

**¹[Khyber Pakhtunkhwa] LAND REFORMS (EJECTMENT OF
TENANTS TO PROVIDE FOR BUILDING) RULES,
1978**

Notification No. 3487/LC.-- (²[Khyber Pakhtunkhwa] Gaz., Ext., 4-7-1978). In exercise of the powers conferred by paragraph 7 of the Land Reforms Regulation, 1972, the ³[Khyber Pakhtunkhwa] Land Commission is pleased to make the following rules, namely:--

1. Short title and commencement. —(1) These rules may be called the ⁴[Khyber Pakhtunkhwa] Land Reforms (Ejectment of Tenants to Provide for Building) Rules, 1978.

(2) They shall come into force at once.

2. Definitions. — In these rules, unless there is anything repugnant in the subject or context:--

- (a) "compensation" means the amount assessed by the Deputy Commissioner as payable by the landlord to the tenant prior to the restoration of the land under these rules;
- (b) "Deputy Commissioner" means the Deputy Commissioner of the District in which the land is situate;
- (c) "land" means the land required for construction of a building thereon;
- (d) "landlord" means a person under whom a tenant holds land and to whom the tenant is, or but for a special contract, would be liable to pay rent for that land;
- (e) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person and includes the predecessors and successors-in-interest of such person; but does not include:--
 - (i) a mortgagee of the rights of a land-owner; or
 - (ii) a person holding state land in any manner and for any purpose; or
 - (iii) a person to whom a holding has been transferred, or an estate or holding has been let in farm under the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967), for the recovery of an arrear of land revenue or of a sum recoverable as arrear of land revenue.

1 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

2 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

3 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

4 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

3. Notice by the landlord to the tenant. — (1) Whenever any land occupied by a tenant is required by the landlord for the *bona fide purpose* of constructing a building thereon, he shall serve the tenant with a notice through registered post, with acknowledgement due, to vacate that land within such period, which shall not be less than fifteen days from the receipt of the notice, as may be specified in the notice.

(2) The notice shall prescribe the land by reference to survey number, or khstera number, as the case may be, the revenue estate, Tehsil or Taluka and the District in which the land is situated and give such other details as may be considered necessary for identification of the land and shall clearly indicate the purpose for which the landlord requires the land to be vacated.

4. Application for ejectment — (1) If the tenant fails to vacate the land within the period specified in the notice the landlord may apply to the Deputy Commissioner for the ejectment of the tenant from that land.

(2) Every application under sub-rule (1) for the ejectment of a tenant shall be made on judicial paper and shall bear a Court-fee stamp of the value of five rupees.

(3) The application shall be signed and verified as a pleading under the Code of Civil Procedure, 1968 (V of 1908).

5. Notice to be issued by the Deputy Commissioner. — On receiving plaint under rule 4 the Deputy Commissioner shall, if the plaint is in order and not open to objection on the face of it, cause a notice together with a copy of the plaint, to be served on the tenant requiring him to show cause on a specified date why he should not be ejected from the land referred to in the plaint.

6. Objection by the tenant.---(1) The tenant may on the date of hearing and shall, if required by the Deputy Commissioner at any time, present a written statement of his objections, if any, against the proposed ejectment.

(2) Such written statement shall be signed and verified as a pleading under Code of Civil Procedure, 1908 (V of 1908).

7. Appearance by parties.--- (1) The parties to the proceedings under these rules may appear in person or through recognised agents or pleaders.

8. Code of Civil Procedure to apply to proceedings.— The provisions of the Code of Civil Procedure, 1908 (V of 1908), in general, and the provisions of Orders XXII and XXXIII thereof in particular, shall, so far as may be, apply to the proceedings under these rules.

9. Decisions of the Deputy Commissioner.— (1) After hearing the parties, recording the statements of their witness and examining such other documentary evidence as may be adduced by them, the Deputy Commissioner shall decide whether the land in question or any part thereof

is required by the landlord for the *bona fide* purpose of constructing a building thereon and the tenant should be rejected therefrom.

- (2) If the Deputy Commissioner decides to eject the tenant from the land, he shall--
 - (a) assess the amount of compensation which the landlord may have to pay to the tenant for the standing crops, or for improvements, or for disturbance;
 - (b) fix a date by or before which the landlord shall deposit the amount of compensation in the Government Treasury for disbursement to the tenant;
 - (c) fix a date by or before which the tenant shall vacate the land; and
 - (d) fix a period within which the landlord shall complete the proposed construction for which the land is to be restored to him.
- (3) In assessing compensation for the improvements, the Deputy Commissioner shall take into consideration the following factors namely:-
 - (a) the actual expenditure incurred in making the improvement;
 - (b) the period during which and the extent to which the land while in the possession of the tenant has been benefited by the improvement;
 - (c) the period during which and the extent to which the land in question, after its restoration to the landlord, will probably continue to be benefited by the improvement;
 - (d) in case the improvement benefited any other land the proportionate benefit which accorded to such other land; and
 - (e) any other factor which, in the opinion of the Court, may affect the amount of compensation.

10. Delivery of possession and realisation of compensation. The tenant shall not be entitled to receive the amount of compensation except after he has handed over possession of the land to the landlord in terms of the order passed by the Deputy Commissioner under rule 9.

11. Ejectment. — (1) If the tenant fails to vacate the land by the date specified in the order passed by the Deputy Commissioner under rule 9 and after the compensation, if any, has been deposited by the landlord, the Deputy Commissioner shall issue a warrant directing that the landlord be put into possession of the land.

(2) Where the tenant refuses to deliver possession or resists the proceedings for ejectment, he may be ejected with such assistance from the Police as the Deputy Commissioner

may consider necessary, and the Deputy Commissioner may also impose fine which shall not exceed Rs. 1,000.

(3) The expenses to be incurred on the engagement of police shall be borne by the tenant.

12. Completion of construction.— (1) In case the landlord fails to complete the construction within the period specified in the order under rule 9, the ejected tenant may apply to the Deputy Commissioner, for the restoration of the land to him and thereupon the Deputy Commissioner may direct the ejected tenant to be put into possession of land within a period specified in the order.

(2) If the landlord fails to restore possession to the ejected tenant, the Deputy Commissioner may issue a warrant directing the landlord to put the ejected tenant into possession and thereupon the provisions of rule 11, so far as may be, shall apply.

13. Appeal and revision. — The provisions of the ⁵[Khyber Pakhtunkhwa] Land Reforms Rules, 1972, so far as may be, shall apply to any appeal or revision in respect of an order made under these proceedings as if the Deputy Commissioner was the Deputy Land Commissioner and the order passed by the Deputy Commissioner under these rules were the original order passed by the Deputy Land Commissioner.

⁵ Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.