

THE 'IKHYBER PAKHTUNKHWAJ], SALINITY CONTROL AND
RECLAMATION OF LAND ORDINANCE, 1986.
23rd October, 1986.

*IKHYBER PAKHTUNKHWA] ORDINANCE NO. VI OF 1986.

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AN
ORDINANCE

to make provisions for facilitating the execution of schemes for drainage of sub-surface water and removal of hinderance in installation of sub-surface drains in the ?[Khyber

Pakhtunkhwal].

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

AND WHEREAS the Provincial Assembly is not in session and the Governor of the "(Khyber Pakhtunkhwa]" is satisfied that circumstance exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of the *[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

1. (1)This Ordinance may be called the °[Khyber Pakhtunkhwa], Salinity Control and Reclamation of Land Ordinance, 1986.

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

1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

2 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

3 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

4 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

5 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

6 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

7 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

Preamble.

Short title, extent and commencement.

(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.

2. In this Ordinance, unless the context otherwise requires—

(a)

(b)

(c)

(d)

(e)

(f)

(g)

"Authority" means the Water and Power Development Authority established under the West Pakistan Water and Power Development Authority Act, 1958 (W. P. Act No. XXXI of 1958);

"deep-rooted tree" means the trees specified in the Schedule to this Ordinance and includes such other as Government may, from time to time by notification in the official Gazette, and to the said Schedule;

"Government" means the Government of the [Khyber Pakhtunkhwa];

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

"prescribed" means prescribed by rules made under this Ordinance ;

"scheme" means a scheme framed under section-4 of this Ordinance ; and

"sub-surface drains" means any engineering structure meant to facilitate drainage of sub-surface water.

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

4. (1) Government may, on its own motion or on the application

1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

Definition.

Provisions of the
Ordinance to be
overriding.

Framing and

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 an 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:

- (i) the fact that the scheme has been framed;
- (ii) 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 an officer authorised by it in that behalf, or erect or raise any building or permanent structure over a sub-surface drain.

(2) The Authority or the officer, as the case may be, where satisfied that the plantation of the deep-rooted tree is not likely to harm the sub-surface drain laid or to be laid under the scheme, or does not obstruct the drain 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 or the officer so authorised may specify in that behalf, the decision of the Authority or the officer, as the case may be, shall be final.

implementation of scheme.

Restriction of plantation of trees or raising of structure.

(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 or the officer so authorised 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 up-rooted or demolished at the cost of the defaulter and the defaulter shall not be entitled to any compensation therefor.

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 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 undertaking 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 arrears 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 of 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 caused 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

Power to enter upon the land, etc.

(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. No compensation shall be payable for any damage caused to trees, orchards, crops or temporary or permanent structures, standing on the land comprised in a scheme, during the course of implementation or as the case may be, maintenance, of the scheme:

Provided that permanent building or structure already erected or raised on the land comprised in the scheme before the date of publication of the notice under sub-section (2) of section 4 shall be exempted from the operation of this section and reasonable compensation, in the prescribed manner, shall be admissible to the owners of such building or structures, in case any damage is caused to them in carrying out the scheme.

8. If any person, without lawful Authority—

(a) removes any mark set up for the purpose of indicating any level or direction necessary for the implementation or maintenance of a scheme under this Ordinance: or

(b) infringes or does not comply with any order given under this Ordinance,

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 Ordinance; or

(c) remove any machinery, pipes, gauges, fence, or in any other manner hampers the work in operation; or

Cases in which compensation is admissible.

Penalty for removing machinery, etc.

Penalty for obstruction.

(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 offence under this Ordinance, except upon a complaint in writing by an officer authorised in this behalf.

11. Where the owner of any temporary structure or tree or other plantation in a local area where a scheme under this Ordinance is in operation is directed by an officer authorised 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, 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 be against Government, the Authority or any other Department or Organization responsible for the implementation or maintenance of a scheme under the Ordinance 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 Ordinance.

13. | Government may make rules for carrying out the purpose of this Ordinance.

Cognizance.

Removal of structure,
etc.

Indemnity.

Power to make rules.

SCHEDULE

[See Section 2(b)]

Serial Designation of deep-rooted trees
No.

1 2

Salix Species (Willow).

—

Eucalyptus spp (eucalyptus).

Dalbergia sisoo (shisham).

Tamarix articulata (tamarix).

Salmania malabarica (simal).

Melia azedarach (bakain).

Populus species (popular).

Morus alba, (malbery).

eS wn anuvv FY N

Ailanthus glandulosa (heaven tree).

Acacia arabica (babool/kikar).

S

FIDA MOHAMMAD KHAN
GOVERNOR OF THE KHYBER PAKHTUNKHWA
Peshawar,
dated the
23 October, 1986