

THE [KHYBER PAKHTUNKWA] SALINITY CONTROL AND RECLAMATION OF LAND ACT, 1988.

*[KHYBER PAKHTUNKWA] ACT NO. VI OF 1988.

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'Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

*Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

THE [KHYBER PAKHTUNKHWA] SALINITY CONTROL AND
RECLAMATION OF LAND ACT, 1988.

*[KHYBER PAKHTUNKHWA] ACT NO. VI OF 1988

[First published after having received the assent of the Governor of the [Khyber Pakhtunkhwa] in the Gazette of the [Khyber Pakhtunkhwa] (Extraordinary), dated the 12th March, 1988.]

AN
ACT

to make provisions for facilitating the execution of schemes for drainage of sub-surface water and removal of hindrance in installation of sub-surface drains in the °[Khyber Pakhtunkhwa].

Preamble. WHEREAS it is expedient to make provisions for the execution of schemes for drainage of sub-surface water and removal of hindrance in installation of sub-surface drains and maintenance thereof in the manner hereinafter appearing:

It is hereby enacted as follows:-

Short title, 1. (1) This Act may be called the [Khyber Pakhtunkhwa] Salinity Control and extent and Reclamation of Land Act, 1988.

commence

ment. (2) It shall extend to whole of the 7[Province of the Khyber Pakhtunkhwa].

(3) It shall come into force on such date as Government may, by Notification in the official Gazette, appoint in this behalf, and different dates may be appointed in respect of different areas or parts of the Province.

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

(a) "Authority" means the Secretary to Government, Irrigation and Public Health Engineering Department or an officer authorized by him to exercise the power of Authority under this Act;

(b) "deep-rooted tree" means the trees specified in the Schedule to this Act and includes such other trees as Government may, from time to time, by Notification in the official Gazette add to the said Schedule;

(c) "Government" means the Government of the [Khyber Pakhtunkhwa];

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

Provisions of
the Act, to be
overriding.

Framing and
Implementation
of scheme.

Restriction
on plantation
of trees or
raising of
structure.

(d) "local area" means the area notified by Government from time to time under sub-section (3) of section 1 of this Act;

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

(f) "scheme" means a scheme framed under section 4 of this Act; and

(g) "sub-surface drain" means any engineering structure meant to

facilitate drainage of sub-surface water.

3. The provisions of this Act shall take effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(1) Government may, on its own motion or on the application of any owner of land or any person interested therein, direct the Authority to frame schemes for the control of salinity and reclamation of land in any local area or a part thereof.

(2) When a scheme under sub-section (1) has been framed and approved by Government, the Authority shall prepare a notice stating-

(a) the fact that the scheme has been framed;
(b) the boundaries of the locality comprised in the scheme,

and cause the said notice to be published in the official Gazette. The notice shall also be published in a newspaper or newspapers for at least seven consecutive days for public information and may be displayed in such other manner as the Authority may deem appropriate to bring the scheme to the knowledge of the persons having interest in the land comprised in the scheme.

5. (1) No person shall, from the date of publication of the notice under sub-section (2) of section 4 in the official Gazette, plant a deep-rooted tree within the area included in a scheme and specified in the said notice, without prior permission in writing of the Authority, or erect or raise any building or permanent structure over a sub-surface drain.

(2) The Authority, where satisfied that the plantation of the deep-rooted tree is not likely to harm the sub-surface drains laid or to be laid under the scheme, or does not obstruct drainage in any manner, shall grant the permission requested for:

Provided that where it is decided not to grant such permission or to grant it with such restrictions or conditions as the Authority may specify in that behalf, the

decision of the Authority shall be final.

(3) It shall be necessary for every person intending to erect or raise any building or permanent structure in a local area to ascertain from the Authority in

writing that the site selected by him for raising any building or permanent structure does not run over a sub-surface drain.

(4) Any deep-rooted tree planted or any building or permanent structure erected or raised in default of the preceding sub-sections shall be liable to be uprooted or demolished, as the case may be, the defaulter shall not be entitled to any compensation therefor and trees or the material, as the case may be, shall be confiscated in favour of the Authority.

6. (1) On publication of the notice under sub-section (1) of section 4 in the official Gazette, it shall be lawful for any person or any authority, Department or Organization acting under a general or special order of the Authority or of Government to enter upon any land comprised in the scheme with such men, animals, vehicles, appliances and instruments, as may be necessary, and undertake investigations, survey or levels thereon, and dig and bore into the land, and make and set up suitable land marks, pillars, levels marks and water-gauges, and do all acts required for the determination of areas and intended lines of works for securing the flow of water, and all other acts necessary for the implementation and maintenance of the scheme:

Provided that the functions aforesaid shall be discharged in such manner as to cause the least interference with, and the least damage to, the rights of the owners in the land:

Provided further that where it is necessary to enter into any building or enclosed court or garden attached to a dwelling house, the occupier of such building, enclosed court or garden shall be given such reasonable notice as the urgency of the case or the circumstances may require, before so entering.

(2) It shall be lawful for any person acting under sub-section (1) to make an entry for the purpose of inspection or search, to open or cause to be opened a door, gate or other barrier,-

(a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search; and

(b) if the occupier or, owner as the case may be, is absent or being present, refuses to open such door, gate or barrier.

7. If any damage is caused to trees, orchards, crops or temporary or permanent structures, already standing on the land comprised in a scheme on the date of notification under sub-section (2) of section 4, during the course of implementation, or, as the case may be, maintenance of the scheme, the owner shall be entitled to the compensation at the market rate to be assessed by the Collector of the District as if the same were proceedings under the Land Acquisition Act, 1894.

8. If any person, without lawful Authority,-

Power to
enter upon
the land.
etc.

Cases in
which

compensation
is
admissible.

Penalty for
removing
machinery,
etc.

Penalty for
obstruction

Cognizance
of offence.

Removal
of
structure,
etc.

Indemnity.

Power to
make rules.

- (a) removes any mark set up for the purposes of indicating any levels or direction necessary for the implementation or maintenance of a scheme under this Act; or
- (b) infringes or does not comply with any order given under this Act; he shall be punishable with fine which may extend to one thousand rupees.

9. If any person,-

- (a) damages, alters, obstructs or interferes with any land reclamation operations as to cause damage to the operation or to render it less useful; or
- (b) obstructs or molests any person in the performance of his duties under this Act; or
- (c) removes any machinery, pipes, gauges, fence, or in any other manner hampers the work in operation; or
- (d) plants a deep-rooted tree or erects or raises any permanent building or structure in contravention of section 5,

he shall be punishable with simple imprisonment which may extend to three months or with fine not exceeding five thousand rupees or with both.

10. No Court shall take cognizance of an offence under this Act except upon a complaint made in writing by an Officer authorized in this behalf by the Authority.

11. Where the owner of any temporary structure or tree or other plantations in a local area where a scheme under this Act is in operation is directed by an Officer authorized in this behalf to remove the structure or to up-root any tree or other plantation, the removal or up-rooting whereof is necessary for the implementation or maintenance of the scheme, and he fails to remove the said structure or, as the case may be, to up-root the tree or other plantation, within the period specified in the direction, without cogent reasons, it shall be lawful for the officer giving the direction to remove the structure or to up-root the tree or other plantation and the owner shall not be entitled to any compensation therefor.

12. —_No suit or other proceeding shall lie against Government, the Authority or any other Department or Organization responsible for the implementation or maintenance of a scheme under this Act or against any officer, servant or other person acting under the direction of Government, the Authority or any other Department or Organization, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act.

13. Government may make rules for carrying out the purposes of this Act.

SCHEDULE

[See Section 2(b)]

Salix Species (Willow).
Eucalyptus spp (eucalyptus).
Dalbergia sisoo (shisham).
Tamarix articulata (temarix).
Salmalia malabarica (simal).
Melis azedarach (bakain).
Populus species (popular).

Morus alba (milbery).

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10. Acacia nilotica (babool/kikar).

Ailanthus glandulosa (heaven tree).

BY ORDER OF THE SPEAKER

Provincial Assembly of
[Khyber Pakhtunkhwa]

'Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011