

# West Bengal Act XVIII of 1949

## THE WEST BENGAL EVACUEES (ADMINISTRATION OF PROPERTY) ACT, 1949.

[Passed by the West Bengal Legislature.]

[Assent of the Governor General was first published in the *Calcutta Gazette*, of the 21st April, 1949.]

*An Act to provide for the administration of properties of evacuees in West Bengal.*

WHEREAS it is expedient to provide for the administration of properties of evacuees in West Bengal;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Evacuees (Administration of Property) Act, 1949.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

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

Definitions.

(a) "Board" means an Evacuee Property Management Board constituted under section 3;

(b) "evacuee" means a person ordinarily resident and owning property or carrying on business in West Bengal, who, on account of communal disturbances or for fear of such disturbances,—

(i) leaves or has on or after the 1st day of June, 1947, left West Bengal to a place outside the Province; and

(ii) makes a declaration that he intends to return to West Bengal within six months from the date on which a proclamation in the *Official Gazette* is made by the Provincial Government that normal conditions have been restored in the Province;

(c) "evacuee property" includes all property lying in West Bengal in which an evacuee has any right or interest but does not include any moveable property in his immediate physical possession;

(d) "prescribed" means prescribed by rules made by the Provincial Government under this Act; and

(e) "property" includes any right or interest in moveable or immoveable property or in any shop or business establishment or any factory or workshop or undertaking or in any debt or actionable claim other than a mere right to sue but does not include money in a Bank whether held in current account or otherwise.

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(Sections 3, 4.)

Constitution and dissolution of Boards.

3. (1) The Provincial Government may, if it deems just and expedient, by notification in the *Official Gazette*, constitute an Evacuee Property Management Board for any district or districts or part or parts thereof.

(2) A Board shall consist of a Chairman and two or four other members, as the Provincial Government may think fit.

(3) The Chairman and other members of a Board shall be appointed by the Provincial Government from among the members of the minority community.

(4) In deciding whether it is expedient that a Board should be constituted for any district or districts or part or parts thereof and in selecting the Chairman and other members of such Board, the Provincial Government shall consider the views of evacuees owning property or carrying on business in such district or districts or part or parts thereof, in such manner as may be prescribed.

(5) Every Board shall be a body corporate by the name of "the Evacuee Property Management Board of (name of the area)" and shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(6) The Provincial Government may, by notification in the *Official Gazette*, dissolve a Board if—

(a) in its opinion the management by the Board of the property vested in it under sub-section (5) of section 3 is financially unsound or otherwise unsatisfactory; or

(b) no suitable person is available for filling a vacancy in the office of a member or of the Chairman.

(7) The Provincial Government may, if it so thinks fit, by notification in the *Official Gazette*, dissolve a Board at any time after one year from the date on which the Board was constituted.

(8) Where a Board is dissolved under sub-section (6) or sub-section (7) the Provincial Government shall appoint a liquidator.

(9) A liquidator appointed under sub-section (8) shall have powers to institute or defend any suit or prosecution or other legal proceedings, civil or criminal, in the name or on behalf of the evacuee whose property had vested in the Board and to carry on the business of such evacuee so far as may be necessary for the winding up of the same and to perform such other functions as the Provincial Government may direct.

Resignation and removal of Chairman and Members, and filling up of vacancies.

4. (1) The Chairman or a member of a Board may, by writing under his hand, delivered to the prescribed officer of the Provincial Government, resign his office after giving one calendar month's notice of his intention to resign.

(2) The Provincial Government may at any time remove the Chairman or other member of a Board on any of the following grounds, namely:—

(a) that he has been convicted by a Criminal Court for any offence which, in the opinion of the Provincial Government, involves moral turpitude;

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(Sections 5—7.)

- (b) that he has applied to be adjudged or been adjudged an insolvent;
  - (c) that he in the opinion of the Provincial Government is incompetent or incapable or unfit to perform the duties of his office;
  - (d) that he in the opinion of the Provincial Government has been mismanaging the properties under the control of the Board.
- (3) In the event of any vacancy occurring in the office of the Chairman or other member of a Board by death, resignation or removal, the Provincial Government shall appoint another person belonging to the minority community to fill the vacancy.

**5.** A Board shall, subject to the provisions of this Act, have power to regulate its own procedure and may act notwithstanding any vacancy in the office of the Chairman or any other member: Procedure of Boards.

Provided that the quorum for a meeting shall respectively be two or three members for a Board consisting of three or five members including the Chairman.

**6.** (1) In the discharge of its duties, powers and functions a Board may be assisted by an Administrative Officer appointed by the Board with the approval of the Provincial Government from among the nominees of the evacuees whose properties are being taken over by the Board and by such other staff, subordinate to the Administrative Officer and appointed by the Board, as the Provincial Government may sanction. Officers of Boards.

(2) The Administrative Officer shall, on appointment, furnish such security as may be fixed by the Provincial Government.

**7.** (1) The Chairman and other members of a Board shall not be entitled to any salary, but may receive such allowances as may be fixed by the Provincial Government. Remuneration of Chairman, Members and Officers.

(2) The remuneration of an Administrative Officer and of the staff subordinate to him shall be such as may be fixed by the Provincial Government.

(3) The allowances of the Chairman and other members of a Board, the remuneration of the Administrative Officer and the staff subordinate to him and such other expenses as may be prescribed, shall be defrayed out of a levy at such rate as may be prescribed on the gross collection made by the Board.

(4) The Provincial Government may make such advances to a Board as may be necessary to enable it to function. All such advances shall be recoverable with interest at four *per centum per annum* from the properties vesting in the Board or the incomes accruing therefrom and shall be the first charge thereon notwithstanding anything contained in any other law for the time being in force.



(Section 8.)

Vesting of  
evacuee  
property  
and relin-  
quishment  
thereof.

8. (1) An evacuee may apply to a Board to have any evacuee property belonging to him and situate partly or wholly in the district or districts or part or parts thereof for which the Board has been constituted, managed by such Board.

(2) As soon as may be after an application has been received under sub-section (1) the Board shall cause a public notice to be given in the prescribed manner calling for objections to the management of such property and for claims thereto.

(3) If a dispute arises regarding the title to such property, the Board shall refer the parties to a Civil Court.

(4) If no such dispute arises, the Board may for reasons to be recorded in writing refuse to grant such application or may grant such application in respect of the whole of the evacuee property mentioned in the application or a part thereof:

Provided that in case of such refusal, the evacuee may, in the prescribed manner, appeal to the Collector of the district concerned, or, where the Board is constituted for two or more districts or parts thereof, to the Collector of the district in which the office of the Board is situate and such Collector may rescind, confirm or modify the order of the Board, and the decision of the Collector on such appeal shall be final.

(5) Where such an application is granted, a Board shall pass a formal order recording such fact and thereupon the whole of the evacuee property mentioned in the application or the part thereof in respect of which the application is granted, as the case may be, shall vest in the Board:

Provided that where a Board grants an application in respect of a part of the evacuee property mentioned in the application, no such order shall be made except with the consent of the evacuee.

(6) When any evacuee property has vested in the Board under sub-section (5), it shall not be competent for the evacuee to transfer any such property or part thereof by sale, gift, exchange, lease, mortgage or otherwise or to create any other incumbrance thereon until—

(a) the property has been restored to him by the Board,  
or

(b) in case of urgency he has been permitted to do so by the Collector referred to in sub-section (4) pending restoration of such property.

(7) Where any evacuee property or a part thereof has vested in a Board under sub-section (5), the Board shall, as soon as may be, give public notice of the fact in the prescribed manner.

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(Sections 9—11.)

(8) Notwithstanding anything contained in section 14, the Board may, at any time, for reasons to be recorded in writing, relinquish charge of any property or any portion thereof vested in the Board and thereupon the property shall be restored to the owner thereof subject to the proviso to sub-section (1) of section 13:

Provided that an appeal against an order of relinquishment may be preferred to the Collector of the District referred to in sub-section (4) in the prescribed manner and the decision of the Collector on such appeal shall be final.

9. (1) Subject to the provisions of this Act, a Board shall have all the rights and liabilities and powers of an owner in respect of any property vested in it for the management and protection thereof. Rights, powers and duties of a Board.

(2) A Board shall take such measures as may be reasonably necessary for the good management and protection of any property vested in it, for the assertion of title thereto and for obtaining possession thereof and may for such purposes do all acts and incur all expenses which are necessary or incidental.

(3) (i) A Board shall maintain a separate account of the property of each evacuee or group of evacuees whose properties vested in it have been jointly managed in the past or who may apply in writing for such joint management and shall cause to be made therein entries of all receipts and payments.

(ii) The accounts shall be maintained in such form and manner as may be prescribed.

(iii) The Provincial Government shall cause such accounts to be inspected and audited at such intervals and by such persons as may be prescribed. The cost of such audit and inspection shall be met by the Board according to the prescribed scale.

(iv) A copy of the audited account of the property of each evacuee shall be supplied to him by the Board within two months of the completion of the audit.

(4) A Board shall remit to each evacuee in such manner and at such intervals as may be prescribed, the income of any property of the evacuee, vested in the Board, after deducting therefrom all sums properly debitable to such income.

10. Every payment made, after the publication of a notice under sub-section (7) of section 8 on account of any amount due to the evacuee in respect of any property vested in the Board, save and except to the Board or some person appointed by the Board, shall be null and void. Certain payments to be null and void.

11. All sums due to Government under this Act shall be recoverable as arrears of public demands: Realisation of dues of Government.

Provided that the provisions of this section shall be in addition to, and not in derogation of, any other law for the time being in force.

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(Sections 12—14.)

Exemption from attachment, etc.

**12.** No property vested in a Board, shall be liable to attachment, distress or sale in execution of a decree or order of a court or any other authority other than for arrears of revenue except with the permission in writing of the Collector of the district in which such property is situate.

Restrictions on the powers of a Board.

**13.** (1) Subject to the provisions of sub-section (2) of section 16, a Board shall not be entitled to transfer any immoveable property of an evacuee vested in it, except with the written consent of the evacuee:

Provided that a Board may without such consent grant leases for periods not exceeding three months in the case of residential premises and for periods not exceeding one year in the case of land used for agricultural purposes and notwithstanding anything contained in any other law for the time being in force, the lessee in respect of such property shall be liable to be evicted at the expiry of the term of the lease.

(2) A Board shall not be entitled to carry on the business of an evacuee vested in it except only for the purpose of winding up such business and for liquidating the stocks.

Restoration of property.

**14.** (1) An evacuee or any person claiming to be his heir or any person to whom any property has been transferred under sub-section (6) of section 8 may at any time make an application in writing to the Board for restoration to him of the property of the evacuee vested in the Board.

(2) On receiving such application, the Board shall cause public notice to be given in the prescribed manner that the property shall be restored to the applicant on a date not earlier than thirty days from the date of the notice.

(3) If a dispute arises regarding the title to such property by inheritance, the Board shall refer the parties to a civil court and on determination of title of any person or persons to such property by the civil court, the Board shall restore the property to the said person or persons and the property shall thereupon vest in such person or persons subject to the proviso to sub-section (1) of section 13 and all further responsibility of the Board in respect of such property shall thereafter cease.

(4) If no such dispute arises, the Board shall make a formal order restoring such property to the applicant. On such order being made the property shall vest in such person subject to the proviso to sub-section (1) of section 13 and all further responsibility of the Board in respect of such property shall thereafter cease:

Provided that no such order shall be made unless provision has been made in the prescribed manner for the recovery of any amount due to the Board in respect of the property or the management thereof.



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(5) Where any property has been vested in any person under sub-section (3) or sub-section (4), a Board shall cause public notice to be given in the prescribed manner.

(6) It shall not be incompetent—

(a) for any person to make an application for restoration of any property under sub-section (1), or

(b) for a Board to make an order restoring any property to any person under sub-section (3) or sub-section (4)

only on the ground that such person may, for the time being, reside outside India.

15. Every Chairman or member of a Board, every Administrative Officer and every other person duly appointed under this Act or the rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairmen, members and officers to be public servants.

Act XLV of 1860.

16. (1) No suit, prosecution or other legal proceeding shall lie against the Provincial Government, any Board or any person appointed under this Act in respect of anything done in good faith under the provisions of this Act or the rules made thereunder.

Bar of jurisdiction and right of reimbursement.

(2) Subject to the provisions of section 7, a Board may reimburse itself or pay or discharge out of the property of an evacuee vested in it, all expenses properly incurred in respect of such property in exercising or carrying out the powers, duties or functions under this Act or rules made thereunder:

Provided that no property shall be sold under this sub-section without the previous sanction of such authority as may be prescribed for this purpose.

17. No legal practitioner as defined in the Legal Practitioners Act, 1879, shall represent any party in any proceeding before a Board.

Representation of a party before a Board.

18. The Provincial Government may delegate all or any of its powers and functions under this Act to the Board of Revenue and the Board of Revenue may also delegate any of its powers and functions so delegated to the Commissioner of a Division, Collector or any other Officer not below the rank of a Collector.

Delegation of powers and functions.

19. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(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 manner in which the views of evacuees shall be considered under sub-section (4) of section 3;

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- (b) the designation of the officer of the Provincial Government to whom communications under sub-section (1) of section 4 by a Chairman or member of a Board tendering resignation shall be delivered;
- (c) the expenses referred to in, and the rate of levy on gross collection by a Board under, sub-section (3) of section 7;
- (d) the manner of giving public notice under this Act;
- (e) the manner in which appeals may be preferred under section 8;
- (f) the form and the manner in which accounts shall be maintained under clause (ii) of sub-section (3) of section 9 and intervals at which and the persons by whom accounts shall be inspected and the cost of audit referred to in clause (iii) of the said sub-section;
- (g) the manner in which and the intervals at which the income of the property of an evacuee shall be remitted under sub-section (4) of section 9;
- (h) the manner in which the dues of a Board shall be recovered under the proviso to sub-section (4) of section 14; and
- (i) the authority referred to in the proviso to sub-section (2) of section 16.