

THE BALOCHISTAN TENANCY ORDINANCE, 1978

(Baln. Ordinance XXIV of 1978)

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'THE *BALOCHISTAN TENANCY ORDINANCE, 1978

Preamble.

Short title, extent
and
commencement.

Definition.

(Balochistan Ordinance XXIV of 1978)

[27" December, 1978]

An Ordinance to regulate the rights and liabilities of
tenants and landlords in the Province of Balochistan.

WHEREAS it is necessary to provide a law to govern
the rights and liabilities of tenants and the landlords in lands in
the Province of Balochistan and matters connected therewith;

AND WHEREAS the Governor is satisfied that
circumstances exist which render it necessary to take immediate
action;

NOW, THEREFORE, in pursuance of the Proclamation
of the fifth day of July, 1977, read with the Laws (Continuance
in Force) Order, 1977 (CMLA Order No. 1 OF 1977)* and in
exercise of all powers enabling him in that behalf, the Governor
of Balochistan is pleased to make and promulgate the following
Ordinance: —

CHAPTER - I PRELIMINARY

1. (1) This Ordinance may be called the Balochistan
Tenancy Ordinance, 1978.

(2) It extends to the whole of Balochistan except the
Tribal Areas.

(3) It shall come into force at once.

2. In this Ordinance unless there is something repugnant in
the subject or context: —

(1) "land" means land which is not occupied as the site of any building, in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for

This Ordinance was promulgated by the Governor of Balochistan on 27 December, 1978; published in Balochistan Gazette (Extraordinary) No. 106, dated 27" December, 1978. Saved and validated by Article 270-A of the Constitution of the Islamic

Republic of Pakistan (1973).

Spelling of the word "Baluchistan", wherever it appears in this ordinance, is corrected by insertion of letter "o" instead of "u"; a per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

Proclamation of Martial Law, published in the Gazette of Pakistan, Extraordinary, Part I, dated 5" July, 1977.

Chief Martial Law Administrator Order I of 1977, published in the Gazette of Pakistan, Extraordinary, Part I, dated 5" July, 1977.

(2)

(3)

(4)

6)

(6)

7)

(8)

pasture, and includes the sites of buildings and other structures on such land;

"pay" with its grammatical variations and cognate expressions, includes, when used with reference to rent "deliver", and "render", with their grammatical variations and cognate expressions;

"rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him; but it shall not include any cess village cess or other contribution or due or any free personal service;

"arrear of rent" means rent which remains unpaid after the date on which it becomes payable;

"tenant" means a person who holds land under another person and is or, but for a special contract, would be liable to pay rent for that land to that other person; but it does not include: —

(a) a mortgagee of the rights of a landowner, or

(b) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Balochistan Land Revenue Act, 1967!, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(c) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it;

"landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be liable to pay rent for

that land;

"Tenant" and "landlord" include the predecessors and successors-in-interest of a tenant and landlord, respectively;

"tenancy" means a parcel of land held by a tenant of landlord under one lease or one set of

1 That is W.P. Act XVII of 1967, published in the W.P. Gazette (Extraordinary), dated 7 December, 1967, pages 3603-3656; adopted by the Balochistan Laws (Adaptation) Order, 1975, with substitution of the word "Balochistan" for the words "West Pakistan".

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conditions;

(9) "estate", "landowner" and "holding" have the meanings respectively assigned to those words in the Balochistan Land Revenue Act, 1967¹;

(10) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Balochistan Land Revenue Act, 1967², and includes: —

(a) any rate imposed in respect of the increased value due to irrigation, and

(b) any sum payable in respect of land, by way of quit rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment;

(11) "Rate and cess" means rates and cesses which are primarily payable by landowners, and includes:

(a) _ the local rate, if any, payable under article 59 of the Basic Democracies Order of 1959³ from landowners for the use of or benefits derived from such works;

(b) any annual rate chargeable on owners of land under section 59 of the Canal and Drainage Act, 1873⁴;

(c) _ the village officers cesses; and

(d) sums payable on account of village expenses;

(12) "Village cess" means any cess, contribution of due which is customarily leviable, from landowners and non-landowners alike within an estate for the common purposes of the inhabitants thereof, and is neither a payment for the use of any private property or for personal service, nor imposed by or under any enactment for the time being in force, and does not mean any cess,

1 That is W.P. Act XVII of 1967. See footnote under section 2 (5) (b) for more details.

2 That is President Order No. 18 of 1959. Repealed by the subsequent Local Governments laws and further one after other and

the Balochistan Local Government Act, 2010 (Act V of 2010) is in force. See the Balochistan Gazette (Extraordinary) No. 418, dated 13th May, 2010.

That is Act VIII of 1873, now repealed and replaced by the Balochistan Ordinance XX of 1980. See Balochistan Gazette (Extraordinary) No. 241, dated 10^o December, 1980.

contribution or due leviable, for the benefit of any individual residents or class of residents in the estate, or in relation to any property which is not meant for the common use of all the residents.

Explanation: — If any question arises whether any cess, contribution or due is or is not a village cess, the decision of the Provincial Government shall be conclusive and shall not be liable to be questioned in any Court;

(13) "Village Officer" means a Chief headman, headman or patwari;

(14) "Revenue Officer" or "Revenue Court", in any provision of this Ordinance means a Revenue Officer or Revenue Court having authority under this Ordinance to discharge the functions of a Revenue Officer or Revenue Court as the case may be, under that provision;

(15) "Legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879¹, except a mukhtar;

(16) "Agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Provincial Government may by notification appoint for any local area;

(17) "Notification" means a notification published by the authority of the Provincial Government in the Official Gazette; and

(18) "Improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution made directly beneficial to it.

Explanation: — If includes, among other things: —

(a) the construction of wells and other works

¹ That is Federal Act XVIII of 1879. Repealed and replaced by the Federal Act III of 1965, which is further repealed and replaced by Federal Act XXXV of 1973.

Tenants having
rights of

for the storage or supply of water for
agricultural purposes;

(b) the construction of work for drainage and
for protection against floods;

(c) the planting of trees, the reclaiming,
enclosing, levelling and tracting of land
for agricultural purposes and other works
of a like nature;

(d) the erection of buildings required for the
more convenient or profitable cultivation
of a tenancy; and

(e) the renewal or re-construction of any of
the forgoing works, or such alterations
therein, or additions thereto, as are not of
the nature of more repairs and as durably
increase their value;

But it does not include such clearances, Embankments,
levelling, enclosures, temporary wells and water
channels as are made by tenants in the ordinary course
of cultivations and without and special expenditure, or
any other benefit accruing to land from the ordinary
operations of husbandry.

Explanation- IT A work which benefits
several tenancies may be deemed to be with respect, to
each of them, as improvement.

Explanation- IT A work executed by a
tenant is not an improvement if it substantially
diminishes the value of any other part of his landlord's
property.

CHAPTER - II CLASSES OF TENANTS

There shall be for the purposes of this Ordinance the

following classes of tenants only, namely: —

- (a) Occupancy tenants;
- (b) Lathband tenants; and

(e) Tenants at will.

(1) A tenant: —

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occupancy.

Right of occupancy
in land taken in
exchange.

Establishment of
right of occupancy
on grounds other
than expressly

stated in Ordinance.

Right of occupancy
not to be acquired

(a) who at the commencement of this
Ordinance has been entered as hereditary
(Mauroosi) tenant in the record of rights
prepared at the time of settlement; or

(b) who at the commencement of this
Ordinance has for more than two
generations in the male line of descent
through a grandfather or granduncle and
for a period of not less than twenty years,
been occupying land payment no rent
therefor beyond the amount of the land
revenue thereof and the rates and cesses
for the time being chargeable thereon; or

(c) who has permanent and hereditary rights
tenancy in the land subject to payment of
rent and other such conditions as
prevalent in the area either in the codified
form or, in the form of "viwaj" has a right
of occupancy in the land so occupied.

(2) If a tenant proves that he has continuously
occupied land for thirty years and paid no rent therefor beyond
the amount of the land revenue thereof and the rates and cesses
for the time being chargeable thereon, it may be presumed that
he has fulfilled the conditions of clause (c) of sub-section (1).

(3) The words in clause (c) denoting natural
relationship denote also relationship by adoption, including
therein the customary appointment of an heir, and relationship
by the usage of religious community.

4. If the tenant has voluntarily exchange the land, or any
portion of the land, formerly occupied by him for other land

belonging to the same landlord the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

5. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

6. No tenant shall acquire a right of occupancy by mere

by more lapse of time.

Right of occupancy
not to be acquired
by joint owner in
land held in joint
ownership.

Lathband tenants.

Tenants at will.

Rights and
liabilities regarding
rent and
Government dues.

lapse of time.

7. In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

A tenant: —

(a) who at the commencement of this Ordinance has been recorded in the

record of rights as a /athband tenant; or,

(b) who converts Culturable or Khushkaba lands into Sailaba lands by constructing embankments and Bundat: or,

(c) who with the consent of his

landlord/owner of the land instals a tubewell open surface well, persian wheel or manages to irrigate the land by a pumping machine or by any _ other mechanism;

has a right of occupancy in the land as long as he keeps the embankments in repairs and cultivates the land whenever opportunity is offered by the rain fall.

9. All other tenants except those mentioned in Section 3 to 8 shall be tenants at will provided that a tenant at will shall acquire the status of an occupancy tenant or Lathband tenant if he obtains a decree of the court of competent jurisdiction.

CHAPTER - III
RENT
RENTS GENERALLY

10. (1)

division of the produce shall remain the same as it existed at the

The rent of any land payable by the tenant by

time of coming into force of this Ordinance.

(2) Land Revenue and other taxes, cesses,
surcharges and levies on land shall be payable by the owner.

(3) The liability for payment of water rate and

providing seed for any land shall be that of the owner or other
person in possession thereof other than the tenant.

Commutation and
alteration of rent.

(4) The cost of Fertilizers and Pesticides required for the land comprised in a tenancy shall be shared equally between the owner and the tenant.

(5) No owner or person in possession of any land shall levy any cess on or take any labour from any of his tenant.

(6) Any dispute between the landlord and a tenant in respect of the rent payable by the latter to the former shall be treated as a matter falling under section 63 of this Ordinance.

(7) Nothing in this section shall apply to the case of tenant holding any land under the Provincial or the Federal Government or under any Municipal Committee or any other authority as may be notified by the Provincial Government in this behalf, or to a tenant of any land, which under the provisions of this Ordinance or any other law for the time being in force, has been reserved by the landlord for personal cultivation.

11. (1) Where rent is taken by any of the following methods, namely: —

(a) by division or appraisement of the produce;

(b) by rates fixed with reference to the nature of the crops grown;

(c) by a rate on a recognised measure of area;

(d) by a rent in gross on the tenancy; or

(e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section, and by another partly or others of them.

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant, whose rent is taken by any of the methods specified in clause (a), (b) and (c) of sub-section (1), or by the methods specified in clause (d) of the sub-section, shall not be liable to pay for a tenancy rent at

any higher rate, or of a higher amount, as the tenancy for the preceding agricultural year.

Payments for land
occupied without
consent of landlord.

Collection of rent
of undivided

property.

Presumption with
respect to produce
removed before
division.

Finality of the
decision of the
officer conducting
the division

Cost of Division.

Enhancement of
produce rents of
occupancy tenants
and lathband
tenants

12. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year at such rate as the court may determine to be fair and equitable.

13. When two or more persons are landlords of a tenant in respect of the same tenancy the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

14. Where rent is taken by division of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

15. If either the landlord or tenant neglects after a notice of the time and place at which the division will be made is given to him, to attend either personally or through agent at the proper time for making the division of the produce, or if there is a

dispute about the division, the decision of the officer conducting the division shall be final.

16. The result of the division shall be recorded and signed by the officer conducting the division who shall also make such order as to the costs of division as he thinks fit.

17. Where the rent of a tenant having a right of occupancy and that of Jathband tenants in any land is a share of the produce or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent:

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded the rent payable in respect of the land or part may, subject to the provisions of this Ordinance be enhanced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having similar right of occupancy, for irrigated or flooded land of a similar description and with similar

Reduction of rents referred to in the last foregoing section.

Enhancement and reduction of rent by suit.

Discretion as to extent of enhancement or reduction.

advantages.

18. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies, ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share of rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded of similar description and with similar advantages.

19. (1) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Ordinance, enhance or reduce the rent of any tenant having a right of occupancy.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed under this Ordinance, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local areas in which the land comprised in the decree is situate, has been generally reassessed and the revenue payable in respect of that land has been increased.

(3) Subject to the provisions of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely:—

(a) If within the ten years next proceeding its institution his rent has been commuted under section 11 or enhanced under this section;

(b) if within that period a decree has been passed under this Ordinance dismissing on the merits a suit for the enhancement of this rent;

unless the land or some part of the land comprised in his tenancy not having been irrigated or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

20. In enhancing or reducing the rent of any land under the foregoing provisions of this Chapter, the Court shall, within the limits prescribed by those provision, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the

Time for
enhancement or
reduction to take
effect.

Alteration of rent or
alteration of area.

land revenue of the land and the rates and cesses chargeable
thereon.

21, (1) Unless the Court decreeing an enhancement of
rent otherwise directs, the enhancement shall take effect from
the commencement of the agricultural year next following the
date of the decree.

(2) A court decreeing a reduction of rent shall
specify in the decree the date on and from which the reduction
is to take effect.

22. (1) Every tenant shall: —

(a) be liable to pay additional rent for the
land proved to be in excess of the area for
which rent has been previously paid by
him, unless it is proved that the excess is
due to the addition to his tenancy of land
which, having previously belonged to the
tenancy, was lost by diluvian or
otherwise without any reduction of the
rent being made; and

(b) be entitled to an abatement of rent in
respect of any deficiency proved to exist
in the area of his tenancy as compared
with the area for which rent has been
previously paid by him, unless it is
proved that the deficiency is due to the
loss of land which was added to the area
of the tenancy by alluvion or otherwise,
and that an addition has not been made to
the rent in respect of the addition to the
area.

(2) In determining the area for which rent has been
previously paid, the Court shall have regard to the following
among other matters, namely: —

(a) the origin and condition of the tenants
occupancy for instance, whether the rent
was a rent in gross for the entire tenancy;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the

Remission of rent
by Courts decreeing
arrears.

Power to deposit
rent in certain cases
with Revenue
Officer.

Effect of depositing
rent.

landlord; and

(c) the length of time during which there has
been no dispute as to rent or area.

(3) In adding to or abating rent under this section,
the Court shall add to or abate the rent to such an amount as it
deems to be fair and equitable, and shall specify in its decree
the date on and from which addition or abatement is to take
effect.

(4) An addition or abatement of rent under this
section shall not be deemed an enhancement or reduction of
rent within the meaning of this Ordinance.

23. Notwithstanding anything in the foregoing sections of
this Chapter, if it appears to a Court making a decree for an
arrear of rent that the area of a tenancy has been so diminished
by dilution or otherwise, or that the produce thereof has been so
diminished by drought, hail, deposit of sand or other like
calamity, that the full amount of rent payable by the tenant
cannot be equitably decreed, the court may, with the previous
sanction of Collector, allow such remission from the rent
payable by the tenant as may appear to it to be just.

24. In either of the following cases, namely: —

(a) when a landlord refuses to receive, or grant a
receipt for, any rent payable in money when
tendered to him by a tenant;

(b) when a tenant is in doubt as to the person entitled
to receive rent payable in money, the tenant may
apply to Revenue Officer for leave to deposit the
rent in his office, and the Revenue Officer shall
receive the deposit if, after examining the
applicant, he is satisfied that there is sufficient
ground for the application and if the applicant
pays the fee, if any, chargeable for the issue of

the notice next hereinafter referred to.

25. (1) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person whom he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be

Recovery of rent
from attached
produce.

Relinquishment by
tenant for a fixed
term.

titled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the, or against any officer of the Government, in respect of any thing done by a Revenue Officer under this Section, but nothing in this sub section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer.

26. (1) If an order is made by any Court for the attachment of the produce of a tenancy, or of any part of a tenancy, the landlord may apply to the Revenue Officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of: —

(a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue Officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue Officer under sub section (2) shall have the force of a decree in a suit between the landlord and the tenant.

CHAPTER - IV RELINQUISHMENT, ABANDONMENT AND EJECTMENT

RELINQUISHMENT

27. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

Relinquishment by
any other tenant.

Relinquishment of
part only of a
tenancy.

Abandonment of
tenancy by
occupancy tenant.

Grounds of
ejectment of
occupancy tenant.

28. (1) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to a Revenue Officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue Officer, on receiving the cost of service from the tenant, shall cause notice to be served as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

29. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

30. If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy either by himself or through some other person, and to arrange for the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

31. A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely: —

(a) that he has failed to pay the rent in accordance with the terms of his tenancy;

(b) that he has used the land comprised in the

tenancy in a manner which renders it unfit for the purposes for which he held it;

(c) that he has failed to cultivate or arrange for the cultivation of the land comprised in the tenancy in accordance with the terms thereof or if there are no express terms in this behalf, in accordance with the customary manner of cultivation in the locality;

(d) that a decree for an arrear of rent in respect of the tenancy has passed against him and remains

Grounds of
ejectment of
lathband tenant.

Cognizance of
ejectment suit.

Application for

ejectment of tenant.

unsatisfied.

32. A lathband tenant shall be liable to be ejected from his tenancy on any of the following grounds, namely: —

(a) that he has failed to pay the rent in accordance with the terms of his tenancy;

(b) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(c) cultivation of the land comprised in the tenancy in accordance with the terms thereof or if there are no express terms in this behalf, in accordance with the customary manner of cultivation in the locality.

PROCEDURE ON EJECTMENT

33. A suit of ejectment by a landlord against his tenant shall be filed in a Revenue Court of an Assistant Collector of I grade, hereinafter referred to as the Court.

34. (1) A landlord may make an application with as many copies as the number of tenants to be ejected for the ejectment of the tenant on any one or more of the grounds mentioned in Section 30, 31 & 32 of the Ordinance.

(2) The application under sub section (1) shall be accompanied by: —

(a) an attested copy of latest entry in the Register Hagdarana Zamin relating to land mentioned in the application if such a Register has been prepared for the mauza concerned;

(b) an attested copy of the latest entry in the Jamabandi, if such a record has been

prepared for the mauza concerned; and

(c) an attested copy of entries in the register Girdawari relating to last two harvests, if such a Register is maintained for the mauza concerned.

(3) Every application shall be presented to the Court on any working day during office hours by the applicant

Rule of Procedure.

Contents of order of
the court.

Execution of order
of ejectment.

Time for ejectment.

Notice of
ejectment.

personally or through an authorised agent.

(4) The statements and pleadings made by or on behalf of the landlord shall be as brief as the nature of the case admits and shall not be argumentative, but shall be confined, as such as possible, to simple and concise narration of the facts.

35. (1) On receipt of the application of a landlord, the Court shall, if the application is in order and not open to objection, cause a notice, with a copy of the application, to be served on every tenant separately, to show cause why he shall not be ejected from his tenancy or such portion thereof as is mentioned in the application.

(2) The notice shall specify the name of the landlord on whose application it has been issued and shall give description of the land to which it relates.

(3) The Court, after hearing the parties, on a date fixed for the purpose, and after making such enquiries as it may consider necessary, shall pass an order directing the tenant to be ejected or the notice to be discharged, as the case may be.

36. In every proceeding in which an order is passed on merits, the Court making the order shall also record a brief statement of the reasons on which it is based.

37. (1) In no case shall a tenant be ejected without paying such compensation to him, as he may be entitled to, for the crop, if any, or for preparing the land for sowing, if it has been so prepared, and for improvement, if any, on his tenancy, as may be determined by the Court.

(2) The order for the ejectment of tenant shall be executed within such dates as may be specified by the court in his order and those dates shall be the dates as prescribed in the Tenancy Law, and if there be no such law, the Court shall be guided by the custom and usage of the locality in this behalf.

38. No order for the ejectment of a tenant shall be executed before the Rabi crops has been harvested and after the Kharif sowing has started, unless the Court for reasons to be recorded, otherwise directs.

39. Before the execution of order of ejectment, a notice shall be served upon the tenant calling upon him to deliver the possession of the land to the landlord within a period not exceeding 30 days and if he fails to do so the Court shall issue a

Relief against
forfeiture.

Relief for wrongful
dispossession or
ejectment.

warrant of ejectment which shall be executed by an official not below the rank of Kanungo with or without the assistance of Police as may be directed by the Court according to the circumstances of the case.

40. (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in section 30 and clause (a), (b) and (c) of sections 31, 32 and 33 it appears to the Court that the injury caused by the Ordinance or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefore, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The Court may, from time to time, for special reasons, extend a period fixed by it under sub section (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Al. (1) A tenant who has been ejected or dispossessed in an unauthorised manner may apply/complain in writing to the Revenue Officer with powers of an Assistant Collector of 1st Grade.

(2) On receipt of an application under sub section (1) above, the Revenue Officer shall hear the complaint and also afford the defendant an opportunity of being heard; and after making such other enquiries as he may deem fit, shall pass an order.

(3) If the Assistant Collector of the 1st Grade or the Revenue Officer decides the case in favour of the tenant, he shall ensure that the tenancy is restored to him within 30 days of the date of order, but if an appeal or revision is preferred against that order, the Collector of the District shall ensure that it is restored within 30 days of the order of the appellate/ revisional court.

(4) In addition to restoration of tenancy, the

Revenue Officer deciding the case or the appellate or the revisional court may order that the landlord shall pay to the tenant such compensation as he or it, as the case may be, may deem fit for the hardship caused to the tenant due to the

unlawful ejectment and any damage done to the crops or lands involved in the tenancy during the period the tenant remained so ejected. This compensation shall be recovered from the landlord as arrears of land revenue. The landlord shall not be entitled to any compensation whatsoever even if he has been made any improvements on the land during the period of ejectment in question and shall not be entitled to remove anything from the land after the date for first order against him.

(5) If the case is decided by the Assistant Collector of the 1st Grade, appeal shall lie to the Collector of the District and should be preferred within 15 days of the passing of the order by the Assistant Collector of the 1s Grade.

(6) The '[Commissioner] may, at any time, on his own action, or on an application made to him by the tenant within 15 days of passing of any order by the Assistant Collector of 1* Grade or Collector of the District, as the case may be, call for the record of any case pending before, or disposed of by, any of the above two Revenue Officers, and pass such order as he thinks fit:

Provided that no order shall be passed by the *[Commissioner] is revising or modifying any proceedings or order of a subordinate Revenue Officer affecting any person without giving such person an opportunity of being heard.

Bar of relief by suit 42. Possession of a tenancy or of any land comprised in under section 9 Act tenancy shall not be recoverable under section 9 of the Specific 11877. Relief Act, 18773, by a tenant dispossessed thereof.

Power for Local 43. The Provincial Government may for all or any of the Government to fix _ territories under its administration by notification fix for the dates for certain purposes of sections 28, 35 and 38 or of any of those sections, purposes. any other dates instead of those specified therein.

Grounds of 44. A tenant at will shall be liable to be ejected from his ejectment of tenancy on any of the following grounds, namely: —

tenaney at will. (a) that he has failed to pay the rent in accordance

with the terms of his tenancy;

(b) that he has used the land comprised in the tenancy in a manner which renders it unfit for the

Bb

Substituted for the words "Revenue Tribunal" by Balochistan Act I of 2009, published in the Balochistan Gazette (Extraordinary No. 44, dated 7" April, 2009. Earlier the words "Revenue Tribunal" were substituted for the word "Commissioner" by Balochistan Ordinance XXXIII of 2001; declared continued to be in force by Article 270-AA of the Constitution of Islamic Republic of Pakistan, 1973.

Substituted, *ibid.*

3 That is Act I of 1877.

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Private transfer of
right of occupancy
under section 3 by
tenant.

purposes for which he held it;

(c) that he has failed to cultivate or arrange for the cultivation of the land comprised in the tenancy in accordance with the terms thereof or if there are no express terms in this behalf, in accordance with the customary manner of cultivation in the locality;

(d) that he has sublet his tenancy.

CHAPTER - V

ALIENATION, AND SUCCESSION TO RIGHT OF OCCUPANCY

45. (1) A tenant having a right of occupancy under section 3 may transfer that right by sale, gift, or mortgage, subject to the condition mentioned in this section.

(2) If he intends to transfer the right by sale, gift, mortgage, by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue Officer and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(3) Within the period of one month the landlord may claim to purchase the right at such value as a Revenue Officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue Officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue Officer within such time as that Officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue Officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged,

the tenancy shall pass to the landlord unincumbered by the mortgaged but the mortgaged debt shall be a charge on the purchase-money.

Procedure on
foreclosure of
mortgagee of right
of occupancy under
section 3.

Sale of right of
occupancy under
section 3 in

execution of decree.

Right and liabilities
of transferee of
right of occupancy.

Sub-letting.

(8) If there is no such charge as aforesaid, the
Revenue Officer shall, subject to any direction which he may
receive from any Court, pay purchase-money to the tenant.

(9) If there is such a charge, the Revenue Officer
shall, subject as aforesaid, either apply in discharge of the
mortgage so much of the purchase-money as is required for
that purpose and pay the balance, if any, to the tenant, or retain
the purchase-money pending the decision of a Civil Court as to
the person or persons entitled thereto.

(10) Where there are several landlords of a tenancy,
anyone of them may be deemed to be the landlord for the
purpose of this section.

(11) No suit or other proceeding shall be instituted
against the Government or against any officer of the
Government in respect of anything done by a Revenue Officer
under the two last foregoing sub sections, but nothing in this
sub section shall prevent any person entitled to receive the
whole or any part of the purchase-money from recovering it
from a person to whom it has been paid by a Revenue Officer.

46.

section 3 proposed to foreclose his mortgage, or otherwise
enforce his lien on the land subject to the right, the provisions

Where a mortgagee of a right of occupancy under

of the last foregoing section shall, so far they can be made
applicable, apply as if the mortgagee were the tenant.

47. (1) A right of occupancy under section 3 may be

sold in execution of a decree or order of a Court.

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

48. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged, had and was subject to.

49. (1) A tenant having a right of occupancy in land

Succession to right
of occupancy.

may, subject to the provisions of this Ordinance and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sublet having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Ordinance.

50. (1) When a Muslim tenant having a right of occupancy in any land dies, the right shall devolve on his heirs in accordance with the provisions of the Muslim Personal Law (Shariat):

Provided that when the occupancy rights are held by a female as a limited owner under Customary Law, succession shall open out on the termination of her limited interest to all persons who would have been entitled to inherit the property at the time of death of the last full owner had the Muslim Personal Law (Shariat) been applicable at the time of such death, and in the event of the death of any such persons before the termination of the limited interest mentioned above succession shall devolve on his heirs and successors existing at the time of the termination of the limited interest of the female as if the aforesaid such person had died at the termination of the limited interest of the female and had been governed by the Muslim Personal Law (Shariat).

(2) When a non-Muslim tenant having a right of occupancy dies, the right shall devolve: —

(a) on his male lineal descendants, if any, in the male line of descent, and;

(b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Ordinance ejected therefrom;

(c) failing such descendants and widow on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Ordinance ejected therefrom; and

(d) failing such descendant and widow, or

widowed mother if the deceased tenant

Irregular transfer of
right of occupancy
by tenants.

Transfer of a
succession to the
rights of lathband
tenants

Improvements by
landlords in
tenancies of
occupancy and
lathband tenants.

left a widow or widowed mother, then
when her interest terminates under clause
(b) or (c) of this sub section on his male
collateral relatives in the male line of
descent from the common ancestor of the
deceased tenant and those relatives:

Provided with respect to clause (d) of this sub section,
that the common ancestor occupied the land.

(3) As among descendants and collateral relatives
claiming under sub section (2) the right shall, subject to the
provision of that sub section, devolves, as if it were land left by
the deceased in the village in which the land subject to the right
is situate.

(4) When the widow of a deceased tenant succeeds
to a right of occupancy under sub section (2), she shall not
transfer the right by sale, gift or mortgage or by sub-lease for a
term exceeding one year.

(5) If a deceased tenant has left no person on whom
his right of occupancy may devolve under sub section (1) or sub
section (2), as the case may be, the right shall be extinguished.

51. Any transfer made of a right of occupancy in
contravention of the foregoing provisions of this Chapter shall
be voidable at the instance of the landlord.

CHAPTER - V-A

52. The provision of Chapter V relating to alienation of a
succession to rights of occupancy shall be equally applicable to
the lathband tenants as defined under Section 8 of this
Ordinance.

CHAPTER - VI
IMPROVEMENTS AND COMPENSATION

53. (1) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy and that of a lathband tenant.

(2) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the

Enhancement of
rent in
consideration of an
improvement made
by a landlord on the
tenancy of an
occupancy tenant
and lathband
tenant.

Title of occupancy
tenant to make
improvements.

Title of lathband
tenants to make
improvements.

Title of tenants at
will to make
improvements.

application, hear the objection, if any, of the tenant.

(3) On making an order on an application under sub
section (2) the Collector shall be guided by such rules, if any, as
the Provincial Government may make in this behalf.

54. (1) When a landlord has, with the permission
mentioned in the last foregoing section, made an improvement
on the tenancy of a tenant having a right of occupancy and that
of lathband tenant, he may apply to the Collector for an
enhancement of the rent of the tenant.

(2)
applies the Collector shall enhance his rent to the share or rates,
or with reference to rent in gross, as the case may be, paid by
tenants, having a similar right of occupancy, for land of a
similar description and with similar advantages.

(3) When the improvement ceases to exist, the
Collector may, on the application of the tenant, reduce the
tenant's rent (a) in the case of a tenant to whom sub section (2)
applies to the share or rates, or with reference to the rent in

If the tenant is a tenant to whom section 17

gross, as the case may be, paid by tenants, having a similar right
of occupancy and /athbandi, for land of a similar description
and with similar advantages.

(4) Section 20 and 21 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

55. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

56. The /athband tenant is entitled to make the following improvements on his tenancy in addition to making embankments (/ath): —

(a) He can plant trees which will be his property.

(b) He may subject to the consent of his landlord dig a well and install a persian wheel, diesel engine or any other machinery for the purpose of utilizing the underground water.

57. (a) A tenant at will may make improvements on his tenancy with the assent of his landlord.

(b) If at any time the question arise whether or not

Improvement made
before
commencement of
the Ordinance.

Improvement begun
in anticipation of
ejectment.

Tender of lease for
twenty years to
tenant to be a bar to
right to
compensation.

Liability to pay
compensation for
improvements to
tenant on ejectment
or on enhancement
of his rent.

Revenue Officers.

the landlord assented to the making of an
improvement by a tenant at will, the assent may
be inferred from circumstances.

58. Improvements made by a tenant before the
commencement of this Ordinance shall be deemed to have been
made in accordance with this Ordinance, unless in the case of
tenant not having a right of occupancy and /athband tenant if is
shown that the improvement was made in contravention of a

written agreement between him and his landlord.

59. A tenant ejected in execution of decree, or in pursuance
of a notice of ejectment, shall not be entitled to compensation
for any improvement begun by him after the institution of the
suit, or service of the notice, which resulted in his ejectment.

60. If a landlord tenders to a tenant a lease of his tenancy for
a term of not less than twenty years from the date of tender at
the rent then paid by the tenant, or at such other rent as may be
agreed upon, the tender, if accepted by the tenant, shall bar any
claim by him to compensation in respect of improvements
previously made on the tenancy.

61. Subject to the foregoing provisions of this Chapter a

tenant who has made an improvement on his tenancy in accordance with this Ordinance shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

CHAPTER - VII JURISDICTION AND PROCEDURE

JURISDICTION

62. (1) There shall be the same classes of Revenue Officers, under this Ordinance as under the Balochistan Land Revenue Act 1967¹, and, in the absence of any order of the Provincial Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under that Act shall be a Revenue Officer of the same class having jurisdiction within the same local limits under this Ordinance.

(2) The expressions 'Collector' and, Board of Revenue, have the same meaning in this Ordinance as in the

That is W.P. Act XVII of 1967. See footnote under section 2 (5) (b) for more details.

Applications and
proceedings
cognizable by

Revenue Officers.

Balochistan Land Revenue Act, 1967!.

63. The following applications and proceedings shall be disposed of by the Revenue Officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had;

(a)

(d)

()

(f)

(g)

(h)

(i)

FIRST GROUP

Applications under sub section (1) of section 35 for the ejectment of a tenant;

applications under section 44 or 45 for the fixing of the value of a right of occupancy;

applications under section 44 or 45 by landlords for possession of land, the right of occupancy in which has become extinct;

proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP

applications under sub section (1) of section 34 for the ejectment of a tenant;

applications for the determination under

section 37 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant;

THIRD GROUP

applications under section 24 by tenants to deposit rent;

applications under section 28 for service of notice of relinquishment;

applications under section 44 or 47 for service of notice of intended transfer or of intended enforcement of lien.

foreclosure or other

(2) Except as otherwise provided by this Ordinance or any rule made by the Board of Revenue in this behalf: —

(a)

a Collector or an Assistant Collector of

Revenue" Courts
and suits
cognizable by
them: Procedure
where revenue
matter is raised in a
Civil Court.

+ That is Act V of 1908.

the first grade may dispose of any of the
applications and proceedings mentioned
in sub section (1).

(b) An Assistant Collector of the second
grade, not being a Naib Tehsildar, may
dispose of any of the applications
mentioned in the second and third groups
of that sub-section, and

(c) A Naib Tehsildar, when invested with the
powers of an Assistant Collector of the
Second grade, may dispose of any of the
applications mentioned in the third group
of that sub section.

64. (1) When a Revenue Officer is exercising
jurisdiction with respect to any such suit as is described in sub
section (3) or with respect to an appeal or other proceeding
arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue
Courts as of Revenue Officers under this Ordinance, and in the
absence of any order of the Provincial Government to the
contrary, a Revenue Officer of any class having jurisdiction
within any local limits under this Ordinance shall be a Revenue
Court of the same class having jurisdiction within the same
local limits.

(3) The following suits shall be instituted in and
heard and determined by Revenue Courts, and no other Court
shall take cognizance of any such dispute or matter with respect
to which any suit might be instituted:

Provided that: —

(i) Where in a suit cognizable by and
instituted in a Civil Court it becomes
necessary to decide any matter which can
under this sub section be heard and
determined only by a Revenue Court

Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII rule 10, Civil Procedure Code!, and return the plaint for presentation to the Collector.

(ai)

(b)

()

(d)

()

(f)

(g)

(h)

G)

On the plaint being presented to the Collector he shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1000 or the matter involved is of the nature mentioned in section 64 (3), First Group of this Tenancy Ordinance and in other cases may send the suit to an Assistant Collector of the 1st grade for decision.

FIRST GROUP

Suits between landlord and tenant for enhancement or reduction of rent under section 19.

Suits between landlord and tenant for addition to or abatement of rent under section 22, or for commutation of rent;

SECOND GROUP

suits by a tenant to establish a claim to a right of occupancy, or by landlord to prove that a tenant has not such a right;

suits by a landlord to eject a tenant;

suits by a tenant under section 31 and 32 to contest liability to ejectment, when notice of ejectment has been served;

suits by a tenant under section 41 for recovery of possession or occupancy, or

for compensation, or for both;

suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes;

any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held;

suits for sums payable on account of village expenses;

suits by cosharer in an estate or holding for a share of the profits thereof or for a

settlement of accounts;

(x) suits for the recovery of overpayments of rent or land revenue or of any other demand for which a suit lies in a Revenue Court under this sub section;

qd) suits relating to the emolument of kanungos, zaildars, inamdars or village officers;

THIRD GROUP

(m) — suits by a landlord for arrears of rent or the money equivalent of rent, or for sums recoverable under section 12;

(n) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water including rights of irrigations, right over fisheries, rights of pasturage and forest rights;

(o) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue under any enactment for the time being in force, and by a superior land owner for other sums due to him as such.

(4) Except as otherwise provided by any rule made by the Board of Revenue in this behalf: —

(a) A collector may hear and determine any of the suits mentioned in sub section (3);

(b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub section, and, if he has by name been specially empowered in this behalf by the Provincial Government, any of the suits mentioned in the first group; and

(c) as Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Superintendence and 65. (1) The general superintendence and control over all

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an one

control of Revenue
Officers and
Revenue Courts.

Power to distribute
business &
withdraw &
transfer Case.

Appeals.

other Revenue Officers and Revenue Courts shall be vested in,
and all such officers and Courts shall be subordinate to the
Board of Revenue.

(2) Subject to the general superintendence and
control of the Board of Revenue, a '[Commissioner] shall
control all other Revenue Officers and Revenue Courts in his
division.

(3) Subject as aforesaid and to the control of the
?[Commissioner] a Collector shall control all other Revenue
Officers and Revenue Courts in his district.

66. (1) The Board of Revenue or a *[Commissioner] or
Collector may by written order distribute, in such manner as he
thinks fit, any business cognizable by any Revenue Officer or
Revenue. Court under his control.

(2) The Board of Revenue or a *[Commissioner] or
Collector may withdraw any case pending before any Revenue
Officer or Revenue Court under his control, and either dispose
of it himself, or by written order refer it for disposal to any
other Revenue Officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2)
above shall not empower any Revenue Officers or Revenue
Court to exercise any powers or deal with any business which
he or it would not be competent to exercise or deal with within
the local limits of his or its own jurisdiction.

APPEAL REVIEW AND REVISION

67. Subject to the provisions of this Ordinance and the rules
thereunder, an appeal shall lie from an original or appellate
order or decree, made under this Ordinance by a Revenue
Officer, or, Revenue Court, as follows, namely: —

(a) to the Collector when the order or decree is made

by an Assistant Collector of either grade;

(b) to the *[Commissioner] when order or decree is made by a Collector;

(c) to the Board of Revenue when the order or decree is made by a °[Commissioner]:

Substituted for the words “Revenue Tribunal” by Balochistan Act I of 2009. See footnote | under section 41 (6) for more details

Substituted, *ibid.*

Substituted, *ibid.*

Substituted, *ibid.*

Substituted for the words “Revenue Tribunal” by Balochistan Act I of 2009. See footnote | under section 41 (6) for more details

RON HO

Limitation for
appeals.

Review by Revenue
Officers.

Substituted, *ibid.*
Substituted, *ibid.*
Substituted, *ibid.*

Provided that: —

(i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Provincial Government in a suit mentioned in the first group of to the '[Commissioner] and not to the Collector;

(ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the [Commissioner] on further appeal, if any, to him shall be final.

68. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say: —

(a) when the appeal lies to the Collector-thirty days;

(b) when the appeal lies to the *[Commissioner] - sixty days;

(c) when the appeal lies to the Board of Revenue — ninety days.

69. (1) A Revenue Officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessor-in-office:

Provided as follows: —

(a) when a '[Commissioner] or Collector thinks it necessary to review any order which he has not himself passed and when the Revenue Officer of a class below that of the Collector proposes to review any order whether passed by himself or by any of his predecessors in

Substituted for the words "Revenue Tribunal" by Balochistan Act I of 2009. See footnote | under section 41 (6) for more details

Substituted, *ibid.*

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Computation of
period limited for
appeal and
application for
review.

Power to call for,
examine and revise
Proceedings.

That is Act IX of 1908.

office, he shall first obtain the sanction of
the Revenue Officer to whose control he
is immediately subject;

(b) an application for review of an order shall
not be entertained unless it is made
within ninety days from the passing of
the order, or unless the applicant satisfies
the Revenue Officer that he had sufficient
cause for not making the application
within that period;

(c) an order shall not be modified or reversed
unless reasonable notice has been given
to parties affected thereby to appeal and
be heard in support of the order;

(d) an order against which an appeal has
been preferred shall not be reviewed.

(2) For the purposes of this section the Collector
shall be deemed to be the successor-in-office of any Revenue
Officer of a lower class who has left the district or has ceased to
exercise powers as a Revenue Officer, and to whom there is no
successor in office.

(3) An appeal shall not lie from an order refusing to
review, or confirming on review, a previous order.

70. In the computation of the period for an appeal from or
an application for the review of, an order under this Ordinance,
the limitation therefor shall be governed by the Limitation Act,
1908'.

71. (1) The Board of Revenue may at any time call for
the record of any case pending before, or disposed of by, any

Revenue Officer or Revenue Court subordinate to him.

(2) A *[Commissioner] or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) If any case in which a *[Commissioner] or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his

Substituted for the words “Revenue Tribunal” by Balochistan Act I of 2009. See footnote | under section 41 (6) for more details
3 Substituted, *ibid*.

opinion on the case for the orders of the Board of Revenue.

(4) If, after examining a record called for under sub section (1), or sub section (2) or submitted under sub section (3), the Board of Revenue or the '[Commissioner], as the case may be, is of opinion that it is expedient to interfere with the proceedings or the order or decree, it or he, as the case may be, shall pass an order accordingly.

(5) If, after examining the record the, Board of Revenue is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its provisional jurisdiction may, under the law for the time being in force, interfere with proceedings or an order or decree of a Civil Court, it shall fix a day of hearing the case, and may, on that or any subsequent day to which it may adjourn the hearing or which he may appoint in this behalf, pass such order as it thinks fit in the case.

(6) Except when the Board of Revenue fixes a day under sub section (5) for hearing the case, no party has any right to be heard before the Board of Revenue when exercising its powers under this section.

Procedure of 72. (1) The Provincial Government may make rules

Revenue Officers. consistent with this Ordinance for regulating the procedure to be adopted under this Ordinance Revenue Officers under this Ordinance in cases in which a procedure is not prescribed by this Ordinance.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to costs, and may adopt to proceedings under this Ordinance all or any of the provisions of the Balochistan Land Revenue Act, 1967², with respect to arbitration.

(4) Subject to the rules under this section, a Revenue

1 Substituted for the words "Revenue Tribunal" by Balochistan Act I of 2009. See footnote | under section 41 (6) for more details.

2 That is W. P. Act XVII of 1967. See footnote under section 2 (5) b for more details.

Persons by whom
appearances may
be made before
Revenue Officers
as such and not as
Revenue Courts.

Costs.

Procedure of
Revenue Courts.

+ That is Act V of 1908.

Officer may refer any case which he is empowered to dispose of under this Ordinance to another Revenue Officer for investigation and report, and may decide the case upon the report.

73. (1) Appearances before a Revenue Officer as such, and applications to and acts to be done before him, under this Ordinance may be made or done: —

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or Legal Practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub section (1), recognised agents shall be such persons as the Provincial Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue Officer under this Ordinance unless that Officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

74. (1) A Revenue Officer may give and apportion the costs of any such proceeding under this Ordinance in any manner he thinks fit.

(2) But if he orders that the costs of any such proceeding shall not follow the events, he shall record his reasons for the order.

75. (1) The Provincial Government may make rules consistent with this Ordinance for regulating the procedure of Revenue Courts in matters under this Ordinance for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure! shall apply, with or without modification, to all or any classes of cases before those Courts.

(2) Until rules are made under sub section (1) and subject to those rules when made and to the provisions of this

Power of Revenue
Officer or Revenue
Court to summon
persons.

Mode of service of
summons.

Act: —

(a) the Code of Civil Procedure! shall, so far as it is applicable apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Board of Revenue shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Ordinance, exercise, as regards the Courts under its control, all the powers of a High Court under the Code.

76. (1) A Revenue Officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue Officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue Officer or Revenue Court may require.

77. (1) A summons issued by a Revenue Officer or Revenue Courts shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent or (c) an adult male member of his family who is residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue

Officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by pasting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

Mode of service of
notice or
proclamation or
copy thereof.

Additional mode of
publishing
proclamation.

Joinder of tenants
as parties to
proceedings
relating to rent.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue Officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons

interested.

(4) A summons may, if the Revenue Officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service by forwarding the summons by post in a letter addressed to the person registered under part III of the Post Office Act, 1856!

(5)
it is proved that the letter was properly addressed and duly

posted and registered the Officer or Court may presume that the summons was served at the time when the letter would be

When a summons is so forwarded in a letter and

delivered in the ordinary course of post.

78. A notice, order or proclamation or copy of any such document, issued by a Revenue Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

79, When a proclamation relating to any land is issued by a Revenue Officer or Revenue Court, it shall in addition to any other mode of publication for the time being in force, be made by beat of drum or other customary method, and by the pasting of a copy thereof on a conspicuous place in or near the land to which it relates.

80. (1) Any number of tenants cultivating in the same state may, in the discretion of the Revenue Officer or Revenue Court and subject to any rules which the Government may make in this behalf, be made parties to any proceeding under Chapter III.

(2) But a decree or order shall not be made in any such proceedings unless the Revenue Officer or Revenue Courts is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenant is affected

Provincial

+ The Post Office Act, 1898 (Act VI of 1898).

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Exception of suits
under this
Ordinance from
operations of
certain enactments.

Payment of money
into court admitted
to be due to a third
Person.

Execution of
decrees for arrears
of rent.

Prohibition of
imprisonment of
tenants in execution
of decrees for
arrears of rent.

+ That is Act V of 1908.

thereby.

81. Nothing in section 424 of the Code of Civil Procedure!
shall be construed to apply to a suit of a class mentioned in
section 66 of this Ordinance.

82. (1) When a defendant admits that money is due from
him on account of rent, but pleads that it is due not to the
plaintiff but to a third person, the Court shall, except for special
reasons to be recorded by it, refuse to take cognizance of the
plea unless the defendant pays into Court the amount so
admitted to be due.

(2) Where such a payment is made the Court shall
forthwith cause notice of the payment to be served on the third
person.

(3) Unless the third person, within three months
from the receipt of the notice, institutes a suit against the
plaintiff and therein obtains an order restraining payment of the
money, it shall be paid to the plaintiff on his application to the
Court therefor.

(4) Nothing in this section shall affect the right of
any person to recover from the plaintiff money paid to him
under sub section (3).

(5) When defendant pay money into Court under

this section the Court shall give the defendant a receipt and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

83. A court passing a decree for an arrear of rent may, on the oral application of the decree holder order execution thereof against the movable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

84.
occupancy, be liable to imprisonment on the application of his

A tenant shall not, during the continuance of his

landlord in execution of a decree for an arrear of rent.

Power to refer party
to Civil Court.

Power to refer to
High Court
question as to
jurisdiction.

Power of High
Court to validate
proceedings held
under mistake as to
Jurisdiction.

85. (1) If in any proceedings pending before a Revenue Court exercising original appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

86. (1) If the Presiding Officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or, Commissioner or if he is a (District Judge) or Commissioner, directly to the High Court.

(2) On any such reference being made, the High Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the High Court on any such reference shall be conclusive as, against persons who are not parties to the suit as well as against persons who are parties thereto.

87. (1) In either of the following cases, namely:—

(a) if it appears to a Civil Court that a Court

under its control has determined a suit of a class mentioned in section 76 which under the provision of that section should have been heard and determined by a Revenue Court, or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case

Place of sitting.

Holidays.

may be, shall submit the record of the suit to the High Court.

(2) If on perusal of the record it appears to the High Court that the suit was so determined in good faith and that the parties have not been prejudiced by the mistake as to jurisdiction the High Court may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the High Court, otherwise than on submission of a record under sub section (1), that a Civil Court under its control had determined a suit of a class mentioned in section 64 which under provisions of that section should have been heard and determined by a Revenue Court, the High Court may pass any order which it might have passed if the record had been submitted to it under that sub section.

(4) With respect to any proceeding subsequent to decree the High Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the High Court under this section shall be conclusive as against persons who were not parties to the suit or proceedings as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order had required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of 1s' May, 1978, and to proceedings arising out of any such suit.

MISCELLANEOUS

88. (1) An Assistant Collector may exercise his powers under this Ordinance at any place within the limits of the district in which he is employed.

(2) Any other Revenue Officer or Revenue Court may only exercise his or its powers under this Ordinance within the local limits of his or its jurisdiction.

89. (1) The Board of Revenue, with the approval of the Provincial Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue Officers and Revenue Courts.

(2) A proceeding held before a Revenue Officer or Revenue Court on a day specified in the list as a day to be observed by the officer or a Court as a holiday shall not be invalid by reason only of its having been held on that day.

Discharge of duties 90. When a Collector dies or is disabled from performing

of Collector dying his duties, the officer who succeeds temporarily to the Chief

or being disabled executive administration of the district under any orders which may be generally or specially issued by the Provincial Government in this behalf shall be deemed to be Collector under this Ordinance.

Retention of 91. When a Revenue Officer of any class who, either as

powers by Revenue _ such or as a Revenue Court, has under the foregoing provisions

Officers on transfer. of this Ordinance any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer or Revenue Court of the same or as a higher class, he shall continue to exercise those powers in that other local area, unless the Provincial Government otherwise directs or has otherwise directed.

Conferment of 92. (1) The Provincial Government may by notification powers of Revenue _ confer on any person: —
Officers of (a) all or any of the powers of a Board of

Revenue Court. «oes
Cc Revenue, '[Commissioner] or Collector

under this Ordinance, or

(b) all or any of the powers with which as
Assistant Collector of either grade is or
may be, vested thereunder,

and may by notification withdraw any powers so
conferred.

(2) A person on whom powers are conferred under
sub section (1), shall exercise those powers within such local
limits and in such classes of cases as the Provincial Government
may direct, and except as otherwise directed by the Provincial
Government, shall for all purposes connected with the exercise
thereof be deemed Member, Board of Revenue,
?[Commissioner], Collector, or Assistant Collector, as the case
may be.

(3) Before conferring powers on the Judge of a Civil

Court under sub-section (1), the Provincial Government shall

1 Substituted for the words “Revenue Tribunal”, by Balochistan Act I of 2009. See footnote 1 under section 41 (6) for more details.

2 Substituted for the words “Revenue Tribunal”, by Balochistan Act I of 2009. See footnote 1 under section 41 (6) for more details.

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Power of Board of
Revenue to make
rules.

consult the High Court.

(4) If any of the powers of a Collector under sections 65, 66, 67, or section 81 are conferred on an Assistant Collector, they shall, unless the Provincial Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

93. (1) The Board of Revenue may, in addition to the other rules which may be made by it under this Ordinance, make rules consistent with this Ordinance and any other enactment for the time being in force: —

(a) determining notwithstanding anything in any record-of-rights, the number and amount of the instalments and the time by and at which rent is to be paid;

(b) for the guidance of Revenue Officers in determining, for the purposes of this Ordinance, the amount of the land revenue of any land;

(c) prescribing for all or any of the territories to which this Ordinance extends, the periods during which, in proceedings held under this Ordinance, a Revenue Officer or Revenue Court is not, except for reasons of arrest to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

(d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officer or Revenue Courts, or to obtain copies of the same and prescribing the fees payable for searches and copies;

(e) prescribing forms for such books, entries, statistics and accounts as the Board of Revenue thinks necessary to be kept, made or compiled in Revenue Officers or Revenue Courts or submitted to any authority;

(f) declaring what shall be the language of

any of those offices and Courts, and
determining in what cases persons

Rules to be made
after previous
publications.

Powers exercisable
by Board of
Revenue from time
to time.

practising in those offices and Courts
shall be permitted to address the
presiding officers thereof in English; and

(g) generally for the guidance of Revenue
Officers and other persons in matters
connected with the enforcement of this
Ordinance.

(2) Until rules are made under clause (a) of sub
section (1), rent shall be payable in instalments and at the times
by which it is now payable.

(3) Rules made by the Board of Revenue under this
or any other section of this Ordinance shall be made subject to
the control of the Provincial Government.

94. The power to make any rules under this Ordinance
subject to the conditions of the rules being made after previous
publication.

95. All powers conferred by this Ordinance on the Board of
Revenue may be exercised from time to time as an occasion
requires.

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Nullity of certain
entries in Record-
of- Rights.

Nullity of certain
agreements
contrary to the Act.

96.

97.

CHAPTER - VIII

EFFECT OF THIS ORDINANCE ON

RECORDS-OF-RIGHTS & AGREEMENTS

An entry in any record-of-rights providing: —

(a)

(b)

(c)

(d)

that a landlord may prevent a tenant from
making, or eject making,
improvements on his tenancy as he is entitled to
make under this Ordinance, or

him for such

that a tenant ejected from his tenancy shall not be
entitled to compensation for improvements or for
disturbance in any case in which he would under
this Ordinance be entitled to compensation
therefor, or

that a landlord may eject a tenant otherwise than
in accordance with the provisions of this

Ordinance, shall be void to that extent.

Nothing in any agreement made between a

landlord and a tenant after the passing of this Ordinance shall:

(a) override any of the provisions of this

Ordinance with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 3, or

(b) take away or limit the right of a tenant as determined by this Ordinance to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Ordinance, to claim such compensation, or

(c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Ordinance.

Saving of other agreements when in writing.

Effect of certain entries made in record-of- rights before coming into force of this Ordinance.

Nothing but rent or seed supplied recoverable.

Extinction of

(2) Nothing in clause (a) of sub section (1) shall apply to an agreement by which a tenant binds himself to pay as enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy, by or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

98. Save as expressly provided in this Ordinance, nothing in this Ordinance shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the promulgation of Balochistan Land Revenue Act 1967', or been entered by order of a Revenue Officer in a record-of-rights or annual record under the provisions of that Ordinance.

99. Any entry made with respect to any of the following matters before the settlements of an area, and attested by the proper officer, in the record of a regular settlement sanctioned by the Provincial Government, namely: —

(a) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation for rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or

appraisement of the produce or other procedure

of a like nature, or

(b) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

100. Notwithstanding anything to the contrary in this Ordinance or in any other law for the time being in force or any revenue record or agreement or any rule or custom or any decision of a Court or arbitrator, no tenant shall be liable for, and no land lord shall be entitled to anything in the shape of a cess, village cess or other contribution or due or any free personal service, in addition to the rent payable for the land held by the former under the latter.

101. (1) Notwithstanding anything contained in any law

1 That is Act XVII of 1967. See footnote under section 2 (5) (b) for more details.

occupancy for the time being in force including this Ordinance, no person

tenancies. shall, after the coming into any force of this Ordinance, acquire or have occupancy rights in any land under enactment or contract or any decree or order of any Court or other authority, and the existing occupancy rights in respect of all lands other than lands owned by Government or by any person who under the law for the time being in force is an evacuee, shall on coming into force of the aforesaid Ordinance, be extinguished, and the land comprised in a tenancy so extinguished shall vest as hereinafter provided.

(2) An occupancy tenant, who at the time of the coming into force of the aforesaid Ordinance occupies any land as such shall become owner as under: —

(a) of the entire land comprised in his tenancy without payment of any compensation where he pays no rent therefor beyond the amount of the land revenue, and rates and cesses for the time being chargeable therefore;

(b) of such portion of the land comprised in his tenancy without payment of any compensation as corresponds to his share of the produce, where he pays rent in the form of a share of the produce;

(c) of the entire land comprised in his tenancy on payment of compensation to the landlord in cash at such rates and within such periods as may be prescribed by the Government by rules framed for the purpose, where he pays rent only in cash;

(d) of the whole or a portion of the land comprised in his tenancy on payment of such compensation in such form and within such time to the landlord as may be determined by Government by rules framed under this Ordinance, where he pays rent partly in cash and partly in the form of a share of the produce.

(3) So long as Government does not frame rules for purposes of clauses (c) and (d) of sub-section (2), an occupancy tenancy falling under any of those clauses shall,

Limits of holding
for personal
cultivation.

notwithstanding the provisions made in sub-section (1), continue to subsist, and the landlord and the occupancy tenant shall continue to enjoy the same rights, and be subject to the same liabilities, as before.

(4) In a case falling under clause (b) of sub section (2) the landlord shall, without payment of any compensation, be entitled to the possession of the rest of the land comprised in the tenancy.

(5) An occupancy tenant acquiring land in accordance with the provisions of sub section (2) shall acquire it free from all encumbrance created in respect of that land by the landlord and if any encumbrance be created by the tenant, the share of the land received by the landlord shall be free from it and notwithstanding any provision of any law for the time being in force to the contrary each such encumbrance shall become the exclusive liability of the landlord or the occupancy tenant, as the case may be.

(6) Where compensation is to be paid by a tenant in cash under clause (c) of sub section (2) Government may, with a view to enabling an occupancy tenant to acquire land in accordance with the provisions of this section, advance a loan which shall be recoverable as arrears of land revenue with interest at such rates and in such instalments as the Government may fix generally or in particular cases.

(7) Government shall frame rules to give effect to the provisions of this section, and while framing rules it may classify lands into different categories and prescribe different principles for assessment of compensation.

102. (1) No person owning more than 100 acres of land shall have in his possession for personal cultivation any irrigated culturable land exceeding 50 acres.

Explanation: — Where any such person has in his possession any such land jointly or in partnership with anyone else, only his own share of the land in such possession shall be taken into consideration in commuting the 50 acres for the purpose of this sub section.

(2) If a person owning more than 100 acres of land has in possession culturable land in excess of 50 acres he shall within three months of the date on which this Ordinance comes into force, and if such person is in the military service of

Pakistan on that date, then within six months of his release from

such service, let out the area in excess of 50 acres to tenants on terms permissible under the law:

Provided that if the said land in excess of 50 acres is under crop at the time of the coming into force of this Ordinance it shall be so let out within one month of the removal of the crop:

Provided further that if the land to be let out has been prepared for sowing, the person who has so prepared it shall be entitled to compensation from the person to whom the land is let out, and such compensation and the mode of its payment shall, in case of a dispute be assessed and determined by the Revenue Officer referred to in sub section (4) in accordance with the provisions of this Ordinance, in so far as these may be applicable.

(3) Where a person not owning more than 100 acres of land on the date of the coming into force of this Ordinance, acquires by any means more land which alongwith the land already owned by him totals more than 100 acres, he shall, within three months of such acquisition, let out of tenants so much of the land as is in his possession in excess of 50 acres of culturable land, and the provisos to sub section (2) shall in so far as is applicable apply to this case.

(4) _ If any person who is required by sub section (2) or sub section (3) to let out any land fails to find suitable tenants, he shall, before the expiry of the period fixed by the relevant sub section, intimate the fact in writing to the Revenue office, who would be competent under the law to entertain an application for the ejectment of a tenant from land, if such land had been let out him, and such Revenue Officer shall proceed in accordance with such rules as may be framed by Government to find suitable tenants for the land.

(5) When a person acts under sub section (4) he shall let out the land to tenants recommended by the Revenue Officer, and in case he fails to do so, he shall be deemed to have contravened the provisions of this section, and besides any other penalty which may be imposed on him under the law , the Revenue Officer, referred to in sub section (4), shall have the power to settle tenants on the land which such person is keeping in excess of limits prescribed by this section;

Provided that if the Revenue Officer fails to find tenants for the land, and in consequence thereof such person continues to occupy any land in excess of the prescribed

limited, he will not be deemed to have contravened the provisions of this section:

Provided further that in a case covered by the first proviso the Revenue Officer will have the power to settle tenants on this land at proper time. whenever he is able to find suitable persons for this purpose.

(6) where a person has in accordance with the provisions of sub section (2) or sub section (3) made a choice with respect to the land which he is to keep for his personal cultivation he shall not thereafter have the right to claim any other land in, lieu of have whole or part of that land, even though he may have lost that land through alienation:

Provided that he shall have the right of exchanging the said area of 50 acres or any part thereof with any land in which he may acquire proprietary rights, by inheritance after having made the said choice:

Provided further that if the land reserved by a person for personal cultivation or any portion thereof is compulsorily acquired by the Provincial or the Central Government, or is rendered darya burd, or ['*****'] is rendered totally unculturable on account of the action of Sem, or Taur, the said person shall be entitled to so much additional area, as with the area, if any, still in his possession, and in the last mentioned case, the area fit for cultivation will make up 50 acres.

(7) Land attached to and used for the purposes of a cattle-farm or a stud-farm recognised by Government shall be exempt from the provisions of this section. But an owner of any such farm shall not be entitled to retain for personal cultivation any other land, even though the land attached to such farm is less than 50 acres.

Explanation: — For purposes of this sub section a cattle-farm means a farm of agricultural land which is exclusively reserve for the purposes of breeding cattle, and a stud-farm means a farm of such land exclusively reserved for breeding of horses or mules.

(8) A person who owns 25 acres of land or more shall not be selected or given any land as a tenant under sub section (2), (3), (4) or (5), and no tenant shall be allowed more

1 Words "if 50 per centum or more of such land" omitted by Balochistan Ordinance XII of 1985; shall be deemed to have taken effect on 1* October, 1984.

Offences.

+ That is Act V of 1912.

than 25 acres as such.

(9) Government may, by notification in the official Gazette, exempt any person or class of persons owning land or any land or class of land from the operation of this section.

Explanation— 1. For the purposes of computing the area for personal cultivation an acre of untreated culturable land shall be counted as half an acre and the terms irrigated and unirrigated shall be defined by rules framed by Government under this Ordinance and if there is in the opinion of the Government any land which does not fall under these two categories, the rules shall prescribe a separate category for it, and shall fix the ratio which such land shall bear in relation to irrigated land for purposes of such computation.

Explanation— II. For the purposes of this section land under a garden which is in existence on the date of the coming into force of this Ordinance, and which according to the nature of the trees planted is deemed fully covered, shall not be treated as culturable, even though any portion thereof may be fit or actually used for purposes of cultivation. But if a garden is planted in any land after the coming into force of the aforesaid Ordinance, the land thereunder shall be treated as culturable.

Explanation— II, _ For the purposes of this section, if land, which according to the provisions of the revenue law for the time being in force is banjar gadeem and is shown in revenue records as such is brought under cultivation or a garden is planted therein shall continue to be treated as not culturable.

Explanation— IV. For the purposes of this section cultivation through any direct descendant of the person owning land or his wife or servant or hired labour shall be treated as personal cultivation by the said person.

Explanation— V. For the purposes of this section a mortgagee of land with possession, a tenant of Government and under the Colonization of Government Lands (Punjab) Act, 1912', who has not acquired proprietary rights, a lessee other than a lessee of Government land, and an allotted whether provisional or permanent, of land under the law for the rehabilitation of refugees for the time being in force shall be deemed to be a person owning such land.

103. (a) If any landlord: —

(i) recovers from any tenant anything in the

shape of a cess, village cess or other contribution or dues any other free service in addition to the rent payable in respect of the land held by the latter under the former; or

(ii) recovers from the tenant in lieu of the seed supplied to him anything in excess of the seed actually supplied; or

(iii) ejects a tenant forcibly or against the provisions of law; or

(b) if any person owning land, contravenes the provisions of section 102,

he shall be guilty of an offence punishable with imprisonment of either description which may extend to one year or fine or with both.