

THE WEST PAKISTAN CONSOLIDATION OF HOLDINGS ORDINANCE,
1960.

Ordinance No. VI of 1960

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THE WEST PAKISTAN CONSOLIDATION OF HOLDINGS ORDINANCE,

1960.

(W. P. Ordinance No. VI of 1960)

[10th March, 1960]

AN

ORDINANCE

to consolidate and amend the law relating to consolidation of holdings in the Province of West Pakistan.

WHEREAS, it is expedient to consolidate and amend the law relating to consolidation of holdings in the Province of West Pakistan.

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:-

CHAPTER -I

PRELIMINARY

1. (1) This Ordinance may be called the West Pakistan Consolidation of Holdings Ordinance, 1960.

1[(2) It extends to the whole of the 7[Province of Khyber Pakhtunkhwa] except the Tribal Areas.]

(3) It shall come into force* in such area or areas and from such date or dates as Government may, by notification in the Official Gazette, specify.

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

"Subs. by W.P. Ord. VII of 1964.

2. In sub-section (2) of section 1, for the words "Province of West Pakistan" the words 1-North-West Frontier, Province subs, by Khyber Pakhtunkhwa Adapt, of Laws Order, 1975 and then Subs vide Khyber Pakhtunkhwa Act No.IV of 2011.

3. The Ordinance was brought in force in Dera Ismail Khan, Bannu, KohatMianwali, Peshawar, Mardan, HazaraAttock, Rawalpindi, Gujrat, Muzaffargar, Jhelum, Shahpur, Lahore, Gujranwala, Sialkot, Sheikhupura, Jhang Lyallpur, Montgomery, Multan and Der Ghaiz Khan Districts with effect from 11th April, 1961, see Gazette of West Pakistan, 1960. Extraordinary, P. 1691.

Preamble.

Short title

extent and

commencement.

Definitions.

expressions shall have the meanings hereby respectively assigned to them, that is to say —

(a) "arrears of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable;

(b) "Board of Revenue" means the Board of Revenue constituted under the West Pakistan Board of Revenue Act, 1957;

(c) "Collector" means the chief officer in charge of the revenue administration of a district and shall include a Deputy Commissioner and any other officer specially empowered by the Board of Revenue to perform the functions of a Collector;

(d) "Commissioner" means the chief officer in charge of the revenue administration of division and includes and Additional Commissioner, and any other officer specially empowered by the Board of Revenue to perform the functions of Commissioner under this Ordinance;

(e) "Consolidation Officer" means an officer appointed by the Board of Revenue or by any other officer specially empowered by the Board of Revenue in this behalf, to perform all or any of the functions of a Consolidation Officer under this Ordinance;

(f) "Consolidation of holdings" means the re-distribution of all or any of the lands in an estate or sub-division of an estate so as to reduce the number of plots;

(g) "Estate" means any area —

i. For which a separate record-of-rights has been made; or
ii. Which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released,

compounded for or redeemed; or

iii. | Which the Board of revenue may, by general rule or special order, declare to be an estate;

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

¹ In clause (h) for the words "West Pakistan" the words "North-West Frontier Province subs. by Khyber Pakhtunkhwa Adaptation of Laws Order, 1975 and then subs.vide Khyber Pakhtunkhwa Act No.IV of 2011.

(i) "holding" means a share or portion of an estate held by one land-owner or jointly by two or more landowners;

Gj) "land-owner" does not include a tenant, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, for the recovery of arrears of land-revenue or of a sum recoverable as such arrears, and every other person not hereinbefore mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate;

(k) "land-revenue" includes any sum payable in respect of land by way of quit-rent;

(1) "prescribed" means prescribed by rules made under this Ordinance;

(m) "Registrar" means the person appointed by Government to perform the duties of a Registrar of Co-operative Societies under any law relating to Co-operative Societies;

(n) "Revenue Officer" means a Revenue Officer having authority to discharge the functions of a Revenue Officer under any law relating to land-revenue; and

(o) "sub-division" means a part of an estate recorded as a sub-division, patti, taraf or pana in a record-of-rights prepared under any

law for the time being in force relating to land-revenue, provided it forms a compact block.

CHAPTER - II

CONSOLIDATION OF HOLDINGS.

(1) The Board of Revenue or any officer authorized by it in this behalf may

move the Consolidation Officer for the consolidation of holdings in an estate or a sub-division.

(2) Any two or more land-Owners in an estate or a sub-division holding

together not less than the minimum area of land prescribed in this behalf may make an application in writing to the Consolidation Officer of the consolidation of their holdings.

(1) Where an application for consolidation of holdings is made by or on

behalf of all the land-owners of an estate or a sub-division and the scheme of consolidation of holdings is confirmed, such scheme shall be binding on all the land-owners of the estate or the sub-division and on every person having a right or

Who may move
for
consolidation of
holdings.

When an
application for
consolidation of
holdings shall
be deemed to be

interest or who may subsequently become entitled to such right or interest in the on behalf of all area included in the scheme. the land-owners.

(2) The motion or the application, as the case may be, shall be deemed to be an application on behalf of all the land-owners in the estate or sub-division, if —

(a) The Board of Revenue or an officer authorized by it in this behalf moves the consolidation Officer for the consolidation of the holdings in an estate or a sub-division;

(b) not less than fifty-one percent of the land-owners in an estate or a sub-division, holding not less than fifty-one percent of the cultivated area in the estate or the sub-division, make an application for consolidation their holdings; or

(c) on inquiry into an application made under sub-section (2) of section 3, the Consolidation Officer is satisfied that not less than fifty-one percent of the land owners in the estate or sub-division holding not less than fifty-one percent of the cultivated area in the estate or sub-division, agree in writing to the consolidation of their holdings.

Explanation:- If a part or the whole of the cultivated area in an estate or a sub-division is evacuee property as defined in the Pakistan (Administration of Evacuee Property) Act, 1957, or in any other law relating to the administration of such property, an application for consolidation of holdings made by the Custodian of Evacuee Property or an officer authorized by him in this behalf, or the consent given by him or the said officer, and where any such property has been acquired by Government under section 4 of the Displaced Persons (Land Settlement) Act, 1958, an application for consolidation of holdings made by the Chief Settlement and Rehabilitation Commissioner, or an officer authorized by him in this behalf, or the consent given by him or the said officer, shall be deemed to be an application or consent on behalf of all evacuee land-owners of such cultivated area in the estate or the sub-division, or on behalf of the '[Federal] Government, as the case may be.

5. Where an application for consolidation is not by or on behalf of all the land- Application by owners, it shall be confined to the land owned by the applicants and by such other me of the land-owners who have agreed to the consolidation of their holdings, and, if effect.. and its confirmed, it shall be binding on them and on every person having a right or

interest or who may subsequently become entitled to such right or interest in the area included in the scheme.

¹ Subs. by P. O. 4.0f 1975.

6. Notwithstanding anything in any other law, the rights and liabilities of land-owners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise and neither the landlord nor the tenant nor any other person shall be entitled to object or to interfere with any transfer made for the said purpose.

7. (1) Where there appear to be good and sufficient reasons for disallowing an application for consolidation of holdings, or for excluding any land from consolidation, the Consolidation Officer may, at any stage of the proceedings, submit the application to the Collector with the recommendation that the application be rejected in whole or in part, or that the proceedings in respect thereof be quashed.

(2) The Collector, on receipt of the recommendation, may pass such orders thereon as he deems proper, rejecting or admitting the application, either in whole or in part, or he may direct the Consolidation Officer to make further recommendation after such enquiry as may be directed.

8. If the Consolidation Officer makes no recommendation to the Collector under sub-section (1) of section 7, or if the Collector allows the application on such recommendation to be entertained in whole or in part, the Consolidation Officer shall admit the application in whole or in part, as the case may be, and shall proceed to deal with it in such manner as may be prescribed.

9. (1) Where the land-owners making the application under sub-section (2) of section 3 submit an agreed scheme for consolidation of holding, the Consolidation Officer shall proceed with the application in such manner as may be prescribed.

(2) If no agreed scheme is submitted with the application for consolidation, the Consolidation Officer shall prepare a scheme for consolidation of holdings in such manner as may be prescribed.

(3) Subject to any rules made under section 29, the Consolidation Officer may appoint an Advisory Committee or Panchayat to assist him in the preparation of a scheme for the consolidation of holdings.

10. (1) The Consolidation Officer shall, before approving any scheme, publish it in such manner as may be prescribed.

(2) Where objections are lodged by any person interested in the area covered by the schemes, the Consolidation Officer shall endeavour to bring about an amicable settlement.

(3) If no objections are lodged, or where lodged the Consolidation Officer succeeds in bringing about an amicable settlement, he shall pass an order

Transfer of
rights of land
owners in
holdings and of
tenants in
tenancies.

When
application may
be rejected.

Admission of
application.

Preparation of
scheme for
consolidation of
holdings and
appointment of
advisory
Committee.

Publication of
scheme,
settlement of
objections there
to and its
confirmation.

confirming the scheme of consolidation.

(4) If the Consolidation Officer fails to bring about an amicable settlement he shall submit the scheme with his recommendations to the Collector, who after giving notice to the persons concerned and hearing them if they so desire, may, after further enquiry by himself or any Consolidation Officer, or without such enquiry, as he may deem fit, reject the scheme or confirm it with or without modifications.

11. (1) Any person aggrieved by an order of the Consolidation Officer confirming the scheme may, within sixty days from the date of the order, prefer an appeal to the Collector.

(2) A second appeal from the order of the Collector passed on an appeal under sub-section (1) shall lie to the Commissioner within sixty days from the date of the order; provided that when the order of the Consolidation Officer is confirmed on appeal by the Collector, second appeal shall lie.

(3) Any person aggrieved by an order of the Collector made under sub-section (4) of section 10 confirming, rejecting or modifying a scheme of consolidation submitted to him by the Consolidation Officer may, within sixty days from the date of the order, prefer an appeal to the Commissioner.

[(3-a) The Collector or the Commissioner, in appeal may, after giving the aggrieved person or persons an opportunity of being heard confirm, set aside or vary the order appealed from].

*1(4) In questions of the admission of, and the computation of the period for, an appeal from the order under this Ordinance, the limitation therefore shall be governed by the Limitation Act, 1908].

12. When the Consolidation Officer or the Collector, as the case may be, is of the opinion that the re-distribution of land in accordance with the scheme of consolidation confirmed by him will have the results of allotting to any land-owner any piece of land which is not of the same value as his original piece of land and that it is equitable that compensation should be granted, he may provide for payment of compensation by and to the persons as may be affected by the scheme.

' In section-11, sub-section (3a) ins. by W. P. Ord No. XXXIV of 1965.

> In section-11, sub-section (4), ins. by W.P. Act. No XVI of 1964.

Appeals.

Payment of compensation.

13. [(1) The Board of Revenue may —

(1) At any time of its own motion call for the record of any proceedings under this Ordinance pending before, or disposed of by any Revenue or Consolidation Officer, or (b) on an application made to it in that behalf by a person aggrieved within ninety days of the passing of any order in any proceedings under this Ordinance by any Revenue or Consolidation Officer, and after giving such person an opportunity of being heard, call for the record of such proceeding].

(2) A Commissioner of Collector may call for the record of any case under this Ordinance pending before, or disposed of by, any Revenue Officer or Consolidation Officer under his control.

(3) If in any case in which a Collector has called for the record under sub-section (2) he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Commissioner.

(4) The Board of Revenue may in any case called for under sub-section (1) and a Commissioner may in any case called for by him under sub-section (2) or reported to him under sub-section (3), pass such order as it or he thinks fit:

Provided that no order shall be passed under this section reversing or modifying any proceedings or order of a subordinate Revenue Officer and affecting any question of right between private persons without giving those persons an

opportunity of being heard.

14. Save as provided in this Ordinance no appeal or revision shall lie from any Order passed under this Ordinance or the rules made there under.

15. When the confirmation of a scheme of consolidation becomes final, the Consolidation Officer shall —

(a) announce the decision which has become final, if this, has not been already done;

(b) demarcate the boundaries of the holdings, if necessary; and

(c) cause to be prepared a new record-of-rights in accordance with the scheme.

' In section-13 sub-section (1) subs. by W.P. Ord. No.XVII of 1965.

Power to call
for and examine
records.

No appeal
except as
provided by this
Ordinance.

Procedure on

confirmation.

Explanation:- Such record-of-rights shall have the same force as the record-of-rights which it purports to replace.

16. A land-owner or a tenant shall have the same right in the holding or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding or, tenancy, as the case may be.

17. Subject to any rules that may be made under section 29, when the holding of a land-owner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other incumbrance, such lease, mortgage or other incumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer may direct; and, thereupon, the lessee, mortgage or other incumbrances, as the case may be, shall cease to have any right in or over the land from which the lease, mortgage or other incumbrances has been transferred.

18. The land-owners, tenants and other persons affected by the scheme of consolidation shall be entitled to possession of the holdings and tenements allotted to them under the scheme and the Consolidation Officer shall, by an order, direct that they be put in possession thereof from such date after the final confirmation of the scheme, as he may deem expedient, and for this purpose he shall have all the powers of the Collector.

'1(18-A) Any person occupying, or in possession of any holding or tenement as included in the consolidation scheme. —

- (a) The right of occupation of which has been allotted to any land owner, tenant or other person under the Consolidation Scheme; or
- (b) Possession of which has not been authorized by the Consolidation Officer under the Consolidation Scheme may, after been given a reasonable opportunity of showing cause against such action, be summarily ejected by the Consolidation Officer, with the use of such force as may be necessary:

Provided that no person shall be so ejected earlier than the date mentioned in the order made under section 18.]

| Section 18 A, ins. by W.P. Ord. No. XVII of 1965.

Rights of
landowners and
tenants after
consolidation
same as before.

Transfer of in-
cumbrance to
new allotments.

Right of
landowners
, tenants and
persons effected

in newly
allotted
holdings and
tenements.

Summary
ejectment.

19. A Revenue Officer may, either of his own motion or on an application in this behalf, eject any person making encroachment upon any way or path shown in the record-of-rights prepared under section 15, and by an order published in such manner as may be prescribed, forbid repetition of the encroachment:

Provided that the proceedings of the Revenue Officer shall be subject to any decree or order which may be passed by any Court of competent jurisdiction.

CHAPTER - III
SUPPLEMENTAL

20. The cost of consolidation proceedings shall be recovered, in such manner as may be prescribed, from the person whose holdings are affected by the scheme of consolidations:

Provided that Government may remit the costs of a single scheme of consolidation or of all schemes of consolidation in a particular area either in whole or in part or for a term of years.

21. Any amount payable as compensation under section 12 or as costs under section 20 may be recovered as an arrear of land-revenue.

22. Notwithstanding anything in any law: —

(a) an instrument in writing shall not be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and

(b) if any instrument is executed, it shall not require registration.

23. When an application for the consolidation of holdings has been made and it has been duly admitted, partition proceedings in respect of the estate or subdivision which will be affected by the scheme shall not be commenced, and all pending proceedings shall remain in abeyance till the conclusion of the consolidation proceedings.

24. When an application for the consolidation of holdings has been made, no land-owner or tenant having a right of occupancy upon whom the scheme will be binding shall have power, without the sanction of the Consolidation Officer, during the pendency of the consolidation proceedings, to transfer or otherwise deal with any part of this holding or tenancy so as to affect the rights of any other land-owner

Revenue
Officer to
prevent
encroachment
upon way or
path shown in
new records.

Cost of
consolidation
proceedings.

Recovery of
compensation
of cost as
arrears of land-
revenue.

No instrument
necessary to
effect transfer.

Abeyance of
partition
proceedings
during
consolidation
proceedings.

Transfer of
property during
consolidation
proceedings.

or tenant having a right of occupancy therein under the scheme of consolidation .

25. Consolidation of holdings shall be carried out on the basis of killabandi where the physical features of the tract operation permit such a course.

26. No Civil Court shall entertain any suit or application to obtain a decision or order in respect of any matter which Government or the Board of Revenue or any officer is, by this under Ordinance, empowered to determine, decide or dispose of.

27. No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Ordinance or against any public servant or person duly appointed or authorized under this Ordinance in respect of anything in good faith done or purported to be done under the provisions thereof or the rules made thereunder.

28. In relation to any Co-operative Society duly registered under any law for the time being in force relating to Co-operative Societies, having as its object the consolidation of holdings, nothing in this Ordinance shall affect the validity or enforceability of. —

(a) the acts or proceedings of any society aforesaid or of its managing committee or servants;

(b) any decision of any society as aforesaid approving by a two-thirds majority of its whole membership, a scheme for the re-arrangement of the holdings of all or any members of such society; or

(c) the acts, proceedings and awards done, taken or made by the Registrar acting as arbitrator, or by a person appointed by the Registrar in accordance with the by-laws of such society and the rules applicable to it, to act as arbitrator, in respect of any dispute arising out of or relating to any scheme of re-arrangement as aforesaid, and all such acts, proceedings, decisions and awards shall have such effect in relation to the holdings which have been re-arranged thereby, as is provided by the aforesaid by-laws and rules.

29. (1) The Board of Revenue may after previous publication make rules ' for the purpose of carrying into effect the provision of the Ordinance.

' For Rules Gazette of West Pakistan 1960 Extraordinary pp. 3475-3478.

Killabandi to be the basis.

Jurisdiction of Civil court barred as regards matters arising under this Ordinance.

Public servants indemnified for

acts done under
this Ordinance.

The Ordinance
not to affect the
validity of
consolidation of
holdings by
Cooperative
societies duly
Registered.

Powers to make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Board of Revenue may, in the manner prescribed by the last preceding sub-section, make rules—

(a) prescribing the minimum area of land to be held by the persons making an application under sub-section (2) of section 3;

(b) providing for the particulars to be contained in any application made under sub-section (2) of section 3;

(c) providing for the procedure to be followed by the Consolidation Officer and for the appointment and constitution of an Advisory Committee or Panchayat to assist the Consolidation Officer in the examination or the preparation of the scheme;

(d) providing for the manner in which the costs of the consolidation proceedings shall be assessed;

(e) providing for the appointment of guardians al item for minors;

(f) for determining the value of lands and the compensation to be paid therefore;

(g) for the guidance of Consolidation Officers in respect of the transfer of incumbrances and leases;

(h) generally for the guidance of the Consolidation Officers and other officers and persons in all proceedings under this Ordinance; and

(i) for appointment of an officer or officers to supervise the consolidation

operation and to supervise and control the consolidation staff.

30. '[] The North-West Frontier Province, Consolidation of Holdings Act, 1946 Repeal.

*Tis] here by repealed.

' In section-30, the words and figure "Punjab consolidation of Holdings Act. 1936", omitted by Khyber Pakhtunkhwa Adapt. of Laws Order" 1975.

?_ For the word "are" the word "is", subs, by the Order ibid.