

**28-A. INSTRUCTION ON ENEMY PROPERTIES**

**Government of India  
Ministry of Home Affairs  
Office of the Custodian of Enemy Property for India  
14, Netaji Subhas Road, Kolkata - 700001.**

**IMMEDIATE/RTI MATTERS  
BY SPEED POST WITH A/D.**

No.ACEP/CAL/5, Camac Street/Kolkata/Law Cell/338

Dated : 26.11.2009

To  
The District Magistrate & Collector,  
District South 24-Parganas, Government of West Bengal,  
Alipur, New Treasury Building,  
First Floor, Kolkata- 700027.

Atten: Additional District Magistrate & District Land & Land Reforms Officer, District  
Sosuth 24-Parganas, Alipur, New Treasury Building, 8<sup>th</sup> Floor, Kolkata- 700027.

Sub : An immovable property admeasuring 4 acres 17 decimal of agricultural land,  
comprised in Mouza- Gopalpur, J.L.No.1, Khatian No.2048, Plot No.82, R.S.  
No.83 and 87, Dag No.82, 32, 95, 97, 27/1040, P.S. Behala, Block -  
Thakurpukur & Matiaburz, Sub-Division Sadar, District 24-Parganas (South),  
West Bengal.

Sir,

I am directed to say that immovable properties in India belonging to or held by or managed on behalf of all Pakistani Nationals are enemy properties vested in the Custodian of Enemy Property for India vide Notification No.12/2/65-E, Pty. Dated 10.09.1965 and S.O. 5511 dated 18.12.1971 and continue to vest in the Custodian in terms of Section 5 and 24 of the Enemy Property Act of 1968, as amended. In exercise of powers conferred on the Custodian of Enemy Property for India U/s 8 of the Enemy Property Act, 1968 approval of Govt. of India, Custodian of Enemy Property for India has issued guidelines how to preserve and manage immovable enemy property vested in Custodian vide Standing order No.5/2000 dated 17.04.2000 which was circulated to all concerned for strict compliance. This Sanding Order covers almost every aspect of enemy properties work entrusted to the State/District Level Officers all over India. Copies of the said Notification No.12/2/65-E dated 10.09.1965, S.O. No. 5511 dated 18.12.1971, Custodian's Letter No. 1(74)/Pak dated 23.12.1971 and Standing Order on 5/2000 dated 17.04.2000 are collectively enclosed herewith for your kind information and marked as "Letter -A".

In the context stated hereinabove, it came to our knowledge that an immovable landed property admeasuring 4 acres 17 decimal of agricultural land, comprised in Mouza - Gopalpur, J.L. No. 1, Khatian No. 2048, Plot No. 82, R.S. No.83 and 87 Dag No. 82, 32, 95, 97, 27/1040, P.S. Behala, Block-Thakurpukur and Matiabruz, Sub-Division, Sadar, District - 24-Parganas (South), West Bengal belonged to Mirza Mohammed Mayjuddin Ispahani, son of Late Mirza Mohd. Ispahani and he declared as Pakistani national at the material point of time i.e. 10.09.1965 by the Custodian of Enemy Property for India. It may kindly be appreciated that all moveable and/or immoveable properties in India of Pakistani nationals, are automatically vested in the Custodian of Enemy Property for India by virtue of Government of India Notification No.12/2/65-E.Pty., dated 10.09.1965 and remains vested in the Custodian of Enemy Property for India. As Mr. Mirza Mohammed Mayjuddin Ispahani, son of Late Mirza Mohd. Ispahani and one of the Directors of M/s. Victory Jute Products Ltd., Kolkata had become Pakistani national as on the said date of Notification, therefore, all properties belonging to him in India is vested in the Custodian of Enemy Property for India.

It is, therefore, requested to kindly examine the case and pass necessary direction upon the concerned officials under your jurisdiction so that the following information along with detailed investigation report may be furnished to this office at the earliest to enable up to take further necessary action in the matter.

- i) Details and Nationality of the owners of above properties during 10.09.1965 to 26.09.1977;
- ii) Death certificates of the owners if any, during the above period as mentioned in (i) above;
- iii) Names of natural legal heirs and/or successors of the enemy nationals;
- iv) Present occupants/ claimants and basis of their claims and brief history.

This may kindly be treated as Urgent.

Yours faithfully,  
U. Chakraborty  
Assistant Custodian of Enemy Property

Enclo : As above

Endt. No. ACEP/CAL/5, Camac Street/Kolkata/Law Cell/

dated: 26.11.2009

Copy forwarded for information and necessary action to:-

- 1) The Sub-Divisional Land & Land Reforms Officer, Govt. of West Bengal, Sub-Division Sadar, Alipur, District, South 24-Parganas ..... with the request for every possible co-operation to process the vesting of the property.
- 2) The Block Land and Land Reforms Officer, Government of West Bengal, Thakurpukur & Metiabruz Block, 39, Biren Roy Road (East), Kolkata – 700008 ... with the request for every possible co-operation to process the vesting of the property.
- 3) Shri S.K., Ahuja, Under Secretary (E.P. Section), Government of India, Ministry of Home Affairs, Rehabilitation Wing, Jaisalmer House, Man Singh Road, New Delhi – 110001.
- 4) Shri Dinesh Singh, Custodian of Enemy Property for India, Kaiser-I Hind Building, Currimbhoy Road, Ballard Estate, Mumbai- 400001.

U. Chakraborty  
Assistant Custodian of Enemy Property

The Gazette of India  
Extra Ordinary  
Part-I Section I  
Published by Authority

No.121, New Delhi, Friday, September 10, 1965/Bhadra 19, 1887

Separate paging in given to this part in order that it may be filed as a separate compilation

**Ministry of Commerce  
Notification  
New Delhi, the 10<sup>th</sup> September, 1965.**

No.12/2/65-E.Pty. - In exercise of the power conferred by sub-rule (1) of Rule 133-V of the Defence of India Rules 1962, the Central Government hereby orders that all immovable property in India, belonging to or held by or managed on behalf of all Pakistan Nationals, shall vest in the Custodian of Enemy Property for India with immediate effect.

2. Nothing in this notification shall apply to any such property, belonging to or held by or managed on behalf of all Pakistan Nationals as are employed in the different Missions of the Government of Pakistan in India.

B. D. Jayal  
Joint Secretary to the Government of India

**(Published in Part-II, Section: 3 sub-section (ii) of The Gazette of India, Extra ordinary, Dated 18.12.1971).**

**Government of India  
Ministry of Foreign Trade  
(Standing Order(S.O.) 5511)**

**New Delhi, the 18<sup>th</sup> December, 1971.**

In exercise of the powers conferred by sub-rule(1) of rule 151 of the Defence of India Rules 1971, the Central Government hereby directs that all enemy property as defined in clause (4) of rule 138 of the said rules, whether moveable or immovable, and belonging to or held by or managed on behalf of –

- (i) an enemy as defined in clauses (b) and (c) rule 130 of the said rules, or
- (ii) an enemy subject as defined in clause (5) of rule 138 of the said rules.

shall vest in the Custodian of Enemy Property for India.

Y.T. Shah  
Additional Secretary to the Government of India  
No.12(25)/71-EI&EP.

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**Government of India  
Extraordinary  
Part-II Section 3- Sub-Section (i)  
Published by Authority  
No. 214 New Delhi, Sunday, December, 5, 1971/ Agrahayana 14, 1893**

**MINISTRY OF HOME AFFAIRS**

G.S.R. 1842- In exercise the powers conferred by Section 3 of the Defence of India Act, 1971 (42 of 1971) and all other powers enabling the Central Government in this behalf the Central Government hereby makes the following rules, namely -

**THE DEFENCE OF INDIA RULES, 1971  
PART - I  
PRELIMINARY**

- 1. Short title and commencement :** (1) These Rules may be called the Defence of India Rules, 1971,  
(2) They shall come into force at once.
- 2. Definitions :** In these Rules, unless the context otherwise requires :-
  - (1) “Act” means the Defence of India Act, 1971 (42 of 1971);
  - (2) “notified” and “notification” mean notified and notification prospectively in the official Gazette;
  - (3) “prescribed” means prescribed by any order, and direction made or given in pursuance of any of these Rules;
  - (4) “prisoner” means any person captured in the course of military operations;
  - (5) “prohibited place” means a prohibited place as defined in clause (6) of section 2 of the Officials Sections Act, 1923 (19 of 1923);
  - (6) “protected place” means a place declared under rule 8;
  - (7) “protected area” means an area declared under Rule 9 to be a protected area;
  - (8) “public servant” includes any public servant as defined in the Indian Penal Code (45 of 1860) and any-employee of any Railway administration or of any autonomous organization engaged in work which is considered by the Central Government to be work of national importance.

**3. Interpretation :**

- (1) The General Clauses Act, 1897 (10 of 1897), shall apply to the interpretation of these Rules as it applies to the interpretation of a Central Act.
- (2) Any reference in these Rules to the forces, vessels, aircraft, servants, citizens of India or prisoners shall unless the context otherwise requires, be deemed to include the forces, vessels, aircraft, servants, citizens or subjects, or prisoners, as the case may be of any foreign State having friendly relations with India.
- (3) Any reference in these Rules to the master of a vessel or the pilot of an aircraft shall be construed as including a reference to the person for the time being in charge of the vessel or aircraft, as the case may be.
- (4) Any reference in these Rules to a Central Act, shall, in relation to areas wherein that Central Act is not in force, be construed as including the reference to the corresponding law in force in that area.

**4. Previous approval or sanction of Central Government required in certain cases -** Notwithstanding anything contained in these Rules.

- (a) no power conferred or duty imposed upon the State Government by such of the provisions of these Rules/as may be specified by the Central Government by notified order shall, with effect from such date as may be specified in the order, be exercised or discharged by any State Government specified in the order or by any officer or authority authorized in that behalf by that State Government, except with the previous approval of the Central Government;
- (b) the Central Government may, by notified order, direct that in such area or areas and with effect from such date or dates as may be specified therein, no action in relation to any alleged contravention of such provisions of these Rules (including orders made thereunder) as may be specified in that order shall be taken by the State Government concerned or any officer or authority subordinate to that State Government except with the previous sanction of the Central Government;
- (c) the Central Government may, by notified order, issue directions to a State Government that in the case of such provisions of these Rules as may be specified therein, no action, taken or taking done under those provisions before such date as may be specified in that order shall be continued except in accordance with such instructions as the Central Government may give to the State Government in this behalf.

**5. Saving :** No prohibition, restriction or disability imposed by these Rules, or by any order made or direction given thereunder not being an order or direction of the Central Government, or of an officer specially authorized by the Central Government in this behalf expressly providing the contrary shall apply to anything done by or under the direction of any member of the Armed Forces or any public servant acting in the course of his duty as such member or public servant.

**6. Non-compliance with these Rules or orders made there under :—** if any person to whom any provision of these Rules relates or to whom any order made in pursuance of these Rule is addressed or relates, or who is in occupation, possession or control of any land, building, vehicle, vessel, aircraft or other thing to which such provision relates, or in respect of which such order is made-

- (a) fails without lawful authority or excuse-
  - (i) in relation to such provision as relates to himself or
  - (ii) in respect of any land, building, vehicle, vessel, aircraft or other thing of which he is in occupation, possession or control, to comply or to secure compliance with such provision or order; or
- (b) evades, or attempts to evade, by any means such provision or order – he shall be deemed to have contravened such provision or order, any in these Rules the expression contravention with its grammatical variations includes any such failure, evasion or attempt to evade.

**PART - XVI**  
**CONTROL OF TRADING WITH ENEMY**

**130. Definition** - in this part, unless the context otherwise requires the expression "enemy" means :-

- (a) any person or country committing external aggression against India, or
- (b) any individual resident in enemy territory, or
- (c) any body of persons constituted or incorporated in enemy territory, or in, or under the laws of, a State which has committed external aggression against India, or
- (d) any body of persons, whether incorporated or not, carrying on business in any place, if and so long as the body is controlled by a person who, under this rule, is an enemy, or
- (e) as respects any business carried on in enemy territory, any individual or body of persons whether incorporated or not, carrying on that business, or
- (f) any person to whom the Registration of Foreigners Act, 1939 (16 of 1939), and the Foreigners Act, 1946 (31 of 1946) apply by virtue of Section 2 of the Foreigners law (Application and Amendment) Act, 1962 (42 of 1962), and who is either -
  - (i) arrested under the Foreigners (Internment) Order, 1962; or
  - (ii) declared by the Central Government to be an enemy, or
- (g) any other person or body of persons declared by the Central Government to be an enemy on the ground that such person or body of persons is engaged in any financial, contractual, commercial or other intercourse or dealings with any country, person, or body of persons referred to in clause (a) to (e) of this rule.

**131. Prohibition of trading with the enemy :** (1) For the purpose of this part, a person shall be deemed to have traded with the enemy if he has had any commercial, financial or other intercourse or dealings with, or for the benefit of, an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he has -

- (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or
- (ii) paid or transmitted any money, negotiable instrument or security for money to or for the benefit of an enemy or to a place in enemy territory, or
- (iii) performed any obligation to, or discharged any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of the Act,

Provided that a person shall not be deemed to have traded with the enemy by reason only that he has-

- (a) done anything under an authority given generally or specially by, or by any person authorized in that behalf by, the Central Government, or
  - (b) received payment from an enemy of a sum of money due in respect of a transaction under which all obligations on the part of the person receiving payment had already been performed when payment was received and had been performed at a time when the person from whom the payment was received was not an enemy.
- (2) Any reference in this rule to an enemy shall be construed as including a reference to a person acting on behalf of an enemy.
- (3) Any person who trades with the enemy shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.
- (4) In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched, or addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy.

**132. Control of right, etc. in respect of trading with the enemy :** No transaction which constitutes an offence of trading with the enemy shall, except to such extent as the Central

Government may by general or special order regulate, be effective so as to confer any rights or remedies on the parties to such transaction or on any persons claiming under them.

**133. Power to appoint controllers, etc. of enemy trading :** The Central Government may, either generally or for any particular area, appoint one or more Controllers, Deputy Controllers and Inspectors, of Enemy Trading, for securing compliance with the provisions of this part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these rules.

**134. Power of Controllers, etc., of enemy trading :** (1) if a Controller, or Deputy Controller, of Enemy Trading has reasonable cause to believe that an offence punishable under rule 131 has been, or is likely to be, committed, he may -

- (a) inspect or cause to be inspected any books or documents belonging to, or under the control of, any person,
  - (b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller or Deputy Controller, as the case may be, may demand, and for the purposes aforesaid, may-
    - (i) enter and search, or authorize a police officer not below the rank of Sub-Inspector to enter and search, any premises used for the purposes of the said business.
    - (ii) summon any person, examine him on oath, reduce his answers to writing and require him to sign the writing, and
    - (iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination.
- (2) a Controller, or Deputy Controller, of Enemy Trading may by order in writing delegate his powers in any particular case to an Inspector of Enemy Trading.

**135. Supervision of Suspected Business :** if in order to secure compliance with the provisions of this part the Central Government considers it expedient so to do, it may by order direct that the business of any person (hereinafter referred to as the suspected person) shall be subjected to supervision; and, thereupon a Controller of Enemy Trading and any person authorized by a Controller in this behalf shall have in relation to that business -

- (a) all the powers mentioned in rule 134.
- (b) the power to prohibit or regulate by means of written instructions to the suspected person or his agents or employees any transactions or class or transactions of that person, and
- (c) such other powers as may from time to time be conferred on him by the Central Government.

**136. Penalty for failure to comply with orders of Controllers etc :** if any person contravenes any order lawfully given by any Controller, Deputy Controller, or Inspector, of Enemy Trading or any person authorized by a Controller, under Rule 135, that person shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**137. Penalty for Concealment, Destruction, etc., of Books or Documents :** if any person with intent to evade the provisions of this part, conceals, destroys, mutilates, or defaces any book or other documents, that person shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

## PART XVII

### CONTROL OF ENEMY FIRMS

**138. Definitions :-** In this part, unless the context otherwise requires :-

- (1) "appointed day" means the date immediately preceding the date of the Proclamation of Emergency;
- (2) "enemy currency" means any such note or coins as circulate as currency in any enemy territory or any such other notes or coins as are for the time being declared by an order of the Central Government to be enemy currency;

- (3) “enemy firm” means –
- (a) any enemy subject who is, or at any time subsequent to the appointed day was carrying on any business in India, or
  - (b) any firm, whether constituted in India or not, of which any member or officer is, or at any time subsequent to the appointed day was an enemy subject, and which is, at any time, subsequent to the appointed day carrying on business in India, or
  - (c) any company, whether incorporated in India or not, of which any officer is, or at any time subsequent to the appointed day was an enemy subject, and which is, or at any time subsequent to the appointed day was carrying on business in India, or
  - (d) any person or body of persons, whether incorporated or not, who or which in the opinion of the Central Government is, or any time subsequent to the appointment day was carrying on business in India
    - (i) under the control, whether direct or indirect, of any enemy subject, or
    - (ii) wholly or mainly for the benefit of enemy subject generally or any class of enemy subjects or any individual enemy subject;
- (4) “enemy property” means any property for the time being belonging to or held or managed on behalf of any enemy as defined in rule 130, an enemy subject or any enemy firm:
- Provided that share an individual enemy subject dies in India, any property which, immediately before his death, belonged to or was held by him, or was managed on his behalf, may notwithstanding his death continue to be regarded as enemy property for the purpose of rule 151;
- (5) “enemy subject” means -
- (a) any individual who possesses the nationality of a State which has committed external aggression against India, or having possessed such nationality at any time has lost it without acquiring another nationality, or
  - (b) any body of persons constituted or incorporated in or under the laws of such State;
- (6) “Securities” includes share, stocks, bonds, debentures and debenture stocks, but does not include bills of exchange.

**139. Prohibition of trade with enemy firms and purchase of enemy currency :-** (1) No person shall, directly or indirectly-

- (a) advance money to, or enter into any contract with, any enemy firm; or
- (b) pay any sum of money to, or for the benefit of, an enemy firm; or
- (c) give any security for the payment of any debt or any other sum of money for the benefit of any enemy firm; or
- (d) act on behalf of an enemy firm in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with, any negotiable instrument; or
- (e) accept, pay, or otherwise deal with, any negotiable instrument which is held by, or on behalf of, an enemy firm; or
- (f) enter into any new transaction, or complete any transaction already entered into, with an enemy firm in respect of any stocks, shares or other securities; or
- (g) make or enter into any new policy of contract of insurance (including re-insurance) or accept or give effect to any insurance of any risk arising under a policy or contract of insurance (including re-insurance) made or entered into with, or for the benefit of, an enemy firm; or
- (h) supply to, or for the use or benefit of, or obtain from, an enemy firm, any goods, wares or merchandise or trade in or carry any goods, wares or merchandise destined for an enemy firm; or
- (i) enter into any other commercial or financial obligation or contract with, or for the benefit of, an enemy firm.

(2) In any proceeding arising out of a contravention of clauses (e) of sub-rule (1), it shall be a defence for the accused to prove that at the date of the contravention he had no reasonable ground for believing that the negotiable instrument was held by or on behalf of an enemy firm.

(3) No person shall, directly or indirectly, purchase enemy currency.

(4) Nothing in this rule shall be deemed to prohibit anything expressly permitted by or under the authority of the Central Government.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

**140. Power to appoint Controllers, etc., of enemy firms :** The Central Government may, either generally or for any particular area, appoint one or more Controllers, Deputy Controllers and Inspectors, of Enemy Firms, for securing compliance with the provisions of this Part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these rules.

**141. Powers of Controllers, etc. of enemy firms :** If a Controller, Deputy Controller or Inspector, of Enemy Firms has reasonable cause to believe that an offence punishable under rule 139 has been, or is likely to be, committed, he may –

- (a) inspect or cause to be inspected any books or documents belonging to, or under the control of, any person,
- (b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller, Deputy Controller and Inspector, as the case may be, may demand, and for the purposes aforesaid, may-
  - (i) enter in or on any premises used for the purposes of the business,
  - (ii) summon any person, examine him on oath, reduce his answer to writing and require him to sign the writing.
  - (iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination.

**142. Supervision of suspected business :** If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this part that any business should be subject to supervision, he may by order in writing direct that the business shall be subject to supervision, and thereupon any Controller, Deputy Controller and Inspector, of Enemy Firms may for the purposes of such supervision exercise all or any of the powers mentioned in rule 141, and such other powers as may from time to time be conferred on him by the Central Government.

**143. Supervision of firms suspected to be enemy firms :** (1) If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this part that the business of a person or body of persons suspected by him to be an enemy firm should be subject to supervision, he may, pending a decision by the Central Government in the matter, by order in writing direct that the business shall be subject to supervision for a period which shall not, without the previous sanction of the Central Government, exceed one month; and, thereupon, any Controller, Deputy Controller and Inspector, of Enemy Firms may-

- (a) exercise, for the purposes of such supervision, all or any of the powers mentioned in rule 141;
  - (b) by order in writing cancel any transaction or the firm which, in his opinion, is injurious to the public interest or is intended to evade the provisions of this Part;
  - (c) authorize the business of the firm to be carried on under such management as may be approved by him or subject to such conditions as he may deem fit to impose;
  - (d) himself carry on the business of the firm, if, in his opinion, no suitable management is available.
- (2) Where a business is subject to supervision under sub-rule(1), the Central Government may direct the Controller to recover from the assets of the firm concerned such fee, not exceeding the cost of supervision, as the Central Government may deem fit to impose.



**144. Penalty for failure to comply with order of Controller etc. :** If any person contravenes any order lawfully given by any Controller, Deputy Controller or Inspector, of Enemy Firms, that person shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**145. Penalty for concealment, destruction, etc. of books or documents :** If any person with intent to evade the provisions of this Part, conceals, destroys, mutilates or defaces any book or other document which a Controller, Deputy Controller or Inspector, of Enemy Firms, is empowered under rule 141 or rule 142 to inspect, that person shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**146. Contracts with enemy firms :** Where it appears to the Central Government that a contract entered into, whether before or after the commencement of the Act, with a person or body of persons who at the time of such contract was or subsequent to such contract became, an enemy as defined in rule 130 or any enemy subject, or an enemy firm is injurious to the public interest, or was entered into with a view to evade the provisions of this Part, the Central Government may by order cancel or determine such contract either unconditionally or upon such conditions as it thinks fit.

**147. Transfer of property to or by enemy firms :** (1) Where it appears to the Central Government that a transfer of property, movable or immovable, made, whether before or after the commencement of the Act, to or by a person or body of persons who at the time of such transfer was, or subsequent to such transfer became, an enemy as defined in rule 130 or an enemy subject or an enemy firm is injurious to the public interest or was made with a view to evade the provisions of this Part, the Central Government may, by order, declare such transfer, and any subsequent transfer or sub-transfer of the same property or part thereof, to be void, either in whole or in part, or may impose such conditions on the transferee as it thinks fit.

(2) On the making of an order under sub-rule (1) declaring any transfer, subsequent transfer or sub-transfer, of any property to be void, that property shall; with effect from the date of the order, be deemed to be re-vested in original transferor.

**148. Transfer and allotment of securities to or by enemy firms :**

(1) If any securities are transferred by, or allotted or transferred to, an enemy firm, then, except with the sanction of the Central Government, the transferee or allottee shall not by virtue of the transfer or allotment have any rights or remedies in respect of the securities, and no body corporate by which the securities were issued, or are managed, shall take cognizance of, or otherwise act upon, any such transfer except under the written authority of the Central Government.

(2) No share warrants, stock certificates, or bonds shall be issued, payable to bearer, in respect of securities registered or inscribed in the name of an enemy firm or of a person acting on behalf, or for the benefit, of an enemy firm.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**149. Transfer of negotiable instruments and actionable claims by enemy firms :**

(1) No transfer of a negotiable instrument or an actionable claim by or on behalf of an enemy firm nor any subsequent transfer thereof shall, except with the sanction of the Central Government, be effective so as to confer any rights or remedies of the negotiable instrument or, as the case may be, the actionable claim.

(2) If any person by payment or otherwise purports to discharge any liability from which he is relieved by sub-rule (1) knowing the facts by virtue of which he is so relieved, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both;

Provided that in any proceedings in pursuance of this sub-rule it shall be a defence for the accused to prove that at the time when he purported to discharge the liability in question he had reasonable grounds for believing that the liability was enforceable against him by order of a competent court, not being a court in India or in a State committing external aggression against India, and would be enforced against him by such an order.

(3) Where a claim in respect of a negotiable instrument or an actionable claim is made against any person who has reasonable cause to believe that, if he satisfied the claim, he would thereby be committing an offence punishable under sub-rule (2), that person may pay into a competent civil court

any sum which, but for the provisions of sub-Rule(1), would be due in respect of the claim and thereupon the payment shall for all purposes be a good discharge to that person.

**150. Power to carry on business of enemy firms :**

(1) Where it appears to the Central Government that the control or management of an enemy firm has been, or is likely to be, so affected by external aggression as to prejudice the effective continuance of its trade or business, and that it is in the public interest that the trade or business should continue to be carried on, the Central Government may by order authorize a person to carry on the trade or business in such manner and to such extent as may be prescribed.

(2) While a person authorized under sub-rule (1) is carrying on the trade or business of any enemy firm :-

- (a) such person shall be deemed to be acting as the agent of the firm and, subject only to such restrictions as the Central Government may impose shall have in relation to the management of the affairs of the firm all such powers and authority as the firm itself would have if it were not an enemy firm; provided that any person having any commercial, financial or other intercourse or dealings with such, person while so acting, shall not, merely by reason of such intercourse or dealings, be deemed to have contravened the provisions of rule 131 or rule 139.
- (b) such person shall be entitled to the management of the affairs of the firm to the exclusion of any other persons acting or purporting to act on behalf of the firm, and for the purposes of such management shall be entitled to employ such staff or other agency as he thinks fit;
- (c) such person shall not, in respect of such matters relating to the said management as may be specified by order of the Central Government be bound by any obligation or limitation imposed on him as agent of the firm by or under any law, instrument or contract;
- (d) such person shall be entitled to retain out of the assets of the firm all costs, charges, and expenses of, or incidental to the said management, and such remuneration as may be prescribed; and
- (e) the firm shall not have the rights to control the carrying on of the trade or business.

(3) No person authorized under sub-rule (1) to carry on the trade or business of an enemy firm shall be personally liable for acts done by him in good faith in the course of management of such trade or business.

(4) The provisions of this rule shall apply also in relation to a body of persons, whether incorporated or not, which is an enemy as defined in rule 130 and which is, or at any time subsequent to the appointed day was carrying on business in India as they apply in relation to an enemy firm.

**151. Collection of debts of enemy firm and custody of property :**

(1) With a view to preventing the payment of monies to an enemy firm and preserving enemy property, the Central Government may appoint a Custodian of Enemy Property for India and one or more Deputy Custodians and Assistant Custodians of Enemy Property for such local areas as may be prescribed and may by order -

- (a) require the payment to the prescribed custodian of money which would but for these rules be payable to or for the benefit of an enemy firm; or which would, but for the provisions of rule 146 and rule 140 be payable to any other person and upon such payment the said money shall be deemed to be property vested in the prescribed custodian;
- (b) vest, or provide for and regulate the vesting, in the prescribed custodian such enemy property as may be prescribed ;
- (c) vest in the prescribed custodian the right to transfer such other enemy property as may be prescribed, being enemy property which has not been, and is not required by the order to be, vested in the custodian;
- (d) confer and impose on the custodian and on any other person such rights, powers, duties and liabilities as may be prescribed as respects -

- (i) property which has been, or is required to be, vested in the custodian by or under the order,
  - (ii) property of which the right of transfer has been, or is required to be, so vested,
  - (iii) any other enemy property which has not been, and is not required to be, so vested,
  - (iv) money which has been, or is by the order required to be, paid to a custodian.
- (e) require the payment of the prescribed fees to the custodian in respect of such matters as may be prescribed and regulate the collection of and accounting for such fees;
- (f) require any person to furnish to the custodian such returns, accounts and other information and to produce such documents, as the custodian considers necessary for the discharge of his functions under the order, and any such order may contain such incidental and supplementary provisions as appear to the Central Government to be necessary or expedient for the purposes of the order.

(2) Where any order with respect to any money or property is addressed to any person by a custodian and accompanied by a certificate of the custodian that the money or property is money or property to which an order under sub-rule(1) applies, the certificate shall be evidence of the facts stated therein, and if that person complies with the order of custodian, he shall not be liable to any suit or other legal proceeding by reason only of such compliance.

(3) Where, in pursuance of an order made under sub-rule(1) -

- (a) any money is paid to a custodian, or
- (b) any property, or the right to transfer any property, is vested in a custodian, or
- (c) an order is given to any person by a custodian in relation to any property which appears to the custodian to be property to which the order under sub-rule (1) applies,
 

neither the payment, vesting nor order of the custodian nor any proceedings in consequence thereof, shall be invalidated or affected by reason only that at a material time-

  - (i) some person who was or might have been interested in the money or property, and who was an enemy firm, had died or had ceased to be an enemy firm, or
  - (ii) some person who was so interested, and who was believed by the custodian to be an enemy firm, was not an enemy firm,

(4) In sub-rules (1) and (2) and (3), the expression “custodian” includes a Deputy Custodian, and an Assistant Custodian of Enemy Property and every reference to an enemy firm shall be construed as including a reference to a person who is an enemy as defined in rule 130.

(5) Where in pursuance of an order made under sub-rule (1) the assets of a company are vested in the custodian, no proceedings, civil or criminal, shall be instituted under the Companies Act, 1956 (1 of 1956), against the company or any director, manager or other officer thereof except with the consent in writing of the custodian.

(6) If any person pays any debt or deals with any property to which any order under sub-rule (1) applies otherwise than in accordance with the provisions of the order, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the payment or dealing shall be void .

(7) If any person without reasonable cause fails to produce or furnish, in accordance with the requirements of an order under sub-rule (1), any document or information which he is required under the order to produce or furnish he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**152. Power to control and wind up certain business :** (1) In this rule, “enemy” means any person or body of persons who is for the time being an enemy as defined in rule 130.

(2) Where any business is being carried on in India by, or on behalf of or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Central Government to be associated with enemies, the Central Government may, if it thinks it expedient so to do, make-

- (a) an order (hereafter in this rule referred to as a “restriction order”) prohibiting the carrying on the business either absolutely or except for such purpose and subject to such conditions as may be specified in the order, or
- (b) an order (hereafter in this rule referred to as a “winding up order”) requiring the business to be wound up, and the making of a restriction order as respects any business shall not prejudice the power of the Central Government, if it thinks it expedient so to do, at any subsequent date to make a winding up order as respects that business.

(3) Where an order under sub-rule(2) is made as respects any business, the Central Government may, by that or a subsequent order, appoint a Supervisor to control and supervise the carrying out of the order, and, in the case of a winding up order, to conduct the winding up of the business and may confer on the Supervisor any such powers in relation to the business as are exercisable by a liquidator in the voluntary winding up of a company in relation to the company (including power in the name of the person carrying on the business or in his own name and by deed or otherwise, to convey or transfer any property, and power to apply to the court to determine any question arising in the carrying out of the order), and may by the order confer on the Supervisor such other powers as the Central Government thinks necessary or convenient for the purpose of giving full effect to the order.

(4) where a restriction order or a winding up order is made as respects any business, the distribution of any assets of the business which are distributed while the order is in force shall be made in accordance with the rules as to preferential payments applicable to the distribution of the assets of a company which is being wound up, but subject to such modifications, if any, as the Central Government may, by a general or special order prescribe in this behalf and the said assets of the business shall, so far as they are available for discharging unsecured debts, be applied in discharging unsecured debts to creditors of the business who are neither enemies nor enemy subjects in priority to unsecured debts due to any other creditors, and any balance, after providing for the discharge of all liabilities of the business, shall be distributed among the persons interested in the business in such manner as the Central Government may direct:- Provided that the provisions of this sub-rule shall in their application to the distribution of any money or other property which would, in accordance with those provisions, fall to be paid transferred to an enemy, enemy subject or enemy firm whether as a creditor or otherwise, have effect subject to the provisions of rule 151 and of any order made under that rule.

(5) Where any business for which a Supervisor has been appointed under this rule has assets in enemy territory, the supervisor shall, if in his opinion it is practicable so to do, cause an estimate to be prepared -

- (a) of the value of those assets;
- (b) of the amount of any liabilities of the business to creditors whether secured or unsecured, who are enemies;
- (c) of the amount of the claims of persons who are enemies to participate, otherwise than as creditors of the business, in any distribution of assets of the business made while an order under sub-rule (2) is in force as respects the business,

and where such an estimate is made, the said liabilities and claims shall, for the purpose of this rule, be deemed to have been out of the said assets of the business in enemy territory, or to have been satisfied there out so far as those assets will go, and only the balance (if any) shall rank for satisfaction out of the other assets of the business :

Provided that where the rights of any creditor of, or other person interested in, the business are vested in the Custodian of Enemy Property, nothing in this sub-rule shall affect the rights of the Custodian against the assets of the business in India unless such rights have been disclaimed by him

(6) Where an estimate has been prepared under sub-rule (5), a certificate of the Supervisor as to the value or amount of any assets, claims or liabilities to which the estimate relates shall be conclusive for the purpose of determining the amount of the assets of the business available for discharging the other liabilities of the business and for distribution amongst other persons claiming to be interested in the business;

Provided that nothing in this sub-rule shall affect the rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(7) The Central Government may, on an application made by a Supervisor appointed under this rule, after considering the application and any objections which may be made by any person who

appears to the Central Government to be interested by order grant the supervisor a release, and an order of the Central Government under this sub-rule shall discharge the Supervisor from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as supervisor, but any such order may be revoked by the Central Government on proof that it was obtained by fraud or by suppression or concealment of material fact.

(8) Where an order under sub-rule (2) has been made as respect a business carried on by any individuals or by a company, no insolvency petition against the individuals, or petition for the winding up of the company, shall be presented, or resolution for the winding up of the company passed, or steps for the enforcement of the rights of any creditors of the individuals or company taken, without the consent of the Central Government, but where the business is carried on by a company, the Central Government may present a petition for the winding up of the company by the Court, and the making of an order under sub-rule (2) shall be a ground on which the company may be wound up by the Court.

(9) Where an order is made under this rule appointing a Supervisor, for any business, any remuneration of, and any costs, charges and expenses incurred by, the Supervisor, and any other costs, charges and expenses incurred by, the Supervisor, and any other costs, charges and expenses incurred in connection with the control and supervision of the carrying out of the order, shall, to such amount as may be certified by the Central Government, be defrayed out of the assets of the business and as from the date of the certificate, be charged on those assets in priority to any other charges thereon.

(10) If any person contravenes the provisions of any order made under sub-rule (2) he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**153. Power of Central Government to direct inspection of Books and Accounts of enemy companies under liquidation :** (1) Where any company constituted or incorporated in any enemy territory and carrying on business in any place in India is being wound up by the Court or where an application has been made to the Court for an order to sanction a compromise or arrangement in respect of any such company, the liquidator, or any Gazetted Officer of the Central Government, or both, may be authorized by the Central Government to make an inspection of the books, accounts and other documents of the company or to cause such inspection to be made under his or their supervision or control by such officer or officers as may be appointed by the liquidator where he alone is so authorized by the Gazetted Officer aforesaid in any other case.

(2) On such inspection, the liquidator or the Gazetted Officer aforesaid or, as the case may be, both of them shall submit a report to the Central Government.

(3) If the Central Government, on consideration of the report, is of the opinion that it is necessary so to do, it may give suitable directions for the proper custody and preservation of the said books, accounts and other documents and for initiating such proceedings, civil or criminal, in relation to the conduct of affairs of the said company against such persons as may be deemed fit and proper by that Government.

NO.1 (74)PAK

**Government of India**

**Office of The Custodian of Enemy Property for India**

**Kaiser-i-Hind Bldg. Currimbhoy Road, Ballard Estate, P.B. No. 689.**

Bombay, the 23<sup>rd</sup> December 71

From :-  
Shri M.K. Rangachari,  
Custodian of Enemy Property for India  
Bombay.

To  
The Chief Secretaries of all State Governments and Union Territories.

Subject : Control and custody of Enemy Property in India.

Sir,

I have to invite a reference to letter No.12/22/71-EI&EP, dated the 15<sup>th</sup> December, 1971, addressed to you by the Ministry of Foreign Trade, New Delhi, on the above subject, and so state that

the Central Government have issued a notification No. S.O. 5511 dated the 18<sup>th</sup> December, 1971, under Rule 151 of the Defence of India Rules, 1971, vesting in me all property in India, moveable and immovable, belonging to or held by or managed on behalf of all Pakistani nationals.

2. The implication of the Notification is that the under mentioned categories of properties are to be taken over by me :-

- (a) Immovable property :-
  - (i) Agricultural lands
  - (ii) Urban-lands
  - (iii) Buildings
- (b) Firms
- (c) Moveable property :-
  - (i) Bank balances
  - (ii) Debts payable to Pakistani nationals
  - (iii) Shares, debentures, securities etc.
  - (iv) All other moveable property.

Apart from Pakistani nationals, all other persons who may be resident in Pakistan, irrespective of their nationality, are to be treated as 'enemies' under sub-rule (b) of Rule 130 of the Defence of India Rules, 1971, and as such their properties in India are also vested in me. It may be observed that in view of this, even Indian Nationals holding Indian Passports or other permits and residing in Pakistan are to be treated as 'enemies'

3. In respect of immovable properties of the above categories of persons, I request that you may kindly issue immediate instructions to All District authorities to take over, on my behalf, all such properties by issuing notices to all the present occupants/ tenants, etc. of such properties pointing out that such properties, being Pakistani-owned, are vested in the Custodian of Enemy Property for India. The District authorities may be instructed to report to me, full details of such properties giving the following information:-

- (a) Name of the Pakistani owner.
- (b) Full description of the property.
- (c) Place where the property is situated.
- (d) Name and address of the tenant/occupant who is at present holding the property and terms and conditions of lease or tenancy.
- (e) Designation and full address of the officer who should be authorized by me to manage the property in question on my behalf.

4. The District authorities should also instruct all the sub-ordinate officials not to allow any transfer/mutation of such properties by way of sale or gift etc. to anyone. Also you may issue departmental instructions to all registration authorities not to register any document of sale, transfer etc. of any such property, without my specific permission. If anyone comes to them for registering such documents, they should be asked to get a clearance from this office.

5. To facilitate case of reference and correspondence, I shall be grateful if you could kindly instruct the officers concerned to furnish the information asked for in paragraph 3 above, separately for each property. Also, it would make my work easier, if you could see your way to send the reports from your State, in English.

6. After the 1965 conflict with Pakistan, certain Indian nationals have purchased properties of Pakistan nationals and to regularize such transfers, the Indian purchasers pleaded that they were either ignorant of the fact that the seller was a Pakistan national or that the property of Pakistan nationals was vested in the Custodian of Enemy Property. It may also be noted that any person holding power of attorney from a Pakistani owner of property in India has no locus standi or authority to deal with such property i.e. by way of transfer, sale, or management, because such powers of attorney have ceased to be effective as a result of the vesting of properties in the custodian. Instructions

may therefore be issued to the District authorities and Registrars and Sub-registrars, not to accept any such power of attorney or act on it. They may further be asked to display prominently on their notice boards, the fact that all such enemy properties belonging to nationals or resident of Pakistan are vested in the Custodian of Enemy Property for India and that any transaction or transfer/ mutation in respect thereof, without the specific authority from the Custodian of Enemy Property are not allowed.

7. Cases of movable property of Pakistani nationals and nationals resident in Pakistan, situated in your State, may be reported to me direct with full details, by the local District authorities concerned for instructions.

8. I shall be grateful for an acknowledge of the receipt of this letter. A copy of the instructions that may be issued by your Government to the District authorities may kindly be sent to me.

Yours faithfully,

M. K. Rangachari  
Custodian of Enemy Property for India

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