

The Cantonment Property Rules, 2017

CONTENTS

<i>Rules</i>	<i>Pages</i>
1. Short title, extent and commencement	159
2. Definitions	159
3. Register of cantonment property	159
4. Purchase or lease of land other than land vested in the Central Government	159
5. Application for acquisition of land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013	160
6. Transfer of land vested in the Central Government to Cantonment Board	160
7. Transfer by Cantonment Board of Immovable Property	161
8. Lease by Cantonment Board	161
9. Power to transfer immovable property to the Central Government .	162
10. Power to acquire and transfer movable property	162
11. Entry, inspection by Defense Estates Officer	162

The Cantonment Property Rules, 2017¹

Whereas a draft of certain rules relating to the Cantonment property which the Central Government proposes to make, in exercise of the powers conferred by Section 125 of the Cantonments Act, 2006 (41 of 2006), was published as required under Section 125 of the Cantonments Act, 2006 in notification of the Government of India in the Ministry of Defence, vide S.R.O. 5(E), dated the 22nd March, 2017 in Gazette on India, Part II, Section 4, inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a period of sixty day from the date of publication of the said notification.

And whereas, objections and suggestions received from the public in respect of the said draft rules have been considered by the Central Government.

Now, therefore, in exercise of the powers conferred by Section 125 of the Cantonment Act, 2006 and in supersession of the Cantonment Property Rules, 1925 except as regard things done or omitted to be done before such supersession, the Central Government hereby makes the following rules relating to the Cantonment property, namely:—

1. Short title, extent and commencement.—(1) These rules may be called the Cantonment Property Rules, 2017.

(2) These rules shall extend to all cantonments in India.

(3) They shall come into force on the date of their final publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise require,

(a) “Act” means the Cantonments Act, 2006 (41 of 2006);

(b) “immovable property” includes land, benefits to arise out of land and things attached to the earth or permanently fastened to things attached to the earth but does not include standing timber, growing crops or grass;

(c) “movable property” includes standing timber, growing cops and grass, fruit upon and juices in trees, bark, lac and property of every other description except immovable property.

3. Register of cantonment property.—Registers of immovable property, which vest in and belong to the Cantonment Board, shall be maintained by the Cantonment Board in the forms specified in the Cantonment Account Code, 1924 and all additions to or alterations in the holdings of the Cantonment Board shall be recorded therein.

4. Purchase or lease of land other than land vested in the Central Government.—Subject to the provisions of Section 123 and Section 124 of the Act, the Cantonment Board may purchase or take on lease any immovable property,

1. Ministry of Defence, Noti. No. S.R.O. 31(E), dt. 1-12-2017, published in the Gazette of India, Extra., Part II, Section 4, dt. 1-12-2017, pp. 4-6, No. 22

other than property which is vested in the Central Government that may be required for immediate and definite purpose connected with the administration of the cantonment:

Provided that the Cantonment Board shall not acquire any interest in any such property within the limits of the cantonment except with the sanction of the General Officer Commanding-in-Chief, the Command, who shall obtain comments of the Principal Director, Defence Estates before according or refusing sanction.

5. Application for acquisition of land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.—In making an application to the Central Government under Section 124 of the Act for the acquisition of land, the Cantonment Board shall state clearly the necessity for the acquisition and shall submit an estimate of the compensation to be paid and any revenue to be remitted and the Cantonment Board shall also certify that acquisition by private contract has been found impracticable or is, for special reasons, undesirable.

6. Transfer of land vested in the Central Government to Cantonment Board.—When any land in the cantonment, which is vested in the Central Government, is required by the Cantonment Board for a purpose connected with the administration of the cantonment, the Cantonment Board may apply to the Central Government for the grant of the land stating the reasons and purpose for which it shall be utilised and if the Central Government considers that the application shall be accepted, they may transfer the land to the Cantonment Board on such conditions, if any, as they may think fit:

Provided that—

- (a) if the land applied for is already occupied for any other purpose, its transfer to the Cantonment Board shall be governed by the provisions of Rule 7 of the Cantonment Land Administration Rules, 1937 or by the relevant rule of the Cantonment Land Administration Rules in force; or
- (b) if the land is required for an object from which the Cantonment Board will derive income of any description, it may be transferred to the Cantonment Board only on such payment made in such manner as the Central Government may consider equitable in each case;
- (c) if at any time the land is not used for the object for which it was granted to the Cantonment Board, or if there has been, in the opinion of the Central Government, any other breach of the conditions on which it was transferred to the Cantonment Board, or if the land is required for a general public purpose, the Central Government may, after giving opportunity to the Cantonment Board to show cause and considering the cause shown, resume possession of the land and for any land so resumed by the Central Government the amount of compensation payable to the Cantonment Board shall be decided by the Central Government in each case and shall in no circumstances exceed the amount, if any, paid to the Central Government by the Cantonment Board for the transfer of the

land together with the initial cost or the present value, whichever is less, of buildings, if any, erected thereupon.

7. Transfer by Cantonment Board of Immovable Property.—Immovable property which vests in and belongs to the Cantonment Board shall not be transferred to any person by the Cantonment Board by way of sale, mortgage or exchange, or otherwise than by lease without a premium, except with the previous sanction of the Central Government and in such manner and on such terms and conditions as the Central Government may, approve such sanction:

Provided that if the immovable property is situated beyond the limits of the Cantonment, the views of the State Government and the services shall be ascertained by the Cantonment Board and communicated to the Central Government through the Principal Director, Defence Estates, the Command, shall be taken into consideration by the Central Government.

8. Lease by Cantonment Board.—Subject to the provisions of Section 267 of the Act, immovable property which vests in and belongs to the Cantonment Board may be leased by the Cantonment Board without a premium on the following conditions, namely:—

- (i) that a reasonable rent is reserved and made payable during the whole term of the lease or, in the alternative, a suitable revenue generating model duly approved by the Principal Director is devised;
- (ii) that the lease, or the agreement for the lease, is not made for any term without the previous sanction of the Cantonment Board by resolution at a general meeting; or for any term exceeding five and not exceeding twenty years without the sanction of the Principal Director; or for any term exceeding twenty and not exceeding thirty years without the sanction of the General Officer Command-in-Chief, the Command; or for any term exceeding thirty years without the sanction of the Central Government.
- (iii) that a lease for any purpose for which the Cantonment Board itself could not, utilize the property, under Section 123 of the Act, shall require the previous sanction of the Central Government;
- (iv) that every lease shall specify in clear terms the purpose or purposes to which leased property may be put by the lessee, and shall contain a clause empowering the Cantonment Board to abrogate the lease in the event of the property being used for any other purpose without the consent of the Cantonment Board;
- (v) that the Cantonment Board shall not give its consent in pursuance of clause (iv) without the previous sanction of the Central Government if such consent is sought for use of the leased property for a purpose for which the Cantonment Board could not itself apply the property under Section 123 of the Act;
- (vi) that where the lessee, in contravention of the terms of the lease and without the consent of the Cantonment Board, uses the leased property

for any purpose to which the Cantonment Board could not itself utilize the property under section 123 of the Act, the Cantonment Board shall forthwith abrogate the lease, and any fresh lease of the same property to the lessee shall be granted only with the previous sanction of the Central Government and on such terms as the Central Government may direct:

Provided that subject to the provisions of Section 257 of the Act, any immovable property which is, or includes a part of a street shall not be given on lease.

9. Power to transfer immovable property to the Central Government.—Notwithstanding anything contained in these rules, the Cantonment Board may transfer to the Central Government any immovable property which vests in and belongs to it under Section 122 of the Act, but not so as to affect any trusts or public rights subject to which the property is held.

10. Power to acquire and transfer movable property.—Subject to the provisions of Section 123 of the Act, the Cantonment Board may acquire any movable property that may be required for the purposes of the Act, and may transfer any movable property which vests in and belongs to the Cantonment Board in any way and on any terms that it may, by resolution at a general meeting, determine to be expedient and reasonable.

11. Entry, inspection by Defence Estates Officer.—(1) The Defence Estates Officer, or any person authorised by him by general or special order may, with or without assistants or workmen, enter into or upon any building or land vesting in Cantonment Board under Section 122 of the Act, for the purpose of making any enquiry, inspection, measurement, valuation or survey, which such officer or person may consider necessary, or of examining or inspecting any works which have been, are being, or are to be executed in or on such building or land.

(2) In the performance of the duties specified in sub-section (1), such officer or person shall observe the same procedure for the purposes of entry and inspection as is laid down in Chapter XV of the Act.