

# The Gazette of Pakistan

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ISLAMABAD, MONDAY, FEBRUARY 17, 1975

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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

*Islamabad, the 17th February, 1975*

The following Act of Parliament received the assent of the President on the 12th February, 1975, and is hereby published for general information:—

ACT No. XX OF 1975

*An Act provide for the taking over and management of certain properties*

WHEREAS it is expedient to provide for the taking over and management of certain properties, and for matters connected therewith:

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution is still in force;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Abandoned Properties (Taking Over and Management) Act, 1975.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "abandoned property" means any property, movable or immovable (including share in industrial units and firms, investments, deposits, policies of insurance and all other interests and rights in or to or arising out of any such property), belonging to a specified person and includes any such property sold or transferred to, or placed under the supervision or control of, any other person on or after the sixteenth day of December, 1971, but does not include any ornaments or wearing apparel or any cooking vessels or other house-hold effects in the immediate possession of a specified person, not exceeding a total of rupees one thousand;



Price : Ps. 25

- (b) "Administrator" means the Administrator appointed under section 5, and includes a Deputy Administrator;
- (c) "Board" means the Board of Trustees constituted under section 4;
- (d) "prescribed" means prescribed by rules;
- (e) "rules" means rules made under this Act;
- (f) "specified person" means a citizen of Pakistan domiciled in the territories which immediately before the sixteenth day of December, 1971, constituted the province of East Pakistan who has left or leaves, or has expressed his desire to be taken out of, or to be allowed to leave, the territories of Pakistan and includes a company registered in the said territories the registered office of which has not been shifted in pursuance of the Companies (Shifting of Registered Office) Ordinance, 1972 (V of 1972).

**3. Vesting of abandoned property in Government.**—All abandoned property shall vest and shall be deemed always to have vested in the Federal Government on and from the sixteenth day of December, 1971.

**4. Board of Trustees.**—(1) As soon as may be after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, constitute a Board of Trustees consisting of a Chairman and such number of other Trustees as the Federal Government may specify in the notification, for the control and management of abandoned property.

(2) In discharging its functions, the Board shall be guided on questions of policy by the instructions, if any, given to it by the Federal Government which shall be the sole judge as to whether a question is a question of policy.

(3) The meetings of the Board shall be held at such intervals and at such time and place as the Chairman of the Board may determine.

(4) Subject to the rules, the Board may, with the previous approval of the Federal Government and by notification in the official Gazette, make regulations for regulating its procedure.

(5) At any time when the office of Chairman is vacant or the Chairman is absent or is unable to perform the functions of his office due to any other cause, the Federal Government may appoint any member of the Board to act as Chairman until a Chairman is appointed or, as the case may be, the Chairman resumes his functions.

**5. Appointment of Administrator and Deputy Administrators.**—(1) For the purpose of carrying the provisions of this Act into effect, the Federal Government may, by notification in the official Gazette, appoint an Administrator for Pakistan and one or more Deputy Administrators for such areas as may be specified in the notification.

(2) The Administrator shall exercise his powers and perform his functions subject to the general supervision and control of the Board and shall be guided by any general or special order made by the Board.

**6. Holding of abandoned property and its surrender, etc.**—(1) Every person who is, or has at any time after the sixteenth day of December, 1971, been in possession, supervision or management of any abandoned property shall be deemed to hold or to have held, as the case may be, such property on behalf of the Board.

(2) As soon as may be, but not later than such date as may be notified by the Federal Government in the official Gazette, every person who is, or has at any time after the sixteenth day of December, 1971, been in possession, supervision or management of any abandoned property or property which he knows or has reason to believe to be abandoned property, and whose authority or right to hold, occupy, supervise or manage such property has not been accepted or approved by the Administrator, shall submit to the Administrator, or to any person authorised by him in this behalf,—

- (a) full information relating to such property, including the date since when, or the period for which, he had been in possession, supervision or management thereof; and
- (b) a detailed account of the rents, profits, income and other moneys received or benefits derived from such property since the sixteenth day of December, 1971, or for the period he has been in possession, supervision or management thereof.

(3) Every person as aforesaid shall, as soon as may be, but not later than such date as may be notified by the Federal Government in the official Gazette, intimate to the Administrator in writing his willingness to surrender such property to the Administrator or to any person authorised by the Administrator in this behalf, and shall surrender the same if called upon by the Administrator or any person authorised as aforesaid.

**7. Power of Administrator to take possession of abandoned property.**—If any person who has purchased any abandoned property the sale of which has not been confirmed by the Administrator under section 13, or who is in possession, supervision or management of any abandoned property or property which he knows or has reason to believe to be abandoned property does not surrender such property to the Administrator or the person authorised by him in this behalf, then, without prejudice to any other action or penalty to which such person may otherwise be liable, the Administrator may use such force as is necessary for taking possession of such property and may for this purpose, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or break open any lock, bolt or door, or do any other act necessary for the said purpose.

**8. Payment to Administrator.**—(1) Any amount due to a specified person or payable in respect of any abandoned property or property of which the Administrator has taken possession shall be paid to the Administrator by the person liable to pay the same.

(2) Any person who makes a payment under sub-section (1) shall be discharged from further liability to pay to the extent of the payment made.

**9. Recovery of damages for unauthorised possession.**—Any person who has been in possession or occupation of abandoned property in an unauthorised manner or is found to have misappropriated or unlawfully converted abandoned property to his own use or caused loss to it by his act or omission shall, without prejudice to any other action or penalty to which he may otherwise be liable, pay such damages as may be assessed by the Administrator :

Provided that no such damages shall be assessed by the Administrator without giving notice to such person and affording him an opportunity of being heard.

**10. Exemption from legal process.**—(1) Property which has vested in the Federal Government or of which possession has been taken by the Administrator shall be exempted from all legal process, including seizure, distress, ejection, attachment or sale by any officer of a Court or any other authority, and no injunction or other order of whatever kind in respect of such property shall be granted or made by any Court or any other authority, and the Federal Government shall not be divested and the Administrator shall not be dispossessed of such property by operation of any law for the time being in force.

(2) Upon the commencement of this Act, any such legal process as aforesaid subsisting immediately before such commencement shall cease to have effect and all abandoned property in custody of any Court, or receiver, guardian or other officer or person appointed by it, shall, upon delivery of the same being called for by the Administrator, be delivered to the Administrator.

**11. Publication of list of abandoned property.**—The Administrator shall publish, by notification in the official Gazette, a list of abandoned property in any area.

**12. Prohibition of transfers of property generally.**—The Federal Government may, by notification in the official Gazette, declare that in such area with a view to preventing the unauthorised or surreptitious transfer of abandoned properties in any area in which a considerable number of such properties is believed to be situated, for such period as may be specified in the notification, the transfer of any property or class of property, or the creation of any right or interest therein or encumbrance thereon, shall be prohibited, and where any such declaration has been made, no such transfer or creation shall be made during that period in that area except with the previous approval in writing of the Administrator.

**13. Confirmation of transfers by specified persons.**—(1) No creation or transfer of any right or interest in or encumbrance upon any property made in any manner whatsoever on or after the sixteenth day of December, 1971, by or on behalf of a specified person shall be effective so as to confer any right or remedy on any party thereto or on any person claiming under any such party, unless it is confirmed by the Administrator.

(2) An application for confirmation of such creation of any right or encumbrance or transfer as aforesaid may be made to the Administrator within the prescribed period by any party thereto, or by any person claiming under or lawfully authorised by such party.

(3) The Administrator shall hold a summary inquiry into the application in the prescribed manner and may reject the application if he is of opinion that the creation or transfer—

- (i) was not or has been entered into in good faith or for adequate consideration; or
- (ii) ought for any other reason not to be confirmed.

(4) If the application is not rejected under sub-section (3), the Administrator may, with the prior approval of the Board, confirm the creation or transfer either unconditionally or subject to such terms and conditions as he thinks fit to impose.

**14. Claims by interested persons.**—(1) Any person claiming any right or interest in any property treated by the Administrator as abandoned property may prefer a claim to the Administrator on the ground that—

- (a) the property is not abandoned property ; or
- (b) his interest in the property has not been affected by the provisions of this Act.

(2) An application under sub-section (1) shall be made within the prescribed period being a period of not less than thirty days from the prescribed date.

(3) On receiving an application under sub-section (2), the Administrator shall hold a summary inquiry in the prescribed manner and, after taking such evidence as may be produced, shall pass an order stating the reasons therefor, rejecting the application or allowing it wholly or in part on such terms and conditions as he thinks fit to impose.

**15. Appeal and revision.**—(1) Any person aggrieved by an order or decision of the Administrator may, within the prescribed period, which shall not be less than twenty-one days, prefer an appeal to the Board.

(2) The Board may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit.

(3) The Board may, at any time, either of its own motion or on the application of any person made within the prescribed period, call for the record of any proceeding under this Act which is pending before, or has been disposed of by the Administrator, for the purpose of satisfying itself as to the legality or propriety of any order passed in the said proceeding and may after perusal of the record pass such order in relation thereto as it thinks fit :

Provided that the Board shall not, under this sub-section, pass an order revising or modifying an order affecting any person without giving such person an opportunity of being heard.

(4) An order of the Board in an appeal or revision shall be final.

**16. Powers and duties of the Administrator generally.**—(1) The Administrator may take such measures as he considers necessary or expedient for the purpose of securing, administering and managing any abandoned property or property of which possession has been taken by him and may, for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Administrator may—

- (a) carry on the business or undertaking of a specified person ;
- (b) enter or authorise any person to enter on any land or premises to inspect any abandoned property ;
- (c) take all such measures as may be necessary to keep any abandoned property in good repair ;

- (d) direct any person, notwithstanding anything contained in any other law for the time being in force relating to the disclosure of any information by a public servant or any other person, to furnish such return, accounts or other information in relation to any property and to produce such documents as the Administrator considers necessary for the discharge of his duties under this Act;
  - (e) search, or authorise any other person to search, any building or place in which the Administrator has reason to believe that any abandoned property or any document tending to show that any person is a specified person or that any property is abandoned property is being kept or concealed and take possession thereof;
  - (f) determine the rent to be recovered from a person found in unauthorised occupation of abandoned property for the period of such occupation;
  - (g) create a charge on abandoned property;
  - (h) incur or allow any expenditure to be incurred in the prescribed manner including the payment of taxes, duties, cesses and rates to the Government or to any local authority or of any debt due by a specified person or any claim against him after satisfying himself as to the genuineness of such due or claim;
  - (i) demolish or dismantle any abandoned property which in the opinion of the Administrator cannot be repaired;
  - (j) evict with such force as may be necessary an unauthorised occupant of abandoned property or an occupant of such property to whom it has been let out by or on behalf of the Administrator and who makes default in paying the rent for such property or otherwise commits a breach of the terms on which it is let out;
  - (k) invest in any security approved by the Federal Government or in the prescribed manner any money held by him.
- (3) The Administrator shall exercise the powers and perform the functions assigned to him by or under this Act under the general supervision and control of the Board.

**17. Evaluation of abandoned property.**—(1) The Administrator may determine the value of any property of which possession has been taken by him or empower any officer to do so.

(2) If it appears to the Board in any case that the value of any property determined under sub-section (1) is not proper, it may make necessary enquiry in the matter and pass such orders as it may think proper and the orders so passed shall be final.

**18. Expenditure by Administrator how to be recouped.**—Subject to the provisions of section 14, any expenditure incurred by the Administrator in the exercise of any power conferred by this Act shall, in relation to any abandoned property in respect of which it has been incurred, be a charge on such property and shall have priority over all other charges on the property and such expenditure may be met or recouped by the Administrator out of the income accruing from such property.

**19. Maintenance of accounts by Administrator.**—(1) The Administrator shall maintain a separate account of each abandoned property of which he has taken possession, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The account shall be maintained in such form and in such manner as the Federal Government may direct.

(3) The Federal Government shall cause the account to be inspected and audited at such intervals and by such persons as it may, in consultation with the Auditor General of Pakistan, determine.

**20. Powers of Board and Administrator when holding an inquiry, etc.**—(1) When holding an inquiry or hearing an appeal or revision under this Act, the Administrator, or as the case may be, the Board shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath or affirmation ;
- (b) compelling the discovery and production of documents, articles and things ;
- (c) issuing a commission for the examination of witnesses ;
- (d) any prescribed matter.

(2) Every proceeding before the Administrator or the Board under this Act shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and for the purposes of section 196 of that Code, the Administrator or the Board shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal procedure, 1898 (Act V of 1898).

**21. Recovery of arrears.**—When any person is in default in making payment of any amount payable to the Administrator under this Act or in pursuance of any rule, regulation or agreement made or entered into thereunder, the Administrator may, in accordance with the rules recover the amount by one or more of the following modes, namely :—

- (a) attachment and sale, or sale without attachment, of any movable and immovable property of such person ; and
- (b) appointment of a receiver for the management of the movable and immovable properties of such person.

**22. Penalty and procedure.**—(1) Any person who—

- (a) contravenes, or resists or interferes with the enforcement of the provisions of this Act or any rule or order made thereunder ; or
- (b) in an application or in any proceedings under this Act, furnishes or abets the furnishing of any information which he knows or has reason to believe to be false, or fraudulantly conceals or mis-represents facts, or abets such concealment or mis-representation,

shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both.

(2) No court shall take cognizance of any offence punishable under this Act save upon a complaint in writing made by an officer appointed under this Act and authorised by the Board in this behalf.

**23. Bar of jurisdiction.**—No court shall grant any injunction or make any order, nor shall any court entertain any proceeding, in relation to anything done under this Act.

**24. Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government, the Board, the Administrator, a Deputy Administrator or any other person for anything in good faith done or intended to be done under this Act.

**25. Delegation of powers.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercised also by such officer or authority as may be so specified.

**26. Officers and servants.**—The Board may appoint or employ such officers and servants as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may determine.

**27. Act to override other laws.**—The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law and nothing contained in any law relating to the determination of the rent of any immovable property shall apply to any abandoned property.

**28. Power to exempt.**—The Federal Government may by notification in the official Gazette, exempt any person or class of persons or any property or class of property from the operation of all or any of the provisions of this Act.

**29. Power of Federal Government to take action with regard to abandoned property.**—The Federal Government may, for the purpose of regulating the administration of any abandoned property, make such orders or direct such action to be taken in relation thereto as in its opinion the circumstances of the case require and as is not inconsistent with any of the provisions of this Act.

**30. Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make such rules as appear to it to be necessary for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the terms and conditions of service of the Administrator and Deputy Administrators ;
- (b) the functions to be performed by the Administrator and the Deputy Administrators ;



- (c) the manner in which entry or search under clause (b) or clause (e) of sub-section (2) of section 16 may be made or possession of any abandoned property may be taken by the Administrator ;
- (d) the manner in which inquiries under this Act may be held ;
- (e) the time within which application for confirmation under section 13 or preferring claim under section 14 may be made ;
- (f) the income-tax authority who may issue a no objection certificate under section 13 ;
- (g) the powers vested in a civil court which may be exercised by the Administrator when holding any inquiry under this Act ;
- (h) the fees payable to the Administrator for the administration of abandoned property ; and
- (i) the delegation of powers and functions of the Administrator to a Deputy Administrator or any other officer appointed under this Act.

31. **Removal of difficulties.**—If any difficulty arises in giving effect to any provisions of this Act, within three months after the commencement of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as it considers necessary or expedient for the purpose of removing that difficulty.

FATEH KHAN BANDIAL,

Secretary.

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CORRIGENDA

[To the Gazette of Pakistan Extraordinary, Part I, dated the 17th January, 1975 and 11th February, 1975 containing Act Nos. I to VIII of 1975 and XVII of 1975].

In Clause 3—Page No. 3, in the first line for the word “this” read “the”.

In Clause 12—Page No. 9, second line from bottom for the figure “1971” read “1970”.

In Clause 2—Page No. 53, fourth line for the word “ben” read “been”.