

**THE ¹[KHYBER PAKHTUNKHWA] REQUISITIONING OF IMMOVABLE
PROPERTY FOR DEFENCE PURPOSES OF PAKISTAN ORDINANCE,
1981.**

²[KHYBER PAKHTUNKHWA]ORDINANCE NO. IV OF 1981.

[Peshawar, 13th Arpil, 1981]

**AN
ORDINANCE**

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

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

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²[KHYBER PAKHTUNKHWA] ORDINANCE NO. IV OF 1981

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**AN
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*to provide for the requisitioning and retention of immovable property for the purpose
of the defence of Pakistan.*

WHEREAS it is expedient to provide for the requisitioning and retention of immovable property for the purpose of defence of Pakistan and for matters connected therewith or ancillary thereto;

Preamble

AND WHEREAS the Governor of the ³[Khyber Pakhtunkhwa] is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the Governor of the ⁴[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

1. (1) This Ordinance may be called the ⁵[Khyber Pakhtunkhwa] Requisitioning of Immovable Property for Defence Purposes Ordinance, 1981.

Short title, extent
and commencement

(2) It extends to whole of the ⁶[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.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the twentieth day of July, 1975.

2. In this Ordinance, unless the context otherwise requires,- Definitions.

(a) “Province” means the ¹[Khyber Pakhtunkhwa]; and

(b) “Government” means the Government of the ²[Khyber Pakhtunkhwa].

3. (1) Where it is necessary or expedient to requisition any immovable property situate in the Province for the purpose of defence of Pakistan, Government, on receipt of a requisitioning in writing in that behalf from the Federal Government, shall, by order in writing, requisition the immovable property on behalf, and at the expense, of the Federation, for such period as may be required by the Federal Government and make such further orders as appear to it to be necessary or expedient in connection with the requisitioning or use of the property. Requisitioning etc, of immovable property.

³(2) Where the Government has requisitioned any immovable property under sub-section (1), it may serve on the owner thereof or, where the owner is not readily traceable or the ownership is in dispute, publish in the official Gazette and a local newspaper, a notice stating that Government has decided to requisition the immovable property in pursuance of this section, and affix a copy of such notice on a conspicuous part of the property or proclaim the same by beat of drum in the locality.

(3) Where a notice of requisition is served on the owner of the property or published in the official Gazette under sub-section (2), then, after fifteen days of the day on which the notice is so served or published, the immovable property shall vest in Government free from any mortgage, pledge, lien, lease or other similar encumbrance, and Government shall hand over possession of the property to such person as may be specified by the Federal Government.

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

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

³ Sub-section (2) of section 3, substituted by Khyber Pakhtunkhwa Act No. II of 1985 read with the Schedule.

4. Where, since before the coming into force of this Ordinance, any immovable property has been in possession or use of the Federal Government for the purpose of defence of Pakistan under any lease or agreement or otherwise, it shall be deemed to have been requisitioned under section 3 and all the provisions thereof shall have effect accordingly.

Continuance of requisitioned immovable property.

5. (1) Where the immovable property is requisitioned under this Ordinance, the owner thereof shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say-

Composition for requisitioned immovable property.

(a) where the amount can be fixed or the terms can be settled by agreement, it shall be paid in accordance with such agreement; and

(b) where no such agreement can be reached, Government shall appoint the Commissioner of the Division concerned to be the arbitrator whose decision, subject to section 12, shall be final.

(2) The arbitrator in giving his decision shall among other things, have regard to-

(a) the nature of the requisition, that is to say, whether it is temporary in character or for an indefinite period;

(b) the market value of the immovable property at the time of its requisition;

(c) the rent of similar accommodation in similar circumstances prevailing in the locality on the date of requisitioning; and

(d) the factors given in sections 23 and 24 of the Land Acquisition Act, 1894 (I of 1894), in so far as they may provide guidance for determining a fair amount of compensation.

6. The compensation payable under section 5 shall be revised

Revision of

after every ¹(three) years from the date of requisition of land and the amount of compensation on such revision shall be determined in accordance with the provisions of section 5. compensation.

7. Government may, by notification in the official Gazette, direct that any power exercised by it under this Ordinance may also be exercised by an officer subordinate to it. Delegation of power by Provincial Government.

8. If any officer authorized under section 7 to exercise any power under this Ordinance requires police assistance in the exercise of his power thereunder, he may send requisition to the Officer Incharge of the nearest Police Station who shall on such requisition render the assistance required. Police to assist the authorized officer.

9. Any person who, after the promulgation of this Ordinance, trespasses into the immovable property vesting in Government under this Ordinance or creates any obstruction in the use of such property shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees or with both. Penalty.

10. The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law, for the time being in force, or any decree or order passed by any Court or any agreement or contract entered into or made before or after the commencement of this Ordinance. Ordinance to override other laws.

11. No suit, prosecution or other legal proceeding shall lie against Government or any other person for anything in good faith done or intended or deemed to be done in pursuance of this Ordinance. Indemnity.

12. Any person aggrieved by the decision of the Commissioner under sub-section (2) of section 5 may prefer an appeal to the High Court. Appeal.

13. Except as provided in section 12, no Court shall- Bar of Jurisdiction.
(a) call into question or permit to be called in question

¹ Substituted by Khyber Pakhtunkhwa Act No. II of 1985.

any order made or anything done or any action taken or deemed to be made, done or taken, under this Ordinance; and

- (b) give any injunction or make any order, nor shall any Court entertain any proceedings, in relation to anything done or intended or deemed to be done under this Ordinance.

14. Government may, by notification in the official Gazette make rules for carrying out the purposes of this Ordinance . Power to make rules.

**LIEUTENANT GENERAL FAZLE HAQ
GOVERNOR OF THE KHYBER PAKHTUNKHWA**

**Peshawar,
Dated the
10th April, 1981**