THE KHYBER PAKHTUNKHWA ESTABLISHMENT OF SPECIAL COURTS (OVERSEAS PAKISTANIS PROPERTY) ACT, 2026.

(KHYBER PAKHTUNKHWA ACT NO. XII OF 2026)

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AN
ACT

To establish Special Courts for adjudication of plaints in respect of immovable properties of Overseas Pakistanis.

WHEREAS it is expedient to establish Special Courts in order to secure and provide for protection of rights of ownership and possession in respect of immovable properties of Overseas Pakistanis and for matters connected therewith and incidental thereto;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title, extent and commencement.---(1) This Act shall be called the Khyber Pakhtunkhwa Establishment of Special Courts (Overseas Pakistanis Property) Act, 2026.

(2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless the context or subject otherwise requires,-

(a) **"Code"** means the Code of Civil Procedure, 1908 (Act No. V of 1908);

(b) **"Government"** means the Government of Khyber Pakhtunkhwa;

(c) **"Overseas Pakistani"** means any person holding a Pakistani passport, computerized national identity card (CNIC), National Identity Card for Overseas Pakistanis (NICOP), Pakistan Origin Card (POS) or Overseas Pakistani Foundation (OPF) membership card proving his nationality and is living, working or studying abroad permanently or temporarily for more than a period of one year;

(d) **"plaintiff"** for the purpose of filing plaint before a Court, means the Overseas Pakistani or anyone authorized by him in his behalf;

(e) **"prescribed"** means prescribed by rules;

(f) **"property"** means immoveable property as defined in the Registration Act, 1908 (Act XVI of 1908);

(g) **"Province"** means the Province of Khyber Pakhtunkhwa**;**

(h) **"rules"** mean rules made under this Act; and

(i) **"Courts"** mean the Special Courts established or designated under this Act.

3. Establishment of Courts.---(1) After consultation with the Chief Justice of the Peshawar High Court, the Government may, by notification in the official Gazette, establish as many Courts in the Province as it may deem necessary to try plaints filed by plaintiff in relation to their immovable properties. In case of establishment of more than one Court, the jurisdiction of each such Court shall be specified in the notification.

(2) The Government may, in consultation with the Chief Justice of the Peshawar High Court, appoint any person as a judge of the Court who is or has been,-

(a) a district judge or an additional district judge; or

(b) an advocate of the High Court for a period of not less than ten years and is not less than forty-five years of age at the time of appointment.

(3) Government, after recommendation of the search and nomination Council, shall propose a panel of at least three candidates, for appointment of an advocate as judge of the Court under clause (b) of sub-section (2). The search and nomination Council shall consist of,-

(a)	Senior Member Board of Revenue;	Chairperson
(b)	Secretary to Government Law, Parliamentary Affairs and Human Rights Department; and	Member
(c)	Representative of Advocate General.	Member

(4) In addition to or in lieu of establishment of the Court under sub-section (1), Government may, in consultation with the Chief Justice of the Peshawar High Court and by notification in the official Gazette, designate in the Province as many courts of district judge or additional district judges as Court as it may deem fit. In case of designation of more than one Court, the jurisdiction of each such Court shall be specified in the notification.

(5) A judge of the Court shall have the same powers and jurisdiction as vested in the court of district and sessions judge under the Code.

(6) A judge of the Court shall be appointed for a period of three years on such terms and conditions as may be prescribed.

(7) A judge of the Court shall only be removable before the expiry of his tenure if he is found guilty of misconduct.

(8) The disciplinary proceedings against a judge of a Court shall be conducted in the same manner, legal provisions and rules as prescribed for a district and sessions judge in the Province.

(9) During his tenure, a judge of a Court may be transferred to another Court within the Province by the Chief Justice of the Peshawar High Court.

4. Filing of plaint.---(1) A plaint under this Act shall be filed in Court having the jurisdiction, in the manner as may be prescribed.

(2) A plaint shall, under sub-section (1), contain a concise statement of facts which shall include status of ownership and unlawful possession or control of property, estimated market value of property, details of rent or profits received by person in un-lawful possession or control of property, if any, and the relief claimed and such other information or documents as may be prescribed.

(3) Notwithstanding anything contained in the Code or any other law for the time being in force, all actions, disputes, plaints, suits, proceedings and matters connected therewith in which one or more of the parties are Overseas Pakistanis, shall be heard and adjudicated exclusively by a Court.

5. E-filing of plaints etc.---(1) The Peshawar High Court shall make rules to enable filing of plaints, responses, applications, hearing of parties including recording of evidence under this Act and all matters connected therewith or incidental thereto through electronic means.

(2) Subject to the Khyber Pakhtunkhwa Public Finance Management Act, 2022 (Khyber Pakhtunkhwa Act No. XXIX of 2022) and to carry out purposes of this Act, there shall be maintained by designated officer or the Court in the prescribed manner, bank account for deposit of court fee and other charges manually or through modern devices including e-filing etc.

(3) There shall be maintained physical and electronic record of all the cases filed and pending before the Courts along-with the details of the proceedings that have taken place therein.

6. Notice to appear and consequences of non-appearance.---(1) The Court shall issue notice to the defendants for appearance on a date fixed not later than ten days through process server, registered post acknowledgement due and courier service.

(2) In addition to the service under sub-section (1), the Court shall order for effecting service by,-

(a) affixing a copy of the notice at some conspicuous part of the dispossessed property or residence of the defendant in which he is known to have last resided or carries on business or personally works for gain;

(b) any modern device including electronic device of communication which may include mobile phone, telephone, telegram, phonogram, telex, fax, radio, television etc. in a prescribed manner;

(c) urgent mail service or public courier services;

(d) announcement through mosque, temple, community center, etc.;

(e) publication in the press in the prescribed manner; or

(f) any other manner or mode as it may think fit:

Provided that the Court may order the use of all or any of the aforesaid modes of service simultaneously.

(3) If the defendant fails to appear, the Court may direct service again by any of the modes mentioned in sub-section (2) to appear on a date not later than seven days.

(4) If the defendant fails to appear again, the Court may proceed *ex-parte* against the defendant and may pass any order under the law applicable thereto.

(5) If an *ex-parte* order is passed against a defendant, the defendant may, within ten days from the date of knowledge thereof, apply to the Court for setting aside the *ex-parte* order along-with an application for leave to appear and defend.

(6) If the defendant shows a sufficient cause for his non-appearance, the Court may set aside the *ex-parte* order on such terms and conditions as it may deem fit.

7. Leave to defend.---(1) A Court shall not allow defendant to defend the application unless he obtains from this Court leave to defend.

(2) Subject to other provisions of this Act, a defendant shall file an application for leave to defend, in default of which, the allegations of fact in the plaint shall be deemed to have been admitted and the Court may pass the judgment and decree in favour of the plaintiff.

(3) The application for leave to defend shall be in the form of a written statement containing a summary of substantial questions of law as well as facts in respect of which, in the opinion of the defendant, evidence needs to be recorded.

(4) The application for leave to defend shall be accompanied by an affidavit of the defendant, copy of all relevant documents in his possession and affidavits of not more than two private witnesses which, in the opinion of the defendant, support the question of law and facts raised by him.

(5) An application for leave to defend which does not comply with the requirements of sub-section (4) shall be rejected, unless the defendant discloses sufficient cause for his inability to comply with any such requirement.

(6) The plaintiff may-file a reply to the application for leave to defend.

(7) The Court shall grant the defendant leave to defend if on consideration of contents of the plaint, application for leave to defend and its reply thereto it is of the view that substantial questions of law or facts have been raised in respect of which evidence needs recording.

(8) The Court shall decide the application for leave to defend within a period of fifteen days from the date of its filing.

(9) In granting leave under sub-section (7), the Court may impose such conditions as it may deem appropriate in circumstances of the case, including furnishing of security which shall not be less than ten percent of estimated market value of property of Overseas Pakistani prevailing at that time.

(10) If leave to defend is granted the Court shall treat the application for leave to defend as a defence of defendant and in its order granting leave it shall frame issues relating to substantial questions of law or facts and, subject to fulfillment of any conditions attached to grant of leave, fix a date for recording of evidence thereon and disposal of the proceedings.

(11) Where the application for leave to defend is rejected or where a defendant fails to fulfill conditions attached to the grant of leave to defend, the Court shall proceed to pass judgment and decree against the defendant.

8. Recording of evidence.---(1) The Court shall direct the party concerned to produce its evidence on a date fixed.

(2) The Court shall treat an affidavit filed by a party as examination-in-chief and,-

(a) may, of its own motion, order attendance of the deponent for cross examination; and

(b) shall, if so requested by a party, direct production of the deponent for cross-examination.

(3) The Court shall not grant more than two opportunities to a party for production of the evidence.

(4) The Court shall not grant an adjournment for cross examination of a witness except for a sufficient cause and on payment of the costs to the witness as it may deem fit.

(5) A Court, on the request of an Overseas Pakistani litigant, shall make arrangements to enable the litigant to participate in the court proceedings through video link.

(6) A Court shall allow evidence of an Overseas Pakistani litigant or a witness through the concerned high commission, embassy or consulate of Pakistan, as the case may be, by use of video link or any other legally acceptable mode:

Provided that such evidence shall be recorded under the supervision of an official of the concerned high commission, embassy or consulate of Pakistan, as the case may be, especially notified for this purpose.

(7) A Court shall enable that cause list and short orders of such cases to be uploaded on the web portal especially established for this purpose.

(8) After recording evidence of the parties, if any, and hearing the arguments, the Court shall pass the judgment and decree.

9. Period for disposal of plaint.---(1) The Court shall pass a judgment as expeditiously as possible but not later than one hundred and twenty (120) days from the date of grant of application for leave to defend.

(2) In case the proceedings are not completed within one hundred and twenty (120) days, the defendant may be required to furnish security in such amount as the Court deems fit, and on failure of the defendant to furnish security the Court shall pass judgment.

(3) The requirement of furnishing security under sub-section (2) shall be dispensed with, if in the opinion of the Court on appreciation of material available on record, the delay is not attributable to conduct of the defendant.

(4) At any time during the course of proceedings, the Court shall not allow adjournment for more than seven days.

(5) Where sufficient cause is not shown for the grant of an adjournment under sub-rule (4), the Court shall proceed with the plaint forthwith.

(6) Save as otherwise expressly provided by or under this Act, for the purpose of disposing of the plaints, the Court shall follow the procedure as given in section 17 of the West Pakistan Family Courts Act, 1964 (West Pakistan Act No. XXXV of 1964.)

(7) The Court, if it deems necessary for expeditious disposal of the suit or plaint, for reasons to be recorded in writing, shall on its own motion have the power to summon official record maintained by the public authorities in respect of any matter connected with or a rising from the subject matter of the suit or plaint.

10. False, frivolous or vexatious plaint.---(1) If the plaint, filed in the Court, is heard and dismissed by the Court with the opinion that the plaint was false and either frivolous or vexatious, the Court may by his order of disposal call upon the plaintiff to show cause why he should not pay compensation to the defendant.

(2) The Court shall record and consider any cause which such defendant may show and if he is satisfied that the plaint was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not less than expenses incurred on said litigation by the defendant.

(3) The compensation payable under sub-section (2) shall be recoverable as an arrear of land-revenue.

11. Appeal.---(1) Any person aggrieved by a judgment, decree, ex-parte decree or final order of the Court may, within fifteen days, prefer an appeal to the High Court.

(2) The admission of appeal shall not be deemed to suspend operation of judgment, decree or final order unless a notice has been served on the decree holder.

(3) The High Court shall decide an appeal within a period of ninety days from the date of its filing.

(4) No appeal, review or revision shall lie against an order accepting or rejecting an application for leave to defend or any interlocutory order of the Court which does not dispose of the entire proceedings before the Court.

(5) Any order for stay of execution of decree in appeal shall automatically lapse on expiry of two months from date of such order.

12. Execution of decree.---(1) Notwithstanding anything contained in any other law for the time being in force, upon issuance of decree by a Court, the suit shall automatically stand converted into execution proceedings without the need to file separate application and the case shall be heard by the Court for execution of its decree on the expiry of fifteen days from the date of issuance of decree or order.

(2) The decree of the Court shall be executed in accordance with the section 13 of the West Pakistan Family Courts Act, 1964.

(3) The Court shall be entitled to seek services and assistance of the police or any law enforcement agency in exercise of powers conferred by this section.

(4) Notwithstanding anything contained in the Code or any other law, for the time being in force, if the claim or objections are found by the Court to be *mala-fide* or filed merely to delay the execution process, the Court shall impose such penalty as it deems fit in facts and circumstances of the case.

13. Attachment before judgment, injunction or appointment of receivers.---(1) The Court may, on its own or on an application, by the plaintiff, with a view to preventing property from being transferred, alienated encumbered, wasted or otherwise dealt with in a manner which is likely to impair or prejudice the rights of Overseas Pakistanis, or otherwise in the interest of justice,-

(a) Restrain the defendant or others from transferring, alienating, parting with possession or otherwise encumbering, charging, disposing of or dealing with the property in any manner;

(b) Attach such property; or

(c) appoint one or more receivers of such property on such terms and conditions as it may deem fit.

(2) An order under sub-section (1) may also be passed by the Court against any third party to whom the property is sold in contravention of provisions of this Act or held *benami* by defendant in the name of an ostensible owner.

14. Transfer of pending cases.---(1) On commencement of this Act, all plaints, suits, execution plaints and all other proceedings pending in any other court, related to immovable property, in which Overseas Pakistani is a plaintiff or complainant, shall stand transferred to the Court and on transfer of the cases, the Court may proceed with the cases from the stage at which it was pending.

15. Restriction on transfer of property.---After publication of notices under sub-section (1) of section 6, no defendant shall transfer, alienate, encumber, remove or part with possession of property pending final decision of the suit or plaint filed by the plaintiff under this Act and any such transfer, alienation, encumbrance or other disposition by the defendant in violation of this section shall be void and have no legal effect.

16. Application of the Limitation Act, 1908 (Act IX of 1908).---Save as otherwise provided in this Act, the provisions of the Limitation Act,1908 (Act IX of 1908) shall apply to all cases instituted or filed in Court after coming into force of this Act.

17. Powers of Court.---(1) Subject to the provisions of this Act, the Court shall in exercise of its civil jurisdiction have all the powers vested in a civil court under the Code.

(2) The Court in all matters with respect to which the procedure as not been provided for in this Act, follow the procedure laid down in the Code.

(3) All proceedings before a Court shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, (Act XLV of 1860) and sections 476 and 480 of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

18. Finality of order.--- Subject to the provisions of section 10, no court or other authority shall revise or review or call or permit to be called into question any proceeding, judgment, decree or order of a Court or the legality or propriety of anything done or intended to be done by the Court in exercise of its jurisdiction under this Act:

Provided that the Court may, on its own accord or on application of any party and with notice to the other party or, as the case may be, to both the parties, correct any clerical or typographical mistake in any judgment, decree or order passed by it.

19. Registrar.---(1) A senior civil judge shall be posted as registrar of the Court.

(2) The registrar shall be responsible for performance of functions that may be assigned to him by the Government in consultation with the Chief Justice of the Peshawar High Court.

20. Report.--- The registrar shall prepare and present an annual report of the implementation of this Act to the committee which shall consist of,-

(a)	a judge of the High Court to be nominated by the Chief Justice of the Peshawar High Court;	Chairperson
(b)	Secretary to Government, Revenue and Estate Department or his nominee not below the rank of BPS-19;	Member
(c)	Secretary to Government, Law, Parliamentary Affairs and Human Rights Department or his nominee not below the rank of BPS-19;	Member
(d)	Secretary to Government, Inter Provincial Coordination Department or his nominee not below the rank of BPS-19; and	Member
(e)	Chairman, Overseas Pakistanis Foundation or his nominee.	Member

21. Power to make rules.--- Government may, by notification in the official Gazette, make rules within one hundred and twenty (120) days, after the commencement of this Act, for carrying out the purposes of this Act.

22. Act to override other laws.--- The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.