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THE LAND REFORMS ACT, 1977

ACT No. II OF 1977

[9th January, 1977]

An Act to provide for further land reforms

WHEREAS it is in the supreme national interest to bring about a more equitable distribution of wealth by carrying out further land reforms;

AND WHEREAS clause (i) of Article 253 of the Constitution of the Islamic Republic of Pakistan provides that Parliament may by law prescribe the maximum limits as to property or any class thereof which may be owned, held, possessed or controlled by any person;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Land Reforms Act, 1977.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. In this, Act, unless there is anything repugnant in the subject or context,—

(1) “Commission” means a Federal or a Provincial Land Commission constituted under the Land Reforms Regulation, 1972;

(2) “Government” means, in relation to the Islamabad Capital Territory, the Federal Government, and in relation to a Province, the Government of that Province;

(3) “irrigated land” means land irrigated by a canal, tubewell, well, lift, spring, tank or by any other artificial means of irrigation;

(4) “land” means land which is occupied or has been and can be let for agricultural purposes or for purposes allied or subservient to agriculture, and includes the sites of buildings on such land but does not include land occupied as the site of a village, town, factory or industrial establishment;

(5) “orchard”, means land under fruit trees planted to a density of twenty-five trees or more per acre grown and maintained by human effort;

(6) “owner” includes a person deemed to be an owner under sub-section (4) of section 184 of the West Pakistan Land .Revenue Act, 1967 (W.P. Act XVII of 1967);

(7) “person” includes a religious, educational or charitable institution, every trust whether public or private, a Hindu undivided family, a company or association or body of individuals, and a cooperative or other society, but does not include a local authority, a university established by law, a joint stock company which is directly or indirectly held or controlled by Federal Government or a Provincial Government or by both or any other body in which the Government holds majority interest;

(8) "public dues" include dues payable by a person to the Federal Government, or a Provincial Government or to a body directly or indirectly controlled by such Governments;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "President" means the President of the Islamic Republic of Pakistan;

(11) "produce index unit" means the measure in terms of which the comparative productivity of an area of land of a particular kind in a particular assessment circle or area was computed and expressed for the purposes of the schemes relating to the resettlement of displaced persons on land or was determined under the provisions of the repealed Land Reforms Regulation, 1959 and the Land Reforms Regulation, 1972 and in respect of the assessment circle or area where no such unit was determined, such measure as may be determined by the Commission for the Province within which such assessment circle or area is situate;

(12) "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 and includes the predecessors and successors-in-interest of such person; but does not include—

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

'(b) a person holding any land under the Federal Government or a Provincial Government or under any such statutory authority corporation set up by any such Government as may be notified by it in this behalf, or;

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

*[Lor]

*[(d) a lessee cultivating the land, either himself or through another person;

(13) "unirrigated land" means land other than irrigated land and includes land fed by rains, floods, hill torrents, and uncultivable or wasteland.

CHAPTER II RESTRICTION ON OWNERSHIP AND POSSESSION OF LAND

*3, Limits on individual holding. *[Save as otherwise provided in this Act, no] person shall after the commencement of this Act, own or possess land, including his share in Shamilat, if any, in excess of one hundred acres of irrigated land or two hundred acres of unirrigated land, or irrigated and unirrigated land the aggregate of which exceeds one hundred acres of irrigated land (one acre of irrigated land being reckoned as equivalent to two acres of unirrigated land) or an area equivalent to eight thousand produce index units of land calculated on the basis of classification of soil as entered in the Revenue Records for Kharif 1976, whichever shall be greater:

'Subs. by the Land Reforms (Amdt.) Order, 1979 (P.O. 16 of 1979), Art, 2.

? Subs. and added, ibid.,

*Subs. by the Land reforms (Amdt.) Ordinance, 1979 (37 of 1979), s. 2.

*The whole of sections 3,4,5,6,7 (5),8,9,10 and 1 to 17 of the Land Reforms Act, 1977 cease to have effect from the date of the Injunctions of Islam by the Shariat Appellate Bench, See P.L.D. 1990,SC-99.

Provided that in determining the entitlement of a person any improvement made by him on his land after the commencement of this Act, shall not be taken into account.

4. Choice and exchange of land. Save as otherwise provided in this Act (1) a person who owns or possesses land including his Share in Shamilat, if any, in excess to his entitlement under this Act shall, out of such land, select in compact blocks as large as possible, the area which he is entitled to retain;

(2) a person who is required to surrender land under this Act, before doing so, may, if allowed by an officer of the district concerned who is authorized by a Commission in this behalf, exchange the whole or any part of such land with land owned or possessed within the same district by any member of his family for the purpose of consolidation on the basis of equality of produce index value of the land proposed to be exchanged ;

(3) no appeal shall lie in any court or before any authority whatsoever against an exchange of land allowed or disallowed under sub-section (2).

Explanation.—For the purpose of sub-section (2) "family" shall mean father, mother, brothers, sisters, husband, wife or wives, sons and daughters.

5. Partitioning of Joint holdings and undivided Shamilat. Notwithstanding anything contained in any other law for the time being in force, a joint holding or an undivided Shamilat shall, for the purposes of this Act, be subject to partition to the extent of the share of a person who elects to surrender the whole or part of his share in such joint holding or such undivided Shamilat.

6. Certain transfers void.— (1) The transfer of any land, and the creation of any right or interest in, or encumbrance on any land, made in any manner whatsoever in respect of any area, on or after the commencement of this Act by any person holding immediately before that date an area exceeding his entitlement under section 3, shall be and shall be deemed always to have been void, and the land so transferred or encumbered shall be deemed to have been owned or possessed, as the case may be, by the person by whom it was owned or possessed immediately before that date.

(2) Nothing in sub-section (1) shall apply to any transfer of land or the creation of any right or interest in or encumbrance on any land left with a person after he has surrendered the land in excess to his entitlement under this Act.

CHAPTER III OBTAINING OF DECLARATIONS, VESTING OF LAND IN GOVERNMENT

7. Declarations.—(1) A Provincial Land Commission may, by notification in the official Gazette, require that any person or class of persons mentioned therein, shall submit such declaration to such authority, in such manner and form and by such date, as may be specified in the notification.

(2) In case a person, who is required to make declaration under this section, owns or possesses land in more than one Province, he shall make the declaration to the Commission for the Province where he permanently resides, and the said Commission may call for any information in respect of the declaration from any other province where the declarant owns or possesses land and pass Orders, thereon.

(3) In case a person, who is required to make declaration under this section, owns or

possesses land in a Province but resides permanently in another Province or abroad, he shall make the declaration to the Commission for the Province in which he owns or possesses land.

(4) In case of a minor or a person of unsound mind, the declaration required under this section, shall be made on his behalf, by his guardian.

(5) Where a person fails to make a declaration under this section, an officer of the district concerned, who is authorized by a Commission in this behalf, shall, of his own motion or otherwise, and after calling for such information and recording such evidence as he may deem necessary, determine the land owned or possessed by such person in excess to his entitlement under this Act and make an order to this effect.

8. Certain restrictions on cutting of trees and dismantling or removal of permanent installations or structures. A person, who owns or possesses land in excess to his entitlement under this Act, or any one on his behalf shall not, with effect from the commencement of this Act, cut or remove any tree or dismantle, demolish, damage or remove any permanent installation or structure, including buildings and tubewells on land, owned or possessed by him until the land in excess to his entitlement has been surrendered by him under this Act.

9. Vesting in Government of excess land.—(1) Land in excess of the area permissible for retention by a person under section 3, shall be surrendered by him !* * * to the Land Commission of the Province where such land is situate, and it shall vest in Government free of any encumbrance or charge:

Provided that rights and obligations of any person in respect of the standing crops on land surrendered under this section shall remain unaffected until 7[the standing crops are removed or the 30th day of June next following, whichever is earlier].

(2) Land determined, under sub-section (5) of section 7, to be in excess to the entitlement of a person shall vest forthwith in the Government free of any encumbrance or charge and the defaulter shall be deemed to have forfeited the right and option under section 4.

(3) Any land under litigation which is in excess to the entitlement of a person under this Act, shall vest in the Government subject to the final adjudication of the rights of the litigants.

(4) Any land surrendered by a person which was in his possession as a lessee or mortgagee shall not vest in Government but shall, subject to the provision of section 3, revert to lessor or mortgagor, as the case may be.

'(5) Any land surrendered by a person which was held by him as the landlord of an occupancy tenant or a Mugqarrarid or is an Ala Malik shall not vest in Government but shall, subject to the other provisions of this Act, vest in the occupancy tenant, Muqarrarid or Adna Malik, as the case may be, free from any incumbrance or charge].

'Omitted by the Land Reforms (Amdt.) Order, 1979 (P.O. 16 of 1979), Art. 3

*Subs. and added ibid.

10. Permanent installations and structures. Permanent installations and structures, including buildings and tubewells on land surrendered under section 9, shall not be removed, damaged, dismantled or demolished, and shall vest in Government alongwith such land, free of any encumbrance or charge.

CHAPTER IV COMPENSATION

11. Compensation for land. The Federal Government shall in respect of land surrendered under section 9, pay compensation to the persons concerned at the rate of rupees thirty per produce index unit.

12. Compensation for permanent installations, structures and buildings. Compensation for permanent installations and structures including buildings and tubewells on land surrendered under this Act, shall be determined and paid by the Federal Government on the basis of actual cost incurred subject to such scale of depreciation as may be prescribed.

13. Payment of compensation.—(1) Payment of compensation under sections 11 and 12 shall be made through heritable bonds which shall be transferable and negotiable through or with banks and which shall be redeemable, at the discretion of the Federal Government, by 30th day of June, 1987 and shall carry interest per annum, with effect from the first day of July, 1977, at the, rate of one per cent above the bank rate as notified by the State Bank of Pakistan, from time to time.

(2) Where the total amount of compensation payable to a person under this Chapter, does not exceed rupees five thousand, the Federal Government may pay the compensation in cash.

(3) Payment of compensation under this section shall be made to the person concerned after deducting such public dues, owed by him, whose payment had fallen due on the commencement of this Act and which remained unpaid up to the date of payment of compensation.

14. Transfer of encumbrance or charge. Any encumbrance or charge existing on land surrendered by a person or on permanent installations and structures including tubewells on such land, shall be deemed to be an encumbrance or charge on land retained by him under this Act:

Provided that if the encumbrance or charge exceeds the value of the land left with a person, it shall to the extent of such excess, be deemed to be an encumbrance or charge on the bonds payable to him as compensation.

CHAPTER V

UTILIZATION OF SURRENDERED LAND

15. Disposal of surrendered land.—(1) Land vested in Government under this Act, shall, subject to the provisions of this section, be granted free of charge to the tenants who are shown in the

Revenue Records to be in cultivating possession of it during Kharif 1976 and Rabi 1975-76:

¹TProvided that where, at any time after the commencement of this Act, a person acquires any land by reason of which the area of the land owned or possessed by him exceeds the limit fixed by

¹Subs, by the Land Reforms (Amtd.) Order, 1979 (P.O. 16 of 1979), Art. 4.

section 3, the land surrendered by him shall be granted free of charge to such tenant as is shown in the revenue records to be in cultivating possession of the land in the Kharif and Rabi immediately preceding such acquisition :

Provided further that no land shall be granted to a tenant who, but for the coming into force of this Act, would have been entitled to inherit land from a person who is required to surrender land under section 9.]

(2) Where any tenant who is entitled to grant of land under sub-section (1) already owns land, he shall be granted only so much land which together with the land already owned by him, does not exceed twelve acres.

(3) Land which is not granted under sub-sections (1) and (2) shall be granted to other landless tenants or persons owning less than twelve acres.

16. Conditions for grant of land—(1) Grant of land under section 15 shall be made on the following conditions:—

(a) a grantee or his heirs shall not alienate by sale, gift, mortgage or otherwise the land or any portion thereof during a period of twenty years from the date of the grant:

Provided that for the purpose of obtaining a loan for the development of the land the grantee or his heirs may mortgage it in favour of Government; a Government sponsored institution or a cooperative society;

(b) a grantee or his heirs shall not sublet the land.

(2) The Provincial Land Commission concerned may cancel a grant for violation of any of the terms and conditions of the grant after giving an opportunity of being heard to the grantee or his heirs, as the case may be.

17. Utilization of land. Notwithstanding anything contained in section 15, a Provincial Government may, subject to the approval of the Federal Government, utilize or dispose of land surrendered under section 9 for such public purpose and in such manner as the Provincial Government may deem fit, if it is—

(a) an orchard; or

(b) land surrendered by any religious, charitable or educational society or institution; or

(c) land surrendered by any trust or waqf, whether public or private; or

(d) land under Shikargahs and stud or livestock farms 1[:]

[Provided that if, in the public interest, the Provincial Government decides to lease out any such land, the person by whom it was surrendered shall have the right of first option to the grant of lease of the land or of such portion thereof as the Provincial Government may deem fit].

'Subs, and added by the Land Reforms (AmdL) Ordinance, 1979 (37 of 1979), s. 3.

CHAPTER VI LAND COMMISSIONS

18. Functions of Federal Land Commission. The Federal Land Commission shall—

(1) coordinate the functioning of Provincial Land Commissions;

(2) assist the Federal Government in deciding any dispute or difference between two or more Provincial Land Commissions;

(3) assist the Federal Government in the exercise of its powers under section 27;

(4) issue such directions to any or all Provincial Land Commissions as may be necessary for the purposes of this Act;

(5) perform such other functions as may, from time to time, be assigned to it by the Federal Government.

19. Powers and functions of a Provincial Land Commission. Subject to the provisions of this Act, a Provincial Land Commission shall exercise all powers and perform all functions necessary for the implementation of this Act in the Province concerned.

20. Power to set up organizations, etc. A Commission may set up such organizations and appoint such authorities, officers and staff and confer such powers upon, and assign such duties to them as it may deem necessary for the purposes of this Act.

21. Power to make rules. A Commission may make rules for carrying out the purposes of this Act, including rules on matters relating to or connected with the presentation, hearing and determination of appeals from, and applications for revision and review of, orders made under this Act:

Provided that the rules made under this section, in case of Federal Land Commission shall be subject to approval of the Federal Government, and in case of a Provincial Land Commission, to the approval of the Provincial Government concerned.

22. Delegation of powers.—(1) The Federal Government may, at any time, delegate any of its powers or functions under this Act to such body or person as it may deem necessary for the purposes of this Act.

1[(2) A Commission may, at any time, by notification in the official Gazette, delegate any of its powers to any of its members or officers or authorities subject to such conditions, if any, as may be specified in the notification, and may also specify in the notification the circumstances in which, and the authority to which, an appeal, or application for review or revision, if any, shall lie from an order of such member, officer or authority.].

23. Reconstitution of a Commission. The Federal Government may, at any time, by notification in the official Gazette, reconstitute a Commission to comprise such persons as it deems fit, and the Commission so reconstituted shall be deemed to be a Commission under paragraph 4 or 4A, as the case may be, of the Land Reforms Regulation, 1972.

¹Subs, by the Land Reforms (Amtd.) Order, 1979 (P.O. 16 of 1979), Art. 5.

24. Power to review. A Commission shall review a case or a class of cases decided by it before or after the commencement of this Act, if so directed by the Federal Government.

25. Abatement of pending proceedings. All proceedings pending before the Federal Land Commission shall, on commencement of this Act, stand abated unless the Federal Government directs otherwise in a case or class of cases.

26. Removal of doubt. If any dispute or doubt arises as to the extent or scope of any power or the manner in which it shall be exercisable by a Commission, the matter shall be referred to the Federal Government whose decision thereon shall be final.

27. Powers of the Federal Government. The Federal Government may, at any time, of its own motion or otherwise, take cognizance of a case not taken up by a Commission or withdraw a case pending before a Commission or call for a case decided by a Commission or any authority empowered by a Commission in this behalf, and pass such order as it may deem necessary and the order so passed shall be final:

Provided that no order, under this section, shall be passed, adversely affecting the rights of any person, unless such person has been given an opportunity of being heard.

CHAPTER VII BAR OF JURISDICTION AND INDEMNITY

28. Bar of jurisdiction.—(1) No court shall call in question or permit to be called in question any provision of this Act or of any rule or order made or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, or entertain any proceedings, in relation to anything done or intended to be done under this Act.

29. Indemnity. No suit, prosecution or other legal proceeding shall lie against the Federal Government, or a Provincial Government, or a Commission or any other person for anything in good faith done under this Act or any rule or order made there under.

CHAPTER VIII MISCELLANEOUS

30. Act to override other laws, etc. The provisions of this Act, and any rule or order made thereunder, shall have effect notwithstanding anything to the contrary contained in any law for the time being in force, or in any order or decree of a court or tribunal or other authority or in any rule of custom or usage or in any contract, instrument, deed or other document.

1131. Power to exempt.—(1) The Government, if it is satisfied that it is in the public interest so to do, may, by an order notified in the official Gazette and subject to such terms and conditions as may be specified in the order, exempt from the operation of this Act any educational institution or a Co-operative farming society registered under the Co-operative Farming Act, 1976 (LII of 1976), or a person who has been permitted by Government to establish a livestock farm:

'Subs, by the Land Reforms (Amtd.) Ordinance, 1981 (47 of 1981), s. 2.

provided that an exemption granted shall not apply—

(i) in the case of a society, to the land owned or possessed by a member of such society; and

(ii) in respect of a person who has been permitted to establish a livestock farm—

(a) to the land owned or possessed by such person or to a partner in a firm or shareholder in a joint stock company which does not form, or has not been recognized at the time of sanction as, an integral part of the livestock farm; and

(b) to land not used for the purposes of the livestock farm.

(2) When the Government or a person authorised by it in that behalf is of the opinion that an institution or a society or person exempted under sub-section (1) has committed a breach of any of the conditions subject to which the exemption was granted, the Government or the authorised person may, after giving such institution or society or person an opportunity to show cause against the action proposed to be taken, rescind the order of exemption.].

32. Removal of difficulties. If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.

CHAPTER Ix

PUNISHMENT AND PROCEDURE

33. Offences abnd penalties.— (1) Whoever—

(a) fails to surrender land as required under this Act, or

(b) fails to make any declaration or furnishes incomplete or false information or fails to furnish any information as required under this Act, or

(c) tampers with any record relevant for the purposes of this Act, or

(d) obstructs any person in the discharge of his duties and functions under this Act, or

(e) commits or attempts to commit an act or omission to defeat any of the purposes of this Act, or

(f) Contravenes or fails, to comply with any other provision of this Act,

shall be punishable with rigorous imprisonment for a term which may extend to seven years or with forfeiture of his immovable property or with both.

(2) A person convicted of any offence under sub-section (1) shall be disqualified from being

a member of Parliament or a Provincial Assembly or any local elective body and from being elected and chosen as such a member for a period of five years from the date of such conviction.

(3) Any person convicted of any offence under sub-section (1) shall be disqualified from being a public servant or from being appointed as such or from holding any other office for which a person guilty of any offence involving moral turpitude is disqualified.

34. Cognizance of offence. No court or tribunal shall take cognizance of an offence under this Act except on a report in writing of the facts constituting such offence, made by a public servant under order or authority of the Federal Government or a Provincial Government.

35. [Repeal]. Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., I.