

THE WEST PAKISTAN REQUISITIONING OF IMMOVABLE PROPERTY
(TEMPORARY POWERS) ACT, 1956.

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1 Inserted vide Khyber Pakhtunkhwa Ordinance No. III of 1985.

'THE WEST PAKISTAN REQUISITIONING OF IMMOVABLE PROPERTY (TEMPORARY POWERS) ACT, 1956

(Act. No. VII of 1956)

[30th June, 1956].

An Act to provide for the requisitioning of immovable property.

WHEREAS, it is expedient to make provision for temporary requisitioning of immovable property;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Pakistan Requisitioning of Immovable Property (Temporary Powers) Act, 1956.

(2) It shall extend to the whole of *[Khyber Pakhtunkhwa except the Tribal Areas.]

(3) It shall come into force at once.

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

(i) "Building" means any building or part of a building and includes any land, godowns or out-houses attached to it;

(ii) "Court" means the principal Court of original civil jurisdiction in the District;

(iii) "Owner" includes the successor-in-interest of an owner, a mortgagee in possession and a lessee for a fixed period who has paid rent for the whole of that period in advance;

(iv) "Ordinary repairs" means annual white washing; colour washing and such other internal and external repairs as are normally done to a building;

(v) "Special repairs" means any other repairs not falling in the definition of "ordinary repairs"; and

' For Statement of Objects and Reasons see Gazette of West Pakistan 1956 Extraordinary pp.470 and 471 and for Proceedings in Assembly, see West Pakistan Assembly Debates Vol. I pp. 954 to 976.

> Subs: by Khyber Pakhtunkhwa Adapt: of Laws Order 1975, and then substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

Short title , extent
and
commencement.

Definitions.

(vi) "Provincial Government" means the Government of [Khyber Pakhtunkhwa].

3. (1) If in the opinion of the Provincial Government it is necessary or expedient to requisition any building for the use of any of the *Officers or offices of the Central Government, the Provincial Government or any corporate body established by or under the authority of the Central Government or the Provincial Government, the Provincial Government may [after giving the owner thereof an opportunity of being heard and showing cause against the proposed action.] by order in writing requisition any building and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no building used for the purpose of religious worship or imparting education and no building situated in a cantonment within the meaning of the Cantonments Act, 1924, shall be requisitioned under this Act:

Provided further that no building which is an evacuee property shall be requisitioned except with the prior approval of the Central Government:

Provided also that if a building is in occupation of any person, no order for its requisitioning shall be passed unless a notice of, at least, two weeks is given to the occupant to show cause against the action proposed to be taken and if and when an order of requisitioning is passed, the occupant shall be allowed a period of one month, at least, to vacate the building and such occupant shall thereupon comply with that order:

Provided that no owner in occupation of a "[residential] house shall be required to vacate it.

(2) If the notice mentioned in the third proviso to sub-section (1) cannot be served on the occupant personally, affixation of the notice on a conspicuous part of the building or service by means of a proclamation or by means of a notice in the official Gazette and local press shall be deemed to be sufficient service for the purpose of this section.

(3) Where the Provincial Government has requisitioned any building under sub-section (1) it may use or deal with it in such manner as may appear to it to be expedient.

4. (1) Where any building requisitioned under section 3 is to be released from requisition, the Provincial Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing

1 Subs: by Khyber Pakhtunkhwa Adapt: of Laws Order 1975, and then substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

? Subs, for the words "its officers or offices" by W. P. Ord. II of 1959 s.2.

3 Ins. by W. P. ord. XXXIV of 1965, s.3 Sch: II.

'Ins by W.P. Act. No. XVIII of 1957.

Requisitioning of
property.

Release from
requisition.

the person to whom possession of the building shall be given.

(2) The delivery of possession of the building to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of the property which any other person may be entitled, by due process of law, to enforce against the person to whom possession of the building is so delivered.

(3) Where the person to whom possession of any building is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the building is released from requisition to be published in the official Gazette and to be affixed on some conspicuous part of the property.

(4) When a notice referred to under sub-section (3) is published in the official Gazette, the building specified in the notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof, and the Government shall not be liable for any compensation or other claim in respect of the building for any period after the said date.

(5) When any building is released from requisition it shall be restored to the owner in the same condition in which it was requisitioned unless the owner agrees in writing, to receive it with any additions or structural alterations or improvements made by the Provincial Government.

5. (1) The ordinary repairs to the building shall be carried out by and at the expense of the Provincial Government and the owner shall not be required to contribute towards the cost of such repairs nor shall the cost thereof be deducted out of the compensation awarded.

(2) The special repairs shall be carried out by the owner. If he neglects to do so, the Provincial Government shall be competent to direct by an order that the necessary repairs may be carried out by the said Government's own officers and that the cost thereof may be deducted from the compensation payable under section 6:

Provided that no such direction shall be given except after such notice to the owner as the Provincial Government considers reasonable:

Provided further that if the need for effecting repairs is so urgent that in the opinion of the Provincial Government, for reasons to be recorded, a notice to the owner will result in further deterioration of the condition of the building, the direction for carrying out the necessary repairs may be given without such notice.

(3) If the owner is dissatisfied by an order passed under subsection (2) or disputes the amount claimed to have been spent on such repairs, he may, by an application, refer the matter to the arbitrator appointed under

Repairs and
additions to
requisitioned
buildings.

section 6 and the latter shall, after holding such inquiry as may be deemed necessary, pass such orders as the circumstances of the case require. The order passed by an arbitrator shall be final and conclusive between the parties and no separate appeal shall lie against it, but it shall be liable to be challenged by means of an application given by the owner or the Provincial Government to the High Court, if any proceedings with regard to the building are pending in that Court under section 6.

(4) The Provincial Government may, if it considers necessary or expedient, make additions or structural alterations or improvements to the building at its own cost, with previous approval of the owner obtained in writing. The owner shall not be liable to contribute towards the cost of such additions or structural alterations or improvements nor shall the amount so spent be deducted out of the compensation awarded. The owner shall not be allowed any increase in compensation on account of such additions or structural alterations or improvements.

6. (1) Where any building is requisitioned there shall be paid to the owner compensation for its use and occupation, and the amount thereof shall be determined in the manner and in accordance with the principles hereinafter set out:—

(a) Where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached the Provincial Government shall by a general or special order, for any case or class of cases, 'appoint as arbitrator a person qualified under Article 167 of the Constitution for appointment as a Judge of a High Court.

(c) The Provincial Government may, in any particular case, nominate a person having expert knowledge as to the nature of the building requisitioned to assist the arbitrator and where such nomination is made, the owner may also nominate an assessor for the said purpose.

(d) At the commencement of the proceedings before the arbitrator the Provincial Government and the owner shall state what, in their respective opinions, is a fair amount of compensation.

1 All such Additional District Judges in the Province of West Pakistan (except the Federal Capital) as are qualified for appointment as Judge of a High Court to be arbitrators for the purpose of sections 5 and 6 with respect to requisitioned buildings situated within their respective jurisdiction: see Gazette of West Pakistan, 1958 Extraordinary p. 1703.

Compensation to be assessed in accordance with certain principles.

'(e) The arbitrator in making his award shall take into consideration the initial cost of construction of that building including the land and the prevailing rate of rent of similar building in the locality]:

(3) An appeal shall lie to the High Court against an award of an arbitrator.

(4) Save as provided in this section and in any rules made under this Act nothing in any law for the time being in force shall apply to the arbitration under this section.

(5) An award given by the arbitrator, subject to the result of the appeal, if any, shall be conclusive and final between the parties and shall not be called into question by means of a suit or otherwise except as provided by this Act.

(6) The award may, on an application being filed in the Court, be executed as if it were a decree of a civil court.

3[6-A.(1) When the amount of compensation of the building has been determined under section 6, no further increase shall, during the continuance of requisitioning, be permissible within a period of three years from the date of determination of compensation, except in cases where some addition, improvement or alteration has been carried out at the owner's expense at the request of the Provincial Government.

(2) The amount of compensation if increased on grounds of addition, improvement or alteration made permissible under this section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed.

(3) Any dispute between the owner and the Provincial Government with regard to any increase claimed on grounds of addition, improvement or alteration made permissible under this section shall be decided by the Court.]

7. As soon as possible after an order of requisition is passed the Provincial Government shall determine the amount of compensation payable monthly to the owner for the use and occupation of the requisitioned building and deposit by the 5th of each succeeding month such compensation in the Court and if the amount of compensation assessed is enhanced by the arbitrator or by the High Court on appeal, the

1 Clause (e) subs. by Khyber Pakhtunkhwa Ord. III of 1985 s.2. read with Schedule.

2 Sub-section (2) omitted ibid.

3 section 6-A, ins. by Khyber Pakhtunkhwa Ord. III of 1985, s. 2. read with Schedule.

permissible.

Payment of
compensation.

excess amount shall also be similarly deposited in case the amount is not deposited within a period of three months from the date of requisitioning or the date of the order of the arbitrator or of High Court, as the case may be, the Provincial Government shall be liable to pay interest on the principal amount at the rate of six per centum per annum till the date of deposit or payment, as the case may be.

8. (1) The Provincial Government may with a view to carrying out the purposes of sections 4 and 6, by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to any building as may be so specified.

(2) If any person fails to furnish any information required by an order under sub-section (1) or furnishes any information which is false and which he either knows or has reasonable cause to believe to be false or does not believe to be true he shall be punished with imprisonment which may extend to one year or with fine or with both.

9. The Provincial Government may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of that Government be reasonably necessary, for securing compliance with any order made by it under this Act.

10. The Provincial Government may by order 'notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Act shall in such circumstances and under such conditions if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

11. (1) No injunction or an order for ejectment, delivery of possession or appointment of a receiver in respect of any building which has been requisitioned under this Act shall be granted or made by any Court or by any other authority.

(2) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(3) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act it shall be presumed that such an order was so made by that authority.

12. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of this Act or any order made thereunder.

(2) Save as otherwise expressly provided under this Act no suit or other legal proceedings shall lie against the Government for any damage

1 For delegation of Powers under this section, see Gazette of West Pakistan 1957 Pt. 1 P, 350.

Power to give effect
to orders.

Delegation of
functions.

Exemption from
legal processes.

Protection of
actions under this
act.

caused or likely to be caused by anything, in good faith, done or intended to be done in pursuance of this Actor any order made thereunder.

13. (1) The Provincial Government may make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the procedure to be followed in arbitrations and other proceedings under this Act;

(b) the principles to be followed in apportioning the cost of any proceedings mentioned in clause (a) above, and of appeals.

14. (1) The following enactments are hereby repealed:—

(1) The Sindh Crown Servants (House Accommodation) Act 1947;
(2) The Sindh (Requisition of Land) Act, 1947;

(3) The North-West Frontier Province Premises (Requisition and Eviction) Act, 1953;

(4) The Bahawalpur Requisitioning of Immovable Property (Temporary Powers) Act, 1955;

(5) The Punjab Requisitioning of Immovable Property (Temporary Powers) Ordinance, 1955[;]¹

*[(6) The Khairpur State Premises (Requisition and Eviction Act, 1947].

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

1Full-stop at the end of clause (5) substituted by a semi-colon by W.P. Act XVIII of 1957 s.3

2 New clause (6) added by W.P. Act XVIII of 1957 s.3

Power to make
rules.

Repeal of certain
Acts and ordinance.