

THE LAND ACQUISITION ACT, 1894
(Act I of 1894)

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^{1[1]}THE LAND ACQUISITION, ACT, 1894
(Act I of 1894)

[2 February 1894]

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition;

It is hereby enacted as follows:-

PART I

^{1[1]}For statement of objects and reasons, *see* Gazette of India, 1892, Pt. V, p. 32; for Report of the Select Committee, *see ibid.*, 1894, Pt. V, p. 23 and for Proceedings in Council, *see ibid.*, 1892, Pt. VI, section 25, and *ibid.*, 1894, pp. 19, 24 to 42.

This Act had been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (II of 1913).

It had been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications, *see* N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It had been extended to Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from 1st June, 1951, *see* N.W.F.P., Gazette, Extraordinary, dated 1-6-51.

For local modifications *see* the Town Improvement Act, 1922 (Punjab Act IV of 1922), section 59 and schedule, and the Thal Development Act, 1949 (Punjab Act XV of 1949), section 35 and schedule, and the Karachi Development Order, 1957 (P.O. 5 of 1957).

PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Land Acquisition Act, 1894;

^{2[2]}(2) It extend to the whole of Pakistan]; and

(3) It shall come into force on the first day of March 1894.

2. [Repeal]. *Repealed partly by the Repealing and Amending Act, 1914 (X of 1914), section 3 and Schedule II, and partly by the Repealing Act, 1938 (I of 1938), section 2 and Schedule.*

3. Definitions.— In this Act, unless there is something repugnant in the subject or context:-

(a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(b) the expression “person interested” include all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(c) the expression “Collector” means the Collector of a district, and includes a ^{3[3]}[District Officer (Revenue)] and any officer specially appointed by the ^{4[4]}[Board of Revenue or ^{5[5]}[Executive District Officer (Revenue)]] to perform the functions of a Collector under this Act:

^{6[6]}(d) the expression “Court” means a principal Civil Court of original jurisdiction, and includes the Court of any Additional District Judge and any Civil Judge whom the Provincial Government may appoint, by name or by virtue of his office, to perform concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act, within any specified area; provided that in the case of a Civil Judge such functions shall be exercised only up to the limits of his pecuniary jurisdiction]:

^{2[2]}Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (Ordinance XXI of 1960), section 3 and 2nd schedule, with effect from the 14th October, 1955.

^{3[3]}Substituted for the words “Deputy Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

^{4[4]}Substituted by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957), section 3(3) and schedule III as amended by the West Pakistan (Adaptation and Repeal of Laws) (Amendment) Ordinance, 1961 (XXXI of 1961), for “Provincial Government”.

^{5[5]}Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

^{6[6]}Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

- (e) the expression “Company” means a Company registered under the ^{7[7]}[Companies Ordinance, 1984], or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament ^{8[8]}[of the United Kingdom] or ^{9[9]}[by a Pakistan law], or by Royal Charter or Letters Patent ^{10[10]}[and includes a society registered under the Societies Registration Act, 1860, and a Registered Society within the meaning of the Co-operative Societies Act, 1912^{11[11]}];
- (f) the expression “public purpose” includes the provision of village-sites in districts in which the ^{12[12]}[Provincial Government] shall have declared by notification in the official Gazette that it is customary for the Government to make such provision: and
- (g) the following persons shall be deemed persons “entitled to act” as and to the extent hereinafter provided (that is to say)—
 trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;
 a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; and
 the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:
 Provided that—
- (i) no person shall be deemed “entitled to act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;
- (ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a

^{7[7]}Substituted for the words “Indian Companies Act, 1882” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

^{8[8]}Inserted by the Central Laws (Adaptation) Order, 1961 (P.O. 1 of 1961), Article 2 and Schedule (w.e.f. 23rd March, 1956).

^{9[9]}The original words “of the G.G. in C”, were first substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937 and then amended by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949), Schedule, to read as above.

^{10[10]}Inserted by section 2 of the Land Acquisition (Amendment) Act, 1919 (XVII of 1919).

^{11[11]}II of 1912.

^{12[12]}Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

guardian for the case to act on his behalf in the conduct thereof;

- (iii) the provisions of Chapter XXXI of the ^{13[13]}Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and
- (iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II ACQUISITION

Preliminary Investigation

4. Publication of preliminary notification and powers of officers thereupon.— ^{14[14]}(1) Whenever it appears to the Collector of the District that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality].

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by ^{15[15]}[the Collector of the District] in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and lines by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and lines marked, to cut down and clear away any part of any standing crop, fence or jungle:

^{13[13]}XIV of 1882, subsequently replaced by the Code of Civil Procedure, 1908 (V of 1908).

^{14[14]}Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 4 (a).

^{15[15]}Substituted *ibid.*, section 4 (b) for “Commissioner or the Board of Revenue” which were previously substituted, for “such Government”, by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957).

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

¹⁶^[16][(3) The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the District, and such decision shall be final].

¹⁷^[17]**[5. Notification that particular land is needed for a public purpose or for a Company.—** Where land is to be acquired for a public purpose, the ¹⁸^[18][Executive District Officer (Revenue)], and where land is to be acquired for a Company, the Provincial Government, is satisfied, after considering the result of the survey, if any, made under sub-section (2) of section 4, or if no survey is necessary, at any time, that any particular land included in a locality notified under sub-section (1) of section 4 is needed for a public purpose or a Company, as the case may be, a notification to that effect shall be published in the official Gazette, stating the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area and situation, and where a plan has been made of the land, the place where such plan may be inspected, and the Collector shall cause public notice to be given of the substance of the notification at convenient places on or near the land to be acquired].

¹⁹^[19]*[Objections*

5-A. Hearing of objections.— (1) Any person interested in any land which has been notified under section 5 as being needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the ²⁰^[20][Executive District Officer (Revenue)] together with the record of

¹⁶^[16]Added by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

¹⁷^[17]Substituted *ibid.*, section 5.

¹⁸^[18]Substituted for the word "Commissioner" by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

¹⁹^[19]Sub-heading and Section 5-A were inserted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923). Section 5-A was, however, substituted later by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 6.

²⁰^[20]Substituted for the word "Commissioner" by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

the proceedings held by him and a report containing his recommendations on the objections. The decision of the ²¹[²¹Executive District Officer (Revenue)] on the objections shall be final.

(3) Where land is needed for a Company, the Collector shall, after making such enquiries as he deems necessary, also make his recommendations to the ²²[²²Executive District Officer (Revenue)] with regard to the area that in his opinion is reasonable for the purpose.

(4) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.]

Declaration of intended acquisition

6. Declaration that land is required for a public purpose.— (1) Subject, to the provisions of Part VII of this Act, ²³[²³when the ²⁴[²⁴Executive District Officer (Revenue)] is satisfied, after considering the report, if any, made under section 5-A, sub-section (2)], that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of ²⁵[²⁵Executive District Officer (Revenue)] or of some officer duly authorised to certify ²⁶[²⁶such] order:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the ²⁷[²⁷Executive District Officer (Revenue)] may acquire the land in manner hereinafter appearing.

²¹[²¹] *Ibid.*

²²[²²] *Ibid.*

²³[²³] Substituted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), section 4, for “whenever it appears to the Local Government”.

²⁴[²⁴] Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

²⁵[²⁵] *Ibid.*

²⁶[²⁶] Substituted for the word “its” by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957).

²⁷[²⁷] Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

²⁸[²⁸](4) When the area in respect of which the said declaration is made is less than the area previously notified under sub-section (1) of section 4, such previous notification, so far as it relates to the excess area, shall be deemed to have been superseded by the said declaration].

7. After declaration Collector to take order for acquisition.— Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the ²⁹[²⁹Executive District Officer (Revenue)], or some officer authorised by the ³⁰[³⁰Executive District Officer (Revenue)] in this behalf, shall direct the Collector to take order for the acquisition of the land.

8. Land to be marked out, measured and planned.— The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

9. Notice to persons interested.— (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the ³¹[³¹Indian Post Office Act, 1866].

²⁸[²⁸] Added by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 7.

²⁹[²⁹] Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

³⁰[³⁰] *Ibid.*

³¹[³¹] XIV of 1866, subsequently replaced by the Post Office Act, 1898 (VII of 1898).

³²[³²](5) The Collector shall also serve notice of the enquiry to be held under section 11 (such notice not being less than fifteen days prior to the date fixed under sub-section (2) for determination of claims and objections) on the Department of Government, local authority or Company, as the case may be, for which land is being acquired, and require it to depute a duly authorised representative to attend the enquiry on its behalf for the purpose of making objections (if any) to the measurement of the land, claims to any interest in the land or the amount of any compensation. Such authorised representative shall be a party to the proceedings].

10. Power to require and enforce the making of statements as to names and interests.— (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code.³³[³³]

*Enquiry into measurements, value and claims
and award by the Collector.*

11. Enquiry and award by Collector.— On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested ³⁴[³⁴][and a Department of Government, a local authority, or a Company, as the case may be], has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land ³⁵[³⁵][at the date of the publication of the notification under section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

- (i) the true area of the land;
- (ii) the compensation which in his opinion should be allowed for the land; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

³²[³²] Added by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 8.

³³[³³] XLV of 1860.

³⁴[³⁴] Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 9.

³⁵[³⁵] Inserted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923)

12. Award of Collector when to be final.— (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

³⁶[**12-A. Correction of mistake.**— Any clerical or arithmetical mistake in the award arising therein from any accidental slip or omission may, at any time, be corrected by the Collector either of his own motion or on the application of any of the parties].

13. Adjournment of enquiry.— The collector may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.

14. Power to summon and enforce attendance of witnesses and production of documents.— For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the ³⁷Code of Civil Procedure.

15. Matters to be considered and neglected.— In determining the amount of compensation the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking possession

16. Power to take possession.— When the Collector has made an award under section 11, he may, ³⁸[subject to the provision of section 31], take possession of the land, which shall thereupon ³⁹[vest absolutely in the ⁴⁰[Government]] free from all encumbrances.

⁴¹[**17. Special power in cases of urgency.**— (1) In cases of urgency, whenever the ⁴²[Executive District Officer (Revenue)] so directs, the

³⁶[³⁶]Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 10.

³⁷[³⁷]Now the Code of Civil Procedure, 1908 (V of 1908).

³⁸[³⁸]Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 11.

³⁹[³⁹]Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “vest absolutely in the Government”.

⁴⁰[⁴⁰]Substituted by the Central Laws (Adaptation) Order, 1961 (P.O. 1 of 1961), for “Crown”, w.e.f. 23rd March, 1956.

⁴¹[⁴¹]Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 12.

⁴²[⁴²]Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order

Collector, though no such award has been made, may, on the expiration of fifteen days from publication of the notice mentioned in sub-section (1) of section 9, take possession of any land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances:

Provided that the ⁴³[⁴³Executive District Officer (Revenue)] shall not issue any direction to the Collector under this sub-section unless the Department of Government, the local authority, or Company, as the case may be, for which the land is being acquired, has first deposited the estimated cost of acquisition of such land as determined by the Collector of the district, keeping in view the provisions of sections 23 and 24.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or *ghat* station, or of providing convenient connection with or access to any such station, or whenever owing to a similar emergency it becomes necessary for the ⁴⁴[⁴⁴Executive District Officer (Revenue)] to acquire the immediate possession of any land for the purposes of maintaining traffic over a public road, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the ⁴⁵[⁴⁵Executive District Officer (Revenue)], enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

⁴³[⁴³Substituted for the word "Commissioner" by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan..

⁴⁴[⁴⁴*Ibid.*

⁴⁵[⁴⁵*Ibid.*

(4) In cases where in the opinion of the ^{46[46]}[Executive District Officer (Revenue)], the provisions of sub-section (1) or sub-section (2) are applicable, the ^{47[47]}[Executive District Officer (Revenue)] may direct that the provisions of sections 5 and 5-A shall not apply, and, if he does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under sub-section (1) of section 4].

PART III

REFERENCE TO COURT AND PROCEDURE THEREON

18. Reference to Court.— (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,—

- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;
- (b) in other cases, within six weeks of the receipt of the notice from the collector under section 12, sub-section (2) or within six months from the date of the Collector's award, whichever period shall first expire.

^{48[48]}[(3) Notwithstanding anything to the contrary contained in section 21, the Provincial Government may, if it has not accepted the award, refer the matter to the Court within a period of six months from the date of announcement of the award ; provided that the Court shall not entertain the reference unless in its opinion there is a *prima facie* case for inquiry into and determination of the objection against the award].

19. Collector's statement to the Court.— (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land, with particulars of any trees, building or standing crops thereon;
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them and the amount of compensation awarded under section 11; and

^{46[46]}Substituted for the word "Commissioner" by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

^{47[47]}*Ibid.*

^{48[48]}Added by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

(d) if the objection be to the amount of the compensation, ground on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

20. Service of notice.— The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the court on that day, to be served on the following persons, namely:-

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector, ^{49[49]}[and the Department of Government, local authority or Company, as the case may be, for which land is being acquired].

21. Restriction on scope of proceedings.— The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

22. Proceedings in open Court.— Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

^{50[50]}**22-A. Cross objection.**— The Provincial Government, or a local authority or a Company for which land is being acquired, may lodge a cross objection to the objection made by any person interested and the Court may reduce the amount awarded by the Collector if it considers it just and proper].

23. Matters to be considered in determining compensation.— (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the ^{51[51]}[notification under section 4, sub-section (1)].

^{52[52]}[*Explanation*— For the purpose of determining the market-value, the Court shall take into account transfer of land similarly situated and in similar use. The potential-value of the land to be acquired if put to a different use shall only be taken into consideration if it is proved that land similarly situated and previously in similar use has, before the date of the notification

^{49[49]}*Ibid.*

^{50[50]}Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 15.

^{51[51]}Substituted, by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), section 7, for “declaration relating thereto under section 6”.

^{52[52]}Added by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

under sub-section (1) of section 4, been transferred with a view to being put to the use relied upon as affecting the potential value of the land to be acquired:

Provided that—

- (i) if the market-value has been increased in consequence of the land being put to a use which is unlawful or contrary to public policy that use shall be disregarded and the market-value shall be deemed to be the market-value of the land if it were put to ordinary use; and
- (ii) if the market-value of any building has been increased in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as can be accommodated in it without risk of danger to health from overcrowding].

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

⁵³[⁵³](2) In addition to the market-value of the land as above provided, the Court shall award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition, if the acquisition has been made for a public purpose and a sum of twenty-five per centum on such market-value if the acquisition has been made for a Company].

24. Matters to be neglected in determining compensation.— But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

⁵³[⁵³Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the ^{54[54]}[notification under section 4, sub-section (1)].

25. Rules as to amount of compensation.— (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed ^{55[55]}[* * *].

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

26. Form of awards.— ^{56[56]}[(1)] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

^{57[57]}[(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgement within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908^{58[58]}].

^{54[54]}Substituted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), section 8., for “declaration under section 6”.

^{55[55]}The words, “or be less than the amount awarded by the Collector under section 11” omitted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 17.

^{56[56]}Section 26 was re-numbered as sub-section (1) of that section by section 2 of the Land Acquisition (Amendment) Act, 1921 (19 of 1921).

^{57[57]}Added *ibid*.

^{58[58]}V of 1908.

27. Costs.— (1) Every such award shall also state the amount of costs incurred in the Proceedings under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. Collector may be directed to pay interest on excess compensation.— If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay ^{59[59]}[compound interest on such excess at the rates of eight per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

^{60[60]}[Provided that in all cases where the Court has directed that Collector shall pay interest on such excess at the rate of six per centum from the date on which possession was taken and the payment of compensation or a part thereof has not been made up to the commencement of the Land Acquisition (West Pakistan Amendment) Act, 1969, the rate of compound interest on such excess on balance shall be eight per centum].

PART IV

APPORTIONMENT OF COMPENSATION

29. Particulars of apportionment to be specified.— Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

30. Dispute as to apportionment.— When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V

PAYMENT

^{61[61]}**31. Payment of compensation or deposit of the same in Court.**— (1) When the Collector has made an award under section 11—

^{59[59]}Substituted by the Land Acquisition (West Pakistan Amendment) Act, 1969 (III of 1969), section 2 (a), for “interest on excess at the rate of six per centum”.

^{60[60]}Added *ibid*.

^{61[61]}Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

- (a) if the persons interested entitled to compensation under the award and the Provincial Government accept the award and intimate their acceptance in writing to the Collector before the expiry of the period prescribed in sub-section (2) of section 18 for making an application to the Collector for referring the award to the Court, or in sub-section (3) of the said section for referring the award to the Court by the Provincial Government, whichever is later, or if the period specified in sub-section (2) of the said section for making an application to the Collector or in sub-section (3) for referring the award to the Court has expired and no such application or reference has been made, the Collector shall, before taking possession of the land, tender payment of the full amount of compensation awarded by him to the persons entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2);
- (b) if the persons interested entitled to compensation under the award or the Provincial Government object to the award and an application has been made to the Collector under sub-section (2) of section 18 for referring the award to the Court or the award has been referred to the Court by the Provincial Government under sub-section (3) of that section, the Collector shall, before taking possession of the land, tender payment of the compensation awarded by him or the estimated cost of acquisition of such land as determined by the Collector of the district under sub-section (1) of section 17, whichever is less, to the persons entitled thereto under the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (2):

Provided that no payment under clause (b) shall be made until the person entitled to compensation furnishes to the satisfaction of the Collector a security for refund of the amount, if any, which may subsequently be found to be in excess of the compensation awarded to him by the Court].

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the ⁶²⁶²[Executive District Officer (Revenue)] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with, or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.— (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

- (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or
- (b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

- (i) in the purchase of such other lands as aforesaid; or
- (ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incidental thereto, to be paid by the Collector, namely:-

- (a) the costs of such investments as aforesaid;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

⁶²⁶²Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

33. Investment of money deposited in other cases.— When any money shall have been deposited in Court under this Act for cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. Payment of interest.— When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with ⁶³[⁶³compound interest at the rate of eight per centum] per annum from the time of so taking possession until it shall have been so paid or deposited ⁶⁴[⁶⁴:]

⁶⁵[⁶⁵Provided that any waiver of the above right by the land owner shall be void and he shall be entitled to the said interest notwithstanding any agreement to the contrary].

⁶³[⁶³Substituted by the Land Acquisition (West Pakistan Amendment) Act, 1969 (III of 1969), section 2 (d) for “interest thereon at the rate of six per centum”.

⁶⁴[⁶⁴The full stop at the end of section 34 replaced by the colon *ibid.*, section 2 (d).

⁶⁵[⁶⁵Added *ibid.*

PART VI
TEMPORARY OCCUPATION OF LAND

35. Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.— (1) Subject to the provisions of Part VII of this Act, whenever it appears to the ^{66[66]}[Executive District Officer (Revenue)] that the temporary occupation and use of any waste or arable land are needed for any public purpose or for a Company, the ^{67[67]}[Executive District Officer (Revenue)] may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

^{68[68]}[(2) The Collector shall cause public notice of the substance of the direction to be given at convenient places in the locality in which the land is situate, and thereupon it shall be lawful for any officer, either generally or specially authorised by the Collector in this behalf, and for the servants and workmen of such officer, to enter upon and survey and take levels of any land in such locality.]

^{69[69]}[(3) On receipt of plans detailing the land acquired, the Collector shall give notice in writing to the persons interested in such land of the purpose for which the same is needed and shall, for the occupation and use thereof for such term as aforesaid, and for the material, if any, to be taken therefrom, pay to them such compensation, either in a gross sum of money or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.]

^{70[70]}[(4)] In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. Power to enter and take possession, and compensation on restoration.— (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

^{66[66]}Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

^{67[67]}*Ibid.*

^{68[68]}Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 19 (a).

^{69[69]}Inserted *ibid*, section 19(b).

^{70[70]}Sub-section (3) was re-numbered as sub-section (4) *ibid*.

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the ⁷¹[Executive District Officer (Revenue)] shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

37. Difference as to condition of land.— In case the collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII

ACQUISITION OF LAND FOR COMPANIES

38. Company may be authorised to enter and survey.— ⁷²[(1) The ⁷³[Executive District Officer (Revenue)] may authorise any officer of any Company desiring to acquire land for its purpose to exercise the powers conferred by sub-section (2) of section 4].

(2) In every such case section 4 shall be construed as if for the words “for such purpose” the words “for the purposes of the Company” were substituted; and ⁷⁴[sub-section (3) of section 4] shall be construed as if after the words “the officer” the words “of the Company” were inserted.

⁷⁵[**38-A. Industrial concern to be deemed Company for certain purposes.**— An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 5A, 6, 7, 17 and 50 shall be interpreted as references also to such concern].

39. Previous consent of ⁷⁶[Executive District Officer (Revenue)] and execution of agreement necessary.— The provisions of sections 6 to 37

⁷¹[Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

⁷²[Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

⁷³[Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

⁷⁴[Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), for “Section 5”.

⁷⁵[Inserted by the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

⁷⁶[Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

(both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the ⁷⁷[Executive District Officer (Revenue)] nor unless the Company shall have executed the agreement hereinafter mentioned.

40. Previous enquiry.— (1) Such consent shall not be given unless the ⁷⁸[Executive District Officer (Revenue)] be satisfied, ⁷⁹[either on the report of the Collector under section 5-A, sub-section (2), or] by an enquiry held as hereinafter provided—

- ⁸⁰[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith or
- ⁸¹[(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose], or
- (b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public], [or]⁸²
- ⁸³[(c) that the area proposed to be acquired is reasonable for the purpose].

(2) Such enquiry shall be held by such officer and at such time and place as the ⁸⁴[Executive District Officer (Revenue)] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the ⁸⁵Code of Civil Procedure in the case of a Civil Court.

41. Agreement with Provincial Government.— ⁸⁶[* * *] If the ⁸⁷[Executive District Officer (Revenue)] is satisfied ⁸⁸[after considering the

⁷⁷*Ibid.*

⁷⁸*Ibid.*

⁷⁹Inserted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

⁸⁰Substituted by the Land Acquisition (Amendment) Act, 1933 (XVI of 1933), section 3, for the original Clauses (a) and (b).

⁸¹Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1965 (I of 1965).

⁸²Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), for the full-stop.

⁸³Added *ibid.*

⁸⁴Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

⁸⁵XIV of 1882, subsequently replaced by the Code of Civil Procedure, 1908.

⁸⁶The words, “such officer shall report to the Local Government the result of enquiry and”, repealed by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), section 10.

⁸⁷Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order

report, if any, of the Collector under section 5-A, sub-section (2), or on the report of the officer making an inquiry under section 40] that ⁸⁹[the object of the proposed in acquisition is to obtain land for one of the purposes referred to clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40] ⁹⁰[he] shall ⁹¹[* * *] require the Company to enter into an agreement ⁹²[with the Provincial Government], providing to the satisfaction of the ⁹³[Provincial Government] for the following matters, namely:-

- (1) the ⁹⁴[payment to the ⁹⁵[Executive District Officer (Revenue)]] of the cost of the acquisition;
- (2) the transfer, on such payment, of the land to the Company;
- (3) the terms on which the land shall be held by the Company;
- ⁹⁶[(4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected herewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and
- (5) Where the acquisition is for a purpose falling under clause (b) of sub-section (1) of section 40, the time within which and the conditions on which the work shall be constructed and maintained].

1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

⁸⁸[Inserted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

⁸⁹[Substituted by Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969) section 22 (a) for “the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public”.

⁹⁰[Substituted by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957), for “it”.

⁹¹[The words “subject to such rules as the G.G. in C. may from time to time prescribe in this behalf”, repealed by the Devolution Act 1920 (XXXVIII of 1920), section 2 and Schedule I.

⁹²[Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “with the Secretary of State for India in Council”.

⁹³[Substituted by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957), Schedule III, for “Provincial Government” which had been substituted, for “Local Government”, by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.

⁹⁴[Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937 for “payment to Government”.

⁹⁵[Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

⁹⁶[Substituted by the Land Acquisition (Amendment) Act, 1933 (XVI of 1933), section 4, for the original clauses (4) and (5), Clause (5) was, later, substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

42. Publication of agreement.— Every such agreement shall, as soon as may be after its execution, be published ^{97[97]}[* * *] in the ^{98[98]}[official Gazette] ^{99[99]}[and the acquisition shall be deemed to have been made subject to the terms of such agreement].

43. Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.— The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the ^{100[100]}Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, ^{101[101]}[under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, ^{102[102]}[the ^{103[103]}[Federal] government or any Provincial Government] is or was bound to provide land].

^{104[104]}**43-A. Restrictions on transfer, etc.**— No Company for which any land is acquired under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise, except with the previous sanction of the provincial Government].

44. How agreement with Railway Company may be proved.— In the case of the acquisition of land for the purpose of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII MISCELLANEOUS

45. Service of Notices.— (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

^{97[97]}The words “in the Gazette of India And also” repealed by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.

^{98[98]}Substituted, *ibid.*, for “local official Gazette”.

^{99[99]}Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 23, for “and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act”.

^{100[100]}X of 1870, repealed by this Act.

^{101[101]}Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “under any agreement between such company and the Secretary of State for India in Council, the govt. is, or was, bound to provide land”.

^{102[102]}Substituted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.4 of 1949), Schedule, for “or any Government in British India”.

^{103[103]}Substituted by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974).

^{104[104]}Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the ¹⁰⁵[¹⁰⁵] Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

46. Penalty for obstructing acquisition of land.— Whoever willfully obstructs any person in doing any of the acts authorised by section 4 or section 8, or willfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

47. Magistrate to enforce surrender.— If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself and, if not a Magistrate, he shall apply to a Magistrate ¹⁰⁶[¹⁰⁶[* * *]] and such Magistrate ¹⁰⁷[¹⁰⁷[* * *]] shall enforce the surrender of the land to the Collector.

48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.— (1) Except in the case provided for in section 36, the ¹⁰⁸[¹⁰⁸] Executive District Officer (Revenue)] shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the ¹⁰⁹[¹⁰⁹] Executive District Officer (Revenue)] withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably

¹⁰⁵[¹⁰⁵] XIV of 1866, subsequently replaced by the Post Office Act, 1898 (VI of 1898).

¹⁰⁶[¹⁰⁶] The words and brackets, “or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police”, omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.4 of 1949).

¹⁰⁷[¹⁰⁷] The words and brackets, “as Commissioner (as the case may be)”, omitted *ibid*.

¹⁰⁸[¹⁰⁸] Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

¹⁰⁹[¹⁰⁹] *Ibid*.

incurred by him in the prosecution of the Proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. Acquisition of part of house or building.— (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the ^{110[110]}[Executive District Officer (Revenue)] is of opinion that the claim is unreasonable or excessive, ^{111[111]}[he] may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the ^{112[112]}[Executive District Officer (Revenue)] to the person interested, and shall thereafter proceed to make his award under section 11.

50. Acquisition of land at cost of a local authority or Company.— (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of

^{110[110]}Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

^{111[111]}Substituted by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957), for “it”.

^{112[112]}Substituted for the word “Commissioner” by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

¹¹³^[113][(1-A) Any charges to be defrayed from the funds of a local authority or a Company under sub-section (1), may be recovered, in addition to any other mode of recovery provided in any other law, as arrears of land revenue].

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

51. Exemption from stamp duty and fees.— No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

52. Notice in case of suits for anything done in pursuance of Act.— No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

53. Code of Civil Procedure to apply to proceedings before Court.— Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the ¹¹⁴^[114]Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

¹¹⁵^[115]**54. Appeals in proceedings before Court.**— Subject to the provisions of the Code of Civil Procedure 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid, an appeal shall lie to ¹¹⁶^[116][the Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in order XLV thereof].

55. power to make rules.— (1) The ¹¹⁷^[117][Provincial Government] shall ¹¹⁸^[118][* * *] have power to make rules consistent with this Act for the

¹¹³^[113]Inserted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969).

¹¹⁴^[114]XIV of 1882, subsequently replaced by the Code of Civil Procedure, 1908.

¹¹⁵^[115]Substituted by the Land Acquisition (Amendment), Act 1921 (X of 1921), section 3.

¹¹⁶^[116]Substituted by the Central Laws (Adaptation) Order, 1961 (P.O. 1 of 1961), for “His Majesty in Council”.

¹¹⁷^[117]Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Local Government”.

guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

¹¹⁹[¹¹⁹* * * * *]

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall ¹²⁰[¹²⁰* * *] be published in the Official Gazette, and shall thereupon have the force of law.

¹¹⁸[¹¹⁸]The words “subject to the control of the G.G. in C”, which had been inserted by the Decentralization Act, 1914 (IV of 1914), were repealed by section 2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

¹¹⁹[¹¹⁹]The proviso which had been added by section 2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920), was repealed by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.

¹²⁰[¹²⁰]The words “when sanctioned by the G.G. in C” were repealed by the Decentralization Act, 1914 (IV of 1914), section 2 and Schedule, Part I.