

THE ¹[KHYBER PAKHTUNKHWA] KABUL RIVER PROJECT (CONTROL AND PREVENTION OF SPECULATION IN LAND) ACT, 1948.

Act of VI 1948

**AN
ACT**

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SCHEDULE

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

THE ¹[KHYBER PAKHTUNKHWA] KABUL RIVER PROJECT (CONTROL AND PREVENTION OF SPECULATION IN LAND) ACT, 1948.

Act of VI 1948

(Received the assent of the Governor, ²[Khyber Pakhtunkhwa] on the 17th April, 1948.)

An act to control the lands and their alienation in the Kabul River Project area.

WHEREAS the Provincial Government contemplate to commence the execution of the Kabul River Project in order to conserve and utilize to the best advantage the waters of the Kabul River.

Preamble.

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

AND WHEREAS it is necessary that the Government should control the area as well as the alienations; It is hereby enacted as follows:—

1. (1) This Act may be called the Kabul River Project (Control and Prevention of Speculation in Land) Act, 1948.

Short title, extent and commencement.

(2) (a) It extends to the area and villages in the Peshawar district and specified in the Schedule.

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

(i) remove from the Schedule 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 in the said district or any other district, subject to such modification as may be specified in the notification.

(3) It shall come into force at once.

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

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

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

(1) "prescribed" means prescribed by rules made under this Act.

(2) "Project area" or "area" means the area consisting of the villages or portion of villages or areas specified in the Schedule as modified from time to time.

(3) "Project land" or "land" means land in such area.

(4) "alienation" includes sale, mortgage, lease, gift, exchange but shall not include dower.

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 the project area. Appointment of collector, his status and duties.

(2) The Collector so appointed shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Act the rules made there under.

(3) 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 ¹[Pakistan] Penal Code.

²[* * * *]

5. No alienation of any land in the project area made by any owner, his agent, assignee or attorney on or after the 1st day of December, 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 a Collector to be *bona fide*, for a reasonable price and not speculative in character. Annulment of certain alienations.

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

(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;

¹ Subs. for "Indian" by G. G. O. IV of 1949.

² Section 4.; omitted by W. P. Ord. IV of 1969, s. 2.

(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 questioned in any civil, revenue or criminal court.

Power of provincial Government to revise Valuation

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 the Kabul River Project is made available for the irrigation of the land, re-value the lands in the project area, which valuation shall not in any case be less than 100 per cent 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.

Power of Provincial Government to re-value lands within 15 years.

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 owners 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.

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

10. The debt or part of the debt due from the owner of the land shall be recovered as an arrears of land revenue.

Debt to be recoverable as an arrear of land revenue.

11. (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 at the price, mentioned in the notice.

Acquisition of land by the provincial government.

(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.

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

Alienation made in contravention of the Act to be null and void.

13. The ¹[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 purpose of satisfying itself or himself as the case may be as to the legality regularity or propriety of such order or proceeding and may pass such order in reference thereto as it thinks fit. Power of Provincial Government to call for and examine the records.

14. 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. Finality of orders.

15. (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 thereunder. Bar of certain proceeding.

(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 authorised by or under this Act.

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

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

(d) generally regulating the procedure to be followed and the forms

¹ In section 13 the words "Provincial Government" the words "Board of Revenue" subs. by W. P. A. L. O. 1955.

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.

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

18. Nothing in this Act shall apply to the acquisition of any land- Savings.

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

(b) at a sale conducted under any law for the time being in force for the recovery of any revenue due to the Province or of any sum recoverable as an arrear of land revenue; or

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

Provided that in cases falling under clause (b) or clause (c) 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.

19. Any person who obstructs or abets obstruction to the execution of the project will be liable to a term of imprisonment which may extend to one year or fine or both. Punishment for obstruction in the execution of the project.

20. The provisions of this Act shall take effect notwithstanding any thing contained to the contrary in any other enactment for the time being in force. Effect on other enactments.

SCHEDULE.

[SEE SECTION 1 (2)]

The Kabul River Project (Control and Prevention of Speculation in Land) Act, 1948.

SCHEDULE.

List of Villages.

- (1) Kafur Dheri.
- (2) Spersang.
- (3) Shahi.
- (4) Regi.
- (5) Mulazai.
- (6) Palosai.
- (7) Naulogari.
- (8) Tehkal Bala.
- (9) Tehkal Payan.
- (10) Pukha.
- (11) Abdara.
- (12) Naudeh Payan.
- (13) Nawe Kalai.
- (14) Gari Iskander Khan.
- (15) Swati.
- (16) Kotla Mausam Khan.
- (17) Nautch.
- (18) Landi.
- (19) Bahadur.
- (20) Dheri Baghbanan.
- (21) Bhana-Mari.
- (22) Wazir Bagh.
- (23) Hazar-Khani.
- (24) Bahadur.
- (25) Ahmad Khel.
- (26) Bazid Khel.
- (27) Alizai.
- (28) Utmanzai.
- (29) Badhaber.
- (30) Sarozai Bala.
- (31) Sarozai Mana.
- (32) Sarozai Payan.
- (33) Mohamed Mir Talao.
- (34) Qasim Talao.

- (35) Gari Baghbanan.
- (36) Urmar Bala.
- (37) Urmar Miana.
- (38) Urmar Payan
- (39) Gari Wazir.
- (40) Dag Baisud.
- (41) Dagi.
- (42) Azakhel Bala.
- (43) Azakhel Payan.
- (44) Pir Pai
- (45) Aman Garhi.
- (46) Khatkili.
- (47) Nowshera.
- (48) Badrashi.