

**¹[Khyber Pakhtunkhwa] PUBLIC PROPERTY
(REMOVAL OF ENCROACHMENT)
RULES, 1981**

[Gazette of ²[Khyber Pakhtunkhwa], Extraordinary, 20th May, 1982]

No. OSD (LG) 1 (14)/80.--- In exercise of the powers conferred by section 17 of the ³[Khyber Pakhtunkhwa] Public Property (Removal of Encroachment) Act, (⁴[Khyber Pakhtunkhwa] Act V of 1977), the Government of the ⁵[Khyber Pakhtunkhwa] are pleased to make the following rules, namely:---

1. *Short title and commencement.*---(1) These rules may be called the ⁶[Khyber Pakhtunkhwa] Public Property (Removal of Encroachment) Rules, 1981.

(2) They shall come into force at once.

2. *Definition.*--- In these rules, unless there is anything repugnant in the subject or context.

(i) “Act” means the ⁷[Khyber Pakhtunkhwa] Public Property (Removal of Encroachment) Act, 1977 (⁸[Khyber Pakhtunkhwa] Act V of 1977);

(ii) “Petition” means a review petition made under section 4;

(iii) “Section” means a section of the Act.

3. *Contents of order under section 3.*--- An order under section 3 shall as far as possible.

(a) contain the description of the Public property which has been or any other description to identify the property;

(b) the nature of the encroachment required to be removed.

4. *Review petition.*--- (1) The petition shall be presented, by the petitioner is person or through his duly authoired agent to the authority concerned.

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

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

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

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

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

⁶ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁷ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁸ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

(2) Where the petitioner claims that the property in respect of which an order under section 3 has been passed is not a public property or that the lease or license has not been determined the case shall be referred to the Tribunal having jurisdiction.

5. *Form of review petition.*--- Every petition shall,---

- (a) be legibly and correctly written or typewritten;
- (b) be divided into paragraphs, numbered consecutively, each paragraph containing, as nearly as may be, separate issue;
- (c) contain full facts constituting the cause of action;
- (d) clearly set out the relief claimed with grounds;
- (e) be accompanied by copies of the documents on which the petitioner or his petitioner proposes to rely;
- (f) be verified and signed at the foot by the petitioner or his authorised agent.

6. *Amendment of review petition.*--- (1) Every petition shall,---

- (a) if it be in order and draw up in accordance with the foregoing provisions, be heard on a date fixed by the authority;
- (b) if it is not in conformity with the foregoing provisions, be returned for being amended there and then or within the specified time as may be directed by the authority.

(2) The amendments in the petition shall be signed or intiated by the petitioner or his authorised agent.

7. *Hearing of review petition.*--- The date fixed for hearing the petitioner shall be notified to the petitioner or as the case may be, his authorised agent in such manner as authority may decide.

8. *Order on the petition.*---(1) The authority shall after hearing the parties concerned pass appropriate orders.

(2) The order made on the petition shall contain the summary of the evidence, if any, produced by the petitioner and the findings of the authority alongwith reasons for making the order.

9. *Procedure of Tribunal.*--- (1) Where a case is referred to the Tribunal, the Tribunal shall fix a date for its hearing, the notice of which shall be served on the parties.

(2) The issue for determination by the Tribunal shall be decided upon affidavits, relevant documents or evidence whether oral or documentary and in such manner as the Tribunal may deem fit.

(3) Any party wishing to examine any witness on the issue shall make an application for summoning the witness.

(4) The application under sub-rule (3) shall,---

(i) set forth a list of witnesses and state whether the witnesses are required to give evidence or produce documents;

(ii) give a brief resume of the evidence each witness is expected to give;

(iii) give brief description of the document any witness is required to produce.

(5) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-rule (3) is material for determination of the issue it may direct such witness to be summoned on a date to be fixed by it and may further require the party calling such a witness to deposit in the office of the Tribunal daily allowance and travelling charges of such witness at the rates admissible under the High Court Rules.

(6) If the person applying for the summoning of a witness fails to deposit the requisite charges of the witness within the period of three days from the date of order passed under sub-rule (5) or within any extension granted by the Tribunal, the application for summoning of witnesses, so far as it relates to such witness, shall be rejected.

(7) If the Tribunal is of the opinion that the evidence of any witness is necessary for the determination of the issue before it such witness may be summoned by it as a Court witness.

(8) Where a Tribunal summons any witness under sub-rule (7) his travelling and daily allowance (if any) shall be borne by the party so ordered by the Tribunal.

(9) The evidence of witnesses examined by the Tribunal shall be taken under the superintendence of the Tribunal and shall form part of the record.

10. *Order of the Tribunal.*--- The Tribunal, after hearing parties and recording evidence, if any, pass any order in respect of the rights of the parties and its copies shall be furnished to the parties free of costs.

11. *Transfer of case.*--- Government may, on application from any person or on its own motion, transfer any case from one Tribunal to any other Tribunal.