

THE ¹[KHYBER PAKHTUNKHWA] HOUSING FACILITIES FOR NON-PROPRIETORS IN RURAL AREAS ACT, 1987.

28th October, 1987.

²[KHYBER PAKHTUNKHWA] ACT NO. XVII OF 1987.

**AN
ACT**

CONTENTS

PREAMBLE

SECTIONS:

1. Short title and commencement.
2. Definitions.
3. Housing schemes for non- proprietors.
4. Allotment of land.
5. Allotment Committees.
6. Condition allotment.
7. Proprietor rights.
8. Cancellation of Allotment.
9. Resumption of land.
10. Liability to acquisition.
11. Appeal.
12. Penalty and procedure.
13. Duse recoverable as arrears of land revenue.
14. Special powers of Government.
15. Rules.
16. Repeal of Act II of 1976.
17. Repeal of Ord No III of 1987.

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

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

PROPRIETORS IN RURAL AREAS ACT, 1987.
28th October, 1987.

¹[KHYBER PAKHTUNKHWA] ACT NO. XVII OF 1987.

[First published after having received the assent of the Governor of the ²[Khyber Pakhtunkhwa] in the Gazette of ³[Khyber Pakhtunkhwa] (Extraordinary), dated the 28th October 1987].

AN
ACT

to provide for housing facilities to non-proprietors in rural areas of the ⁴[Khyber Pakhtunkhwa].

WHEREAS it is expedient to make provisions for providing housing facilities to non-proprietors in rural area of the ⁵[Khyber Pakhtunkhwa] and to provide for matters connected therewith or ancillary thereto. Preamble.

1. (1) This Act may be called the ⁶[Khyber Pakhtunkhwa] Housing Facilities for Non-proprietors in Rural Areas Act, 1987. Short title and commencement.

(2) It shall apply to all rural areas in the ⁷[Khyber Pakhtunkhwa].

(3) It shall come into force at once.

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

(a) "Allotment Committee" means a Committee constituted under section 5;

(b) "Commissioner" means the Chief Officer Incharge of revenue and general administration of a Division includes an Additional Commissioner of such Division;

(c) "Deputy Commissioner" means the Chief Officer Incharge of the revenue and general administration of a District and includes an Officer notified as such by Government for the purpose of this Act;

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.

- (d) "District Zakat and Ushr Committee" means a District Zakat and Ushr Committee constituted under section 16 of the Zakat and Ushr Ordinance, 1980 (XVIII of 1980);
- (e) "Government" means the Government of the ¹[Khyber Pakhtunkhwa];
- (f) "Mustahiq-e-Zakat" means a person who is entitled to receive money from the Zakat Funds established under the Zakat and Ushr Ordinance, 1980 (Ord. No. XVIII of 1980);
- (g) "non-proprietor" means a person who is a *bonafide* resident of the District for which a scheme is prepared under this Act and who or any member of whose family does not own any agricultural land, a house or other immovable property any where in Pakistan;
- (h) "prescribed" means prescribed by rules made or instructions issued by Government under this Act;
- (i) "rural areas" means an area other than the area declared as urban areas by or under any law relating to Local Government for the time being in force; and
- (j) "section" means a section of this Act.

Explanation.—For the purpose of clause (g):—

- (i) "family" means husband, wife and their children; and
- (ii) "immovable property" shall not include a structure raised by a non-proprietor on land not owned by him.

3. (1) Government may, subject to availability of funds, prepare schemes in rural areas for development of housing colonies and grant of land, free of cost to non-proprietors.

Housing schemes for non- proprietors.

(2) Government may, subject to payment of cost from the Zakat Funds established under the Zakat and Ushr Ordinance, 1980 (Ord. No. XVIII of 1980), reserve such number or percentage of plots in a housing colony for allotment to non-proprietor Mustahiqeen-e-Zakat as it may determine from time to time:

Provided that where a housing colony is developed on State land, the cost for the land reserved for Mustahiqee-e-Zakat shall not be charged.

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

4. (1) In any such scheme prepared under section 3, plots of land, not exceeding seven marlas, may be allotted, free of cost, to non-proprietors on such terms and conditions and in such manner as may be prescribed for the exclusive purpose of construction of houses by them for their residence. Allotment of land.

(2) A non-proprietor, once allotted land, shall not be eligible for any other allotment under this Act.

5. (1) Government shall constitute, in each District for which a scheme under section 3 has been prepared, an Allotment Committee, consisting of the Members of the Provincial Assembly from that District and such other members as may be prescribed, for scrutinizing the cases of allotment of plots of non-proprietors of the District concerned. Allotment Committees.

Provided that the cases of allotment of land to non-proprietors Mustahiqeen-e-Zakat shall be scrutinized by the Zakat and Ushr Committee of the District concerned.

(2) The Chairman of the District Planning and Development Advisory Committee constituted under the ¹[Khyber Pakhtunkhwa] Act No. VII of 1987 shall be Ex-officio Chairman of the Allotment Committee.

(3) Each Allotment Committee shall conduct its business in the prescribed manner.

6. Every allotment under this Act shall be subject to the conditions that the allottee— Condition allotment.

(a) is a *bonafide* resident of the District for which a scheme is prepared under this Act;

(b) shall construct the house on the land within a period of two years from the date of delivery of possession of the plot or within such period as may, from time to time, be extended by the Allotment Committee in individual cases;

(c) shall permit, without let or hindrance, the Deputy Commissioner or his authorised representative to enter upon the land at all reasonable times to do all acts and things necessary for or incidental to the purpose of any of the provisions of this Act or the rules made thereunder;

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

(d) shall not sublet or alienate by sale, gift, mortgage or otherwise either the land or house constructed thereon or any portion thereof for a period of ten years from the date of allotment:

Provided that for the purpose of obtaining loans for the construction or completion of the house on the land the allottee may mortgage the land with a scheduled bank or a loan giving agency recognised or sponsored by the Federal or Provincial Government, and in such cases, the lender, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, shall have first charge on the land or plot so mortgaged.

7. On completion of construction of the house Government may grant proprietary rights to the allottee in such manner as may be prescribed. Proprietor rights.

8. (1) Notwithstanding the allotment of a plot, the Deputy Commissioner may, after giving the allottee an opportunity of being heard, cancel the allotment at any time before the conferment of proprietary rights and resume the land if he is satisfied that allottee: Cancellation of Allotment.

(a) willfully furnished wrong information for securing allotment in his favour; or

(b) has committed a breach of any of the conditions of allotment or any of the provisions of this Act, or the rules made or instructions issued thereunder.

(2) The building or structure, if any raised on the plot so resumed shall be forfeited to Government.

9. (1) Where the allotment of a plot is cancelled under section 8, the Deputy Commissioner shall,— Resumption of land.

(a) where the plot is vacant or a house, partly or completely, has been constructed thereon, but has not yet been inhabited, immediately take possession of the plot; or

(b) where the house having been constructed on the plot is in occupation, give thirty days notice to the occupants to vacate it and remove their house-hold belongings therefrom, failing which the occupants shall be forcibly evicted.

(2) Where the plot taken into possession under sub-section (1) is free from any encumbrance or charge, it shall be allotted to a non-proprietor in accordance with the provisions of sections 4 and 5:

Provided that where the plot is encumbered, it shall be put to open auction and the proceeds thereof utilized for discharging

the liability of the Bank or the loan giving agency and the surplus, if any, shall be credited to Government account:

Provided further that where a house has been constructed on an encumbered plot, it shall subject to the willingness of the allottee, be transferred to him in accordance with the provision of sections 4 and 5 along with the undischarged liability of the loan on its original terms and conditions:

Provided further that where a house is partly constructed on an encumbered plot, it shall, subject to the willingness of the allottee, be transferred to him in accordance with the provisions of section-4 and 5 and his liability with regard to the undischarged loan shall be limited to the value of the construction thereon as assessed in accordance with the rules prescribed under this Act.

10. Acquisition of land for the purposes of this Act shall be deemed to be a "public purpose" within meaning of the Land Acquisition Act, 1894. Liability to acquisition.

11. Any person aggrieved by an order of the Deputy Commissioner under this Act may prefer an appeal to the Commissioner and the decision of the Commissioner thereon shall be final: Appeal.

Provided that:—

(i) no order in any appeal under this section shall be passed without giving the person concerned an opportunity of being heard; and

(ii) the time limit for filling an appeal under this section shall be thirty days from the date of passing of the order by the Deputy Commissioner and while computing the period of limitation, the provisions of section 12 of the Limitation Act, 1908, shall apply.

12. Any person found guilty of furnishing wrong information under clause (a) of section 8 shall be punished with imprisonment which may extend to six months. Penalty and procedure.

13. Where a person fails to repay the loan, if any, obtained by him for the "construction of a house under this Act, the same shall be recoverable as arrears of land revenue. Dues recoverable as arrears of land revenue.

14. (1) In prior consultation with the Allotment Committee constituted under section 5, Government may issue instructions consistent with this Act and the rules framed thereunder, relating to any matter to which the provisions of this Act apply. Special powers of Government.

(2) If in the opinion of Government anything done or intended to be done by or on behalf of the Government, is not in conformity with the law or in any way against the public interest, in prior consultation with the District Allotment Committee constituted under section 5, Government

may for reasons to be recorded, quash any proceedings of suspend or prohibit the doing of any act or things as the circumstances may require.

(3) Government may delegate any of its powers and functions under sub-sections (1) and (2) to any officer not below the rank of a Commissioner provided that the Commissioner will have to consult the Allotment Commute constituted under section 5 before issuing any orders.

15. Government may make rules for carrying out the purposes of this Act. Rules.

16. The ¹[Khyber Pakhtunkhwa]Housing Facilities for Non-proprietors in Rural Areas Act, 1976 (²[Khyber Pakhtunkhwa] Act No. II of 1976), is hereby repealed. Repeal of Act II of 1976.

17. The ³[Khyber Pakhtunkhwa] Housing Facilities for Non-proprietors in Rural Areas Ordinance, 1987 (⁴[Khyber Pakhtunkhwa] Ord. No. III of 1987) is hereby repealed. Repeal of Ord No III of 1987.

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

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

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