

**THE KHYBER PAKHTUNKHWA PROVINCE INDUSTRIAL
LOANS ACT, 1946.**

(ACT XIV OF 1946).

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**THE ¹[KHYBER PAKHTUNKHWA]
INDUSTRIAL LOANS ACT, 1946.**

ACT XIV OF 1946.

An Act to improve the law relating to loans by the Government for industrial purposes.

WHEREAS it is expedient to improve the method of advancing loans by the Government for industrial purposes and of recovering the same from the borrowers: Preamble.

It is hereby enacted as follows:-

1. (i) This Act may be called the ²[Khyber Pakhtunkhwa] Industrial Loans Act, 1946. Short title, extent and commencement.

(ii) It extends to the whole of the ³[Province of the Khyber Pakhtunkhwa].

(iii) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint in this behalf.

2. In this Act – Definitions.

(i) “Industrial” means relating to and connected with the manufacture of articles by hand, by machinery or by chemical processes.

(ii) “Company” means a Company, as defined in the ⁴[.....] Companies Act, 1913.

(iii) “Prescribed” means prescribed under the rules made under this Act.

3. Subject to such rules as may be made under Section 12, loans may be granted under this Act for industrial purposes by such officers as may from time to time be empowered in this behalf by the Provincial Government. Power to grant loans.

4. Application for a loan may be made by an individual, a firm or a company and shall be made on the prescribed form. Application for loan.

5. (i) When an application for a loan has been accepted, the applicant shall execute a deed in the prescribed form undertaking to apply the Security for repayment.

¹. Subs vide the Khyber Pakhtunkhwa Act IV of 2011.

². Subs vide the Khyber Pakhtunkhwa Act IV of 2011.

³. Subs vide the Khyber Pakhtunkhwa Act IV of 2011.

⁴. Now the Companies Act, 1913 Central Act Vol. VI.

money lent to the purpose or purposes for which and generally to fulfil the conditions on which the loan was granted and rendering himself and his property liable for the payment of any penalty imposed under Section II, and for the repayment of the loan, together with all interest due thereon, if any, and Costs, if any, incurred in making or recovering the loans.

(ii) When the application has been made by a firm or company the deed shall be executed by a representative thereof, and the deed shall thereupon be deemed binding on the said firm or company and the property of the said firm or company shall be liable in the same manner, as if the loan had been granted to an individual.

6. The loan together with all interest due thereon, if any, shall be repayable either in a lump sum or by instalments (in the form of an annuity or otherwise) as the officer granting the loan may direct. Loan how repayable.

7. (i) When any loan or instalment or interest thereon falls due and is not paid on or before the due date or when any penalty has been imposed under Section II, or when a loan has been declared to be immediately repayable under the said section the officer empowered by the Provincial Government in this behalf may cause to be served on the debtor a notice in the prescribed manner calling upon him to pay the sums due within such time as may be fixed therein. Notice to pay.

(ii) Such notice shall contain an intimation that in case of default the said officer will issue a declaration in the prescribed form showing the amount of the debt due and the property liable to satisfy the same.

8. (i) If within the time so fixed the sums due are not paid, the officer empowered under Section 7, may issue the declaration as described in sub-section (ii) of the same section. Such declaration shall be published in the official Gazette. Effect of declaration.

(ii) Such declaration shall be conclusive evidence of its contents and shall not be called into question in any court:

Provided that any person, other than the debtor, who claims to have any interest in the property declared liable to satisfy the debt may, within thirty days of the publication of such declaration in the official Gazette, make an objection to the officer issuing the declaration. Such officer shall after taking such evidence as may be necessary ¹[and after giving the objector an opportunity of being heard] accept or reject such objection and modify or confirm his declaration accordingly:

Provided further that within sixty days of passing of any order under this sub-section the person making the objection may appeal to the Provincial Government against such order, and the decision thereon of the Provincial Government shall be final.

¹. Inserted by Khyber Pakhtunkhwa Act, No. II of 1985.

(ii) Such declaration may be presented by the said officer or by such person as he may, either generally or specially, appoint in this behalf in a competent civil court in the same manner as a decree of which execution is sought.

9. When a declaration has been received by a civil court under Section 8, the court shall pass an order directing the debtor to pay the amount shown therein as due, and such order may be executed in the same manner as if it had been a money decree passed by a court in the exercise of its ordinary civil jurisdiction and the property mentioned in such declaration had been attached thereunder.

Order and execution.

10. Subject to the rules made under Section 12 the officer empowered by the Provincial Government in this behalf may from time to time inspect the premises, books, machinery, stocks, stores and all other belongings and things connected with the industrial undertaking or undertakings in respect of which a loan has been granted under this Act in order to satisfy himself that such loan is being applied to the purpose or purposes for which it was granted, or that the conditions on which it was granted are being duly fulfilled and shall have such powers of entry as may be necessary to make such inspection.

Power to inspect.

11. If such officer, is, after inspection, not satisfied that the money lent is being applied to the purpose or purposes for which the loan was granted, or that the conditions on which the loan was granted are being duly fulfilled, he may pass an order directing that the borrower shall pay, by way of penalty, a sum not exceeding Rs. 100 and may declare notwithstanding anything contained in the deed executed under Section 5 that the loan is immediately repayable:

Penalty for default in applying the loan.

Provided that the borrower may within six days of the receipt of such order appeal against it to the Provincial Government, and the decision thereon of the Provincial Government shall be final:

¹[Provided further that the Provincial Government shall not pass any order without giving the borrower an opportunity of being heard].

12. The Provincial Government may, after previous publication by notification in the official Gazette, make rules consistent with this Act to provide for the following matters, namely:-

Power to make rules.

- (i) the manner of making application for loans;
- (ii) the officer by whom loans may be granted;
- (iii) the form of deed to be executed under Section 5;

¹. Proviso ins. by Khyber Pakhtunkhwa. Act, No. II of 1985.

- (iv) the nature and amount (not exceeding one and-a-half times the amount of the loan) of the security to be taken for the due application and repayment of the money lent together with all interest due thereon, if any, the rate of interest at which and the conditions under which loans may be granted:

Provided that where the security consists wholly or in part of the premises, machinery, stock, stores or other property, present or future, movable or immovable, of the industrial undertaking concerned then the holder of such property, present and future, movable and immovable, may be made liable for the recovery of the loan and all interest due thereon, if any;

- (v) the manner in and the place at which notices under subsection (1) of Section 7 or orders under Section 11 may be served on any debtor;
- (vi) the form of the declaration to be used under Section 8;
- (vii) the inspection of the premises, books, machinery, stock, stores and all other belongings and things connected with the industrial undertakings in respect of which loans have been granted; and
- (viii) all other matters pertaining to the working of this Act.