

THE LAND ACQUISITION (BALOCHISTAN AMENDMENT)
ORDINANCE, 1969

(W. P. Ordinance XLIX of 1969)

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'THE LAND ACQUISITION (BALUCHISTAN AMENDMENT)

ORDINANCE, 1969

(West Pakistan Ordinance XLIX of 1969)

Preamble.

Short title, extent
and
commencement.

Repeal and savings.

1

[17th December, 1969]

An Ordinance further to amend the Land Acquisition Act, 1894, in its application to the Province of *[Baluchistan].

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894, in its application to the Province of *[Baluchistan), in the manner hereinafter appearing;

NOW, THEREFORE, in pursuance of the Martial Law Proclamation of 25 March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:—

1. () This Ordinance may be called the Land Acquisition ([Baluchistan] Amendment) Ordinance, 1969.

(2) It extends to the whole of the Province of *[Baluchistan], except the Tribal Areas.

(3)

2. () The following enactments and the amendments made thereby in the Land Acquisition Act, 1894 (Act I of 1894), hereinafter referred to as the said Act, are hereby repealed:—

It shall come into force at once.

(i) the Land Acquisition (N.W.F.P. Amendment) Act, 1947 (N.W.F.P. Act XIX of 1947);

(ii) the Land Acquisition (N.W.F.P. Amendment) Act, 1952 (N.W.F.P. Act

IX of 1952);

(ili) — the Land Acquisition (Punjab

Amendment) Act, 1952 (Punjab Act XII

This Ordinance was promulgated by the Governor of West Pakistan on 10" December, 1969; published in the West Pakistan C

(Extraordinary), dated 17 December, 1969, pages 2237-47; saved by Article 281 of the Interim Constitution of Pakistan (1972)

validated by Act LXIII of 1975.

2

Substituted by Balochistan Laws (Adaptation) Order of 1975, for the words "West Pakistan".

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

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of 1952);

(iv) _ the Land Acquisition (Punjab Amendment) Act, 1954 (Punjab Act XII of 1954);

(v) the Land Acquisition (Bahawalpur State Amendment) Act, 1954 (VIII of 1954);
and

(vi) the Land Acquisition (West Pakistan Amendment) Act, 1958 (W. P. Act XXVII of 1958).

(2) Notwithstanding the repeal of the enactments specified in sub-section (1), everything done, action taken, obligation, liability or penalty incurred, inquiry or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, order or notification issued under any of the provisions of the said enactments shall, if not inconsistent with the provisions of the said Act, as amended by this Ordinance, be continued, and so far as may be, be deemed to have been respectively done, taken, incurred, commenced, and appointed, authorized, conferred or issued under the said Act.

Amendment of 3. In section 3 of the said Act, for the existing clause (d), section 3 of the following clause shall be substituted, namely:—
Act I of 1894.

"(d) the expression "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional District Judge, and any Civil Judge whom the Provincial Government may appoint, by name or by virtue of his office, to perform concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act, within any specified area; provided that in the case of a Civil Judge such functions shall be exercised only upto the limits of his pecuniary jurisdiction."

Amendment of 4. In section 4 of the said Act —
tion 4 of
nt tat 189 4 (a) for sub-section (1), the following sub-

section shall be substituted, namely:—

"(1) Whenever it appears to the Collector of the district that land in any locality is needed or is likely to be

Substitution of

needed for any public purpose or for a company, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality."

(b) in sub-section (2), for the words "Commissioner or the Board of Revenue", the words "Collector of the district" shall be substituted; and

(c) after sub-section (2), as so modified, the following new sub-section shall be added, namely:—

“(3) The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final."

For section 5 of the said Act, the following section shall be substituted, namely:—

"5. Notification that particular land is needed for a public purpose or for a company.—

Wherein land is to be acquired for a public purpose, if the Commissioner, and where land is to be acquired for a company, the Provincial Government, is satisfied, after considering the result of the survey, if any, made under sub-section (2) of section 4, or if no survey is necessary, at any time, that any particular land included in a locality notified under sub-section (1) of section 4 is needed for a public purpose or a company, as the case may be, a notification to that effect shall be published in the official Gazette, stating the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area and situation, and where a plan has been made of the land,

Substitution of

section 5-A of
Act I of 1894.

Amendment of

section 6 of
Act I of 1894.

6.

the place where such plan may be inspected, and the Collector shall cause public notice to be given of the substance of the notification at convenient places on or near the land to be acquired."

For section 5-A of the said Act, the following shall be substituted, namely:—

7.

"5-A. Hearing of objections. — (1)

Any person interested in any land which has been notified under section 5 as being needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Commissioner, together

with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Commissioner on the objections shall be final.

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

(4) For the purpose of this section, a person

shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act."

In section 6 of the said Act, after sub-section (3), the

following new sub-section shall be added, namely:—

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

Amendment of
section 9 of
Act I of 1894.

Amendment of
section 11 of
Act 1 of 1894.

Insertion of section
12-A in Act I
of 1894.

Amendment of
section 16 of
Act I of 1894.

Substitution of
section 17 of
Act I of 1894.

said declaration.”

8. In section 9 of the said Act, after sub-section (4), the following new sub-section shall be added, namely:—
"(5) |The Collector shall also serve notice of

the enquiry to be held under section 11 (such notice not being less than fifteen days prior to the date fixed under sub-section (2) for determination of claims objections) on the Department of Government, local authority or company, as the case may be, for which land is being acquired, and require it to depute a duly authorised representative to attend the enquiry on its behalf for the purpose of making objections (if any) to the measurement of the land, claims to any interest in the land or the amount of any compensation. Such

and

authorised representative shall be party to the proceedings.”

9. In section 11 of the said Act, between the words "any

person interested" and the words "has stated", the words and commas "and a Department of Government, a local authority, or a company, as the case may be", shall be inserted.

10. After section 12 of the said Act, the following new section shall be inserted, namely:—

"12-A, Correction of mistake—— Any clerical or

arithmetical mistake in the award arising therein from any accidental slip or omission may, at any time, be corrected by the Collector either of his own motion or on the application of any of the parties."

11. In section 16 of the said Act, between the word "may" and the word "take", the commas, words and figures, "subject to the provision of section 31," shall be inserted.

12. For section 17 of the said Act, the following shall be substituted, namely:—

"17, (Id) Special power in case of urgency.—

In cases of urgency, whenever the Commissioner so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from publication of the notice mentioned in sub-section (1) of section 9, take possession of any land needed for public purposes or for a company. Such land shall

thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Commissioner shall not issue any direction to the Collector under this sub-section unless the Department of Government, the local authority, or company, as the case may be, for which the land is being acquired, has first deposited the estimated cost of acquisition of such land as determined by the Collector of the district, keeping in view the provisions of sections 23 and 24.

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

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

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

Substitution of
section 18 of
Act I of 1894.

Amendment of
section 20 of
Act I of 1894.

Insertion of section
22-A of Act I
of 1894.

Amendment of
section 23 of
Act I of 1894.

accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

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

13. In section 18 of the said Act, after sub-section (2), the following new sub-section shall be added, namely:—

"(3) Notwithstanding anything to the contrary contained in section 21, the Provincial Government may, if it has not accepted the award, refer the matter to the Court within a period of six months from the date of announcement of the award; provided that the Court shall not entertain the reference unless in its opinion there is a prima facie case for inquiry into and determination of the objection against the award,"

14. In section 20 of the said Act, in clause (c), between the word "Collector" and the full-stop at the end the words and commas "and the Department of Government, local authority or company, as the case may be, for which land is being acquired" shall be inserted.

15. After section 22 of the said Act, the following new section shall be inserted, namely:—

"22-A. Cross objections. — The Provincial Government, or a local authority or a Company for which land is being acquired, may lodge a cross objection to the objection made by any person interested and the Court may reduce the amount awarded by the Collector if it considers it just and proper."

16. In section 23 of the said Act, —

(a) in sub-section (1), under clause first, the following explanation shall be added,

namely:—

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

Provided that—

(i) if the market-value has been increased in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market-value shall be deemed to be the market-value of the land if it were put to ordinary use; and

(ii) if the market-value, of any building has been increased in consequence of the building being so, overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as can be accommodated in it without risk of danger to health from overcrowding; and

For sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of
section 25 of

Act I of 1894.

Amendment of
section 31 of

Act I of 1894.

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

17. In section 25 of the said Act, in sub-section (1) the words "or be less than the amount awarded by the Collector under section 11" shall be omitted.

18. In section 31 of the said Act, for sub-section (1) the following sub-section shall be substituted, namely:—

When the Collector has made an award

under section (11) —

(a)

if the person interested entitled to compensation under the award and the Provincial Government accept the award and intimate their acceptance in writing to the Collector before the expiry of the period prescribed in sub-section (2) of section 18 for making an application to the Collector for referring the award to the Court, or in sub-section (3) of the said section for referring the award to the Court by the Provincial Government, whichever is later, or if the period specified in sub-section (2) of the said section for making an application to the Collector or in sub-section (3) for referring the award to the Court has expired and no such application or

reference has been made, the Collector shall, before taking possession of the land, tender payment of the full amount of compensation awarded by him to the persons entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the

contingencies mentioned in sub-section (2);

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

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

Court."

Amendment of 19. In section 35 of the said Act, —
tion 35 of
nt Lot 139 4 (a) for sub-section (2), the following sub-section

shall be substituted, namely:

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

land in such locality." ; and

(b) the existing sub-section (3) shall be re-numbered as sub-section (4) and the following shall be inserted as sub-section (3), namely: —

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

Amendment of 20. In section 38 of the said Act, —
tion 38 of
nt Lot 39 4 (i) for sub-section (1), the following sub-section

shall be substituted, namely:—

"(1) The Commissioner may authorise any officer of any company desiring to acquire land for its purpose to exercise the powers conferred by sub-section (2) of section 4"; and

(ii) in sub-section (2), for the word and figure "section 5", the words, figures, and brackets "sub-section (3) of section 4", shall be

substituted.

Amendment of 21. In section 40 of the said Act, in sub-section (1) —
tion 40 of

nd Lot 180. 4 (i) in clause (b), for the full-stop at the end, the comma and the word, "or" shall be substituted;
and

(ii) after clause (b) as so modified, the following new clause shall be added, namely:—

"(c) that the area proposed to be acquired is reasonable for the purpose."

Amendment of 22. In section 41 of the said Act, —
tion 41 of

'het Lot 139 4 (a) for the words and commas "the purpose of the

proposed acquisition is to obtain land for the erection of dwelling houses for workmen

employed by the company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public," the words, brackets, letters, figures and commas "the object of the proposed acquisition is to obtain land for one of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40", shall be substituted; and

(b) for clause (5), the following clause shall be substituted, namely:—

"(5) where the acquisition is for a purpose falling under clause (b) of sub-section (1) of section 40, the time within which and the conditions on which the work shall be constructed and maintained."

Amendment of 23. In section 42 of the said Act, for the words and brackets section 42 of "and shall thereupon (so far as regards the terms on which the Act I of 1894.

public shall be entitled to use work) have the same effect as if it had formed part of this Act," the words "and the acquisition shall be deemed to have been made subject to the terms of such agreement", shall be substituted.

Addition of section 24. After section 43 of the said Act, the following new 43-A to Act I section shall be added, namely:—

of 1894.

"43-A. Restrictions on transfers, etc. — No company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise, except with the previous sanction of the Provincial Government."

Amendment of 25. In section 50 of the said Act, after sub-section (1), the section 50 of following new sub-section shall be inserted, namely:—
Act I of 1894.

"(1-A)" Any charges to be defrayed from the funds of a local authority or a company under sub-section (1), may be removed, in addition to any other mode of recovery provided in any other law, as arrears of land-revenue."

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