Member of the Board to be nominated by the Chairman;

(b) Administrator concerned; and

(c) Deputy Secretary of the Board.

(3) The committee shall submit its report to the Chairman through Deputy Secretary of the Board.

(4) The aforementioned encroached evacuee trust property with its permanent structure constructed thereon may be sold to occupants on payment of market price determined by the committee with fifty percent (50%) penalty plus ten percent (10%) surcharge.

(5) The proposal for sale or otherwise of the evacuee trust property, shall finally be decided by the Chairman.

(6) The Board may, for reasons to be recorded, purchase an evacuee trust property of value not exceeding Rupees two crore (Rs.20,000,000).

(7) An evacuee trust property of the value exceeding Rupees two crore (Rs.20,000,000) shall not be purchased except with the prior approval of Government.

8. **Annual repairs :---**(1) The Board, subject to the provision of these rules shall carry out annual repair through engineering staff under the prevailing municipal bye-laws.

(2) If a tenant applies for special repairs of the evacuee trust property in his occupation, the same may be allowed by the Chairman subject to the following conditions, namely:-

(a) the expenses on repairs shall be borne by the tenant without adjustment in rent;

(b) no change shall be carried out in the existing structure of the building and total floor area; and

(c) in case any damage is caused to evacuee trust property or any other adjoining property during the course of special repairs, the tenant shall be liable to ejectment and making good the loss for the damage caused:

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Provided that the special repairs may be allowed to be carried out if the property is not beyond repairs or has not been declared as dangerous by the municipal authority or is not required by the Board for a public purpose or for enhancing its value and raising the income of the Board to carry out its functions under the Act.

(3) The Departmental Committees for the purpose of this rule shall comprise as follows:

(a) for original works costing more than Rs.2 million and repairs costing more than Rs.0.31 million.

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| (i) Chairman;  | Chairperson.          |
| (ii) representative of the Finance Department of the Government;                       | Member.               |
| (iii) representative of the Planning and Development Department of the Government; and | Member.               |
| (iv) Chief Engineer/ Superintending Engineer of the Board.                             | Member-cum-Secretary. |

(b) for original works costing from Rs.0.5 million to Rs.2.0 million and for repair works costing from Rs.0.11 million to Rs.0.30 million.

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| (i) Member of the Board to be nominated by the Chairman;                              | Chairperson.          |
| (ii) Secretary of the Board;  | Member.               |
| (iii) representative of the Finance Department of the Government;                     | Member.               |
| (iv) representative of the Planning and Development Department of the Government; and | Member.               |
| (v) Chief Engineer/ Superintending Engineer of the Board.                             | Member-cum-Secretary. |

(c) for original works costing upto Rs.0.5 million and for repair works costing upto Rs.0.10 million.

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| (i) Chief Engineer/ Superintending Engineer of the Board; | Chairperson.          |
| (ii) Secretary of the Board;                              | Member.               |
| (iii) Administrator concerned.                            | Member-cum-Secretary. |

8. **Development for commercial purpose:---**The Board may grant the evacuee trust property exceeding five (5) kanal on lease, subject to provisions of these rules.

10. **Prohibition of tenancy:---**No Government servant or employee of the Board or any other autonomous or semi-autonomous body shall be permitted to secure a tenancy, except for residential purposes.

11. **Procedure of ejectment:---**The tenants shall be ejected from the evacuee trust property in the following manner:-

- (a) A notice shall be given to the person affected clearly mentioning the ground of ejectment and a period not less than seven days;
- (b) if an officer taking the ejectment proceedings is not satisfied with the cause shown by the person affected, he shall pass an order of ejectment;

Provided that he shall be given an opportunity of being heard before such an order; and

- (c) the officer taking ejectment proceedings may allow a person for a period not more than sixty (60) days for the vacation of the premises in question.

12. **Imposition of penalty:---**The Deputy Administrator or Assistant Administrator, in whose jurisdiction the evacuee property is situated shall be competent to impose any breach of the terms and conditions of the tenancy if he is satisfied that such breach was rectifiable.

13. **Termination or cancellation of tenancy:---**(1) The Chairman may, for reasons to be recorded in writing cancel the tenancy of any evacuee trust property if he is satisfied that it was obtained illegally or in violation of the provisions of the Act or these rules.

(2) The tenancy of any person may be terminated by the Chairman, if the evacuee trust property is required for any public purpose.

14. **Repeal...**The Scheme for the Management and Disposal of Urban Evacuee Trust Properties, 1977 is hereby repealed to the extent of the Province of the Khyber Pakhtunkhwa.

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Secretary to  
Government of the Khyber Pakhtunkhwa  
Auqaf, Hajj, Religious and Minority Affairs  
Department.