The Jammu and Kashmir State Evacuees' (Administration of Property) Rules, Svt. 2008 (1951 A.D.)

[1]*Annexure to Cabinet Order No. 27-C of 1952, dated 7th January, 1952*.— In exercise of the powers conferred by section 39 of the Jammu and Kashmir State Evacuees' (Administration of Property) Act, 2006 (VI of 2006), the Government are pleased to make the following rules, namely:—

1. *Short title*.— These rules may be called the Jammu and Kashmir State Evacuees' (Administration of Property) Rules, Svt. 2008.

2. *Definitions*.— In these rules,—

(a) "the Act" means the Jammu and Kashmir State Evacuees' (Administration of Property) Act of Svt. 2006 (VI of 2006) ;

(b) "form" means a form appended to these rules ;

(c) "section" and "sub-section" means 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. *Condition of service of the Custodian General and other Officers*.– – The Custodian General and all officers appointed under him shall, subject to any special contract to the contrary, be governed by the Kashmir Service Regulation and the Civil Service Rules (General).

4. *Delegation of powers and duties to Custodian, Additional Custodian, Deputy Custodian and Assistant Custodian*. —(1) The Deputy or Assistant Custodian shall, subject to the general superintendence and control of the Custodian and Additional Custodian having jurisdiction, be directly incharge of the administration and management of the evacuee property in his jurisdiction and shall exercise all the powers of Custodian under the Act in his jurisdiction.

(2) The Additional Custodian shall, subject to the general superintendence and control of the Custodian, be the administrative head of administration of evacuee property in his jurisdiction and shall exercise the powers assigned to him under the Act.

(3) The Custodian shall, subject to the general superintendence and control of the Custodian General, be the administrative head of administration of evacuee property in his jurisdiction and shall exercise the powers assigned to him under the Act.

(4) Officers appointed under the Act shall exercise administrative and financial powers of the class of officers noted against each :—

(a)	Custodian General	Class Ist Officer;
(b)	Custodian	Class 2nd Officer;
(c)	Additional Custodian	Class 3rd Officer;
(d)	Deputy or Assistant Custodian	Class 4th Officer.

[1][(5) Subject to such restriction as may be imposed by the Custodian General from time to time, the Custodian may sanction estimates for repairs and completion of [3][and improvements in] evacuee property as required by clauses (d) and (e) of sub-section (2) of section 9]:

[3][Provided that no such estimates shall be sanctioned where improvements are to be made unless previous sanction of the Government is obtained in that behalf as required by clause (ee) of sub-section (2) of section 9].

[4][(6) All repairs and completions of [5][and improvements in] buildings shall be undertaken only after the funds for the purpose are allotted

1.Sub-rules (5) and (6) of rule 4 substituted by Cabinet Order No. 998-C of 1954 dated 3.8.1954 (Govt. Gazette dated 26.8.1954).

3.Proviso added *ibid*.

4.Sub-rules (5) and (6) of rule 4 substituted by Cabinet Order No. 998-C of 1954 dated 3.8.1954 (Govt. Gazette dated 26.8.1954).

in advance and shall be executed strictly in accordance with sanctioned estimates through stage or special contractors appointed by the Custodian General on the recommendation of the Custodian.

[1][The Custodian will be competent to make payments of bills for such works on the analogy of Public Works Department rules.]

[2][x x x x]

[3][4-A. *Delegation of powers to and duties of the Deputy Custodian General*.— Subject to the provisions of the Act, the Custodian General may delegate all or any of his powers under these rules to the Deputy Custodian General.]

5. *Furnishing of Security*.— The Cashiers, Field Inspectors and such other officials as are entrusted with receipt, disbursement and custody of money or property shall furnish a personal security of at least Rs. 2,000. The Custodian General may if, he deems necessary, increase the amount of security in any particular case up to a maximum personal security of Rs. 5,000.

6. *Notification of Evacuee property under sub-section (1) of section 6*. —(1) After a survey of any property is made and the Custodian is satisfied that a particular property in his Jurisdiction is an evacuee property, he shall notify the same in [4][the Jammu and Kashmir Government 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 affix a copy of the notification on the evacuee property.

(2) The notification shall give full particulars of the property regarding its location, Municipal No. etc. In case of agricultural land, it shall specify, as far as possible, its Khasra number and the village where it is situated. The notification shall be in

Form No. 1. Any error or irregularity in the drawing up or the publication of the notification shall not be deemed

2.Sub-rules (7), (8), (9) and (10) deleted *ibid*.

to detract from the validity of such a notification or otherwise afford a valid defence to the claim of the Custodian to the property as having vested in him.

(3) A list of all such evacuee property brought up to date shall be published by the Custodian once a year.

7. *Notice to surrender possession under sub-section (2) of section 6.*– – On the publication of a notification under rule 6, a notice demanding surrender of possession may be served on the occupant of the 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 emergent cases the custodian may require the occupant to give up possession immediately and the premises may be sealed at once. This notice shall be in

Form No. 2 and shall be signed by an officer not below the rank of Assistant Custodian.

8. *Procedure under section 7.* —(1) Where a notice has been duly served on the occupant of the property under rule (7) and the possession is not delivered as required, a warrant of eviction in

Form No. 3 under the signature of the officer who issued the notice or any other officer not below the rank of Assistant Custodian, may issue. One copy of the warrant shall be forwarded to the Police Officer of the Police Station concerned or such other officer as may be specially authorised by the Custodian for carrying out eviction, who shall forthwith take steps to effect the eviction with the use of such force as may be necessary.

(2) Every Police Officer to whom a warrant of eviction is sent for execution, shall submit a weekly report to the Superintendent of Police having jurisdiction and a copy thereof to the Custodian and the Additional, Deputy or Assistant Custodian having jurisdiction, giving details and 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 this register shall contain the following particulars, namely :—

(a) name of owner,

(b) description of property,

(c) name of warrantee,

(d) date of issue and service of surrender notice, and

(e) the final result.

(4) The Custodian, the Additional Custodian *suo moto* and the Deputy Custodian or Assistant Custodian dealing with the claims under section 8 of the Act, on the motion of the party aggrieved, may stay the eviction proceeding pending determination of the claim petition.

9. *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, 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 licence 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 18.

(3) Where such property is an undivided share in joint property,—

(a) if under some arrangement *inter se* the co-sharers, 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 other cases, constructive possession may be taken by affixing a copy of the warrant for possession on a conspicuous part of the party, and, if considered necessary,

by proclamation by beat of drum in the locality in which the property is situated :

Provided that where the share of the evacuee in such property is more than one-half of the whole property, the possession of the whole property may be taken in the manner provided in sub-rule (1) or sub rule (2), whichever is applicable.

10. *Mode of taking possession of tangible movable property.*—Where the property to be taken possession of is tangible movable property, the possession may be taken by actual seizure and after such seizure the Custodian having jurisdiction may either keep the property in his own custody or entrust it to a supard-dar on the latter furnishing security in

Form No. 4, as the case may be; provided that where the property is subject to speedy or natural decay or the expense of keeping it is likely to exceed its value, the Custodian may sell it forthwith by public auction.

11. *Mode of taking possession of other movable 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 some joint stock company not being a joint stock company referred to in sub-clause (ii) of clause (d) 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, Postal Cash Certificates, Bank deposits, stock or debentures, possession may be taken by serving the appropriate authority with notice requiring such authority to make all payments in respect of such securities, cash certificates, Bank deposits, 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 is 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 are considered necessary either for continuance or for winding up of such business.

12. *Preparation of inventory of movable property.*— Where an officer empowered in this behalf under the Act takes possession of any movable property including any stock-in-trade or plant or machinery or any undertaking, he shall prepare an inventory of the property in

Form No. 5 in triplicate in the presence of not less than two respectable residents of the locality, one of whom shall at least be a member of the community to which the evacuee belonged, if found in the locality. The inventory shall be signed by the Officer and each of the two witnesses. One copy of the inventory shall be made over to the Supard-dar (if any) and two copies shall be sent to the Deputy or Assistant Custodian having jurisdiction, who shall furnish one copy of such inventories to his next higher officer.

[1][13. (i) Any evacuee property may be allotted or leased out by the Custodian in such a manner and subject to such conditions as may be prescribed by the Government:

Provided that the period of lease or allotment granted shall not, except with the permission of the Custodian General, exceed one year in the case of residential property and two or three years in the case of commercial and Industrial undertaking respectively:

[2][Provided further that nothing in the preceding proviso shall apply to the allotments of evacuee property made in favour of immediate heirs, co-sharers and joint owners of the evacuees.]

(ii) An application for allotment of land shall be in Form No. 19.]

[3][13-A. *Revision of rent*.- [4][(1) (a) The Custodians of the Evacuee property shall within a period of six months from the date of issue of this notification revise the rates of rent of all evacuee property buildings whether constructed by the Department or by the evacuee himself on the basis of principles which are applied by the Engineering Department (R&B) in the assessment of rent of private buildings hired by the Government Department.

2.Further proviso added by SRO-369 dated 5.9.1963.
3.Section 13-A, 13-B, 13-C and 13-D inserted by SRO-149 dated 5.4.1985. 4.Sub-rule (1) substituted by SRO-215 dated 13.6.2002.

(b) Fresh lease deed should be signed, if necessary, which shall contain a provision of revision of rent to be determined by the competent authority in the aforementioned manner after every space of three years and such increase shall in no case be less than 15% over and above the original rent.

[1][x x x].

[2][(c)] A person aggrieved by the order of the Deputy Custodian may file an appeal before the Custodian within a period of 30 days from the passing of such order or revision before the Custodian General within a period of 2 months against the order of Custodian or Deputy Custodian excluding the time spent in obtaining a certified copy of the said order.]

(2) The concerned allottee shall be served a notice by the Custodian regarding the enhancement of the rent made in respect of the building in occupation of such allottee, and objection, if any, to the proposed rent.

(3) The concerned allottee shall convey his objection, if any, in writing to the Custodian within fifteen days from the date of receipt of such notice.

(4) The Custodian shall consider the objections in regard to the proposed rate of rent fixed a fresh and give a reasonable opportunity to the allottee of being heard and fix reasonable rent for the building in occupation of such allottee.

(5) The rate of rent in respect of houses in occupation of one or more persons, shall be fixed proportionately for the portion occupied by an individual. Nevertheless, uniform rent shall be charged from all occupants on the basis of floor area occupied by the allottees.

(6) In the case of building constructed after 15th August, 1947 and before 26th October, 1977, and is occupied authorisedly by the occupant, the rent shall be enhanced by not less than [3][15%] of the rent payable for the house by the allottee, after every [4][three years].

1.Clause (c) deleted by SRO 299 dated 9.8.2002.
2.Clause (d) renumbered as clause (c) *ibid*.
3.Substituted by SRO 215 dated 13.6.2002 for "10%".
4.Substituted by SRO 215 dated 13.6.2002 for "five years".

13-B. *Revision of rent of house or shop used for commercial purposes*.- (1) The Custodian shall fix the rate of rent afresh in respect of a building used for commercial purposes after taking into consideration the location and value of the property whether it has been constructed prior to or after 26th October, 1977, which shall not be less than the prevailing market rates :

Provided that the rent shall be enhanced by 10% of the rent fixed afresh after every three years.

(2) In respect of newly constructed shops as have not been let out on the date of publication of this notification in the *[Government Gazette], the Custodian shall charge a premium on the basis of potential value of such shop in the locality where the shop is situate and fix the rate of rent prevailing in the market not less than 10% of the capital cost.

(3) The premium shall be determined on the basis of highest bid to be offered by the intending allottees after putting such shop to an open auction.

(4) The lease period shall be 20 years in the first instance and the maximum period shall not exceed 99 years :

Provided that the rent shall be enhanced 100% at the time of renewal of lease.

13-C. *Fixation of premium and rent in respect of vacant land*. —(1) Notwithstanding anything contained in rule 13, the Custodian shall put to an open auction lease of any evacuee vacant land for a period not exceeding 40 years for determination of premium to be charged from the lessee to whom such land is leased out or may charge the premium and ground rent annually after taking into consideration the market value of such land of the locality in which it is situate. The different rates of premium and ground rent shall be fixed for the lands put to use for residential, commercial, or industrial, as the case may be :

Provided that the ground rent shall be enhanced by 100% at the time of renewal of lease :

Provided further that the total period of the lease shall not exceed 99 years :

Provided also that the premium shall be charged again at the time of fresh allotment/lease of such land and the ground rent fixed afresh annually on enhanced rates :

*[Provided also that the allotment/lease of such vacant land shall be made in favour of permanent residents of State only :]

Provided also that no allottee shall change the use for which it is allotted without prior permission of the Custodian. The Custodian shall also obtain approval of the Custodian General before permission is granted by him.

(2) In the case of indigent person, a lower rate of rent may be fixed by the Custodian at the time of revision of rent in respect of evacuee houses used for residential purposes only.

Explanation.- "Indigent person" means a person who has no reasonable source of income and have bodily infirmity and includes disabled, Orphan, Widow.

(3) Where the rent is fixed by the Custodian General or the Government and if the Custodian feels that the rent so fixed is not consistent with the market value or such rate as are prevalent in the locality, the Custodian shall report the fact to the Custodian General or the Government, as the case may be, for re-fixation of rent in all such cases.

(4) In respect of a house used by any Educational Institution, the rent may be fixed at 6½% of the capital cost and Rs. 2/- per marla per annum for the land appurtenant thereto shall be charged.

13-D. *Charging of interest on arrears of rent.*- Where arrears of rent are outstanding for more than one year against any allottee/leassee, the interest at the rate usually chargeable on the amount of loan advanced by the scheduled Bank, shall be charged on the amount so held in arrears which shall be credited to the account of the evacuee.]

---

* In view of the omission of the expression "permanent residents of the State" from the Statute books the instant proviso has become redundant and needs to be omitted.

14. *Cancellation or variation of leases and allotments*. —(1) The Custodian shall not ordinarily vary the terms of a lease or allotment, subsisting at the time he takes possession of the 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 grounds justifying eviction of tenant under any law relating to the control of rents for the time being in force or for violation of any of the conditions of the lease or the allotment.

[1][(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, or more than one business premises or more than one industrial premises; or

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

(iv) 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

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

---

* Now "Union territory of Jammu and Kashmir".

1.Sub-rule (3) of rule 14 substituted by Order No. 121-C of 1960 dated 14.4.1960 (G.G. dated 12.5.1960).

(vi) the allottee has sub-let or permitted any other person to occupy the property allotted or leased out to him ; or

(vii) the allottee has obtained gainful employment in a place other than the place where the evacuee property allotted to him is situate ; or

(viii) the property is required for any public purpose ; or

(ix) the allottee has kept arrears of rent of any three months unpaid ; or

(x) the allottee is using the property for a purpose other than the one for which it was allotted or leased or keeping the property in disuse :

Provided that no allotment shall be cancelled under this sub-rule if any house built by the allottee or by any person normally residing with him or dependent on him or any residential accommodation otherwise acquired by the allottee or any such person has been requisitioned by the Government :

Provided further that the Custodian shall not evict an allottee if the allottee or a person normally residing with him or dependant on him, has let out his house or other residential accommodation referred to in clause (iv), unless the allottee has been served with notice for a period of not less than 6 months: Provided also that in all other cases referred to above a reasonable notice shall be given to an allottee before an order for the cancellation of the allotment is made by the Custodian].

1[(3-a) The provisions of sub-rule (3) shall also apply *mutatis mutandis* to the cancellation of lease and in that case, all references in that sub-rule to "allotment" and "allottee" shall, respectively, be construed as references to "lease" and "lessee"].

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

1[(5) Nothing in this rule shall be deemed to take away or limit the power of the Custodian to cancel, or vary the terms of a lease or of allotment relating to evacuee property or to evict a lessee or allottee 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, proper administration or

for the management of such property or for carrying out any other object of the Act.]

15. *Procedure in relation to claims under section 8.* —(1) An application under section 8 shall contain full particulars of the property, the nature of the interest or rights which the claimant has in that property and the facts upon which the same is based and the names of the persons, if any, who are interested in the property. The application shall be accompanied by two copies thereof. It shall be stamped with a court-fee stamp of [2][three rupees] and shall be verified in the manner prescribed for the verification of pleadings in rule 15 of Order VI of the *[Code of Civil Procedure, 1977]. The application shall be presented in person or by a duly authorised agent or pleader to the Deputy or Assistant Custodian having jurisdiction or any person authorised by him in writing to receive such application :

[3][Provided that applications submitted by such persons who left their places of residence from Poonch, Rajouri District on account of Indo-Pak conflict of 1965 or on account of situations arising therefrom or fear of such conflict shall be stamped with a court-fee stamp of 0.25 paise only].

(2) Notice of the application may be given by the Deputy or Assistant Custodian to any person who in his opinion is interested in the proceedings.

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

(4) Where the application is dismissed under sub-rule (3), the applicant shall be precluded from making a fresh application on the same

1.Substituted by SRO-460 dated 15.10.1981.

* Now "Code of Civil Procedure, 1908".

3.Proviso to rule 15(1) inserted by SRO-331 dated 14.9.1967.

facts with respect to the same property. But he may apply within 30 days from the date of the order of dismissal or of the knowledge of such dismissal for an order to set aside the order of dismissal and if he satisfies the Deputy or Assistant Custodian that there was sufficient cause for his non-appearance when the case was called for hearing, the Deputy or Assistant Custodian shall make an order setting aside the orders of dismissal upon such terms as he thinks fit and shall appoint a day for proceeding with the application.

(5) If any application is pending on the date of the publication of these rules, the applicant shall within thirty days from the date of publication of these rules or on the order of the Deputy or Assistant Custodian having jurisdiction within the period specified therein, amend his application so as to bring it in conformity with the rules and shall also make up deficiency in court fee stamp within the period aforesaid.

(6) In case the applicant fails to amend the application or make up the deficiency in court fee in accordance with sub-rule (5), the Deputy or Assistant Custodian shall dismiss the application.

16. *Procedure for restoration of property under section 14.* —(1) Subject to the provision of this rule, an application under section 14 for restoration of property and inquiry into the claim shall be made in accordance with the provisions of rule 15 in so far as they are applicable.

(2) A public notice of such application shall be made in a local daily newspaper at the expense of the applicant :

[1][Provided that a notice of such applications presented by such persons who left their places of residence from Poonch-Rajouri District on account of Indo-Pak Conflict of 1965 or on account of situations arising therefrom or fear of such conflict shall be given by publishing a copy thereof at some conspicuous place in the locality where such property is situate or by beat of drum or any other suitable manner customary in such locality.]

(3) The applicant shall before any order for restoration is made produce a "No Demand Certificate" from the relevant branches of the office of the Custodian :

1.Proviso to sub-rule (2) of rule 16 inserted by SRO-381 dated 14th September, 1967.

[1][Provided that "No Demand Certificate" shall not be required to be produced by such persons who left their places of residence from Poonch-Rajouri District on account of Indo-Pak Conflict of 1965 or on account of situations arising therefrom or fear of such conflict.]

[2][(4) A certificate under the proviso to sub-section (1) of section 14 shall be granted by the Government when it is satisfied that the evacuee has returned to his original place of residence for peaceful and permanent rehabilitation and that he is not engaged in any subversive activities:]

[3][Provided that in case of such persons who left their places of residence from Poonch-Rajouri District on account of Indo-Pak Conflict of 1965 or on account of situations arising there from or fear or such conflict such certificate shall be granted by the Deputy Commissioner, Poonch or the Deputy Commissioner, Rajouri.]

17. *Procedure for confirmation of transfer under section 25*. —(1) An application for confirmation under sub-section (2) of section 25 shall contain the following particulars, namely:—

(a) boundaries, municipal numbers, if any, and location of the property transferred 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 consideration paid or deferred ;

(c) particulars of pervious transfers in respect of the property, if any ;

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

1.Proviso to sub-rule (3) of rule 16 added by SRO-381 dated 14th September, 1967. 2.Sub-rule (4) of rule 16 substituted by Government Order No. 121 dated 14.4.1960 (Govt. Gazette dated 12.5.1960).

3.Proviso to sub-rule (4) of rule 16 added by SRO-381 dated 14th September, 1961.

(2) The application shall be verified in the manner prescribed in rule 15 of Order VI of the *[Code of Civil Procedure, 1977], for the 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 14th August, 1947.

(3) The application shall be presented by the transferor or the transferee personally or by his duly authorised agent or pleader to Deputy Custodian or Assistant Custodian having jurisdiction and shall bear a court fee stamp as prescribed under rule 28.

Form No. 6 to be served on the transferor or transferee, as the case may be, and may further cause a similar notice to be served on the person in possession and on any other person whom the Deputy Custodian or Assistant Custodian having jurisdiction thinks 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 local daily newspaper at the expense of the applicant.

(6) If any application referred to in sub-rule (1), is pending on the date of the publication of these rules, the applicant shall, within thirty days from the date of the publication of the rules or on the order of the Custodian within the period specified therein, amend his application so as to bring it in conformity with the rules and shall also make up the deficiency in court fee stamp within the period aforesaid; 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 and to make up the deficiency in court fee, in accordance with sub-rule (6) the Custodian shall dismiss the application.

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

* Now "Code of Civil Procedure, 1908".

(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 on the materials before him in the absence of the party.

(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 he may apply within thirty days from the date of the order of dismissal or of the knowledge of such dismissal for an order to set 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 ground to believe to be colourable or benami.

18. *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 or residence of the person concerned or by giving or tendering it to some adult member of his 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 premises concerned or by proclamation, by beat of drum in the locality or at the last known place of business or residence of the person concerned or by publication in a local daily newspaper.

19. *Method of payment of amounts due to the Custodian*. —(1) Rent 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 by postal money order to the cashier in the office of the Custodian or to any other person who may be authorised in writing by the Custodian in this behalf to receive such money.

(2) The person receiving the money on his behalf shall issue a receipt in

Form No. 7. Receipts issued by the persons making realisation on behalf of the Custodian on the spot shall, however, be prepared in Form No. 8 by carbon process by using double sided carbon paper.

(3) Cheques shall not be accepted.

20. *Payments by Custodian*. —(1) No Payment shall be made except after the payee has presented his claim and the Custodian or an officer duly authorised by him in this behalf, after scrutinising the same, has passed an order thereon sanctioning payment except in cases provided for by sections 8 and 14 of the Act where sanction of the Custodian General shall be necessary.

(2) The Deputy or Assistant Custodian shall submit a copy of the restoration orders passed by him under section 8 and section 14 to the Custodian General through the Custodian specifying the following :—

(a) description of the property with specification,

(b) the date of taking possession of the property,

(c) the date of restoration of the property,

(d) the name of the person to whom property is restored,

(e) total amount of rent, lease money, share, etc. etc. collected with reference to Treasury/Bank Deposit Receipt No. and date,

(f) deductions, and

(g) net amount required to be paid.

Note:— All such information shall be properly scrutinized and submitted by the Custodian to the Custodian General after the period of appeal is over.

(3) All payments shall ordinarily be made by cheque or treasury bills signed by the Custodian or any person authorised by him in writing in this behalf; provided that if the amount involved does not exceed Rs. 50.00 the payment may be made in cash.

Note 1.— Cheque Books shall remain in the custody of the Custodian or any other officer who may be authorised by him in writing.

Note 2.— No cheque shall be drawn unless it is required for immediate delivery to the person to whom money is to be paid.

Note 3.— The bills shall be numbered serially for each month and shall, after payment, be stamped as under :—

Paid under cheque No./in Cash ..... dated .....

(Sd.) ..... (Sd.).....

Accountant Cashier

Note 4.— The bills shall, after payment, be filed and kept on record for audit.

21. *Management of trust properties*.— Trust properties, like other evacuee properties, may be, managed by the Custodian but in case of a public trust of a religious or charitable nature, recourse may be had to section 92 of the *[Code of Civil Procedure, 1977], if the circumstances so require.

[1][22. *Administration and custodian fee*. —(1) [2][[3][A fee up to 30%] of the income of the evacuee property and 10% of the interest accruing thereon and on other evacuee property deposits] shall be charged as

* Now "Code of Civil Procedure, 1908".

3.Substituted for "A fee up to 20 per cent", by Cabinet Order No. 202-C of 1956 dated 2.2.1956 w.e.f. 1.4.1955 (Govt. Gazette dated 20.2.1956).

administration charges. This fee shall be in addition to the expenses incurred on the maintenance, repairs and completions and other expenditure which may be incurred directly or indirectly on behalf of the evacuee. [1][The evacuee property allotted to immediate heirs viz. wife, parents, direct descendants (male or female), brothers or their minor children, joint owners or co-sharers shall, however, be exempt from these charges].

(2) When any movable evacuee property is returned under section 8 or section 14, administration charges equivalent to [2][30 per cent] of the assessed value of the property shall be charged over and above any other charges, which may have been actually incurred on maintenance, transport or storage etc. of the same.

(3) The cash balances out of the income of the evacuee property remaining with the Jammu and Kashmir Government in its treasuries or elsewhere shall carry interest at such rates as may be determined by Government from time to time.

(4) The income and expenditure of the evacuee property will pass through a Debt Head, under "Debt Head – Local Fund" "Evacuee Property Fund" which will be in the nature of a banking account and to which rents and sale proceeds of movable and immovable property and other miscellaneous receipts will be credited and from which expenditure on administration and maintenance of the property will be incurred. This head will be maintained separately in respect of properties of the two provinces of Jammu and Kashmir. The interest on evacuee property balances with the Jammu and Kashmir Government will be credited to a separate head "Debt Head Deposits – Interest on balances of the Evacuee Property Fund with Jammu and Kashmir Government." Charges on administration of the Evacuee Property Department will be limited to [3][30 percent of the income of the Evacuee Property and 10 percent of the interest incurring thereon and on other evacuee property deposits]. The expenditure on maintenance will ordinarily be limited to 25 per cent of the income of the property, any expenditure over and above this percentage being incurred with the sanction

1.Words substituted by SRO-369 dated 5.9.1963.

2.Substituted for the figures and words "10%" by Cabinet Order No. 202-C of 1956 dated 2.2.1956 w.e.f. 1.4.1955 (Govt. Gazette 16.2.1956).

3.Substituted for certain words by Cabinet Order No. 202-C of 1956 dated 2.2.1956 with effect from 1.4.1956.

of Minister-in-Charge, Evacuee Property, with the concurrence of the Finance Department.

(5) A regular annual budget providing for the administration, maintenance repairs, completion etc., of the evacuee property, will be framed by the Ministry of Revenue and Rehabilitation in consultation with Finance Department and sanctioned by Government. It will be operated upon by the officers in accordance with the powers delegated to them.]

[33][23. *Investment of evacuees' money*.- Income accruing from Evacuee Property by way of realisation of rent, licence, lease, sale proceeds or an account of compensation or any other source shall be deposited in the Evacuee Property Fund and may be invested in the purchase of the land or

other immovable property, [34] [and in such manner as the Government may from time to time direct.]

24. *Mode of keeping accounts and registers*.- The accounts of the transactions of the evacuees' property shall be maintained by the Deputy or Assistant Custodian directly incharge of the evacuee property in their respective jurisdictions in the forms and in the manner as hereinafter specified :—

(a) Index Register, giving reference to the pages of registers in which the transactions of the evacuees are recorded, shall be kept in which the names of the evacuees and shall be entered in alphabetical order.

(b) Realisations made or expenditure incurred in respect of evacuee property shall be noted in the relevant registers maintained in the forms prescribed and such entries shall be attested by the persons making them as well as by the examiners checking them.

(c) The recovery of the amounts other than those which are recorded in the Rent Demand and Collection Register shall be made through the Miscellaneous Demand and Collection Register.

1.Rule 23 substituted by SRO 371 dated 31.7.1970.
2.Substituted by SRO 443 dated 21.10.1967.

(d) The Rent Demand and Collection Register as well as the Miscellaneous Demand and Collection Register shall be balanced every month and closed at the end of each year and the outstanding balance struck and carried forward to the registers of the succeeding year. A certificate to the effect that all recoverable demands for the year have been noted in the registers and that the balances have been correctly carried forward to the succeeding year's registers shall be noted at the end of register.

(e) A statement showing demands to the end of the previous month, recoveries made during the current month and the outstanding balances shall be submitted by the Deputy or Assistant Custodians to their next higher officers. The Additional Custodians shall submit consolidated statements to the Custodian by 23rd of the next succeeding month. The Custodian shall likewise submit the consolidated statement to the Ministry of Rehabilitation by the end of the next succeeding month.

(f) When any property is sold or leased by public auction, the bids should be recorded in the sale register, the signature or the thumb impression of the last bidder being obtained on the form. All such sales or leases shall be intimated every month by the Additional, Deputy or Assistant Custodians to the Custodian.

(g) A cash book in the prescribed form shall be maintained, the amounts received or payments made on behalf of the Custodian shall be entered in Cash Book on the date they are received or paid. The rent or auction money realised by the

persons authorised by the Custodian shall be paid to the cashier in the office of the Custodian not later than the next working day in case of cities and towns and within 10 days in case of muffasils with a challan or statement showing the detail of realisations made. The cash in hand of the cashier shall be counted at the close of each day by the officer authorised by Custodian and at the end of each month by the Custodian. Except for special reasons to be recorded, the cash in hand shall be deposited into the Bank on the same day or on the next working day. The balance in the Bank column of the Cash Book at the end of each month shall be reconciled with the balance shown in the Bank Pass Book.

Note.— If a cheque has lapsed, it shall be cancelled and the amount taken as receipt in the Cash Book and credited into a deposit account. If the payee subsequently turns up and applies for renewal, the cheque if in his possession, shall be obtained and destroyed and a fresh cheque issued again in deposit account. A note of re-payment shall be made in red ink against the relevant entry in the Cash Book and the deposit account. Unclaimed deposits will automatically lapse to the Custodian.

(h) Separate account for each evacuee shall be kept in the ledger in which the details of property, realisations of rent, charges for repairs, maintenance and completion, etc. should be recorded on the relevant page.

(i) The ledger shall be balanced monthly and the balances extracted. The total of the balances in the ledger as worked out in the register should agree with the cash in the Bank and in hand. If there is any difference, it shall be investigated and adjusted immediately.

Note:— A certificate that the balances in the ledger agree with the cash in hand and in Bank, shall be submitted by the Deputy or Assistant Custodian and other officer to the next higher authority in the manner prescribed under rule 24 (e). Record of application for copies and inspection fee shall be kept in a register in

Form No. 17.

25. *Audit*. —[1][(1) The accounts maintained by the Custodian shall be audited as far as possible quarterly under the orders of the Finance Department by the Local Fund Audit Cell Staff. The Custodian shall place at the disposal of the local fund Audit Cell Staff all accounts, registers, documents and shall furnish all information which may be required by the said Cell Staff].

1.Sub-rule (1) substituted by SRO-443 dated 21.10.1967.

(2) The result of the audit will be communicated through the inspection report promptly, Copies of the annotated audit notes shall also be furnished to the Custodian General, Ministry of Rehabilitation and Ministry of Finance.

26. *Security from Managers*.— The manager appointed under sub-section (2) of section 9 of the Act shall, if required, furnish a security to the satisfaction of the Custodian and shall act under the general supervision and control of the Custodian and may exercise such powers as may be delegated to him by the Custodian from time to time.

27. *Appeal, review and revision*. —(1) All appeals under the Act shall, when they lie to the Custodian, be filed within thirty days of the date of the order appealed against and when they lie to the Custodian General or the High Court, within sixty days of such date.

(2) The petition or appeal shall be presented in person or through a legal practitioner or a recognised agent. When the appeal lies to the Custodian General, the petition of appeal may be sent by registered post.

(3) Every petition shall state sufficiently the grounds on which the order appealed from is attacked and shall be accompanied by a certified 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 order XLI of Civil Procedure Code shall, so far as applicable, apply to the hearing and the disposal of appeals under the Act.

(5) Any petition for revision when made to the Custodian shall ordinarily be filed within thirty days of the order sought to be revised, while a petition for revision when made to the Custodian General shall ordinarily be made within sixty days of such date. The petition shall be presented in the same manner as a petition of appeal when it is made to the Custodian but it may be sent by registered post when made to the Custodian General. The petition shall be accompanied by a certified copy of the order sought to be revised and when made to the Custodian General, by also a certified copy of the original order unless the appellate authority dispenses with the production of any such copy.

(6) An application for review of any order may be made within thirty days of the date of such order and shall be presented either in person or through a legal practitioner or a recognized agent.

(7) The provisions of sections, 4, 5 and 12 of the *[Jammu and Kashmir Limitation Act, 1995],shall, so far as they are applicable, apply in computing the period of limitation provided in this rule.

(8) A notice of any appeal, revision or review may be given, in addition to the persons concerned, to any other person who, in the opinion of the authority hearing the appeal, the revision or the review, may be interested in the same.

(9) Any authority hearing any appeal or 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.

28. *Court fees*.— The following fees shall be payable in respect of petitions, applications and appeals under the Act as indicated against each :—

(1)	Appeals—			Rs.
	(i)	to the High Court	-	5
	(ii)	to the Custodian General	-	5
	(iii)	to the Custodian and Additional Custodian	-	5
(2)	Petitions—			
	(i)	for revision when made to the Custodian General	-	3
	(ii)	for revision when made to the Custodian or Additional Custodian	-	3
	(iii)	for review	-	1
(3)	Applications—			
	(i)	under section 8 and 14 for restoration of property	-	3
	(ii)	under section 25 for confirmation of transfer—		
		(a) where the consideration for the transfer does not exceed Rs. 1000	-	5

* Now "Limitation Act, 1963".

		(b) where the consideration for the transfer exceeds Rs. 1,000 but does not exceed Rs. 5, 000	-	10
		(c) where the consideration for the transfer exceeds Rs. 5,000 but does not exceed Rs. 10,000	-	15
		(d) In all other cases	-	30
		(e) application for a copy	-	15 p.
		(f) application not otherwise provided for—		
		(i) when made to Custodian General	-	2
		(ii) when made to any other officer	-	1

No officer authorised to receive any appeal, petition or application shall receive the same unless it bears a court fee stamp of the value provided for in this rule.

29. *Basic records of property to be maintained in property section*.— (a) Record of Immovable Property.— All immovable property taken possession of by the Custodian shall be recorded in registers in Form Nos. 9 and 10.

(b) Record of movable Property.— All movable 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 protecting it from loss, damage or deterioration. He shall maintain a suitable record of the property taken into custody with a view to facilitate check at any time of the articles in hand with those shown as such in the registers. He shall also arrange for periodical physical verification of articles in hand.

(c) Records of valuables.— 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.

Note.— 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.

30. *Fees for inspection and copies*. —(1) The following fees shall be payable by a person desirous of obtaining any copy from any record maintained under the Act or these rules :—

(a)	Inspection of files	Re. 1
(b)	Vernacular copies	40 p. up to 200 words and thereafter 20 p. for every additional one hundred words or fraction thereof.
(c)	English copies	75 p. up to 200 words and 40 p. for every additional one hundred words or fraction thereof.

Note.— The amount shall be paid in court fee stamps which shall be cancelled and punched straight away.

(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 Re. 1 in court fee stamps. Any person interested in any original case, appeal, revision or review pending before the Custodian may, with the permission of such officer, inspect the record of such case on payment of a similar fee.

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

31. *Forms*. —(a) Books of accounts and registers shall be printed, strongly bound and machine page-numbered before being brought into use.

(b) Stock account of all account registers, books and forms be maintained in Form No. 18. The receipt books shall be kept in the personal custody of the Officer-in-Charge of the cash section.

32. *Seal*.— The Custodian General and Custodian shall have a seal which will bear the words Custodian General of Evacuee Property, Jammu and Kashmir State/Custodian of E.P.....

33. *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 force as may be necessary for the purpose.

———

FORM NO. 1

(See rule 6)

GOVERNMENT OF JAMMU AND KASHMIR,
(REHABILITATION DEPARTMENT)
OFFICE OF THE CUSTODIAN EVACUEES' PROPERTY

NOTIFICATION

Dated ..... 20 ...

In pursuance of sub-section (1) of section 6 of the Jammu and Kashmir State Evacuees' (Administration of Property) Act, 2006 (VI of 2006), the Custodian is pleased to notify for general information the list of evacuees' properties specified in the schedule annexed hereto, which have vested in him.

SCHEDULE

Serial No.	Description	Locality

Deputy/Assistant Custodian of Evacuee' Property.

_____

FORM NO. 2

(See rule 7)

GOVERNMENT OF JAMMU AND KASHMIR,
MINISTRY OF REHABILITATION
Office of the Deputy/Assistant Custodian of Evacuees' Property .....

NOTICE UNDER SUB-SECTION (2) OF SECTION 6 OF THE JAMMU AND KASHMIR STATE EVACUEES' (ADMINISTRATION OF PROPERTY) ACT, 2006 (VI OF 2006)

Whereas the under-mentioned property has vested in the Custodian under section 5 of the Jammu and Kashmir State Evacuees' (Administration of Property) Act VI of 2006 as amended by Act No. XXIII of 2007, I hereby demand that the possession of the said property be surrendered by you to me or to ..... authorised by me by....., failing which you will be evicted from the under mentioned premises, with such force as may be necessary for the purpose.

Serial No.	Description	Locality

Deputy/Assistant Custodian of Evacuees' Property.

Dated:..... 20

To

.....

.....

FORM NO. 3

(See rule 8)

WARRANT OF EVICTION

GOVERNMENT OF JAMMU AND KASHMIR,

REHABILITATION DEPARTMENT

Office of the Custodian of Evacuees' Property .....

Warrant of Eviction under section 7 of the Jammu and Kashmir Evacuees' (Administration of Property) Act, 2006 (VI of 2006) ;

Whereas a notice in writing dated ..... in which a demand to surrender the possession of under-mentioned property was made to ..... ;

And whereas he has refused or failed to vacate the said property ;

Now, therefore, in exercise of the powers vested in me by section 7 of the said Act, I hereby order that ..... be evicted forthwith from the said property and the same be taken into possession. I also order the use of such force as may be necessary for the purpose of eviction and for taking the property into possession.

Given under my hand and seal this .....day of .....20 ....

Deputy/Assistant Custodian of Evacuees' Property.

Serial No.	Description	Locality

FORM NO. 4

(See rule 10)

FORM OF THE BOND

GOVERNMENT OF JAMMU AND KASHMIR,
MINISTRY OF REHABILITATION

Office of the Deputy/Assistant
Custodian of Evacuees' property .....

KNOW ALL MEN BY THESE PRESENTS that we .....

(Supardar) and ..... (surety) do hereby bind ourselves and each of us, our and each of our heirs, executors and administrators to pay to the Custodian on demand the sum of Rs..... dated this ..... day of ..... 20....

Whereas the above bounden (supardar) has been entrusted by the Deputy/Assistant Custodian of Evacuees' Property ....., hereinafter called "the Custodian", with the custody of the property mentioned in the Schedule hereunder written.

Now the condition of the above written bond is such that if the above bounden (supardar) shall duly hand over to the Custodian, whenever demanded by him, the property mentioned in the schedule hereunder writ-ten in good order and condition and shall duly account for any loss which the owner of the property may suffer by reason of any default or neglect on his part and shall, until delivery to the Custodian as aforesaid, properly maintain and take care of the said property and shall obey all orders of the Custodian in respect thereof, then and in such case the above written obli-gation shall be void and of no effect; otherwise it shall be and remain in full force and virtue.

The schedule above referred to:—

Signed and delivered by the above bounden (supardar) in the presence of .....two witnesses

Signed and delivered by the above bounden Surety in the presence of ..... two witnesses.

FORM NO. 5

(See rule 12)

GOVERNMENT OF JAMMU AND KASHMIR,
REHABILITATION DEPARTMENT
Office of the Custodian of Evacuees' property .....

Dated: 20....

INVENTORY

List of properties recovered on ..... from the house/factory/ shop/garden/land of ..... at .....

No. .....

Mohalla
Village
Tehsil
District

Serial No.	Name of properties	Description

Witnesses: (1) (2)

Signature of the official recovering property.
Counter-signature of Asstt./Dy. Custodian.

FORM NO. 6

(See rule 17(3))

CLAIM REGISTER

GOVERNMENT OF JAMMU AND KASHMIR,

MINISTRY OF REHABILITATION

Office of the Deputy/Assistant Custodian of

Evacuees'Property .....

To

.....

.....

Whereas the transferor/transferee ..... has presented an application dated ..... to the Custodian/Deputy/ Assistant Custodian for confirmation of the transfer under section 25 of the Jammu and Kashmir Evacuees' (Administration of Property) Act, 2006 (VI of 2006) as specified below ..... .

You are hereby required to be present on ..... at ..... in the office of the Custodian.

You may also bring any paper in your possession relevant to the enquiry.

Deputy/Assistant Custodian of Evacuees' Property.

Particulars of transfer:—

CLAIM REGISTER

(To be maintained by Deputy/Assistant Custodian)

FORM NO. 7

(See rule 19)

Government of Jammu and Kashmir
Deputy/Assistant Custodian Evacuees'Property .....

Book No. ..... Receipt No. .....
Date .....
Received from .....
.....
Rs. ..... Rupees .....
.....
.....
on account of .....

Signature of cashier or officer granting receipt with designation

Government of Jammu and Kashmir Deputy/Assistant Custodian Evacuees'Property
.....
Book No. ..... Receipt No. ..... Place .....
Date .....
Received from .....
.....
Rs. ..... Rupees .....
.....
.....
Signature of cashier or officer granting receipt with designation

_____

FORM NO. 8

(See rule 19)

GOVERNMENT OF JAMMU AND KASHMIR,
MINISTRY OF REHABILITION
Office of the Deputy/Assistant
Custodian Evacuees' Property .....

Book No. ..... Receipt No. ..... Place .....

Dated ..... 20...

Received from ..... Rs. ..... Rupees .....

in cash on account of rent/licence fee/lease money in respect of .....
for ..... at Rs. ..... previous Receipt No. ..... .

Signature .....

Designation .....

_____