

THE '[KHYBER PAKHTUNKHWA] NEW IRRIGATION PROJECTS (CONTROL
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THE '[KHYBER PAKHTUNKHWA] NEW IRRIGATION
PROJECTS (CONTROL AND PREVENTION OF
SPECULATION IN LAND) ACT, 1950.

(ACT NO. XIX OF 1950).

(Received the assent of the Governor, ? [Khyber Pakhtunkhwa] on the 24th
March, 1950).

AN
ACT

to control the lands and their alienation in the Irrigation Projects areas.

WHEREAS the Provincial Government contemplate Preamble
to commence the execution of the New Irrigation Projects in order to
conserve and utilize to the best advantage the waters of the Rivers and
Sub-soil Waters.

AND WHEREAS considerable purchases of land which are of
speculative character have been made or are likely to be made in the areas
which are to be irrigated when the project are complete;

AND WHEREAS it is necessary that the Government should
control the areas as well as the alienations;

It is hereby enacted as follows:—

1. (1) This Act may be called the *[Khyber Pakhtunkhwa] New Short title, extent
Irrigation Projects (Control and Prevention of Speculation in land) Act, and commencement
1950.

(2) (a) It extends to the areas and villages in the “[Khyber
Pakhtunkhwa] to be notified by the Provincial
Government.

(b) The Provincial Government may by notification in
the Official Gazette:—

(i) remove any specified area or village or portion of a
village;

(ii) extend all or any of the provisions of the Act to
any village or portion of a village or areas subject
to such modifications as may be specified in the
notification.

1 Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011.

? Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011.

3 Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011.

4 Subs. Vide the Khyber Pakhtunkhwa Act No. IV of 2011.

(3)

It shall come into force at once.

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

context:—

)

(2)

(3)

(4)

"alienation" includes sale, mortgage, lease, gift, exchange, but shall not include alienation of land in lieu of dower.

"prescribed" means prescribed by rules made under this Act.

"project area" or "area" means the area consisting of the villages or portion of villages or area notified by

the Provincial Government from time to time.

"Project land" or "land" means land in such area.

3. (1) The Provincial Government may, by notification in the official gazette appoint either by name or as holding any office for the time being, a Collector for any project area.

(2)

(3)

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The Collector so appointed shall perform such duties and exercise such powers as may be prescribed, for the purposes of carrying into effect the provisions of this Act and the rules made thereunder.

Every such Collector and every member of his staff appointed to assist him shall be deemed to be a "public servant" within the meaning of Section 21 of the Pakistan Penal Code.

5. No alienation of any land in the project area made by any owner, his agent, assignee or attorney on or after the 15th of August, 1947 and

until the commencement of this Act, shall be effective so as to confer any right or remedies on the party to such transfer or any person claiming under him, unless such transfer is proved to the satisfaction of the Collector to be bona fide, for a reasonable price and not speculative in character.

6. (a) The Collector shall value all lands in the project areas at the average price of such land prevailing during the five years commencing from the first of January, 1934 and ending with 31st December, 1938.

1 Section, 4, omitted by W.P. Act IV of 1969,

Definitions.

Appointment of
Collector, his duties
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Annulment of
certain Alienations.

Valuation of land in
the Project areas.

(b) For the purpose of determining the value, the Collector shall consider the following among other matters as evidence of such value:-

(i) the price or value actually received by the vendors from the vendees in the sale of project lands during the said five years;

(ii) the estimated amount of the average annual net assets of the land;

(iii) the land revenue assessed upon the land; and

(iv) the value of land as shown in mortgages during the said five years.

(c) Subject to the provisions of the next succeeding sections valuation fixed by the Collector shall be final and shall not be called in question in any civil, revenue or criminal court.

7. The Provincial Government may revise the value of any land fixed by the Collector under Section 6 and fix any other valuation of such land as it deems fit, in which case the value fixed by the Government will be final and will not be called in question by any civil, revenue or criminal court.

8. The Provincial Government may, at any time within fifteen years after such date as may be notified in the official gazette as the date on which water from an Irrigation Project is made available for the irrigation of land, revalue the lands in the project area, which valuation shall not in any case be less than 100 percent above the valuation fixed under Section 6 or 7 and valuation so fixed shall be final and shall not be called in question in any civil, revenue or criminal court.

9. The difference which is found in revaluation between the first valuation under Section 6 or 7 and second valuation under Section 8 shall be a debt which the owner of the land for the time being shall be deemed to owe to the Provincial Government and on demand shall be liable to pay this debt in five equal annual installments to the Provincial Government. The debt or part of the debt due from the owner of the land shall be recovered as an arrear of land revenue.

10. (1) Any person owning any land in the project area shall, on demand made by the Provincial Government by notice in writing within 15 years from the commencement of this Act, be bound to sell the land or part of the land, as the case may be, to the Provincial Government at the price, mentioned in the notice.

(2) The Provincial Government may dispose of any project land which it owns or which it acquires by purchase under this section, in any manner it thinks fit.

11. Any alienation of project land made by a person against the

Power of
Provincial
Government to
revise valuation.

Power of
Provincial
Government to
revalue lands
within 15 years.

Difference
between the two
valuations to be a
debt payable by
the owner

Acquisition of
land by the
Provincial
Government

Alienation made

provisions of this Act shall be null and void and shall not confer any right or remedies on the parties to such alienation or any person claiming under them.

12. The '[Board of Revenue] or the officer appointed by it in that behalf may at any time either suo motu or on application, call for and examine the records relating to any order passed or proceedings taken under this Act by any authority or officer, for the purposes of satisfying itself or himself as the case may be, as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit.

13. No order passed by the Provincial Government or any authority or officer under this Act shall be called in question in any civil, revenue or criminal court.

14. (1) No suit or other proceeding shall lie against the Provincial Government for anything done or purporting to be done under this Act or any rule made there under.

(2) No suit prosecution or other proceeding shall lie against any officer or servant of the Provincial Government for any act done or purporting to be done by such officer or servant under this Act or any rule made thereunder, without the previous sanction of the Provincial Government.

(3) No officer or servant of the Provincial Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed or authorized by or under this Act.

15. (1) The Provincial Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for :-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the opening and maintenance of a common register for the project area, showing the ownership, and changes in the ownership of lands therein and any other particulars which may be deemed necessary;

(c) the penalties which may be imposed for contravention of any of the provisions of this Act and the authority which may impose such penalties, provided that penalty

1 Subs, for "Provincial Government" by W.P. Act XVI of 1957, s.3, (3) sch,-III.

in contravention
of the Act to be

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Power of the
Provincial
Government to
call for and
examine the
records.

Finality of order.

Bar of certain
proceedings.

Power to make
Rules

shall not in any one case exceed one thousand rupees and;

(d) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act and fixing the time within which such proceedings shall be initiated.

(3) All rules made under this section shall be published in the official Gazette and upon such publication shall have effect as if enacted in this Act.

16. If any difficulty arises in giving effect to the provisions of this Act the Provincial Government may, as occasion may require, by order do anything which appears to them to be necessary for the purpose of removing the difficulty.

17. Nothing in this Act shall apply to the acquisition of any land:-

(a) at a sale held by any Civil, Revenue or Criminal Court in execution of a decree or order; or

(b) at a sale conducted under any law for the time being in force for the recovery of any revenue due to the Provincial Government or of any sum recoverable as arrears of such revenue; or

(c) by exchange in accordance with any Scheme made or approved by the Provincial Government:

Provided that in cases falling under clause (a) or clause (b) the court which, or the officer, who ordered the land to be sold, may of its or his own motion or on the application of the Provincial Government or any party to the proceedings, set aside the sale, if the Court or officer is satisfied that the sale was a collusive transaction or was made with a view to defeat or evade the provisions of this Act.

18. Any person who obstructs or abets obstruction to the execution of the projects shall be liable to a term of imprisonment which may extend to one year or fine or both.

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

Power to remove difficulties.

Savings.

Punishment or obstruction in the execution of the

project.

Effect on other
enactments.