

THE WEST PAKISTAN GRAVEYARDS (PRESERVATION AND MAINTENANCE)

ACT, 1958.

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THE WEST PAKISTAN GRAVEYARDS (PRESERVATION AND MAINTENANCE) ACT, 1958.

(West Pakistan Act XXV of 1958)!

[24th April, 1958]

An Act to provide for the preservation and maintenance of graveyards in West Pakistan.

WHEREAS it is expedient to make provision for the preservation Preamble and maintenance of graveyards in West Pakistan;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Pakistan Graveyards Short title extent and (Preservation and Maintenance) Act, 1958. commencement.

(2) It extends to the graveyard known as the Miani Sahib Graveyard, Lahore, and the Government may, by notification, extend all or any of the provisions of this Act, to any other graveyard" in West Pakistan.

(3) It shall come into force at once.

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

(1) "building" includes a building as defined in the City of Lahore Corporation Act, [1941]? and in the Punjab Municipal Act, [1911.J°

(2) "Committee" means a Committee constituted under section 3 of this Act.

(3) "Government" means the Government of West Pakistan;

(4) "graveyad" means a graveyard to which all or any of the provisions of this Act, have been extended;

(5) "High Court" means the High Court of West Pakistan;

(6) "land" includes land defined in the Land Acquisition Act, 1894;

1 For Statement of Objects and Reasons' see Gazette of West Pakistan, 1957, Extra-Ordinary, P. 331.

2 For Notification extending Act to Ichhra, Moghalpura, Baghbanpura, Garhi Shahu and Dharampura graveyards see Gazette of West Pakistan. 1959, Pt. I-A., p. 81.

3 Repealed by Ord. No. X of 1960.

4 Repealed by Ord. No. X of 1960.

(7) "prescribed" means prescribed by rules made by the Government under this Act; and

(8) "Tribunal" means a Tribunal constituted under section 7 of this Act.

3. (1) As soon as may be, after the enforcement of this Act, or the extension of all or any of the provisions of this Act, to any graveyard, the Government shall appoint for one or more of such graveyards a Committee which shall consist of a Chairman, and such number of other official and non-official members as may from time to time be specified by the Government.

(2) Each such Committee shall be a body corporate, and shall have perpetual succession and a common seal, with power to acquire and hold property, and to contract and do all things necessary for carrying out the purposes of this Act, and may sue and be sued in its corporate name.

4. Within such period as may be fixed by the Government in this behalf, the Committee shall investigate and report regarding-

(1) the area of the graveyard according to the various settlement records;

(2) the area of the encroachments;

(3) the nature and extent of the encroachment made by each person and the probable time of the commencement of the encroachment;

(4) the rights possessed by the encroachers with regard to the land encroached upon by them;

(5) the amount of compensation likely to be paid for the removal of the encroachments;

(6) the area which shall be declared to be the area of the graveyard; and

(7) any other matter which the Government may specify.

5. When a report under section 4 has been received the Government shall issue a preliminary notification defining the limits of the area proposed to be declared as the area of the graveyard specifying the encroachments and requiring, within a time to be specified, the removal of all encroachments from that area.

6. Any person who claims to have acquired any title to any land or property included within the limits defined in the notification issued under section 5, may within three months of the date of such notification; apply to the Government for the exclusion of such land or property from the area

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of the graveyard.

7. The Government shall appoint a Tribunal consisting of a person who is, has been or is qualified to be appointed a District and Sessions Judge to dispose of the applications presented under section 6 in accordance with the provisions of sections 8 and 9.

8. (1) If the Tribunal is satisfied that the title of any person who has applied under section 6, to any land or property included within the limits defined in the notification issued under section 5, has been established, it shall pass an order excluding such land or property from the area of the graveyard.

(2) The Government may, within one year from the date of an order under sub-section (1), declare by notification in the official Gazette, that the land or property or any part thereof excluded from the area of the graveyard under subsection (1) is required for the purpose of graveyard and after making such declaration, acquire, the land or the property, as far as may be, in accordance with the provisions of the Land Acquisition Act, 1894.

9. If the Tribunal is satisfied that the title of any person, who has applied under section 6, to any land or property included in the area defined in the notification issued under section 5 has not been established, it shall pass an order rejecting the application and directing such person to hand over possession of the land or property to the Committee within such period as may be specified in the order:

Provided that if the property includes a building, the Tribunal shall fix a period, not exceeding nine months within which such person shall remove the building materials.

10. If an order made under section 9 is not complied with, within the period specified in the order, the Tribunal may require the 7[Zilla Nazim] of the district to take such steps, including the forcible removal from such land or property of all the occupiers thereof, as may be necessary to put the Committee in possession of the land or property, and the *[Zilla Nazim] shall act accordingly . Any expenses incurred on such forcible removal shall be recoverable from such occupiers as arrears of land revenue.

11. Any person aggrieved by a final order passed by the Tribunal in proceedings under sub-section (1) of section 8 or section 9 or 10 may appeal to the High Court within one month of the date of the order and any order passed by the High Court in appeal shall be final.

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Nature of orders on
establishment of
title.

Nature of order
when title not
established.

Steps taken on non-
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Appeal.

1 The Chairman, Lahore Improvement Trust Tribunal appointed under this section see Gazette of West Pakistan, 1959, Pt. I-A

2 Subs vide Khyber Pakhtunkhwa Ord. No XVIII of 2001.

3 Subs vide Khyber Pakhtunkhwa Ord. No XVIII of 2001.

12. When all applications presented under section 6 have been disposed of by the Tribunal the Government shall issue a final notification defining the limits of the area of the graveyard.

13. The Possession of the entire land and property comprising the graveyard as defined in the notification issued under section 12 shall vest it the Committee and shall be held by it in trust for use as a graveyard and for such other ancillary purposes as may, in the opinion of the Government, be necessary for the proper maintenance of the graveyard.

14. The Committee shall , subject to the control and superintendence of the Government—

(a) protect the graveyard from encroachments;

(b) maintain the graveyard in a fit and proper condition and take steps to improve it;

(c) employ and pay such staff as may be necessary ; and

(d) do all such acts and things as may be necessary for the preservation and proper maintenance of the graveyard.

15. (1) The Committee shall draw up for the graveyard a scheme which may, among other things, provide for the following matters, namely :-

(a) the specification of areas to be used as burial grounds;

(b) the laying out of streets and open spaces and the provision of other amenities;

(c) the regulation of the design and structure of graves;

(d) the use to which the land not immediately required for the purpose of a burial ground may be put; and

(e) any other matter which may be necessary for the preservation and proper maintenance of the graveyard.

(2) The Government may reject the scheme drawn up by the Committee, may return it for further consideration or may sanction it with such modifications or additions as it may think fit.

(3) Nothing in this section shall preclude the Government from cancelling or modifying any scheme sanctioned under subsection (2) or the Committee from drawing up a fresh or modified scheme.

16. (1) In relation to proceedings under this Act, the Committee and the Tribunal shall have the same powers which are vested in a Court under the Code of Civil Procedure, 1908, for the following matters:-

defining limits of
graveyard.

Graveyard to be
Trust.

Functions of the
Committee.

Committee to
prepare scheme for
graveyard.

Committee and the
Tribunal to exercise
powers under the
Civil procedure

- (a) discovery and inspection;
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath and receiving other evidence;
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit; and
- (g) issuing commissions for the examination of witnesses.

(2) The Committee, or the Tribunal, may summon and examine, of its own accord, any person whose evidence appears to be material in any proceedings and it shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

(3) The provisions of the Evidence Act, 1872, shall be deemed to apply, so far as may be, to all proceedings before the Committee and the Tribunal.

17. The Government shall place at the disposal of the Committee such funds as may be necessary for the payment of compensation under section 8 and for the proper management of the graveyard.

18. The Government may require any local authority to pay such annual contributions to the Committee, for the maintenance of the graveyard, as may be fixed from time to time.

19. (1) 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 provide for all or any of the following matters, namely:—

(a) the regulation of the procedure and conduct of business by the Committee and the Tribunal;

(b) the constitution of the Committee, its powers and functions, the term of office of members and the resignation and removal of members and the appointment of the Chairman and Vice Chairman of the Committee;

(c) the employment of staff by the Committee and their conditions of service;

Code 1908.

Government to provide funds for

compensation.

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- (d) the manner in which the funds required by the Committee shall be raised and spent;
- (e) the maintenance of accounts by the Committee and an audit thereof;
- (f) the manner in which schemes under section 15 shall be framed; and
- (g) the manner in which the Government shall control and supervise the activities of the Committee.

20. Any person who, after the extension of all or any of the provisions of this Act, to a graveyard:—

- (a) makes an encroachment or erects any building in an unauthorised manner in any part of the area of the graveyard;
- (b) puts any land or property within the limits of the graveyard to any use not in conformity with this Act. or any rules or a scheme thereunder;
- (c) damages any land or property included in the area of graveyard; or
- (d) commits a breach of any of the provisions of this Act, or the rules or a scheme framed thereunder;

shall, on conviction by a Magistrate, be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

21. No Court shall take cognizance of an offence under this Act, except on the complaint of a person authorised by the Government in this behalf.

22. The Government may, at any time, dissolve the Committee, and transfer its assets and liabilities and entrust its functions and powers to a local authority.

Penalties.

Cognizance of
offences under the
Act.

Dissolution of
Committee.