

THE WEST PAKISTAN BORDER AREA REGULATION, 1959
(MARTIAL LAW ADMINISTRATOR ZONE 'B' REGULATION
NO. 9 OF 1959)

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TEXT

¹THE WEST PAKISTAN BORDER AREA REGULATION, 1959

(MARTIAL LAW ADMINISTRATOR ZONE 'B' REGULATION NO. 9 OF 1959)

[17th March, 1959]

1. (a) This Regulation may be called the West Pakistan Border Area Regulation, 1959.
(b) It shall come into force with immediate effect.
2. The provisions of this Regulation, or any order made or direction issued thereunder, shall have effect notwithstanding anything to the contrary in any other law, or in any order or decree of Court or other authority, or in any rule of custom or usage, or in any contract, instrument, deed or other document.
3. In this Regulation, unless there is anything repugnant in the subject or context:-
 - (a) "border area" means any area in ²[the Province of the Punjab] along the Indo-Pakistan border which falls within five miles from such border ³[as further amplified in sub-paragraph II (2) of paragraph 55-A of the West Pakistan Rehabilitation Settlement Scheme;]
 - ⁴[(aa) "Board of Revenue" means the Board of Revenue established under the Board of Revenue Act, 1957 (XI of 1957);]
 - (b) ⁵["Boarder Scheme" means the scheme as was referred to in paragraph 55-A of West Pakistan Rehabilitation Settlement Scheme framed under the Pakistan Rehabilitation Act, 1956 (XLII of 1956);]
 - (c) "committee" means a committee constituted under paragraph 4;
 - (d) ⁶["Evacuee property" means the property which was defined as evacuee property in the Pakistan Rehabilitation Act, 1956 (XLII of 1956)];

¹ This Regulation was promulgated by Martial Law Administrator Zone B on 17th March 1959; published in the Gazette of West Pakistan (Extraordinary) dated 20th March 1959; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

² Substituted for the words "West Pakistan" by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981)

³ Added by the Martial Law Regulation No.9-G,dated 22.5.1962 (w.e.f. 17.3.1959)

⁴ Added by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

⁵ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

⁶ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

⁷[(dd) “State land” means the State land placed at the disposal of the Committee by the Board of Revenue;]

(e) ⁸[“West Pakistan Rehabilitation Settlement Scheme” means the scheme as was prepared by the Rehabilitation Commissioner, West Pakistan under section 6 of the Pakistan Rehabilitation Act, 1956 (XLII of 1956)].

4. (a) The Provincial Government, shall, for the purposes of this Regulation, constitute a committee or such number of committees as it considers necessary for the border area.

(b) A committee constituted under sub-paragraph (1) shall consist of two members, ⁹[one to be appointed by the Board of Revenue and the other a representative of the Pakistan Army to be nominated by the General Headquarters.]

¹⁰[(c) The member of the Committee from the Pakistan Army shall be incharge of the office of the Committee.

(d) Any one of the members of the Committee present at the Headquarters may dispose of any routine matter relating to the functions of the Committee other than the allotment or cancellation of land and hearing of cases.]

5. (a) If a committee, after such enquiry as it thinks fit and after giving the person affected an opportunity of being heard, is of the opinion that any person residing, carrying on business or other occupation, or having property, in a border area, is or has been engaged in smuggling or in any other activity prejudicial to the economy or security of Pakistan, it may, with the previous approval in writing of the Deputy Commissioner of the district concerned, declare, by order in writing, such person to be an undesirable person and direct him to submit, within such time as may be specified in the order, a statement giving full particulars of all immovable property within a border area of which he is the owner, or has, in any other capacity, possession or control.

(b) If a person in respect of whom an order under sub-paragraph (a) has been made has no immovable property within a border area, he shall, within seven days of the receipt of the order, remove himself and shall not enter into, or stay in, any border area without the permission in writing of the Deputy Commissioner of the district concerned.

6. ¹¹[(a) A Committee may, by order in writing, direct an undesirable person to surrender to the Deputy Commissioner of the District or an officer authorized by the committee, within such time as may be specified in the order, all immovable property

⁷ Added by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

⁸ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

⁹ Substituted for the words one being a representative of the Rehabilitation Commissioner and the other a representative of the Pakistan Army” by the the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

¹⁰ Added by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

¹¹ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

within a border area of which he is the owner, or has, in any other capacity, the possession or control thereof:

Provided that no such order shall be made in respect of any owner or occupancy tenant of agricultural land, or any allotment of such land under the West Pakistan Rehabilitation Settlement Scheme, other than the Border Scheme, unless such compensation as is provided in sub-paragraph (b) of paragraph 8 has been offered.]

(b) An undesirable person in respect of whom an order has been made under sub-paragraph (a) shall, within thirty days after the expiry of the period specified in the order, remove himself from the border area in which he is found and shall not thereafter stay in or enter into, any border area without the permission in writing of the Deputy Commissioner of the district concerned.

7. If any property required to be surrendered under paragraph 6 is not surrendered within the period specified in the direction issued thereunder, the Deputy Commissioner¹²[****] or any officer authorized by him, or the committee or any officer authorized by it, may take possession of the property by evicting any person in possession thereof with such force as may be necessary for the purpose.

8. (a) For the properties surrendered in pursuance of an order under paragraph 6, the Provincial Government shall pay such compensation as the committee may, subject to sub-paragraphs (b) and (c) and taking into consideration the value of the buildings, houses, improvements of land, standing crops and other factors, determine.

(b) In respect of agricultural land, every owner and every occupancy tenant and every allottee under the West Pakistan Rehabilitation Settlement Scheme other than the Border Scheme, shall be provided with such land in any area outside a border area the aggregate productive capacity of which is not, ¹³[as determined by the Deputy Commissioner of the district] less than the aggregate productive capacity of the lands surrendered.

¹⁴[(c) Any person aggrieved by the decision of the committee regarding compensation may appeal, within thirty days of the date on which the decision of the Committee is communicated to him, to the Divisional Commissioner concerned and the decision of the divisional Commissioner shall be final.]

¹⁵[9. A Committee may scrutinize any case of unauthorized occupation of any State land or immovable evacuee property in any border area, and after giving an opportunity of being heard to the person likely to be affected, direct the person in unauthorized occupation of such property to surrender such property to the Deputy Commissioner

¹² Omitted the words "or the Deputy Rehabilitation Commissioner as the case may be" by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

¹³ Substituted for the words " as determined in the case of property other than evacuee property by the Deputy Commissioner, and in the case of evacuee property by the Deputy Rehabilitation Commissioner" by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

¹⁴ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

¹⁵ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

within whose jurisdiction such property is situated failing which the Deputy Commissioner or the Committee may take possession of the property by evicting the person in possession therefrom with such force as may be necessary for the purpose.]

¹⁶[**10.** (a) A Committee may scrutinize allotment of any State land or immovable evacuee property within any border area and may, on being satisfied that any allotment was made to a person not eligible for allotment, cancel such allotment and direct the allottee to surrender forthwith the property to the Deputy Commissioner within whose jurisdiction the property is situated, failing which the Deputy Commissioner or the Committee may take possession of the property by evicting any person therefrom with such force as may be necessary for the purpose:

Provided that no such order shall be made unless the person likely to be affected thereby is given an opportunity of being heard before the order is passed.

(b) The decision of the Committee under sub-paragraph (a), shall be final.]

11. No compensation shall be payable in respect of any property which is surrendered in pursuance of paragraph 9 or paragraph 10, or is taken possession of under paragraph 7, paragraph 9 or paragraph 10.

12. All properties surrendered or taken possession of under this Regulation shall vest in the Provincial Government free from all encumbrances ¹⁷[except the evacuee property and its sale -proceeds, if any, which will form part of the Compensation Pool constituted under section 5 of the Displaced Persons (Land Settlement) Act, 1958.]

13. ¹⁸ [(a) The property surrendered or taken possession of in pursuance of this Regulation shall be allotted by the Committee in such manner and on such terms and conditions as are prescribed in the Schedules annexed to this Regulation.]

(b) When any allotment has been made under sub-paragraph (a), the Committee may take such steps as may be necessary to put the allottee in physical possession of the property.

14. (a) For the purposes of holding any enquiry or scrutinizing any allotment, a committee shall have the same powers as a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of--

- (i) summoning and enforcing the attendance of any person and examining him on oath or affirmation;
- (ii) compelling the discovery and production of any document ; and
- (iii) requisitioning any public record from any office.

¹⁶ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

¹⁷ Added by Martial Law Regulation No.9-D, dated 10.3.1961 (w.e.f. 17.3.1959), and further amended through Martial Law Regulation No.9-D (Amendment), dated 7.9.1961

¹⁸ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981). Previously paragraph 10 was amended by Martial Law Regulation No.9-E, dated 3.7.1961.

(b) No legal practitioner shall appear on behalf of any person in any proceedings before the committee.

15. (a) No provision of this Regulation, or order made or direction issued thereunder, shall be called in question in any court, including the High Court and the Supreme Court, or before any authority, except as provided in this Regulation, and no such court or authority shall have jurisdiction in respect of any matter arising out of the operation of this Regulation.

(b) No such court or authority shall be competent to grant any injunction or other order in relation to any proceeding before a committee or before any officer exercising any power or discharging any function under this Regulation or under any order made or direction issued thereunder.

16. No suit or other legal proceeding shall lie against Government or against any person in respect of anything which is in good faith done or intended to be done under this Regulation.

17. Whoever fails to submit any statement required under this Regulation or submits a statement which he knows to be false or contravenes any provision of this Regulation or any order made or direction issued thereunder shall be punished.

Maximum punishment seven years' rigorous imprisonment.

¹⁹**18.** Other conditions for allotment, etc., are given in Schedules I to III of this Regulation.

18. Notwithstanding any judgment, decree or order of any court an order passed at any time before the commencement of this Ordinance by the committee or any of its members, in exercise of the authority conferred on the Committee or its members by the Regulation, shall not be invalid merely because of any defect in the constitution of the Committee or the incompetence of the person making the order or the repeal of evacuee laws by the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975 (XIV of 1975), provided any such order was passed with the approval of the General Headquarters, and all such orders shall be deemed to have been validly passed and shall have, and shall be deemed always to have had, effect accordingly.]

SCHEDULE I TO ZONE 'B' MARTIAL LAW REGULATION NO 9.

The following categories of persons will be eligible for allotment of ²⁰[land] for the purpose of Regulation 9:-

- (1) Claimants who had registered in or got their claim forms transferred to any particular estate in the border belt before the 24th December 1952.

¹⁹ Added by the Martial Law Regulation No.9-B, dated 3.5.1960 (w.e.f. 17.3.1959). This Martial Law Regulation is protected under Article 225(3) of the Constitution of Islamic Republic of Pakistan, 1962. However, in 1981 paragraph 18 added again through the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981). Both the paragraphs are independent provisions and figured as "18".

²⁰ Substituted for the words "evacuee land/property" by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

- (2) Pre-Independence tenants of evacuee land who hold temporary allotment under a valid permit issued by a proper Rehabilitation Authority who cultivate land themselves and reside in the village.
- (3) Refugees whose unit of allotment is less than 12 ^{1/2} acres and who have already been allotted land under the border scheme may continue to hold such allotments provided they fulfil all other conditions applicable under the border scheme.
- (4) Service and ex-Servicemen recommended by General Headquarters ²¹[,]
²²[Naval Headquarters and Air Headquarters.]
- (5) Service and ex-Servicemen already resettled under the scheme subject to the scrutiny of their bona fides.
- ²³[(6) Commissioned officers of the Armed Forces approved and recommended by General Headquarters, Naval Headquarters and Air Headquarters for providing leadership.]
- (7) Jammu and Kashmir civilian refugees be considered for allotment of land in the border areas of the District Sialkot only on the scale prescribed in sub-clause (3) of Schedule II.
- (8) Jammu and Kashmir refugees (already settled under the Border Scheme) subject to scrutiny of their bona fides.

SCHEDULE II TO ZONE 'B' MARTIAL LAW REGULATION NO 9.

The unit of allotment under the scheme will be as follows:-

(1) All persons allotted land prior to the publication of these Regulations, under the Border Scheme, and found eligible on scrutiny will be allotted land on the old scale and conditions i.e. 12^{1/2} acres irrigated or 18 acres non-irrigated land.

(2) The new cases will be allotted land on the revised increased scale as follows:-

(a) Servicemen and ex-Servicemen upto 25 acres of land.

²⁴[COMMISSIONED OFFICERS OF THE ARMED FORCES]

(b) Fifty acres of land to an officer ²⁵[*****] ²⁶[or more, subject to availability of land]

²¹ Substituted for the full-stop by the Martial Law Regulation No.9-F, dated 16.1.1962 (w.e.f. 17.3.1959)

²² Added by the Martial Law Regulation No.9-F, dated 16.1.1962 (w.e.f. 17.3.1959)

²³ Substituted by the Martial Law Regulation No.9-F, dated 16.1.1962 (w.e.f. 17.3.1959)

²⁴ Substituted for the heading "Army Officers" by the Martial Law Regulation No.9-F, dated 16.1.1962 (w.e.f. 17.3.1959)

²⁵ Omitted the words and brackets "(one officer in each Patwar circle)" by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

²⁶ Added by Martial Law Regulations No.9-A, dated 19.12.1959

(3) Pre-Independence tenants of evacuee land and Jammu and Kashmir refugees in the Border belt if found eligible will be allotted land on the scale as indicated in (1) above.

SCHEDULE III TO ZONE 'B' MARTIAL LAW REGULATION NO. 9

Conditions of Allotment of Land/Property under the Border Scheme

1. Allottees must be able-bodied and between the age of 18 to 55 years.
2. An allottee must reside in the estate in which he holds allotment except that-
 - (a) where the allottee is a serving officer, his personal residence in the estate may be dispensed with, during the period of his service under Government provided at least one of his able bodied relatives or an ex-service man of the prescribed age resides therein.
 - (b) where the allottee is a service man other than an officer his personal residence in the estate will be dispensed with if an able bodied representative of the prescribed age resides therein.
3. Allottee or his representative must cultivate the land himself.
4. (a) Allottee or his representative will readily response to the call from appropriate Army or civil authorities in case of an emergency.
(b) In the case of an alarm raised in the locality indicated a raid or similar incident the allottee or his representative shall be bound to render immediate help for the protection of the life and security of the persons affected.
5. The allottee or his representative shall not communicate with Non-Pakistani Nationals on any matter that may be prejudicial to the interests of Pakistan or objectionable on any other ground.
6. The allottee shall not cross the border without proper authority form the District Magistrate.
7. The allottee shall not allow the land allotted to him to remain uncultivated for more than two successive harvests.
8. If the allottee fails to acquire a house in the village abadi, he should build one within a year of the allotment of plot of land for the purpose.
9. The allotment will be subject to payment of such price, terms and conditions as may be determined by the Central Government in this respect.
- ²⁷[10. The allotment shall be liable to be cancelled for breach of any of the conditions mentioned in this Schedule provided the allottee is given an opportunity of being heard before the allotment is cancelled.]

²⁷ Substituted by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).

²⁸[11. The allotment shall be liable to be cancelled if the land is transferred by the allottee to any person without the permission of the General Headquarters.]

²⁸ Added by the West Pakistan Border Area Regulation, 1959 (Punjab Amendment) Ordinance 1981 (III of 1981).