

Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Rules, 2007

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-STATE-LANDS-VESTING-OF-OWNERSHIP-TO of 2007

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Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Rules, 2007(Published vide Revenue Department Notification SRO 64 dated 5th March, 2007)In exercise of the powers conferred by section 18 of the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Act 2001, the Government hereby makes the following rules, namely:

1. Short title and commencement

(1)These rules may be called the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Rules, 2007.(2)They shall come into force on their publication in the Government Gazette.[] [Published in Government Gazette dated 5th March, 2007].

2. Definitions

-In these rules, unless the context otherwise requires,-(a)"Act" means the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Act, 2001;(b)"Assistant Commissioner" means Assistant Commissioner, Nazool, Assistant Commissioner, Revenue, Sub-Divisional Magistrate concerned or any other officer authorized by the Government to discharge the duties and perform the functions assigned to the Assistant Commissioner, Revenue under the Act;(c)"Defaulter" means a person liable for payment of arrears of: premium or ground rent and includes a surety;(d)"District Collector" means the Deputy Commissioner of the district in which property claimed for ownership rights is situated;(e)"Form" means a form appended to these rules;(f)"section" means a section of the Act;(g)"Tehsildar" means Tehsildar Territorial/Tehsildar Nazool or any other officer authorized

by the Government to discharge the duties and functions assigned to the Tehsildar Territorial under the Act; and(h)words and expressions used in these rules but not defined shall have the same meaning as assigned to them in the Act.

3. Mapping of State land

(1)The mapping of State land shall be carried out by the Tehsildar in such manner and within such period as may be directed by the Government from time to time:Provided that the Divisional Forest Officer concerned shall be associated in the mapping of Forest land.(2)Any officer may, in the discharge of this duty under the Act enter upon and survey the State Land and demarcate the boundaries under section 3-A of the Act.

4. State land to be notified

(1)When mapping of State land has been completed and the Tehsildar is satisfied that the particular property in his jurisdiction is State land, he shall notify the same in the Government Gazette and in local News paper as also on the notice board kept for that purpose in his office.(2)The Tehsildar shall intimate the District Collector within 7 days of such notification about the completion of mapping.

5. Disposal of property left by un-authorized occupants

-A person who has been evicted from any land or property vested in the Government under the Act or the rules shall be given 21 days time including holidays for removing the article or articles remaining on such property:Provided that if the owner fails or refuses to remove the article or articles thereof after the expiry of prescribed notice or if the article is subject to speedy and natural decay, the Tehsildar may cause it to be disposed off by public auction and the owner shall be entitled to sale proceeds, after deducting the expenses incurred on holding of such auction:Provided further that the notice of auction shall be published in at least two local dailies having wide circulation in the locality.

6. Auction

-The procedure for auction shall be as under:-(a)The Tehsildar shall give wide publicity to the notice for auction of the land through print and electronic media, giving full particulars in the notice, and the auction shall be conducted after 15 days from the date of publication of such notice by the committee constituted under sub-section (1) of section 12 of the Act.(b)The intending bidder shall have to deposit with the Tehsildar, earnest money equal to 2% of the minimum reserve price, fixed for such land, before the auction.(c)The person offering the highest bid shall have to deposit 1/4th of the bid amount with the Tehsildar, on the close of auction, failing which the land in question shall be re-auctioned forthwith.(d)The balance amount shall be paid by the person in whose favour auction has been confirmed within a period of 10 days from the date of auction.(e)In case of default of payment of the bid amount within the prescribed period, the 1/4th amount already deposited shall

stand forfeited to the Government.

7. Procedure of application

(1)An application in terms of sub-clause (b) of Sub section (1) of section 8 of the Act shall contain full particulars of the State land as per Form No.2. It shall be stamped with a court fee of Rs.10 and shall be verified in the manner prescribed for the verification of the pleadings in rule 15 of Order VI of the Code of Civil Procedure, Samvat 1977:Provided that an occupant shall have to furnish the requisite information, in duplicate, with respect to his proprietary land as well as the State land under occupation as per Form No-2:Provided further that an occupant who fails to apply for vesting of ownership rights within the prescribed period shall forfeit his claim under the Act and be evicted from such land by the Assistant Commissioner under section 9 of the Act.(2)The person verifying the pleadings shall also furnish an affidavit in support of the said pleadings.(3)The Tehsildar may issue notice to any person whose attendance is required in his opinion or who may be interested in the proceedings. The Tehsildar may for expeditious disposal of the case issue commission for examination of any person within his jurisdiction.

8. Procedure of eviction

(1)Where an occupant is to be evicted under the Act, either wholly or Tартly, from the State Land, a notice shall be issued by the Tehsildar in Form No. 1, demanding him to surrender possession of such land, within one month of issue of notice.(2)Where a notice has been duly served under sub rule (1) and possession is not delivered as required, a warrant of eviction shall be issued under the signatures of the Assistant Commissioner under section 9 of the At One copy of the warrant shall be forwarded to the Police Officer of the Police Station concerned for carrying out eviction who shall forthwith take steps to effect the eviction with Use' of such force as may be necessary.

9. Determination of market value

-The following Committees shall determine the market value in each case in accordance with the parameters laid down in the Act:-A. For Jammu and Srinagar district:

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| (a) Divisional Commissioner concerned | Chairman |
| (b) District Collector concerned | Member |
| (c) Assistant Commissioner Nazool/Revenue concerned | Member |
| (d) Tehsildar concerned | Member |

B. For other districts including areas falling under the Tourism Development Authorities:

- | | |
|---|----------|
| (a) District Collector concerned | Chairman |
| (b) Additional Deputy Commissioner concerned | Member |
| (c) Assistant Commissioner Revenue concerned | Member |
| (d) Chief Executive Officer of the Tourism Development Authorityconcerned | |
| (e) Tehsildar Territorial concerned | Member |

10. Structures over State land

-Where an occupant has constructed a structure, rented it out and died leaving no legal heir, the Committee may, subject to verification of the claims submitted to it, consider occupant of such structure for vesting of ownership.

11. Terms and conditions under section 4 of the Act

(1)For the purpose of implementation of section 4 of the Act the terms and conditions shall be as under: (i)The prospective owner should be permanent resident of the State.(ii)The land, for which transfer of ownership is sought, should be free from encumbrances.(iii)The prospective owner should not be a proclaimed offender/anti-social element.(iv)Price fixed shall be paid in lump.(2)Arrears, if any, on account of ground rent or any other such account shall have to be deposited by the occupant, with the Tehsildar, prior to vesting of ownership rights.

12. Death of occupant

-No action initiated under the Act shall abate by reason of the death of occupant and the same may be continued by or against the legal heir of the occupant.

13. Fixation of price

-Subject to provisions of section 4 of the Act, fixation of the price payable by different categories of occupants shall be as under:

Category of occupant	Price payable
(I) In Residential use:-	
(i) Authorized occupant (where lease has not expired):	
(a) up to 2 kanals	25% of the value of land determined by the Committee.
(b) from 3rd kanal to 10th kanal	40% of the value of land determined by the Committee.
(c) more than 10 kanals	The occupant will have the option to continue with the lease beyond 10 kanals or pay full value of land determined by the Committee.
(ii) Authorized over-stayed occupant/un-authorized expectant occupant (where lease has expired):	
(a) up to 2 kanals	35% of the value of land determined by the Committee.
(b) from 3rd kanal to 10th kanal	50% of the value of land determined by the Committee.

(c) more than 10 kanals

The occupant will have the option to surrender the land beyond 10 kanals or pay full value of land determined by the Committee.

(iii) Unauthorized occupant (where no lease has been granted or no allotment has been made by the Government)

(a) up to 2 kanals

40% of the value of land determined by the Committee.

(b) from 3rd kanal to 10th kanal

50% of the value of land determined by the Committee.

(II) In Commercial Use:-

(i) Authorized occupant (where lease has not expired)

30% of the value of the land determined by the Committee.

(ii) Authorized overstayed occupant/Un-authorized expectant occupant (where lease has expired)

45% of the value of the land determined by the Committee.

(iii) Un-authorized occupant (where no lease has been granted or no allotment has been made)

60% of the value of the land determined by the Committee.

(III) In Institutional use, viz., educational, religious, charitable, non-profitable, social institutions/trusts/societies, political parties recognized by Election Commission of India:-

(i) Authorized occupant (where lease has not expired)

15% of the value of the land determined by the Committee.

(ii) Authorized overstayed occupant/Un-authorized expectant occupant (where lease has expired)

25% of the value of the land determined by the Committee.

(iii) Un-authorized occupant (where no lease has been granted or no allotment has been made)

50% of the value of the land determined by the Committee.

(IV) Agricultural use

Free of cost. However a token amount of rupees one hundred per kanal shall be charged for maintenance of proper Revenue records:

Provided that where the land is in residential as well as commercial use the rates of commercial use shall apply: Provided further that if an occupant in whose favour ownership right has been vested does not commence the intended activity within three years, the Government shall have the right to resume the land: Provided also that Authorized Overstayed Occupant and Un-authorized Expectant Occupant shall be treated at par with Authorized Occupant in respect of scale of payment where such occupant has applied for renewal of lease within 30 days of expiry of lease: Provided further that the following limit shall apply for regularization of land in favour of Occupants which is under Institutional use and the land held over and above the said limit shall be resumed by the Government:-

(a) Land in religious use

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| | up to a maximum of 50 kanals, on case to case basis, to be decided by the Committee. |
| (b) Land in use other than religious | Up to a maximum of 25 kanals, on case to case basis, to be decided by the Committee: |

Provided further that the conferment of ownership rights for land in agricultural use shall be subject to the following conditions:-(a)the land use in respect of agricultural land shall not be changed after the ownership is vested. However, in case an occupant desires to use agricultural land in future for any purpose, other than agriculture if otherwise admissible in due process of law, he shall have to pay as per the scale prescribed for commercial use for getting the land regularized for that purpose;(b)the land in question should have been in cultivation at least for three years on the date of application;(c)no transfer of Agricultural land other than by inheritance shall be permitted for 10 years from the date of conferment of ownership rights.

14. Incentive and Penalty for payment

- The following schedule of time and scale of incentive and penalty shall be adopted in the realization of the price of land against which ownership rights are decided to be vested with the occupant, namely:-

For payments made within 3 months	A rebate of 25%
For payments made within 6 months	A rebate of 15%
For payments made within 9 months	A rebate of 5%
For payments made within one year	A rebate of 2%
For payments made within one year and 3 months	A penalty of 5%
For payments made within one year and 6 months	A penalty of 15%
For payments made within one year and 9 months	A penalty of 25%
For payments made within two years	A penalty of 35%

15. Review by officers

-An officer exercising powers under this Act may either of his own motion or on the application of any party interested, review, modify, reverse or confirm, any order passed by himself or any officer predecessor in office within a period of 15 days from the date of issuance of such order.

16. Rewards and incentives

-The Government may devise and notify a policy of granting rewards and incentives to such officers administering the scheme who show excellent performance in implementation of the scheme:Provided that a minimum limit of quantum of land shall be fixed in case of each individual official after considering total area and value of land under encroachment in the particular unit of administration viz Halqa, Niabat, Tehsil, District or Division.

17. Appeals

(1)An appeal against the order of the Committee may be filed within a period of thirty days stating the grounds on which the order appealed against is sought to be challenged and shall be accompanied by a certified copy of such order.(2)Where an original order is confirmed no further appeal shall lie.

18. Repeal and Savings

(1)The Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Rules, 2005 are hereby repealed.(2)Notwithstanding such repeal, anything done, any action taken, or any order or notification issued under the said Rules shall be deemed to have been done, taken or issued under the corresponding provisions of these Rules as if these Rules were in force on the date such thing was done, action taken or order or notification issued.

Form 1Office of the Tehsildar
____ToSh. /Smt. ____Whereas you are not entitled to hold the under-mentioned property in terms of the J&K State Lands (Vesting of Ownership to the Occupants) Act, 2001 and the rules made thereunder.Now, therefore, I, Tehsildar----- hereby demand that possession of the said property be surrendered to me by you within a period of one month of issue of this notice failing which you will be evicted from the said premises.Serial No.Description of propertySignature of TehsildarNo.Dated:Form 2Application for Vesting of Ownership Rights on State Land

1. Name with parentage:

2. Full residential particulars:

(a)Village/Estate _____(b)Patwar Halqa _____(c)Niabat _____(d)Tehsil _____(e)District _____

3. Family strength: Total _____ Male _____ Female Children _____

4. State Land under possession: Kanal _____ Marla _____ Sft. _____

5. Date since when in possession _____

6. Particulars of the land under occupation (please attach extract of Girdawari-2004)

(a)Khasra Nos. _____(b)Village/Estate where situated _____

7. Details of the land use:-

(a) Commercial Kanal _____ Marla _____ Sft _____ (b) Residential Kanal _____ Marla _____ Sft. _____
(c) Agricultural Kanal _____ Marla _____ Sft _____ (d) Institutional Kanal _____ Marla _____ Sft _____

8. Whether a part or whole of the above land is under an existing lease, if yes, indicate the following:-

(a) Area under lease _____ (b) Khasra No. _____ (c) Village/Estate _____ (d) Date when lease granted _____
(e) Date when lease expired/expires _____

9. Name and particulars of the person from whom the State land shown above was purchased (if applicable) _____

10. Particulars of proprietary land:

(a) K _____ M _____ Sft. _____ Village/Estate _____ Tehsil _____ District _____ (b) K _____ M _____ Sft. _____ Village/Estate _____ Tehsil _____ District _____ (c) K _____ M _____ Sft. _____ Village/Estate _____ Tehsil _____ District _____ (d) Total area _____

11. Date of issue of Permanent Resident Certificate (please attach copy)

12. Name/designation of Issuing Authority _____

Signature of Applicant _____
Note: The applicant should attach a duly sworn affidavit in support of the information given above