

## THE LAND ACQUISITION ACT, 1894

(Act I of 1894)

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<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII Of 2001

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII Of 2001

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<sup>3</sup> Substituted vide Khyber Pakhtunkhwa Act No. III of 2009

- <sup>1</sup>[(d) the expression “Court” means a principal Civil Court of original jurisdiction, and includes the Court of any Additional District Judge and any Civil Judge whom the Provincial Government may appoint, by name or by virtue of his office, to perform concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act, within any specified area ; provided that in the case of a Civil Judge such functions shall be exercised only up to the limits of his pecuniary jurisdiction] :
- (e) the expression “Company” means a Company registered under the <sup>2</sup>[Indian Companies Act, 1882], or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament <sup>3</sup>[of the United Kingdom] or <sup>4</sup>[by a Pakistan law], or by Royal Charter or Letter, Patent <sup>5</sup>[and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912]
- <sup>6</sup>[(ee) ‘housing scheme, means any housing scheme which the Provincial Government may from time to time undertake for the purpose of increasing accommodation for housing person and shall include any such scheme undertaken from time to time with the previous sanction of the Provincial Government by a Local authority or company.]”
- (f) the expression “public purpose” includes the provision of village-sites in districts in which the <sup>7</sup>[Provincial Government] shall have declared by notification in the official Gazette that it is customary for the Government to make such Provision, <sup>8</sup>[but does not include a purpose which is against the tenets of Islam ] <sup>9</sup>[and a housing scheme as defined in clause ee.], and
- (g) the following persons shall be deemed persons “entitled to Act” as and to the extent hereinafter provided (that is to say) —
- trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

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<sup>1</sup> Subs, by W. P. Ord. XLIX of 1969.

<sup>2</sup> Now the Companies Act, 1913 (VII of 1913).

<sup>3</sup> Ins. by A.O., 1961, Art 2 and Sch (w.e.f. 23rd March, 1956)

<sup>4</sup> The original words "of the G.G. in. C. "were first subs, by A.O., 1937 and then amended by G. G. O., 4 of 1949, Sch., to read as above

<sup>5</sup> Ins, by s. 2 of the Land Acquisition (Amendmnt) Act, 1919 (XVII of 1919).

<sup>6</sup> Clauses "ee" ins. by Khyber Pakhtunkhwa . Act. No. IX of 1952.

<sup>7</sup> Subs, by A. O., 1937.

<sup>8</sup> Ins. by Khyber Pakhtunkhwa Act. No. XIX of 1987.

<sup>9</sup> Ins. by Khyber Pakhtunkhwa Act. No. IX of 1952.

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that —

- i. no person shall be deemed “entitled to Act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;
  - ii. in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;
  - iii. the provisions of Chapter XXXI of the <sup>1</sup>[Code of Civil Procedure] shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and
  - iv. no person “entitled to act” shall be competent to receive the compensation-money payable to the persons for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale,
- (h) <sup>2</sup>[\*\*\*\*\*]

## **PART II ACQUISITION**

### **PRELIMINARY INVESTIGATION**

4. <sup>3</sup>[(1) Whenever it appears to the Collector of the District that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality].

Publication of preliminary notification and powers of officers thereupon.

<sup>1</sup>.Now the Code of Civil Procedure, 1908 (V of 1908).

<sup>2</sup> Deleted vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>3</sup>.Subs. by W.P. Ord XLIX of 1969 s.4 (a).

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by <sup>1</sup>[the Collector of the District] in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and lines by placing marks and cutting trenches: and,

Where otherwise the survey cannot be completed and the levels taken and the boundaries and fines marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) with-out previously giving such occupier at least seven days" notice in writing of his intention to do so.

<sup>2</sup>[(3) The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other Chief Revenue Officer of the District, and such decision shall be final].

<sup>3</sup>[5. Where land is to be acquired for a public purpose, the<sup>4</sup>[Commissioner], and where land is to be acquired for a Company, the Provincial Government, is satisfied, after considering the result of the survey, if any, made under sub-section (2) of section 4, or if no survey is necessary, at any time, that any particular land included in a locality notified under sub-section (1) of section 4 is needed for a public purpose or a Company, as the case may be, a notification to that effect shall be published in the official Gazette, stating the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area and situation, and where a plan has been made of the land, the place where such plan may be inspected, and the Collector shall cause public notice to be given of the substance of the notification at convenient places on or near the land to be acquired.]

Notification that particular land is needed for a public purpose or for a Company.

<sup>1</sup> Subs, by W. P. Ord, XLIX of 1969 s. 4 (b) for "Commissioner or the Board of Revenue which were previously subs. for "such Government", by W.P. Act XVI of 1957.

<sup>2</sup> Add.by W.P. OrdXLIX of 1969.

<sup>3</sup> Subs, by *ibid.*,s. 6.

<sup>4</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>1</sup>[Objections]

<sup>2</sup>5-A. (1) Any person, interested in any land which has been notified under section 5 as being needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

Hearing of objections.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the object or an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the <sup>3</sup>[Commissioner] together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the <sup>4</sup>[Commissioner] on the objections shall be final.

(3) Where land is needed for a Company, the Collector shall, after making such enquiries as he deems necessary, also make his recommendations to the <sup>5</sup>[Commissioner] with regard to the area that in his opinion is reasonable for the purpose.

(4) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act].

***Declaration of intended Acquisition***

6. (1) Subject, to the provisions of Part VII of this Act, <sup>6</sup>[when the <sup>7</sup>[Commissioner] is satisfied, after considering the report, if any, made under section 5-A, sub-section (2), ] that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of <sup>8</sup>[Commissioner] or of some officer duly authorized to certify <sup>9</sup>[Such] order:

Declaration that land is required for a public purpose.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local-authority.

<sup>1</sup> Sub-heading and Section5-Awere ins, by Act XXXVIII of 1923. Section5 -A however subs, later by W. P. Ord. XLIX of 1960. s.6.

<sup>2</sup> Sub-heading and Section5-Awere ins, by Act XXXVIII of 1923. Section5 -A however subs, later by W. P. Ord. XLIX of 1960. s.6.

<sup>3</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>4</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>5</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>6</sup>.Subs, by the Land Acquisition (Amendment) Act, 1923 XXXVIII of 1923,).s.4. for "when ever it appears to the Local Government."

<sup>7</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>8</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>9</sup>.Subs ibid for "its".

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the <sup>1</sup>[Commissioner] may acquire the land in manner hereinafter appearing.

<sup>2</sup>[(4) When the area in respect of which the said declaration is made is less than the area previously notified under sub-section (1) of section 4, such previous notification, so far as it relates to the excess area, shall be deemed to have been superseded by the said declaration].

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the <sup>3</sup>[Commissioner], or some officer authorized by the <sup>4</sup>[Commissioner] in this behalf, shall direct the Collector to take order for the acquisition of the land.

After declaration  
Collector to take  
order for  
acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

Land to be  
marked out,  
measured and  
planned.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to Persons  
interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to at for persons so interested, as reside or

<sup>1</sup>. Subs, vide. Act XVI of 1957, for "Provincial Government which was subs, for "Local Government", by A.O.1937.

<sup>2</sup>. Added by W.P. Ordinance XLIX of 1969, s.7.

<sup>3</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>4</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, addresser place of business and registered under part III of the <sup>1</sup>[Indian Post Office Act, 1866].

<sup>2</sup>[(5) The Collector shall also serve notice of the enquiry to be held under section 11 (such notice not being less than fifteen days prior to the date fixed under sub-section (2) for determination of claims and objections) <sup>3</sup>[on the Provincial Government, the Federal Government] , local authority or Company, as the case may be, for which land is being acquired, and require it to depute a duly authorized representative to attend the enquiry on its behalf for the purpose of making objections (if any) to the measurement of the land, claims to any interest in the land or the amount of any compensation. Such authorized representative shall be a party to the proceedings.]

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Power to require and enforce the making of statements as to names and interests.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.

*Enquiry into Measurements, Value and Claims, and Award by the Collector*

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested <sup>4</sup>[<sup>5</sup>[including the Provincial Government, Federal Government], a local authority, or a Company, as the case maybe], has stated pursuant to a notice given under section 9 to the measurement made under section 8, and into the value of the land <sup>6</sup>[at the date of the publication of the notification under section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation and shall make an award under has hand of—

Enquiry and award by Collector.

<sup>1</sup>.Now the Post Office Act, 1898 (VII of 1898).

<sup>2</sup>. Add. by W.P. Ord. XLIX of 1969 S. 8.

<sup>3</sup> Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>4</sup>.Ins. *ibid.*,s.9.

<sup>5</sup> Substituted vide Ordinance No. XVII of 2001.

<sup>6</sup>.Ins, by Act XXXVIII of 1923.

- i. the true area of the land;
- ii. the compensation which in his opinion should be allowed for the land ;  
and
- iii. the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

<sup>1</sup>[11-A. **Acquisition through private negotiation.**— (1) There shall be no private negotiation for acquiring land under this Act, except as provided in sub-section (2).

- (2) The head of the Department concerned of Government or the Ministry concerned of the Federal Government, as the case may be, may, where expedient, request the Collector of the District concerned in writing to acquire land through private negotiations which shall be subject to such instructions or directions as Government may, from time to time, issue in this behalf.

**11-B. Process of acquisition.**— The Whole process of acquisition of land should be completed within a period of six months from the date of notification under section 4, or where it is not completed within the stipulated period, the reason for delay shall be explained by the Collector in his award, which, if not satisfactory, may hold him personally responsible for the delay and may result in disciplinary proceedings against him.]

<sup>2</sup>[11-C **Acquisition in newly merged areas.**--- Notwithstanding anything contained in this Act or any other law for the time being in force, in the Merged Districts as defined in paragraph (c) of Article 246 of the Constitution of Islamic Republic of Pakistan, where no record of rights exists, the land acquisition and subsequent determination of price shall be made, on the basis of prevailing local customs, traditions and usages regarding determination of ownership of land and its sale or purchase, including but not limited to qaumi commission of elders of the locality, nikat or private negotiation where the ownership is undisputed, in the manner as may be prescribed.]

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

Award of  
Collector when to  
be final.

<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII Of 2001

<sup>2</sup> Added vide Khyber Pakhtunkhwa Act No. XVIII of 2020

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

<sup>1</sup>[12-A. Any clerical or arithmetical mistake in the award arising therein from any accidental slip or omission may, at any time, be corrected by the Collector either of his own motion or on the application of any of the parties.]

Correction of mistake.

13. The Collector may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.

Adjournment of enquiry.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as maybe) in the same manner, as is provided in the case of a Civil Court under the <sup>2</sup>[Code of Civil Procedure].

Power to summon and enforce attendance of witnesses and production of documents.

15. In determining the amount of compensation the Collector shall be guided by the provisions contained in sections 23 and 24.

Matters to be considered and neglected.

### ***Taking Possession***

16. When the Collector has made an award under section 11, he may, <sup>3</sup>[subject to the provision of Section 31], take possession of the land, which shall thereupon <sup>4</sup>[vest absolutely in the <sup>5</sup>[Government]] free from all encumbrances.

Power to take possession.

<sup>6</sup>[17. (1) In cases of urgency, whenever the Commissioner so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from publication of the notice mentioned in sub-section (1) of section 9, take possession of any land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances:

Provided that the Commissioner shall not issue any direction to the Collector under this sub-section unless the <sup>7</sup>[Provincial Government, the Federal Government], the local authority, or Company, as the case may be, for which the

<sup>1</sup>.Ins. by W.F. Ord. XLIX of 1969. s. 10.

<sup>2</sup>.Now the Code of Civil Procedure, 1908 (V of 1908).

<sup>3</sup>.Ins. by W.F. Ord. XLIX of 1969, s. II.

<sup>4</sup>.Subs. by A.O., 1937, for "vest absolutely in the Government".

<sup>5</sup>.Subs. by A.O. 1961, for "Crown", w.e.f. 23rd March, 1956.

<sup>6</sup>. Subs. by W.P. Ord.XLIX of 1969, s. 12.

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

land is being acquired, has first deposited the estimated cost of acquisition of such land as determined by the Collector of the district, keeping in view the provisions of sections 23 and 24.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river side or *ghat* station, or of providing convenient connection with or access to any such station, or whenever owing to a similar emergency it becomes necessary for the Commissioner to acquire the immediate possession of any land for the purposes of maintaining traffic over a public road, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Commissioner, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 ; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In cases where in the opinion of the Commissioner, the provisions of sub-section (1) or sub-section (2) are applicable, the Commissioner may direct that the provisions of sections 5 and 5-A shall not apply, and, if he does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under sub-section (I) of section 4.]

### PART III REFERENCE TO COURT AND PROCEDURE THEREON

Reference  
court

18. (I) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2) or within six months from the date of the Collector's award, whichever period shall first expire. <sup>1</sup>[(3).....]

<sup>2</sup>[(4) Notwithstanding anything to the contrary contained in section 21, the Federal Government, the Provincial Government, a local authority or a Company, as the case may be, for or on behalf of whom the land is being acquired, may, if it has not accepted the award, refer the matter to the Court within a period of six months from the date of announcement of the award:

Provided that the Court shall not entertain the reference unless in its opinion there is a *Prima facie* case for inquiry and determination of the objection against the award.]

<sup>3</sup>[18 A X XXX XX]:

<sup>4</sup>[18-B (1) Any person dissatisfied with the order of the Collector under Section 18-A may, within a period of six weeks from the date of making thereof appeal to the <sup>5</sup>[Commissioner], to set aside the order.

(2) The <sup>6</sup>[Commissioner], shall call for the record of the case and fix a date for the hearing of the appeal and cause notice of the same to be given to the appellant, the persons to whom notice had been given under Section 18-A (1) and the Collector against whose order the appeal is made.

(3) On the date fixed for hearing the parties may appear personally or by pleader.

(4) After hearing the parties the <sup>7</sup>[Commissioner] shall pass an order.—

<sup>1</sup>.Add. by W.P. Ord. XLIX of 1969 (and the no omitted by Khyber Pakhtunkhwa Ord. No.XI of 1972.

<sup>2</sup>.Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>3</sup>.Ins. by Khyber Pakhtunkhwa Ord No.XVI of 1978.

<sup>4</sup>.18Aand18B ins. by Khyber Pakhtunkhwa Act No. XIX of 1947 then 18 A omitted by N.W.F.P. ord. No. XVI of 1978.

<sup>5</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>6</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>7</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

(a) accepting the appeal and directing the Collector to make a reference to the Court under Section 19, or

(b) rejecting it for reasons to be recorded by him in writing.

(5) If, in the judgment of the <sup>1</sup>[Commissioner], the appeal preferred to him is frivolous and without any just cause, he may, by his order, direct that the appellant shall pay to the Collector and any other person whom, on notice being given to him appears and opposes the appeal, costs up to rupees five hundred which shall be recovered from him as arrears of land-revenue.

(6) The order of the <sup>2</sup>[Commissioner] shall be final and no further appeal, review or revision shall be against it.

19. (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

Collector's  
Statement to the  
Court

- (a) the situation and extent of the land, with particulars of any trees, building or standing crops thereon :
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them and the amount of compensation awarded under section 11; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

20. The Court shall thereupon cause a notice specifying the day on which Court will proceed to determine the objection and directing their appearance before the court on that day to be served on the following persons, namely :—

Service of  
notice

- (a) the applicant;

<sup>1</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>2</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector, <sup>1</sup><sup>2</sup>[and the Provincial Government, the Federal Government], local authority or Company, as the case may be, for which land is being acquired].

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Restriction on scope of proceedings.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Proceedings in open Court.

<sup>3</sup>[22A. The Provincial Government,<sup>4</sup>[the Federal Government] or a local authority or a Company for which land is being acquired, may lodge a cross objection to the objection made by any person interested and the Court may reduce the amount awarded by the Collector that if it considers it just and proper].

Cross objection.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration:

Matter to be considered in determining compensation.

<sup>5</sup>[*firstly*, the market-value of the land on the date of taking possession of the land.]

<sup>6</sup>[*EXPLANATION*—For the purpose of determining the market value, the Court shall take into account transfer of land similarly situated and in similar use.

The potential-value of the land to be acquired if put to a different use shall only be taken into consideration if it is proved that land similarly situated and previously in similar use has, before the date of the notification under sub-section (1) of section 4, been transferred with a view to being put to the use relied upon as affecting the potential value of the land to be acquired:

<sup>1</sup>. Ins. by W. P. Ord. XLJX of 1969.

<sup>2</sup> Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>3</sup>. Ins. *ibid.*, s. 15.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>5</sup> Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>6</sup>. Add. by W. P. Ord. XLM of 1969;

**Provided that—**

- (i) if the market-value has been increased in consequence of the land being put to a use which is unlawful or contrary to public policy that use shall be disregarded and the market-value shall be deemed to be the market-value of the land if it were put to ordinary use; and
- (ii) if the market-value of any building has been increased in consequence of the building being so over crowded as to be dangerous to the health of the inmates such over crowding shall be disregarded and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as can be accommodated in it without risk of danger to health from overcrowding].

*secondly*, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

*thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land:

*fourthly*, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable in any other manner, or his earnings;

*fifthly*, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

*sixthly*, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

<sup>1</sup>[(2) In addition to the market-value of the land as above provided, the Court shall award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition, if the acquisition has been made for a public purpose and a sum of twenty-five per centum on such market-value if the acquisition has been made for a Company].

24. But the Court shall not take into consideration—

***first***, the degree of urgency which has led to the acquisition;

Matters to be neglected in determining compensation.

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<sup>1</sup>.Subs, by W. P. Ord. XL1X of 1969.

**secondly**, any disinclination of the person interested to part with the land acquired;

, .

**thirdly**, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

**fourthly**, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

**fifthly**, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

**sixthly**, any increase to the value of the land of the person interested likely to accrue from the use to which the land acquired will be put; or

**seventhly**, any outlay or improvement on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the <sup>1</sup>[notification under section 4, sub-section (1)]

25. (1) When the applicant has made a claim to compensation pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed  
<sup>2</sup>[\* \* \* \*].

Rules as to  
amount of  
compensation.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim., the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

<sup>3</sup>[(3) When the application, has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court may exceed the amount awarded by the Collector].

26. <sup>4</sup>[(1)J Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amount (if any) respectively awarded under each of the other classes of the same sub-section, together with the grounds of awarding each of the said amounts].

Form of awards.

<sup>1</sup>. Subs, by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), s. 8, for "declaration under s. 6".

<sup>2</sup>.The words, "or be less than the amount awarded by the Collector under section 1 omitted by W. P. Ord. XLIX of 1969, s.17.

<sup>3</sup>.Subs, by Khyber Pakhtunkhwa Ord. No.II 1972.

<sup>4</sup>.Section 26 renumbered as sub-section; md sub-section2)ins by Act No. XIX of 1922.

<sup>1</sup>[(2) Every such award shall be deemed to be decree and the statement of the ground of every such award a judgment within the meaning of section 2, clause (2), and section 2. clause (9), respectively, of the Code of Civil Procedure, 1908].

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

<sup>2</sup>[(28) [If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation. the award of the court may direct that the Collector shall <sup>3</sup>[deposit with the Court such amount as determined by it].]

#### PART IV.

##### APPORTIONMENT COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Deposited as to apportionment.

#### PART—V

##### PAYMENT.

<sup>4</sup>[31. (1) When the Collector has made an award under Section 11—

(a) If the persons interested entitled to compensation under the award and the Provincial Government<sup>5</sup>[or the Federal Government, where the land has been acquired for the Federal Government,] accept the

Payment of compensation or deposit of the same in Court.

<sup>1</sup>.Section 26 renumbered as sub-section; md sub-section2)ins by Act No. XIX of 1922.

<sup>2</sup>.Section.28 subs by Khyber Pakhtunkhwa Ord. At. V of 1983.

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>4</sup>.sub-section (I) of section 31 sub by Khyber Pakhtunkhwa Ord. No. XVI of 1978.

<sup>5</sup>.Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

award and intimate their acceptance in writing to the collector before the expiry of the period prescribed in sub-section (2) of section 18 for making an application to the Collector for referring the award to the court, or in sub-section (4) of the said section for referring the award to the Court by the Provincial Government,<sup>1</sup>[or the Federal Government, as the case may be,] whichever is later, or if the period specified in sub-section (2) of the said section for making an application to the Collector or in sub-section (4) for referring the award to the Court has expired and no such application or reference has been made, the Collector shall, before taking possession of the land, tender payment of the full amount of compensation awarded by him to the persons entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2);

- (b) if the persons interested entitled to compensation under the award or the <sup>2</sup>[Federal Government or Provincial Government, as the case may be,] object the award and an application has been made to the Collector under sub-section (2) of section 18 for referring the award to the Court or the award has been referred to the Court by the <sup>3</sup>[Federal Government or Provincial Government, as the case may be,] under sub-section (4) of that section, the Collector shall, before taking possession of the land, tender payment of the compensation awarded by him or the estimated cost of acquisition of such land as determined by the Collector of the district under sub-section (1) of section 17, whichever is less, to the persons entitled thereto under the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2).

Provided that no payment under clause (b) shall be made until the person entitled to compensation furnished to the satisfaction of the Collector a security for refund of the amount, if any, which may subsequently be found to be excess of the compensation awarded to him by the Court.]

(2) If they shall not consent to receive, it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

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<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001.

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency, of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the <sup>1</sup>[Commissioner] <sup>2</sup>[or where the land has been acquired for a public purpose on behalf of the Federal Government, with the sanction of the Federal Government,] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with, or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall-

- (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or
- (b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

Investment of money deposited in respect of land belonging to persons incompetent to alienate.

<sup>1</sup>. Subs, by W. P. Act XVI of 1957, "Provincial Government" for "Local Government", by A. O., 1937.

<sup>2</sup>. Inserted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incidental thereto, to be paid by the Collector, namely:—

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

33. When any money shall have been deposited in Court under this Act for cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Investment of money deposited in other cases.

<sup>1</sup>“(34). — When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with simple interest thereon at the rate of six per centum from the time of so taking possession until it shall have been so paid or deposited].”

Payment of interest.

## PART VI

### TEMPORARY OCCUPATION OF LAND;

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the <sup>2</sup>[Commissioner] that the temporary occupation and use of any waste or arable land are needed for any public purpose or for a Company, the <sup>3</sup>[Commissioner] may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

Temporary occupation of waste or arable land, Procedure when difference as to compensation exists

<sup>1</sup>Section 34 substituted by Khyber Pakhtunkhwa Ord. No. V of 1983.

<sup>2</sup>Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>3</sup>Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>1</sup>[(2) The Collector shall cause public notice of the substance of the direction to be given at convenient places in the locality in which the land is situate, and thereupon it shall be lawful for any officer, either generally or specially authorized by the Collector in this behalf, and for the servants and workmen of such officer, to enter upon and survey and, take levels of any land in such locality.]

<sup>2</sup>[(3) On receipt of plans detailing the land acquired, the Collector shall give notice in writing to persons interested in such land of the purpose for which the same is needed and shall, for the occupation and use thereof for such term as aforesaid, and for the material, if any, to be taken there from, pay to them such compensation, either in a gross sum of money or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.]

<sup>3</sup>[(4)] In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference, to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Power to enter and take possession, and compensation on restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the <sup>4</sup>[Commissioner] shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land.

<sup>1</sup>.Subs, by W. I. Ord. of 1969. s. 19.

<sup>2</sup>.Ins. by W. V. Ord. XLIX of 1969, s. 19 (6).

<sup>3</sup>.Sub-section (3) was re-numbered as sub-section (4) by W. P. OrclXLIX 1969.

<sup>4</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

**PART VII**  
**ACQUISITION OF LAND FOR COMPANIES.**

38. <sup>1</sup>[(1).The <sup>2</sup>[Commissioner] may authorize any officer any Company desiring to acquire land for its purpose to exercise of the powers conferred by sub-section (2) of section 4.]

Company may be authorized to enter and survey.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and <sup>3</sup>[Sub-section (3) of section 4] shall be construed as if after the words "the officer" the words "of the Company" were inserted.

<sup>4</sup>[38-A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 5-A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.]

Industrial concern to be deemed company for certain purposes.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the <sup>5</sup>[Commissioner] nor unless the Company shall have executed the agreement, hereinafter mentioned.

Previous consent of <sup>1</sup>[Commissioner] and execution of agreement necessary.

40. (1) Such consent shall not be given unless the <sup>6</sup>[Commissioner] be satisfied, <sup>7</sup>[either on the report of the Collector under section 5-A, sub-section (2) or] by an enquiry held as herein after provided -

Previous enquiry.

<sup>8</sup>[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

<sup>9</sup>[(aa)] that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for

<sup>1</sup>.Subs. by W.P. Ord No.XLIX of 1969.

<sup>2</sup>Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>3</sup>.Subs. by W. P. Ord. No.XLIX of 1969.

<sup>4</sup>.Ins. by the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

<sup>5</sup>Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>6</sup>Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>7</sup>.Ins. by the Land Acquisition Amendment) Act. 1923 (XXXV III of 1923)

<sup>8</sup>.Sub. by Act XVI of 193.3, s. 3, for the original Clauses (a) and (b).

<sup>9</sup>.Ins. by W. P. Ord. I of 1965.

engaging itself in any industry or work which is for a public purpose, or].

<sup>1</sup>[(b)] that such acquisition is needed in the public interest for the purposes of a company.,-<sup>2</sup>[or].

<sup>3</sup>[(c)] that the area proposed to be acquired is reasonable for the purpose.]

(2) Such enquiry shall be held by such officer and at such time and place as the <sup>4</sup>[Commissioner] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the <sup>5</sup>Code of Civil Procedure]in the case of a Civil Court.

**<sup>6</sup>[41. Agreement between Commissioner and Company.---** If the Commissioner is satisfied after considering the report, if any, of the Collector under sub-section (2) of section 5-A, or on the report of the officer making an inquiry under section 40 that-

- (a) the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith; or
- (b) such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose; or
- (c) such acquisition is needed in the public interest for the purpose of a Company; or
- (d) the area proposed to be acquired is reasonable for the purpose,

the Commissioner shall enter into agreement with the Company after satisfaction of the following matters, namely:

- (e) the payment to the Commissioner of the cost of the acquisition;
- (f) the transfer, on such payment, of the land to the Company;
- (g) the terms on which the land shall be held by the Company;

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<sup>1</sup>.Subs. by Khyber Pakhtunkhwa Ord. No.IX of 1952.

<sup>2</sup>. Subs, by W. P. Ord. XLIX of 1969, for the full-stop.

<sup>3</sup>. Add. ibid.

<sup>4</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>5</sup>.Now the Code of Civil Procedure, 1908.

<sup>6</sup> Substituted vide Khyber Pakhtunkhwa Act No. XII of 2020

- (h) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and
- (i) where the acquisition is for the construction of any other work, the time within which and the condition on which the work, shall be executed and maintained, and the terms on which the public shall be entitled to use the work.]

42. Every such agreement shall, as soon as may be after its execution, be published <sup>1</sup>[\* \* \*] in the <sup>2</sup>[Official Gazette] <sup>3</sup>[and the acquisition shall be deemed to have been made subject to the terms of such agreement].

Publication of agreement.

43. The provision of: section 39 to 42, both inclusive, shall not apply and the corresponding section of the <sup>4</sup>[Land Acquisition Act, 1870], shall be deemed never to have applied, to the acquisition of land, for any; \_Railway or other, Company, for the Secretary of which <sup>5</sup>[under any. agreement with such Company, the Secretary of, State for India, in Council, the Secretary- of .State. <sup>6</sup>[the]<sup>7</sup>[Federal] Government or any Provincial Government] is or was bound to provide land].

Section 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

<sup>8</sup>[43-A. No Company for which any land is acquired under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise, except with the previous sanction of the Provincial Government].

Restrictions on transfer, etc.

<sup>9</sup>[44. in the case -of the acquisition of land for the purpose of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

How agreement with Railway Company may be provide.

<sup>10</sup>[44-A. Any acquisition of land made under this Act, for the purpose of a company before the coming in to force of the Land Acquisition (North-West Frontier Province

<sup>1</sup>.The words "In the Gazette of India and also" rep. by A.O. 1937.

<sup>2</sup>.Subs. ibid, for "local official Gazette."

<sup>3</sup>.Subs by. W.P.O Ord. XLIX of 1969 s. 23 for "and shall there upon (so far as regards the termson which the public shall be entitled to use the work) have the same effect as if it bad formed part of this Act."

<sup>4</sup>.Rep. by this Act.

<sup>5</sup>.Subs., by A. O., 1937.for "under any agreement between such company and the Secretary of State for India in Council, the Government is or was. hound to provide land".

<sup>6</sup>.Subs, by A.O..1949, Sch., for "or any Government in British India".

<sup>7</sup>.Subs, by Khyber Pakhtunkhwa.A.L.O.1975.

<sup>8</sup>.Ins. by W. P Ord. XLIX of 1969.

<sup>9</sup>.44 A Inserted by Khyber Pakhtunkhwa Act No. IX of 1952.

<sup>10</sup>.44 A Inserted by Khyber Pakhtunkhwa Act No. IX of 1952.

Amendment) Act, 1952 shall not be invalid only because the purpose for which the land was required was not one of the purposes specified in clauses (a) and, (b) of sub-section (1) of Section 40, provided however, that it was a purpose in accordance with the amendment affected by the land acquisition (N-W.F. P Amendment) Act. 1952].

## PART VIII

### MISCELLANEOUS.

45. (1) Service of any notice under the Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him, and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the <sup>1</sup>[Indian Post Office Act, 1866], and service of it may be proved by the production of the addressee's receipt.

46. Whoever willfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding <sup>2</sup>[twenty five thousand rupees], or to both, <sup>3</sup>[and to fines equal to the actual loss suffered or damages caused, as fixed by Magistrate].

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to

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<sup>1</sup>.Now the Post Office Act, 1898 (VI of 1189).

<sup>2</sup> Substituted vide Khyber Pakhtunkhwa Act No. XXIII of 2019.

<sup>3</sup>.Ins. by Khyber Pakhtunkhwa Act No.XIX of 1987.

himself and, if not a Magistrate, he shall apply to a Magistrate <sup>1</sup>[\* \* \* \*] and such Magistrate<sup>2</sup>[ \* \* \* ] shall enforce the surrender of the land to the Collector.

48: (1) Except in the case, provided .for. in .section 36, the <sup>3</sup>[Commissioner] shall be at liberty to withdraw from a the acquisition of any land of which possession has not been taken.

(2) Whenever the <sup>4</sup>[Commissioner] withdraws from any such question, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

<sup>5</sup>[48 A. Compensation to be awarded when land not acquired within one year.

- (1) If within a period of one year from the date of publication of declaration under Section 6 in respect of any land the Collector has not made an award under section II in respect to such land, the owner of the land shall, unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of delay.
- (2) The provisions of Part II of this Act, shall apply so far as may be possible to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not put in force for the purpose of acquiring a part of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under section 11 , by notice in writing withdraw or modify; his expressed desire that the whole of such house, manufactory or building shall be so acquired:

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<sup>1</sup>. The words and brackets (or within the towns of Calcutta, Madras and Bombay) the "Commissioner of Police", omitted by A. O., 1949.

<sup>2</sup>. The words and brackets, "as Commissioner (as the case may be)", omitted ibid.

<sup>3</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>4</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>5</sup>.48-A ins. By Khyber Pakhtunkhwa ActNo.I of 1987.

Provided also that, if any question shall arise as to whether, any land proposed, to be taken under this Act does or does not form part of, a house, manufactory or building within the meaning of this Section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined .

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23 sub-section (I), *thirdly*, by a person interested, on account of the severing of land to be acquired from his other land, the <sup>1</sup>[Commissioner] is of opinion that the claim is unreasonable or excessive, <sup>2</sup>[he] may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under section 6 to 10, both inclusive, shall be necessary, but the Collector shall without delay furnish a copy of the order of the <sup>3</sup>[Commissioner] to the person interested, and shall thereafter proceed to make his award under section 11.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company

Acquisiti  
on of land at  
cost of 2 local  
authority or  
company.

<sup>4</sup>[(1-A) Any charges to be defrayed from the funds of a local authority or Company under sub-section (1), may be recovered, in addition to any there mode of recovery provided in any other law, as arrears of land revenue].

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation.

<sup>5</sup>[\*\*\*\*\*]

51. No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption  
from Stamp  
duty and fees.

<sup>1</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>2</sup>. Subs. by W.P. Act XVI of 1957, for "it".

<sup>3</sup> Substituted Vide Khyber Pakhtunkhwa Act No. III of 2009

<sup>4</sup>. Ins. by W.P. Ord. XLIX of 1969.

<sup>5</sup> Deleted vide Khyber Pakhtunkhwa Ordinance No. XVII of 2001

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof nor after tender of sufficient amends.

Notice in case of suits for any thing done in pursuance of Act.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the <sup>1</sup>[Code of Civil Procedure] shall apply to all proceedings before the Court under this Act.

Code of civil procedure to apply to proceedings before court.

<sup>2</sup>[54. Subject, to the provisions of the Code of Civil Procedure 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceeding under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid, an appeal shall lie to <sup>3</sup>[the Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in order XLV thereof].

Appeals in proceedings before court.

55. (1) The <sup>4</sup>[Provincial Government] shall <sup>5</sup>[\* \* \*] have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

<sup>6</sup>[\* \* \* \* \*]

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall <sup>7</sup>[\* \* \*] be published in the official Gazette, and shall thereupon have the force of law.

**<sup>8</sup>[56 Bar of legal proceedings against Revenue Officer. — No suit, prosecution or other legal proceeding shall lie against a Revenue Officer for anything done or intended to be done in good faith in pursuance of the provisions of this Act.]**

<sup>1</sup>.Now the Code of Civil Procedure 1908.

<sup>2</sup>.Subs. by the Land Acquisition (Amendment) Act.1921) (X of 1921).s.3.

<sup>3</sup>.Subs. by A.O 1961, for "His Majesty in Council."

<sup>4</sup>.Subs, by A.O, 1937, for "Local Government."

<sup>5</sup>. The words "Subject to the control of the G.G. in C." which had been ins. by the Decentralization Act, 1914 (IV of 1914), were rep. by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

<sup>6</sup>.The proviso which had been added by s. 2 and Sch. 1 of the Devolution Act, 1920.

<sup>7</sup>. The words "when sanctioned by the G.G. in C." were rep. by the Decentralization Act, 1914), s. 2 and Sch, Part-1.

<sup>8</sup>. Added vide Khyber Pakhtunkhwa Act No. XIII of 2020