

Analysis of the Law of the Land Acquisition in Punjab and the Recommendations for Change

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Abbreviations and Acronyms

Act	Land Acquisition Act, 1894
ALD	Pakistan Annual Law Digest
BOR	Board of Revenue
CLC	Civil Law Cases
Constitution	Constitution of the Islamic Republic of Pakistan, 1973
DOR	District Officer Revenue
DPAC	District Price Assessment Committee
EDO (R)	Executive District Officer Revenue
FOI	Freedom of Information Ordinance, 2001
FSC	Federal Shariat Court
LAC	Land Acquisition Collector
LAR	Land Acquisition Regulation, 1961 Acquisition and Rehabilitation Regulation, 2007
LHC	Lahore High Court
MLD	Monthly Law Digest
NLR	National Law Reporter
PLD	The All Pakistan Legal Decisions
PLJ	Pakistan Law Journal
QSO	Qanun-e-Shahadat Order, 1984
SCMR	Supreme Court Monthly Review
YLR	Yearly Law Reporter
1983 Rules	Punjab Land Acquisition Rules, 1983

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SUMMARY

This research paper reviews and analyses land acquisition and involuntary resettlement laws, rules, regulations and administrative procedures, which apply to the Province of Punjab. In particular, the paper focuses on the Land Acquisition Act, 1894 (the Act), the Punjab Land Acquisition Rules, 1983 (1983 Rules), orders, and notifications etc.

It also contains recommendations and highlights practical issues that arise in the implementation of the Act and the 1983 Rule. Moreover, the draft Land Acquisition (Amendment) Bill, 2008 (the Bill) has been examined with reference to the Act.

The paper is divided into Four Chapters. Chapter I provides an introduction to the adoption of the Act in Pakistan after the partition of Indian Sub-Continent in 1947. The Act is the primary law on land acquisition in the country and was adopted as a federal legislation in 1949. The Act derives its sanctity under the Constitution of Islamic Republic of Pakistan, 1973 (Constitution). Under the Constitution, the Provincial Assemblies (4 in Pakistan) are competent to amend the Act, as they deem appropriate. Further, Chapter I gives an overview of the laws, rules and regulations applicable to the Province of Punjab.

Chapter II deals with stepwise process of land acquisition under the Act. This Chapter provides detailed land acquisition procedure commencing from submission of application to the acquiring agency to the making of award, transfer of possession, payment of compensation to the persons interested and legal remedies available to persons interested. The procedure for acquisition is based on the procedure prescribed under the Act and the 1983 Rules made thereunder as well as the instructions issued by the Board of Revenue (BOR) and the information provided by the Revenue Department of the Government of Punjab (Government). Further, the Chapter sets out the procedure for land acquisition in urgent cases and highlights the differences between normal acquisition and acquisition in urgent cases. The Chapter also illustrates the specific procedure for acquisition of land for companies, temporary acquisition of land and acquisition of part of a house etc.

Chapter III identifies the shortcomings of the Act and the difficulties encountered in implementing the Act. The main issues identified are:

- I. The Act fails to define public purpose which is a condition precedent to acquire land. This is one of the core reasons for misuse of the Act, particularly, in the case of Housing Societies/Colonies who manage to acquire land with commercial objectives under the garb of public purpose. Further, acquisition for companies may not be strictly for public purpose, but just useful for public. The Act also does not contain any provision prohibiting the change of public purpose for which the land was acquired.

- II. The Act falls short in defining urgency. Unguided discretion has been conferred upon the Executive District Officer Revenue (EDO(R)) to decide whether an urgent situation exists. This leads to misuse of the urgency provisions and the discretion thereunder. In case of acquisition of land under the urgency provisions, persons interested have no right of hearing.
- III. No time period is prescribed for the proceedings between each stage of the acquisition up to the making of an award and payment of compensation. This results in significant delays and loss to the persons interested.
- IV. The Act does not contain any provisions for restoration of land to the previous owners. In case the project for which acquisition has taken place is cancelled, the land continues to vest in the Government to the detriment of the persons whose land was acquired.
- V. Under the Act, the evaluation of land for compensation is determined on the date of issuance of first notification according to average rate prevailing prior to the year before issuance of such notification. However, the Federal Shariat Court (FSC) has declared that the land value should be determined at the time the Government takes possession and ordered that the Act should be suitably amended. Therefore, the manner in which land is valued under the Act is contrary to the judgment of the FSC.
- VI. Under the Act, the persons interested have potent rights available to them to raise objections to the acquisition itself or to compensation and measurement of land. However, the persons interested are not meaningfully involved in any proceedings from commencement of acquisition proceedings till the award. The provisions for hearing are treated only as a formality.
- VII. The Act provides for the right to information to the persons interested. However, the mode of service of notices as provided under the Act is not strictly observed which results in important information not reaching the persons interested in time.
- VIII. The Act and the 1983 Rules provide for checks and balances to protect the rights of persons interested whereby the Land Acquisition Collector (LAC) and the Collector of the District report to the EDO(R) and the entire process is supervised by the BOR. However, such checks and balances are loosely implemented. This view is fortified by excessive litigation against acquisition before the courts.

- IX. The analysis of the 1983 Rules shows that several rules of the 1983 Rules go beyond the scope of the Act. While some rules of 1983 Rules prescribing timelines have been struck down by the Supreme Court being ultra vires of the Act, the others may come under scrutiny for the same reasons in the future.

Chapter IV of the paper recommends revisions to the Act which are summarized below:

- I. The Act does not recognize the concept of resettlement and rehabilitation. The Act needs to be materially amended and the concept of resettlement and rehabilitation needs to be defined and incorporated in the Act.
- II. The meaning and concept of compensation, its evaluation and the scope of compensation is materially different in the Act and the Policy. Compensation under the Act is restricted to payment in terms of money and there is no provision for grant of land for land (resettlement) as one of the means of compensation. This needs to be incorporated in the Act. Additional factors such as restoration of livelihood, assessment of social impacts, potential adverse economic, social or environmental impacts, opportunities to share benefits, etc., also need to be added in the Act.
- III. The Act needs to recognize the rights of squatters as eligible for compensation.
- IV. The Act does not address or recognize the rights of indigenous people. The Act needs to be revised to recognize such rights.
- V. The purchase of land by negotiations should be laid down as a condition precedent before proceeding with the acquisition under the Act. The acquisition should only be resorted to when it is properly documented and proved that the land cannot be acquired through private negotiations.
- VI. The acquisition of land for public purpose needs to be specifically limited for essential needs only of the Government Departments, local authorities, statutory bodies or companies with management/control of the Government for the purposes of development.
- VII. Private housing schemes and companies other than the statutory bodies or companies with management/control of the Government should be excluded from the purview of the Act.
- VIII. The Act needs to be amended in order to lay down the circumstances and parameters to establish and evaluate whether any situation of urgency exists.

- IX. The Act needs to be amended to prescribe timelines for each stage of acquisition. Further, the Act should be amended to prescribe timelines for decision of cases before the referee courts.
- X. All the persons interested should be meaningfully involved in the process of evaluating the land and determining the compensation before the Collector of the District and the District Price Assessment Committee.
- XI. The acquiring authority should be required to give reasons for starting the process of acquisition under the Act, as well as reasons for acquisition under urgency provisions provided in the Act. These reasons should be communicated to the persons interested.
- XII. The Act should be amended so that the value of land is determined in accordance with the market value as on the date of dispossession instead of date of notification under Section 4. Potential value of land to be acquired should be taken into account according to the principles laid down by the superior courts as well as the Policy. The procedure for payment of compensation is missing in the Act and the 1983 Rules. Such procedure should be included in the Act or the 1983 Rules.
- XIII. The Act should specifically provide as to what properties cannot be acquired. A reference to this effect is found in the 1983 Rules but the provisions of the 1983 Rules remain ineffective unless provided by the Act itself.
- XIV. Provision should also be made to permit the Government to reverse acquisition after the property has vested in it.
- XV. The checks and balances provided by the Act have been entrusted to within the same hierarchy from the Member BOR down to the patwari. It is, therefore, imperative that a duly empowered regulatory authority independent of the Revenue Department be constituted by appropriate legislation to check the process of acquisition at every stage.
- XVI. For effective and smooth implementation of the acquisition process, it is essential to employ qualified and trained personnel.
- XVII. The system of record keeping under the Land Revenue Act, 1967 should be computerized and efficiently updated as and when the changes take place.
- XVIII. Present forms used for land revenue records are outdated and complex. Standardized forms should be made in simple Urdu language or any other local language, as may be needed.

XIX. Several rules of 1983 Rules are either inconsistent with or extend beyond the scope of the Act. These rules should be framed in line with the Act

CHAPTER I

History of Land Acquisition in the Sub Continent and the Law applicable in Pakistan

- 1 The concept of land acquisition in the Sub-continent was brought into operation by the British by promulgation of Regulation 1 of 1824 of the Bengal Code. The first legislation applicable to the whole of India (British India) was Act VI of 1857. Thereafter, several other enactments were promulgated such as Act XXXVIII of 1839, Acts I, XVII and XLII of 1850, Act XX of 1852 and Act I of 1854. After the Act X of 1870, the Land Acquisition Act, 1894 (the Act) was promulgated. The Act and the laws framed prior to it envisage monetary compensation for the land acquired.
- 2 After emergence of Pakistan as an independent country, the Act continued to apply to Pakistan under the provisions of the Government of India Act, 1935 and the Indian Independence Act, 1947. In 1949, the Act was adopted vide Governor General's Order (IV/1949). The Act is to-date the fundamental legislation on the subject.

1.1 Constitution of the Islamic Republic of Pakistan, 1973 (Constitution)

- 3 Presently the Act derives its sanctity under Article 24 of the Constitution. Article 24 can be treated as an exception to Article 23¹ of the Constitution. Article 24(1) provides that: no person shall be deprived of his property save in accordance with law. Article 24(2) provides that:

“no property shall be compulsorily acquired or taken possession of save for a public purpose and save by the authority of law², which provides for compensation therefore and either fixes the amount of compensation or specifies the principles on, and the manner in which, compensation is to be determined and given”. (Emphasis supplied)

- 4 Land acquisition is not covered by either the Federal Legislative List or the Concurrent Legislative List. According to Article 142(c) of the Constitution when a subject is not covered by either list, The Provincial Assembly alone is authorized

⁸⁹ Every citizen shall have the right to acquire, hold and dispose of property in any part of Pakistan, subject to the

Constitution and reasonable restrictions imposed by law in the Public interestll.

⁹⁰ The expression —save by authority of lawll in this Article provides for acquisition in accordance with law which in the present case is the Act.

to pass laws on the subject. However, in the present situation the Act continues in full force and effect as a Federal legislation by virtue of Article 268(1)³ of the Constitution as an existing law.

- 5 Articles 152 and 173 of the Constitution also relate to land acquisition. Article 152 relates to acquisition of land situated in a province at the direction, on behalf of and at the expense of the Federal Government for any purpose with respect to which the Parliament (Majlis-e-Shoora) has power to make laws. This Article also provides for transfer of land owned by a Provincial Government to the Federal Government by agreement. If no agreement can be reached, an arbitrator appointed by the Chief Justice of the Supreme Court of Pakistan (Supreme Court) decides the matter. The Supreme Court has determined that these provisions of the Constitution do not create an agency⁴relationship between the Federal Government and the Provincial Government⁵.
- 6 Under Article 173(1), the executive authority of the Federation and a Province extends to the purchase or acquisition of property on behalf of, the Federal Government or, as the case may be, the Provincial Government. Sub-Article (2) of Article 173 provides that all property acquired for the purposes of the Federation or of a Province, shall vest in the Federal Government or, as the case may be, in the Provincial Government. It is to be noted that the Act does not apply to the lands already vested in the Federal or a Provincial Government.

1.2 Land Acquisition and Resettlement Laws in the Province of Punjab

³ Except as provided by this Article, all existing laws shall, subject to the Constitution, continue in force so far as applicable and with the necessary adaptations, until altered, repealed or amended by the appropriate legislature. Further, according to Articles 260 and 268(7) the expression existing law has been defined and means all laws (including ordinances, orders in council, orders, rules, by-laws, regulations and Letters Patent constituting a High Court, and any notifications and other legal instruments having the force of law) in force in Pakistan or any part thereof, or having extra-territorial validity, immediately before the commencing day. Commencing day means fourteenth day of August, 1973 according to Article 265(2) of the Constitution.

⁴ An Agency is created when one person authorizes another person to act on his behalf. However, under Article 152 the Federal Government issues directions to the Provincial Government which does not amount to authorization as understood in the case of agency under the Contract Act, 1872, as amended from time to time.

⁵ 1991 SCMR 2193

- 7 The Act, as amended from time to time, is the primary law for the purpose of land acquisition in the Province of Punjab. The Act provides for acquisition of land for public purpose and for companies⁶. Several other laws (see Annex D1 and Annex D2) also authorize the acquisition of land for the specific purpose of those laws in the Province of Punjab. For the purposes of acquisition of land, the Government of Punjab (Government) has also framed the Punjab Land Acquisition Rules, 1983 (1983 Rules) under Section 55 of the Act. The Act and the 1983 Rules have to be read together. There are no regulations under the Act, nor is there any provision for framing the regulations under the Act. Although the Act is a federal legislation, however, as per Article 142(c) of the Constitution, a Provincial Assembly is competent to amend the Act. The Act (as amended) is applicable to the Province of Punjab by virtue of West Pakistan (Amendment) Ordinance, 1969. The aforesaid Ordinance continues in force in the four provinces in view of Adaptation of Laws Order, 1975.
- 8 There is no specific provision in the Act for resettlement and rehabilitation of persons displaced as a result of acquisition of their land. However, a few ⁷ other laws provide for limited rights for resettlement of displaced persons.

CHAPTER II

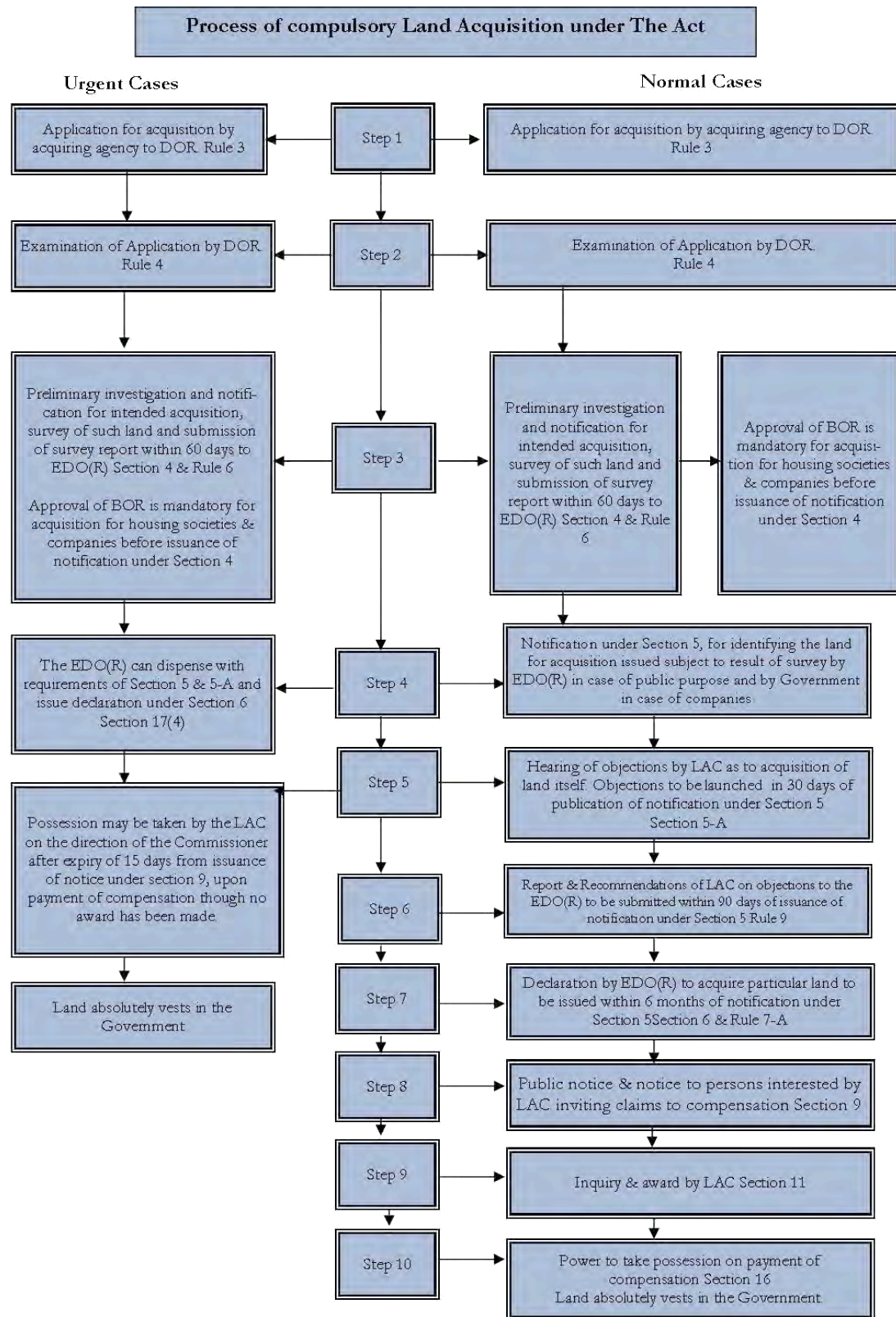
⁶ Preamble to the Act.

⁷ Lahore Development Authority Act, 1975 and the Acts applicable to other development authorities in the province

LEGAL REQUIREMENTS AND PROCESS FOR LAND ACQUISITION UNDER THE ACT⁸

This chapter deals with stepwise process of acquisition of land under the Act. The Act provides for different acquisition procedures depending on whether the acquisition is needed on an urgent or normal basis. With some variations, the Act also provides for acquisition of land for companies, temporary acquisition of land and acquisition of part of a house etc.

⁸ Read with 1983 Rules



Figure—1

2.1 Process of Land Acquisition in Normal Cases

2.1.1 Preliminary Investigations and Notification under Section 4

- 11 In normal cases of acquisition the process starts with the acquiring agency⁹ submitting an application to the Collector of the District¹⁰ concerned in the form prescribed by the Board of Revenue (BOR)¹¹. The acquiring agency gives full justification of the public purpose¹² involved and the minimum area required by it with full details of all other areas owned by it in the same locality¹³.
- 12 On receipt of such application, the Collector of the District examines its feasibility, genuineness of public purpose involved, the minimum requirements of the acquiring agency and suitability of the area proposed for acquisition keeping in view its alternate usage if any¹⁴.
- 13 In case the Collector of the District is satisfied that the land in any locality is needed or is likely to be needed for any public purpose or for a company and the land be acquired for the acquiring agency, he directs the issuance of a notification under Section 4 of the Act to be published in the official gazette¹⁵. This notification contains name of the revenue estate/village or locality, broad details of the dimensions and boundaries of the square or rectangles, field number and the approximate area to be acquired¹⁶. These particulars are taken

⁹ The Act does not define "acquiring agency". However, it has been defined in Rule 2 (1) (iii) of 1983 Rules and "means the Department, the Local Authority or the company for which land is being acquired under the Act". In PLJ 1990 Lahore 208 it was held that individuals are not included in the definition of acquiring agency.

¹⁰ According to Sections 5 and 6 of the Land Revenue Act, 1967, the Province of Punjab is divided into divisions, districts, tehsils and sub-tehsils etc. The Collector of the District is the financial and administrative head of the District. The Collector of the District is presently designated as District Officer Revenue (DOR) under the Local Government Ordinance, 2001.

¹¹ Board of Revenue is the chief authority in the province for revenue administration and is constituted under the West Pakistan Board of Revenue Act, 1957. For further understanding refer to Annex A1 & A2.

¹² Section 3 (f) of the Act.

¹³ Rule 3 of 1983 Rules.

¹⁴ Rule 4 of 1983 Rules.

¹⁵ Annex C1 model form for notification under Section 4 of the Act.

¹⁶ Rule 5 of 1983 Rules.

from revenue records.¹⁷ Word notification implies that contents thereof must be known to the public and mere issuance of an order in the office of government is not sufficient.¹⁸ Minor inaccuracies in the description of land causing no material injury to the landowners do not annul the notification under Section 4¹⁹.

14 After publication of notification under Section 4, the Land Acquisition Collector (LAC)²⁰ causes public notice²¹ to be given at convenient places in the locality of the land to be acquired. It contains the substance of the notification. Under the Act, it is mandatory to give public notice. Notification under Section 4 is not a final decision of the Government to acquire land but is a preliminary step towards its acquisition²².

15 An owner is not divested of his rights and title entitled to land merely by issuance of notification under Section 4 of the Act and is not barred from disposing of the property until he was dispossessed of it.²³

16 After issuance of notification under Section 4 any officer authorized by the Government can lawfully enter into the land, survey and take levels of the land

¹⁷ For the purposes of issuance of notifications under Sections 4, 5, 6 and 17 for determination of compensation and for determination of rights of persons interested revenue records prepared under the Land Revenue Act, 1967 are relied upon. Two types of revenue records are particularly relevant in this respect i.e. the record of rights: (*jamabandi/fard malkiat*) that incorporate *inter alia* the names of land owners and other particulars relating to the land; and *khasra girdawri* which *inter alia* incorporates the persons who are in possession as tenants, lessees, etc. and their rights. Such records are maintained by *Patwari Halqa* at the lowest tier, who is practically in control of the entire records. It is the duty of *Kanungo/Girdawar* and Revenue Officers to periodically check such records. The DOR is duty bound to keep the record of rights updated. Record of rights (*Jamabandi/fard malkiat*) is updated every four years and *khasra girdawri* is updated on each crop.

¹⁸ 2005 YLR 1133.

¹⁹ PLJ 1983 Lahore 703.

²⁰ LAC is defined in Section 3 (c) of the Act and may be any person authorized by the Government to perform the functions of Land Acquisition Collector under the Act. "Collector of the District" is the head of district administration and revenue and therefore the "Collector of the District" and the "LAC" are two different authorities under the Act. Several government authorities have their own permanently appointed LACs e.g., Lahore Development Authority or other authorities. An LAC may also be appointed specifically to perform the functions for acquisition of land for a particular acquiring agency.

²¹ The difference between notice and notification is that notification is published in the official gazette, while notice is not published but issued for information of concerned persons and consists of substance of notification.

²² PLD 2008 SC 335.

²³ 1995 MLD 794 and 1992 SCMR 993.

and can do all other acts connected therewith such as to dig and bore into subsoil and set out boundaries of the land etc. The officer so authorized cannot enter a building or a dwelling house without giving seven days prior notice to the occupier²⁴.

17 The officer authorized to conduct the survey pays compensation for any damage done due to survey and in case of dispute as to the amount of compensation the matter is referred to the competent authority²⁵. The survey report has to be submitted by the LAC to the Executive District Officer Revenue (EDO(R))²⁶ not later than 60 days from the date of publication of notification under Section 4²⁷.

18 Through Order²⁸ dated 10 April 2004, the BOR has prohibited the Collector of the District from issuing any notification under Section 4 which relate to any cooperative housing society/companies, housing societies, employees cooperative or housing societies/housing schemes unless the BOR provides its prior written approval.

2.2 Allocation of Land²⁹, Hearing of Objections³⁰ and Provisional Determination of Compensation

19 After issuance of notification under Section 4, the Collector of the District determines the estimated price of land³¹. Such price is then provided by the acquiring agency. The Collector of the District then deposits the same in treasury and places the fund at the disposal of the LAC³². The estimated price of land worked out by the Collector of the District is approved, by the LAC, EDO(R) and

²⁴ Section 4 (2) of the Act.

²⁵ Section 4(3). In case survey is conducted by any authorized officer other than the LAC the matter is referred to the LAC and where the survey is conducted by the LAC the matter is referred to the EDO (R).

²⁶ EDO(R), formerly designated as Commissioner is the head of revenue administration of the entire division. For further understanding refer to Annex A1.

²⁷ Rule 6 of 1983 Rules.

²⁸ This Order contains instructions issued by the BOR to all subordinate revenue authorities.

²⁹ Notification under Section 5 of the Act.

³⁰ Section 5-A of the Act.

³¹ Section 5-A of the Act.

³² Section 6 of the Act and Rule 10(1) (iv) of 1983 Rules.

the BOR up to Rs.2,500,000, 5,000,000 and above 5,000,000 respectively³³. Notwithstanding the 1983 Rules, LHC has held that both the BOR and the LAC must independently assess the price of the land. The LAC could not simply accept the price determined by the BOR³⁴.

20 In 2003, the BOR established a District Price Assessment Committee (DPAC) in each district to assess compensation. Each DPAC is staffed by the Collector of the District and Executive Engineer Irrigation (XEN) in case of agricultural land. In case of urban land the DPAC is staffed by the Collector of the District and Excise and Taxation Officer. Each DPAC is headed by the Collector of the District.

21 The role of the DPAC in the acquisition process commences after the issuance of notification under Section 4. The DPAC evaluates the value of land and other components of compensation with the assistance of various Government Departments³⁵.

22 The value of land is the price prevailing on the date of publication of notification under Section 4 (1)³⁶. Further, according to the 1983 Rules while calculating the estimated price of land, the classification of land and the average market price of similar kind of land prevailing during the preceding one year from notification under Section 4 is also taken into account.

23 In addition to the requirements of the Act and the 1983 Rules, the instructions issued by the BOR are also adhered to while determining value of the land. These instructions were issued due to the concerns of the BOR that the provisions of the Act and the 1983 Rules were not being followed while assessing the estimated cost of land to be acquired. The instructions were issued to the EDO(R) to visit the site personally along with EDO agriculture or XEN (irrigation). The BOR devised and issued a Performa³⁷ and sent it to all EDO(R)s

³³ Rule 12 of 1983 Rules, as amended by Notification No. 1851-2009/1153 dated 13-10-2009.

³⁴ 2000 MLD 631.

³⁵ While assessing the compensation the structures are evaluated by the Buildings Department of the Government, evaluation of non-fruit bearing trees by the Forest Department and evaluation of fruit bearing trees and crops by Agriculture Department.

³⁶ Section 23 firstly, 2001 SCMR 974, PLD 2002 SC 84 and 1993 CLC 592.

³⁷ Circular no. 1819-2008/1020-S.IV dated 25-11-2008. The Performa contains seven columns i.e., composition/classification of land being acquired; location of land and its surroundings including distance from main road; rate of valuation of the same land notified in the valuation table (in case of urban land); average sale price of similar land in the locality during preceding year when notification under Section. 4 of the Act was issued; exact basis/rationale/grounds on which cost of land is estimated; whether

of Punjab for examination of assessment of cost of land determined by the subordinate revenue authorities.

- 24 The BOR has also issued guidelines³⁸ to all EDO(R)s in Punjab for early disposal of land acquisition cases. The BOR directed that while dealing with the cases of land acquisition minutes of the DPAC, recommendation of EDO(R)/DOR, list of average sale price proposed by the revenue field staff for preceding one year of date of notification under Section 4 and market price of land for the said period are to be considered. The evaluation by the DPAC, as per the Performa, has to take place before notification under Section 5.
- 25 The Collector of the District issues valuation lists of urban properties while the BOR issues such general price lists relating to agricultural land. The list for urban properties is relevant and binding only for payment of registration fee and stamp duty for registration of documents. It has been held by LHC that general price list was not binding on the referee court and the compensation can be determined on the evidence of persons interested³⁹.
- 26 Together with the draft notification under Section 5⁴⁰, the Collector of the District forwards the following certificates and information⁴¹ to the EDO(R): certificate of placement of estimated cost of land at the disposal of the LAC; certificate that the land cannot be acquired through private negotiations; and classification and location of land with site plans, etc.
- 27 After issuance of notification under Section 4 and completion of formalities detailed above a notification under Section 5 is issued and published in the official gazette by the EDO(R). The notification under Section 5 of the Act contains detailed particulars of the land to be acquired. Particulars of the minimum area to be acquired and justification of public purpose involved, etc. are specified⁴². The LAC also issues public notice so that the persons interested⁴³ may file objections, if any.

parameters laid down under Section 23 and Section 24 of the Act and law interpreted by the Superior Courts was observed and ; estimated cost of Land approved by DPAC.

³⁸ Circular No. 648-2003/411-S.IV dated 22-04-03.

³⁹ 2010 MLD 1673.

⁴⁰ Rule 11 of 1983 Rules. This Rule also applies to draft notification for acquisition in urgent cases.

⁴¹ Such certificates and information are also forwarded to EDO(R) under Section 17 which relates to Urgency.

⁴² Rules 3 and 4 of 1983 Rules.

28 Section 5-A⁴⁴ provides an opportunity of hearing to all persons interested in the land which has been notified under Section 5. The objections may be raised against the acquisition itself and have to be filed before the LAC within 30 days of the issuance of notification⁴⁵. There is no provision of individual notices under Section 5-A.

29 The LAC hears the objections raised⁴⁶. After hearing the objections and after making such further inquiries as may be considered necessary by the LAC, he submits his report along with the record of the proceedings and his recommendations on objections to the EDO(R) within a period of 90 days⁴⁷. In case the acquisition is for a company, the LAC also forwards his recommendations as to the area which in his opinion is reasonable⁴⁸. The EDO(R) then decides the matter within a period of 3 months⁴⁹. The decision of the EDO(R) on the objections is final⁵⁰. If the report/recommendations are not forwarded or if the EDO(R) fails to decide the matter within the period mentioned above, the objections shall be deemed to have carried and the acquisition proceedings shall come to an end⁵¹.

30 Declaration and Earmarking of the Land⁵². In case the EDO(R) is satisfied with the proceedings under Section 5-A, a declaration is issued by him to the effect that any particular land is needed for a public purpose or for a company⁵³. The issuance of this declaration is subject to two conditions. One that the compensation money is chargeable wholly or partly against public revenues or

⁴³ the expression "persons interested" has been defined in Section 3 (b) of the Act and refers to all persons claiming an interest in compensation and includes landowners and persons with limited interests such as mortgagees, lessees, tenants and persons having a right of easement in the land to be acquired.

⁴⁴ Annex C2, form II model notice under Section 5.

⁴⁵ Section 5-A (1).

⁴⁶ Section 5-A (2), Annex C11, model form of objection petition under Section 5-A.

⁴⁷ Rule 9 of 1983 Rules.

⁴⁸ Section 5-A (2) of the Act.

⁴⁹ Section 5-A (2) of the Act.

⁵⁰ Section 5-A (2).

⁵¹ Rule 9 of 1983 Rules.

⁵² Sections 6, 7 and 8 of the Act and Annex C3 model form of declaration

⁵³ Section 6 of the Act.

some fund controlled or managed by a local authority or the funds of some company. Two, that the declaration shall be duly published in the official gazette with necessary particulars.

- 31 The essential particulars of this declaration are: (i) a sufficient description of the land to be acquired and situation of the property; (ii) the purpose of acquisition; (iii) the place where the plan, if any, may be inspected; and (iv) its approximate area. This declaration is a conclusive proof that the land earlier notified is needed for a public purpose or for a company and entitles the Government to acquire the land.
- 32 This declaration has to be issued within 6 months from the date of publication of notification under Section 5. However, the BOR may extend time for issuance of such declaration up to a maximum period of 60 days⁵⁴. In case declaration under Section 6 is not published within the prescribed or extended time the whole process will come to an end.
- 33 After this declaration, the LAC takes order for acquisition under Section 7. The LAC is then required to accurately mark out and measure the land to be acquired and to make a plan of it unless one already exists⁵⁵. These measures are necessary although the land may already have been marked out under Section 4 and its approximate area ascertained for the purposes of Section 6.

2.3 Notice, Enquiry and Award by the LAC⁵⁶

- 34 After completing the proceedings under Section 8, the LAC holds an enquiry in accordance with Section 11 to decide the nature of respective interests in the land, the amount and particulars of the claim to compensation and objections of persons interested, if any, to the measurements made under Section 8. For holding such enquiry, the LAC gives public notice under Section 9 to the effect that the Government intends to take possession of the land. This notice also contains the time and place of the enquiry.
- 35 Two kinds of notices are provided under Section 9. One is a general notice to be given in the locality intimating the fact of the proposed acquisition and inviting claims for compensation. The other is a special or personal notice to be served on the occupant and all other persons believed to be interested in the land and is issued for the same purpose. Notice of inquiry is also served upon the acquiring agency that is a Department of Government, local authority or company, as the

⁵⁴ Rule 7-A of 1983 Rules.

⁵⁵ Section 8 of the Act.

⁵⁶ Sections 9, 10, 11, 12, and 12-A, and Annex C4, C5, C6 and C9 (model forms).

case may be. The issuance of notice is mandatory and it is not sufficient that the persons interested have come to know of the proceedings from other sources.⁵⁷ No period has been prescribed for issuance of these notices.

36 The date of hearing fixed in the notices has to be at least 15 days⁵⁸ after the date of issuance of these notices. During the enquiry under Section 11, the LAC may also require any person to make a statement containing the names of every other person possessing any interest such as co-proprietors, sub-proprietors, mortgagees, tenants etc., in the land⁵⁹. Notice under Section 10 is not compulsory as is a notice under Section 9. The statement shall not be required to be submitted earlier than 15 days after the date of requisition⁶⁰.

37 Notice under Section 9 to persons interested is essential and it is a valuable vested right of a citizen which cannot be taken away. Where such notice was not given the entire proceedings were set aside and fresh proceedings were ordered⁶¹.

38 The LAC while determining compensation of the land is guided by the provisions of Section 23⁶² which lays down the principles for determination of compensation⁶³. Further, Section 24⁶⁴ lays down the factors which the LAC will not consider while determining compensation.

⁵⁷ 1982 CLC 1542.

⁵⁸ Section 9(2) of the Act.

⁵⁹ Ibid.

⁶¹ 2000 MLD 631 and 2003 MLD 801.

⁶² Factors to be considered by the LAC are market value of the land at the date of publication of the notification under Section 4 (1). For determining such market value. The LAC takes into account transfers of land similarly situated and in similar use prevailing during preceding one year. The potential value of the land may be considered under certain condition. Further, the LAC also need to consider the damages and expenses sustained by the persons interested at the time of taking possession by him by reason of: taking of the standing crops or trees; severing such land from his other property; acquisition injuriously affecting his other property or earnings; change in his residence or place of business; and diminution of profits of the land.

⁶³ Section 15 of Act.

⁶⁴ Factors that will not be considered by the LAC are : the degree of urgency; the unwillingness of the persons interested to part with the land; any damage sustained by any person interested, if caused by a private person, that would not render him liable to a suit; any damage which is likely to be caused to the land acquired after the date of publication of declaration under Section 6; any increase to the value of the land acquired or his other land after acquisition; any improvement on the land acquired or disposal of the land without the permission of the LAC after publication of notification under Section 4 of the Act.

- 39 While determining compensation or the entitlement of claimants under Section 11 the LAC cannot abdicate or delegate his authority to any scrutiny committee or any other agency in that respect⁶⁵.
- 40 Though the LAC is not a judicial officer he is empowered⁶⁶ to summon and enforce the attendance of witnesses, and to compel the production of documents so far as may be necessary for the enquiry.
- 41 At the conclusion of this enquiry the LAC makes an award whether all the claimants have appeared before him or not. The award has to be made by the LAC within 6 months of the publication of declaration under Section 6⁶⁷. If the LAC fails to make this award within this period, the officer responsible for the delay shall be liable to pay 8 percent compound interest.⁶⁸
- 42 The award must be drawn up to indicate the true area of the land, the compensation which the LAC thinks should be allowed, the apportionment of compensation, and the costs⁶⁹. The award specifically identifies compensation for each component, i.e. value for land and compensation for structure, trees, crops and damages etc., if any.
- 43 There is no provision in the Act for a supplementary award after the LAC has made his final award⁷⁰. After the announcement of award the LAC becomes functus officio and cannot review his award.⁷¹
- 44 A sum of 15 percent on the market value determined on the date of notification under Section 4 if the acquisition is for public purpose and a sum of 25 percent on such market value if the acquisition for a company is also to be awarded⁷².

⁶⁵ 1993 MLD 2318.

⁶⁶ Section 14 of the Act.

⁶⁷ Rule 7-A (1) of 1983 Rules.

⁶⁸ Rule 7-A(2) of 1983 Rules.

⁶⁹ Section 11 of the Act.

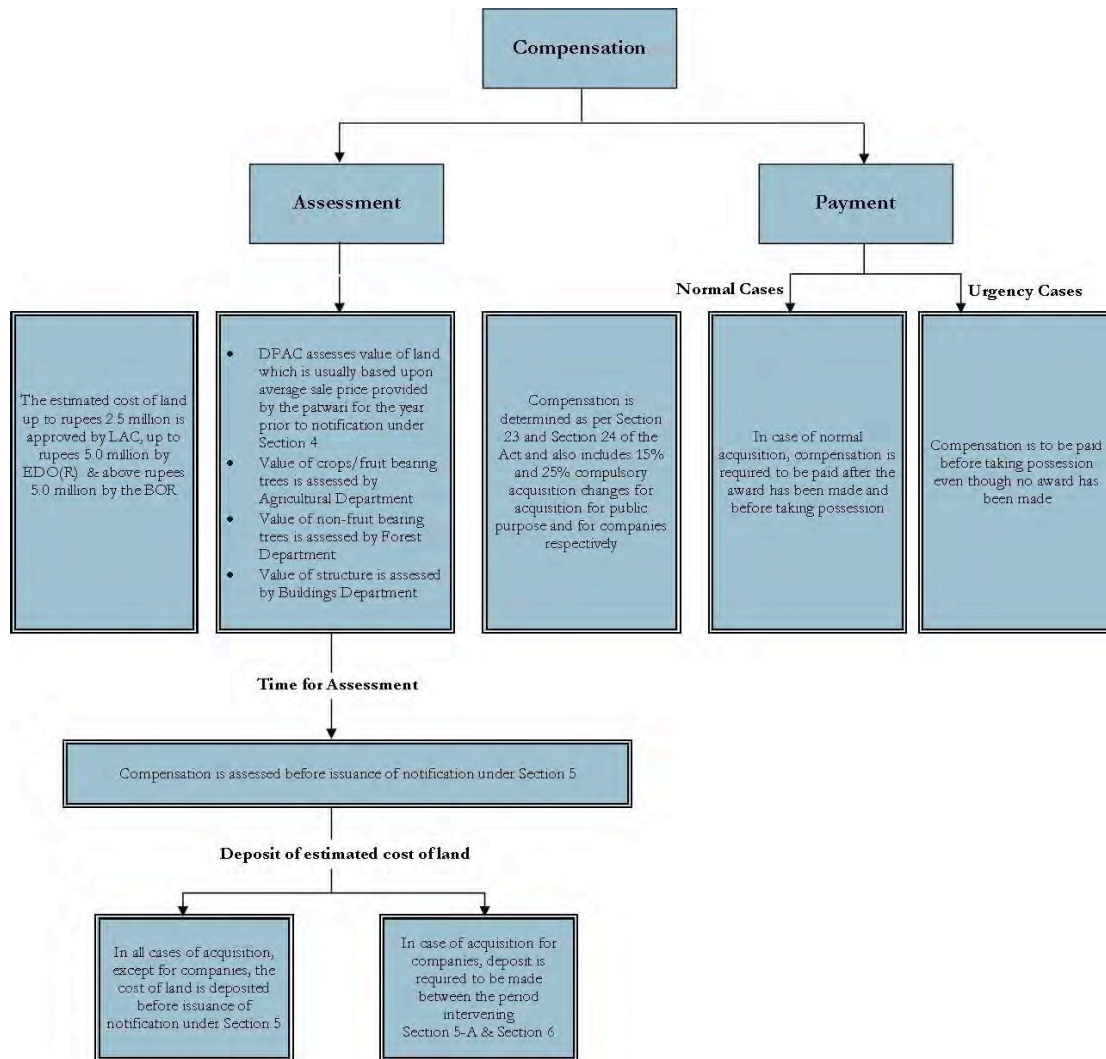
⁷⁰ NLR 1991 Rev Lahore 136 and PLD 1991 Lahore 337.

⁷¹ 2009 CLC 948 and 2000 YLR 419.

⁷² Section 23 (2) of the Act.

45 The award by the LAC is final⁷³ and is conclusive evidence as between the LAC and the persons interested whether they have appeared before him or not to the extent of true area, value of land and the apportionment of compensation. The

LAC is also empowered to rectify clerical or arithmetical mistakes in the award⁷⁴. The finality attached is, however, subject to other provisions of the Act.⁷⁵ Notice of making of the award is also to be issued to the absentees⁷⁶



⁷³ Section 12(1) of the Act.

⁷⁴ Section 12-A of the Act.

⁷⁵ Reference under Section 18 of the Act.

⁷⁶ Reference under Section 18 of the Act.

2.4 Power to take Possession and Vesting of Property

46 After the LAC has made his award under Section 11 he may take possession of the land. The power to take possession is subject to payment or tender of compensation⁷⁷. If the person interested has accepted the award and if the period prescribed for filing reference has expired, then the LAC is bound to tender and pay the full amount of compensation to the person entitled. However, the Act is silent on the mode of tendering or paying such compensation⁷⁸. In case the LAC fails to make payment of compensation before taking possession he shall pay compound interest at the rate of 8 percent on the compensation from the time the LAC takes possession till the time he makes the payment⁷⁹. The scheme of compound interest has been introduced so that unnecessary delay should not occur in the payment of compensation⁸⁰. Interest under Sections 28 and 34 can be awarded from date of actual taking of possession and not from date of notification under Section 4⁸¹. Grant of interest under Section 34 is a mandatory condition and the land owner has no right to waive the compound interest. Any waiver or agreement of waiver was held to be void⁸².

47 If the persons interested accept the award, then they are immediately entitled to receive compensation. In case of dispute, the amount of compensation shall be deposited in the Court before possession is taken. The LAC and the EDO(R), as the case may be, cannot deliver possession to any department or agency

⁷⁷ Section 31 read with Rule 13 of 1983 Rules.

⁷⁸ According to the information provided to the authors of this report by the Revenue Department If there are no objections to the award, the Collector of the District deposits the amount of compensation in the Government Treasury at his will along with an award statement. Such statement contains the particulars of the persons entitled to receive compensation and the amount thereof. Then the land owners apply for release of their share of compensation by submitting an application to the Treasurer who prepares the payment vouchers after verification from the award statement and after examining the National Identity Card. An invoice is prepared on the basis of this voucher and is sent to the State Bank of Pakistan. The invoice contains the particulars of account out of which the payment is to be made. After recording this invoice in their books, the invoice is sent to the banks for deposit of amount of invoice in the account of the recipient.

⁷⁹ Section 34 of the Act.

⁸⁰ 2006 MLD 308.

⁸¹ NLR 1994 Revenue (Lahore) 23.

⁸² 2002 CLC 1683.

concerned unless sufficient funds are deposited in Government Treasury in advance and placed at the disposal of the LAC for payment of compensation⁸³.

48 After the possession has been so taken, the land vests absolutely in the Government free from all encumbrances⁸⁴. The expression encumbrances as in Section 16 includes easements of every kind such as rights of water, rights of drainage, rights of way and the like⁸⁵. Leases and mortgages are also encumbrances. Upon the vesting of the land in the Government, the acquisition proceedings are finalized. The Government can withdraw from acquisition at any time before taking possession⁸⁶. The effect of withdrawal is that the all previous notifications for acquisition stand withdrawn⁸⁷.

⁸³ Rule 13 of 1983 Rules.

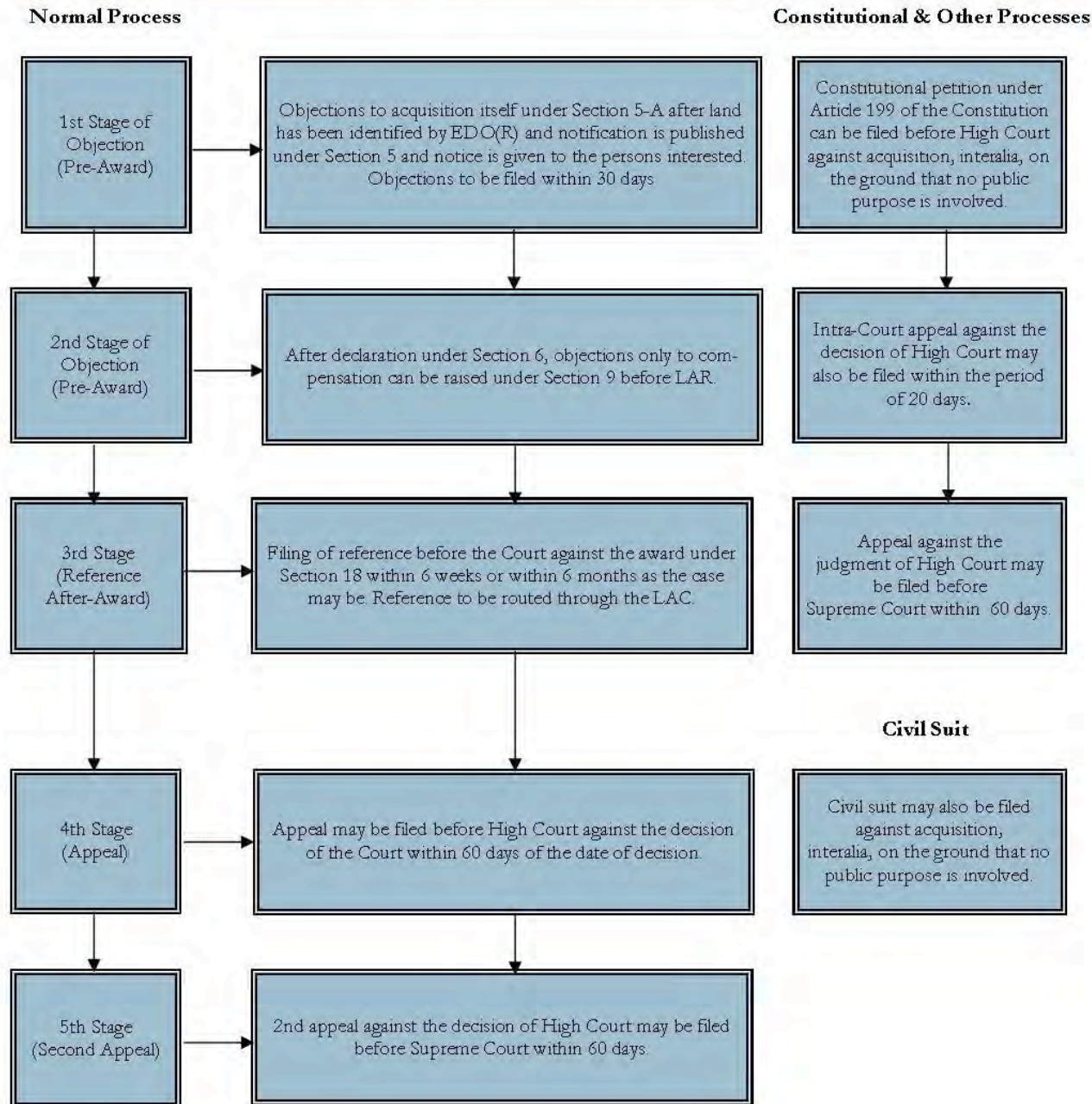
⁸⁴ Section 16 of the Act.

⁸⁵ AIR 1943 Calcutta 55.

⁸⁶ Section 48.

⁸⁹ PLD 2004 SC 441.

Process of Hearing of Objections and Remedies before Court



2.5 Right to Challenge the Award by Reference⁸⁸ to the Court

49 Any person interested or the Government who has not accepted the award may file a reference against such award before the Court⁸⁹. Such reference to the

⁸⁸ Annex C7 and C8 model forms of Reference.

⁸⁹ Principle Civil Court of the District or any other Court specifically appointed by the Provincial Government for this purpose (Section 3(d) and Section 18).

Court is routed through the LAC by written application that the matter be referred to the Court. The LAC is bound to refer the matter to the Court unless he dismisses the application as time barred.⁹⁰ Such reference may be filed against measurement of land, amount of compensation, apportionment of compensation and the person to whom it is payable⁹¹. A company or a local authority on whose behalf the land had been acquired cannot file a reference⁹². However, the superior courts have taken a contrary view⁹³.

50 Any person interested is entitled to file the reference even if he has received compensation under protest⁹⁴.

51 The dispute as to mode of apportionment of compensation or as to persons to whom same is payable relate to title and the LAC may refer such disputes to the Court⁹⁵. The LHC held that the LAC shall be justified in making a reference of the dispute to the decision of the Court⁹⁶. The LAC alone in his discretion can make reference to the Court under Section 30⁹⁷.

52 A reference under Section 18 can also be filed in a representative capacity as the provisions of Civil Procedure Code 1908 apply to such applications⁹⁸.

53 The Court upon receiving the reference serves notice on all persons interested⁹⁹ to appear and represent their case. The LAC has a pivotal role in the scheme of

⁹⁰ 2005 Appeal Cases 1096

⁹¹ Section 18. The Reference shall be filed within 6 weeks of the award if the interested person is present

personally or through a representative at the time of award. In case the interested person was not present the reference maybe made by him within 6 months from the date of LAC's award or within 6 weeks from receiving the notice whichever is earlier. While forwarding the reference to the Court the LAC shall provide detailed information regarding the land acquired and its particulars i.e. building structure, number of trees or standing crops etc. along with the names of persons interested and objections on compensation and damages claimed. The statement shall be accompanied with a schedule providing all the notices served.

⁹⁴ Proviso to subsection 2 of Section 50 of the Act.

⁹³ PLD 2010 SC 745

⁹⁴ 2ND Proviso to subsection 2 of Section 31 of the Act.

⁹⁵ Section 30 of the Act.

⁹⁶ 2005 MLD 168

⁹⁷ 1996 CLC 1943.

⁹⁸ 1998 SCMR 1297. Subject to conditions contained in Order 1 Rule 8 of the Code of Civil Procedure

—Representative capacityll means where there are numerous persons having the same interest, one or more of them may with the permission of the court sue or be sued or may defend.

the Act and, therefore, the Court is bound by law to serve notice of reference upon him. Award rendered by Court without participation of the LAC was held to be unsustainable.¹⁰⁰

54 The inquiry by the Court is restricted to consideration of objections raised by the persons interested¹⁰¹. Inquiry by referee Court does not contemplate decision on question of limitation after reference was made to it by the LAC. The question of limitation is to be decided by the LAC¹⁰².

55 The Court is also guided by the provisions of Sections 23 and 24 of the Act for determining the amount of compensation. Further, Section 25 enumerates the maximum and minimum amounts which the Court may award. Where a person interested has made a claim before the LAC under Section 11 the Court shall not enhance the amount so claimed. Where without sufficient reason a person interested has either refused or failed to make a claim before the LAC the Court shall, in no case exceed the amount awarded by the LAC. Where with sufficient reasons a person interested has failed to make a claim before the LAC, the amount awarded to him by the Court shall not be less than and may exceed the amount awarded by the LAC. The sufficiency of aforesaid reasons shall be decided by the Court¹⁰³. The Court has power to take into account the inflations and depreciation in currency¹⁰⁴.

56 Where the Court enhances the amount of compensation the person interested is entitled to 8 percent compound interest on such excess amount in terms of Section 28 of the Act. Award of interest at bank rate was held to be not warranted by law.¹⁰⁵

⁹⁹ Section 20 of the Act.

¹⁰⁰ 1992 CLC 67.

¹⁰¹ Section 21 of the Act

¹⁰² 1996 SCMR 384, 1997 MLD 2577, 1992 CLC 1775 and 1996 CLC 1943.

¹⁰³ Section 25 of the Act.

¹⁰⁴ 1992 MLD 26.

¹⁰⁵ 2006 YLR 729 and 1990 CLC 718.

2.6 Appeals in Proceedings before the Court

57 Any person aggrieved of the decree of the Court on reference may file an appeal¹⁰⁶ against the decree/award of the Court to High Court within 90 days¹⁰⁷. An appeal from the decree of the High Court shall lie to the Supreme Court within 30 days¹⁰⁸.

58 The benefits accruing to an appellant in an appeal before the High Court could also be extended to the similarly placed land owners who had not filed any such appeal in the High Court¹⁰⁹.

2.7 Constitutional Petition under Article 199

59 Acquisition of land can also be challenged under Article 199 of the Constitution¹¹⁰ by an aggrieved person if it can be established that the acquisition was malafide or was not for public purpose or some mandatory provision of the Act was not complied with¹¹¹. Writ petition may also be allowed on the basis of discrimination.¹¹² Whether public purpose exists is open to judicial review. Where benefit of land was restricted to a limited class of civil servants of Federal Government and common persons were deprived to acquire the property through the development authority, such deprivation was in violation of Articles 23 and 24 of the Constitution and writ petition was held to be maintainable.¹¹³

60 A civil suit¹¹⁴ may also be filed against acquisition on the same grounds mentioned in Para 2.2. However such suit can be instituted only after giving one month's prior notice in writing to the acquiring authorities¹¹⁵.

¹⁰⁶ Section 54. PLD 2002 SC 84.

¹⁰⁷ Article 156 of the Limitation Act, 1908.

¹⁰⁸ O XII Rule 2 of the Supreme Court Rules 1980 and PLD 2002 SC 84.

¹⁰⁹ PLD 2010 SC 878 and 1997 SCMR 1692.

¹¹⁰ Article 199 of the Constitution provides a right against any illegal act of any person performing functions in connection with the affairs of the Federation, a Province or a local authority/ the Government and against violation of any of the fundamental rights protected under the Constitution. Right to hold property is a fundamental right under Article 23 of the Constitution and cannot be illegally taken.

¹¹¹ 2000 MLD 322, PLJ 1996 Lahore 42, 2002 CLC 985 and 1991 CLC 1001.

¹¹² 2009 CLC 596 and PLJ 1990 Lahore 208.

¹¹³ 2000 YLR 1711.

¹¹⁴ Section 9 of Civil Procedure Code, 1908 read with Section 42 of Specific Relief Act, 1877.

61 Besides the acquisition of land in normal cases, the Act also recognizes if acquisition of land is urgently needed. In case of urgency the acquisition is governed by Section 17. This Section is an exception to the general principle of audi alteram partem. The right of a person interested for filing objections and hearing is extinguished. Except for the distinctive features discussed below the acquisition of land in urgent cases is similar to normal cases of acquisition.

62 For urgent cases of acquisition, the EDO(R) has the discretion to dispense with Section 5 and Section 5-A of the Act if in his opinion urgency exists. The EDO(R) may also direct the LAC to take possession of any land needed for public purpose or for a company even though no award has been made. If the EDO(R) directs that Sections 5 and 5-A shall not apply, a declaration may be made under Section 6 in respect of the land at any time after the publication of notification under Section 4(1).

63 Section 17 contemplates two scenarios for acquiring land under urgency. Firstly, where the possession may be taken by the LAC after 15 days from the date of publication of notice under Section 9 (1)¹¹⁶. Secondly, in case of unforeseen urgency where it is necessary to take possession immediately after issuance of notice under Section 9 (1) with the consent of the EDO(R). Such unforeseen urgency may include acquisition for railways for maintaining their traffic due to sudden change in the channel of any navigable river or for the purpose of maintaining traffic over a public road or for similar emergencies¹¹⁷.

64 In case of urgency, the EDO(R) shall not issue any direction to the LAC to take possession before the award 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 costs of acquisition of such land as determined by the Collector of the District, keeping in view the provisions of Sections 23 and 24¹¹⁸. Further, the LAC is also required to pay compensation for the standing crops and trees (if any) and any other damage sustained by the persons interested for their sudden dispossession¹¹⁹.

¹¹⁵ Section 52 of the Act.

¹¹⁶ Section 52 of the Act.

¹¹⁷ Section 17 (2) of the Act.

¹¹⁸ Proviso to Section 17 (1) read with Rule 10 (1) (vi) of 1983 Rules.

¹¹⁹ Section 17 (3) of the Act.

65 However, the power of the LAC, to take possession of any building or part of a building are subject to issuance of a notice of at least 48 hours to the occupier so that he is able to remove his movable property from such building without any inconvenience¹²⁰.

66 Where a company makes an urgent request for invoking the provisions of Section 17 of the Act, the EDO(R) directs an enquiry to be held as to the existence of urgency. The report of such enquiry and the recommendations are considered by the EDO(R) before deciding whether the provisions of Section 17 are attracted.¹²¹

2.9 Acquisition for Companies

67 Acquisition of land for companies¹²² under the Act is governed by Sections 38 to 43-A (Part VII) of the Act. Under the Act, acquisition for companies is confined only to cases where the EDO(R) is satisfied that the purpose of obtaining the land is for erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith or for work which is for a public purpose or work likely to prove useful to the public¹²³.

68 The first step to be taken by a company desiring to acquire land is to apply to the Collector of the District. The significant difference is that the provisions of Section 6 to Section 37 for further proceedings in the matter can only be applied with the consent of the EDO(R)¹²⁴ and after the company has executed an agreement¹²⁵ with the Government¹²⁶. The consent of the EDO(R) may be given if he is satisfied either after an enquiry to be held under Section 40 or on the report of the LAC under Section 5-A.

¹²⁰ Proviso to Section 17 (2) of the Act.

¹²¹ Section 40 (2) read with Rule 10 (2) of 1983 Rules.

¹²² Section 3(e) defines the expression company. The definition of company includes trust registered under the Societies Registration Act, 1860, (1999 MLD 1186).

¹²³ Section 40 of the Act.

¹²⁴ 1993 SCMR 1673 and PLD 1973 Lahore 665.

¹²⁵ Annex C10 model form of Agreement.

¹²⁶ Annex C10 model form of Agreement.

- 69 When such an agreement has been executed, the company will be required to deposit with the LAC the estimated costs of acquisition and thereupon a declaration under Section 6 would be published in the official gazette¹²⁷. Thereafter, the ordinary procedure in the Act will apply. After the acquisition is complete and possession is taken by the LAC under Section 16, a deed is executed between the Government and the company conveying the land to the latter and specifying the terms on which the land will be held by the company¹²⁸.
- 70 The agreement and the conveyance must include stipulations as to what would happen when the company fails to execute the work for the purpose for which the acquisition is made, or ceases to work or attempts to divert the use of the land to some other purpose. In such cases, the land is resumed and reverts back to the Government. 1983 Rules provide procedure for resumption and restoration of land to the owners¹²⁹.
- 71 The company for which the land is acquired is not entitled to transfer the land by way of sale, mortgage, gift, lease or otherwise except with the previous sanction of the Government¹³⁰.

2.10 Temporary Occupation of Land¹³¹

- 72 The Act also provides for temporary occupation and use of land. If it appears to the EDO(R). The provisions of the Act for temporary occupation are confined only to waste and arable lands and do not apply to houses and manufacturing units or other buildings.
- 73 In such cases the compensation which is in fact the rent is settled by an agreement. An order from the EDO(R) is sufficient without any declaration under Section 6. At the expiry of the time, the compensation must be paid for any damage done to the land. If it has been seriously damaged and the persons interested so desire, the land must be acquired permanently. Any dispute between the LAC and the person interested as to the claim or as to the rent to be paid must be referred to the Court by the LAC. Acquisition of Part of a House¹³⁴

¹²⁷ Section 42 of the Act.

¹²⁸ Section 41 of the Act.

¹²⁹ Rule 15 of 1983 Rules.

¹³⁰ Section 43 (A) of the Act.

¹³¹ Sections 35- 37 of the Act.

74 The Act places a bar on the LAC to acquire a part only of any house, manufactory or other building if the owner desires that whole of such house be acquired. However, before the award is made by the LAC, the owner may withdraw or modify his desires by notice in writing to the LAC.

75 If there is any dispute as to whether any land to be acquired does not form part of a house, manufacturing units or other buildings such dispute shall be referred to the Court by the LAC. The LAC cannot take possession of such land until the decision of the Court. While deciding, the Court also takes note of whether the land to be acquired is reasonably required for an unimpaired use of house, etc. Since no special procedure is laid down for the guidance of the Court when dealing with a reference made under this Section, the provisions of the Civil Procedure Code, 1908 apply pursuant to Section 53 of the Act.

2.11 Resettlement under the Act

76 According to the Act consideration for acquisition of land is a limited concept and fails to provide a holistic and broad arrangement for settling the rights of displaced persons. Resettlement and rehabilitation are non-existent in the Act. The Act does not take into consideration the change in social, cultural and environmental conditions of affected persons. Further the mode of compensation is restricted to money payment only and there is no concept of grant of land for land to the land owners as compensation. However, the LAC may with the sanction of the Government make any arrangements with persons having limited interest for grant of other land instead of awarding money compensation¹³². The grant of land for land as compensation has been expressly held to be illegal by the Supreme Court with respect to the persons interested who claim full ownership of the land acquired.¹³³

77 In several cases of national importance such as construction of dams, barrages and establishment of the Federal Capital, etc., although the land was acquired

¹³² Section 31 (3) and (4) of the Act.

¹³³ 2004 SCMR 1247. Section 31 (b) Acquisition of Land---Claimants of alternate lands in lieu of money compensation have no right at all under the law to be so compensated through a transfer of any other land in the alternative. As the entire scheme of the Land Acquisition Act 1894 is devoid of such arrangement; Sections 31(b), 23, 24 and 25 Person interested within the contemplation of Section. 31 (b), Land Acquisition Act, 1894 cannot be granted any land in the alternative for the land Acquired from him for a public purpose ---Law envisaged the grant of compensation in terms of money and money alone---person interested thus can or could have claimed compensation in terms of money alone--- even if the Government, outside the preview of Land Acquisition Act, 1894 comes with a gesture acceding to owners wish that compensation should be in form of land instead of cash, it is or would be an agreement not enforceable through Court.

under the Act, nonetheless, land for land was granted under schemes prepared under the Colonization of Government Lands Act, 1912 along with money compensation.

78 Since the concept of resettlement is non-existent under the Act, therefore, there are no legal requirements in this respect.

CHAPTER III

ANALYSES OF THE ACT AND PRACTICAL ISSUES THAT ARISE IN ITS IMPLEMENTATION

3.1 Introduction

79 This chapter is an analysis of the gaps in the Act, interpretation of the Act by the superior courts, ground realities and practice.

3.2 Federal Shariat Court

80 Article 227 of the Constitution provides that all existing laws shall be brought in conformity with the injunctions of Islam and no law shall be enacted which is repugnant to those injunctions. To achieve these objectives, the Federal Shariat Court (FSC) has been established under Article 203-C of the Constitution to adjudicate whether any existing law is repugnant to the Injunctions of Islam. Under Article 203-D if any law or provision of law is held to be repugnant to the injunctions of Islam then under Article 203-D (3) (b) such law or the provision shall cease to have effect as from the day fixed by the FSC. An appeal from the final decision of the FSC can be filed before the Supreme Court. The Supreme Court which hears an appeal against the decision of the FSC is known as the Shariat Appellate Bench of the Supreme Court¹³⁴.

81 It has been held that acquisition of land without consent of owner is not repugnant to the injunctions of Islam provided that it is for public purpose and is acquired subject to payment of its market value to the owner.¹³⁵

3.3 Punjab Land Acquisition Rules, 1983

82. Several rules of 1983 Rules framed under the Act are either inconsistent with the Act or go beyond the scope of the Act. It is a settled principle of law that rules cannot be inconsistent with the statutory enactment under which they are framed. Furthermore, such rules cannot enlarge the scope of the statute. On the basis of the above premise, several rules of 1983 Rules have been struck down and several others may come under the scrutiny of the courts.

¹³⁴ Article 203-F of the Constitution.

¹³⁵ PLD 1981 FSC 23 and PLJ 1983 FSC 76.

3.4 Public Purpose is not Well-defined

83. The Act does not specifically define the true scope and boundaries of public purpose which is the condition precedent for acquiring land and it has been recognized by the superior courts that this expression has not been defined in the Act in its generic sense and is an expression which is a relative term and depends and varies from one particular set of facts and circumstances to another such set¹³⁶. However the scope of "public purpose" has been explained in various judgments of the superior courts and it has been held that any project which is beneficial to public at large (as opposed to particular interest of individuals) constitutes public purpose. To put it in another way, anything useful to the public in the sense of conferring some public benefit or being conducive to some public advantage is a public purpose¹³⁷. This is one of the core reasons for misuse of the Act and the persons interested are handicapped to protect their rights.

84. In the case of acquisition for companies the meaning of "public purpose" has been expanded and may imply that acquisition for companies may not be strictly for public purpose¹³⁸. The expression "useful" in Section 40 (1) (b) does not have the same meaning as could be assigned to expression "public purpose". The expression "useful" has been held to mean beneficial to public¹³⁹.

85. The Act does not contain any provision prohibiting the change of public purpose for which the land was acquired. However, the 1983 Rules provide that where the land is used for a purpose other than the purpose for which it was acquired, the same shall be immediately resumed by the Government without compensation and the acquiring agency shall be liable to pay penalty which may extend to 50,000 rupees¹⁴⁰. The LHC has expressed contrary views on the effect of change of purpose of acquisition. In one judgment it has been held that change of purpose does not materially affect acquisition¹⁴¹ while in another judgment it has been held that where the purpose of land acquisition had been changed, the earlier file should be closed and the case be reprocessed¹⁴².

¹³⁶ PLD 1997 Lahore 499.

¹³⁷ PLD 2004 Lahore 47, PLD 1983 Lahore 355, 1993 SCMR 1673, PLD 1997 Lahore 499 and PLJ 1983 Lahore 703.

¹³⁸ 2002 SCMR 1652.

¹³⁹ PLD 2009 SC 217, NLR 2003 Revenue SC 120 and PLJ 1983 FSC 76.

¹⁴⁰ Rule 16 of 1983 Rules.

¹⁴¹ 2004 MLD 1604.

¹⁴² 2000 MLD 322.

However the Supreme Court¹⁴³ has held that change of purpose has no material effect on acquisition as long as the purpose remains a public purpose. Further, once the land completely vests in the Government after payment of compensation under Section 16, persons interested have no right to challenge that the purpose for which the land has been acquired has not been implemented¹⁴⁴.

86. Establishment of housing schemes has been held to serve public purpose¹⁴⁵.

3.5 Urgency

87. Urgency has not been defined in the Act. Unguided discretion has been conferred upon the EDO(R) to decide whether an urgent situation exists. The Act does not provide any parameters for exercise of such discretion. This may lead to misuse of the urgency provisions and the discretion there under.

88. In case of acquisition under urgency the persons interested are deprived of their rights to be heard and to file objections under Sections 5-A and 11 of the Act. This prejudicially affects the rights of persons interested.

3.6 Lack of Timelines

89. No period of limitation has been provided in the Act between issuance of notification under Section 4 and Section 5. Further, no time period is prescribed for proceedings to be undertaken between each stage of acquisition up to the making of the award and payment of compensation. This results in inordinate delays and loss and frustration to the persons interested.

90. The time periods between each step of process of acquisition were provided under the 1983 Rules. After striking down of Rules 7 and 8 of 1983 Rules the time lines provided in the 1983 Rules have become directory.

91. Notification under Section 5 can be issued at any time after issuance of notification under Section 4. However, the Supreme Court has held that the expressions at any time leave the limitation period to be determined in each case

¹⁴³ 1996 SCMR 1277.

¹⁴⁴ 1996 SCMR 1277.

¹⁴⁵ 2007 CLC 107.

on its own merits. The expression cannot be interpreted to mean a year or otherwise but means within a reasonable time.¹⁴⁶

92. The taking of possession of land acquired is linked with the tender or payment of compensation and since time for taking possession after the award has not been prescribed by the Act or the 1983 Rules, therefore, the payment of compensation may be delayed for indefinite period.
93. No period has been fixed for decision of a reference or appeal provided under the Act. Where the persons interested opt to go to the courts for challenging the acquisition itself or for enhancement of compensation, indefinite period of time may be spent in cases which may extend to several years depending on facts and circumstances of each case.
94. Absence of timelines seriously affects the rights of persons interested as the value of land freezes on the date of issuance of notification under Section 4 and the compensation may ultimately be given after several years. Delayed payment of compensation may adversely affect the persons interested due to devaluation and inflation factors.

3.7 Hearing

95. Section 5-A and Section 11 are potent rights available to all the persons interested wishing to raise objections to the acquisition itself or to compensation and measurement of land, respectively. However, the persons interested are not meaningfully involved in any proceedings from publication of notification under Section 4 till the award and the provisions for hearing are only treated as a formality. The volume of litigation with respect to acquisition clearly indicates that the Collectors are not seriously considering objections raised under Section 5-A and Section 11. This results in material financial loss to persons interested.
96. Although LAC has power to summon witnesses, he cannot administer an oath and a witness making a false statement is not liable either for perjury or for giving false testimony¹⁴⁷.

3.8 Information

- 97 The departmental authorities are least concerned in facilitating the persons interested for the supply of accurate information and records, particularly insofar as land acquisition is concerned.
- 98 The Act provides for the right to information to the persons interested. However, the mode of service of notices as provided by the Act is not strictly

¹⁴⁶ 2001 SCMR 1806.

¹⁴⁷ AIR 1931 Patna 131.

observed. The substance of notification under Section 4 is seldom displayed in public places and is only entered in the daily diary by the patwaris. The general practice is that all interested persons are informed through word of mouth, or beat of drum and through patwaris. Even though the notices are not affixed anywhere, general information to interested persons is conveyed.

99 The mode of service of notice does not include the conveying of information by modern means such as information through print or electronic media.

100 The Constitution has been amended by the 18th amendment passed by the Parliament on 9th April, 2010. Article 19A is relevant and reads as follows:

—[e]very citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.

In view of the aforesaid amendment the right to seek information is now a fundamental right and entitles the people to obtain information as of right subject to law.

101 The Freedom of Information Ordinance, 2001 (FOI) casts duty upon the state functionaries to provide information to any person who seeks any information with regard to the record kept by various Public bodies i.e. any Ministry, Division or attached department of the Government, autonomous bodies etc. Section 3 of FOI provides for access to any public/official record. Section 7 of FOI further explains what records shall be considered as public records. In terms of Section 7 of FOI, public records include transactions involving acquisition and disposal of property and expenditure undertaken by public body. The public body is duty bound to assist the requester¹⁴⁸ of information. Information excluded from the purview of public records does not pertain to acquisition proceedings.

102 FOI has not been adequately utilized for obtaining records relating to land acquisition due to lack of awareness. Approximately 7 years have passed since the promulgation of FOI. However, no substantial case law has been developed in which the provisions of FOI were invoked.

103 The records maintained for the purposes of land Acquisition are public records and every person is entitled to obtain copies thereof. According to Article 87 of the Qanun-e-Shahadat Order, 1984

(QSO) —every public officer having the custody of a public document, which anyone has a right to inspect, shall give that person on demand a copy of it on payment of legal fees thereof

¹⁴⁸ Requester is the complainant under the FOI Section 2(a)(i) to whom access to record is wrongfully denied or unduly delayed by a Public Body.

104 Although the QSO was promulgated in 1984 and is being used for purposes of evidence before various forums, generally people do not know the significance of this law for obtaining information/copies of records for the purposes of land acquisition.

105 The proceedings for acquisition of land are in most part based on the record maintained by the revenue authorities under the Land Revenue Act 1967. Such records are also public records and revenue authorities are bound to provide copies of such records on demand subject to payment of fee. Necessary information can be gathered by any person interested from these records. Section 176 and Section 177 of the Land Revenue Act 1967 and Rules 36 and 37 of the Land Revenue Rules, 1968 provide for inspection and issuance of certified copies of such records.

106 People generally do not enjoy free access to the revenue records which forms the basis of land acquisition proceedings. Although the persons interested know that they can obtain copies of records from the patwari, they do not know the procedure prescribed by law to enforce their rights in case the patwari refuses or misuses his power to withhold the records. Patwaris are known for corruption and charge huge amounts for issuing copies of the records. However the prescribed fee¹⁴⁹ under the law is a nominal amount. Due to the lack of awareness and lack of information the affected persons may fail to take appropriate steps within the period of limitation prescribed by law.

3.9 Compensation

107 Presently the evaluation of land for compensation is determined on the date of notification under Section 4 according to average rate prevailing prior to the year before issuance of such notification. However, the determination of compensation on the date of said notification has been set aside by the FSC¹⁵⁰ and it has been held that the material date for evaluation of compensation is the date of dispossession. The effect of the judgment by FSC is that the condition contained in Section 23 prescribing publication of notification under Section 4 as the date of determination of market value of land has ceased to have effect from 1st Nov 1992. In spite of the decision of the FSC there has been no amendment in the Act to this effect. Further, the superior courts still acknowledge the date of publication of notification under Section 4 as the material or relevant date.¹⁵¹

¹⁴⁹ Para 3.48 of Punjab Land Records Manual read with Appendix B to Rule 36 (3) of Land Revenue Rules, 1968. The Land Record Manual explains the provisions and procedure of Land Revenue Act, 1967 and the Rules framed thereunder. This Manual also contains instructions for revenue officers and other employees of Revenue Department.

¹⁵⁰ 1992 FSC 398.

¹⁵¹ NLR 2001 Revenue SC 102, PLD 2004 SC 512, 1993 CLC 592, 2001 SCMR 974, PLD 2002 SC 84 and 1993 SCMR 1700.

- 108 As has been held by the Supreme Court, one year average sales taking place before publication of notification of Section 4 is merely one of the modes for ascertaining the market value and is not an absolute yard stick for assessment of compensation. Moreover, status of acquired land, its value according to future prospects and its likelihood of development and improvement would be necessary factors for determining compensation. The potential value of land cannot be determined without examining its future prospects and therefore, compensation cannot be based merely on the basis of past sales¹⁵².
- 109 The average sale price during the preceding year of notification under Section 4 is provided by the patwaris. The patwaris base their price assessment on the mutations/deeds of sales of minimum value during that year. The LAC, Collector of the District and DPAC, principally, rely upon the report of the patawris.
- 110 The Act does not provide for engagement of independent experts, surveyors and evaluators in the process of evaluation of compensation, although a few Government Departments are mandated to assess the value of structures, trees and crops.
- 111 The persons interested are not involved in the process of evaluation by the Collector of the District and the DPAC. The persons interested come to know of the assessment only during the enquiry under Section 11.
- 112 For determination of persons interested and their rights, the acquiring authorities rely mainly upon the existing revenue records. However, the revenue records are not regularly updated and may not depict the correct/latest status of owners and persons with limited interest. Therefore, if reliance is placed solely on revenue records, this may lead to erroneous determination of persons interested and apportionment of compensation.
- 113 Practically, under the Act only land owners are considered persons interested. The acquiring authorities have no mechanism to apportion compensation between land owners and persons with limited interest. The land owners receive the compensation which they may or may not share with persons with limited interest.
- 114 The "potential value" of the land is almost always ignored by the acquiring authority. This provides one of the grounds for filing of reference. Superior courts

¹⁵² PLD 2010 SC 719, PLD 2007 SC 614, PLD 2004 SC 897, PLD 2004 SC 512, PLD 2003 SC 480, 2002 SCMR 407, 2001 SCMR 974, 1999 SCMR 1647 and 1999 SCMR 1615.

have consistently held that potential value of the land acquired should be considered for computation of compensation¹⁵³.

115 The interest awarded on compensation under Sections 28 and 34 of the Act does not fall within the meaning of "riba"¹⁵⁴(interest) laid down in the injunctions of holy Quran and Sunna. Contrary to the above view, the FSC has held that the word "interest" wherever occurring in Sections 28, 32, 33 and 34 of the Act is repugnant to the injunctions of Islam¹⁵⁵. This view was affirmed by the Shariat Appellate Bench of the Supreme Court¹⁵⁶ and it was held that the said provisions will cease to have effect from 30 June 2001. A petition for review of judgment of the Shariat Appellate Bench has been filed and is pending adjudication.

3.10 Properties liable to be acquired

116 The 1983 Rules provide that land lying near a town meant for fodder cultivation or for orchids or otherwise cultivable cannot be acquired for establishment of industry¹⁵⁷. Further under the 1983 Rules¹⁵⁸, the LAC also issues a certificate to the effect that no state land, waqf or evacuee land, tomb, graveyard or place of religious character has been included in the draft notifications to be issued under Sections 5 and 17 of the Act. It, therefore, follows that the above mentioned properties cannot be acquired. There is no provision in the Act barring the acquisition of aforesaid property.

117 According to decisions of the LHC, waqf property cannot be acquired¹⁵⁹ nor can the land of one private limited company be acquired for another private limited company¹⁶⁰. However, the LHC has held that the property of private

¹⁵³ PLD 2010 SC 719, PLD 2007 SC 614, PLD 2004 SC 897, PLD 2004 SC 512, PLD 2003 SC 480, 2002 SCMR 407, 2001 SCMR 974, 1999 SCMR 1647 and 1999 SCMR 1615.

¹⁵⁴ 1990 MLD 2158.

¹⁵⁵ 1992 FSC 1.

¹⁵⁶ PLD 2000 SC 225.

¹⁵⁷ Rule 10 (3) of 1983 Rules.

¹⁵⁸ Rule 11 of 1983 Rules.

¹⁵⁹ PLD 2004 Lahore 270 and 1993 MLD 2529.

¹⁶⁰ 2005 MLD 789.

limited company can be acquired under the Act for a trust¹⁶¹. It has also been held that where a competent authority¹⁶² granted approval for the acquisition of evacuee property such property could be acquired under the Act¹⁶³. In one case, a portion of a graveyard was acquired and the LHC rejected objections to the acquisition on the ground that the graveyard could be relocated¹⁶⁴.

3.11 Restoration of Land to Previous Owners

118 The Act does not contain any provisions for restoration of land to the previous owners. However, the 1983 Rules so provide. According to Rule 14 of 1983 Rules if the land was acquired for a department of government or a local authority for a public purpose and it is proposed to abandon the same, the land acquired shall be handed over to the LAC who shall then dispose it off in accordance with the instructions of the Government. The disposal of land is discretionary with the Government¹⁶⁵ and restoration of land to the previous owners is governed by certain conditions contained in the 1983 Rules. However, with reference to Paragraph 100 of the Financial Commissioners, Order 28, it has been held by the Supreme Court that the Government has the option either to put the land to auction or as a matter of grace restore the same to previous owners¹⁶⁶.

119 Where a company for whom land is acquired applies for disposal of land and the application is rejected then the land may be restored to the previous owners under certain conditions.¹⁶⁷ It is to be noted that Rule 15 of 1983 Rules was not brought to the notice of the Supreme Court and hence, not discussed. It, therefore, follows that the previous owners cannot compel the Government to restore the unutilized land as a matter of right.

3.12 Monitoring Issues

120 Although safeguards and checks and balances are provided in the Act and the 1983 Rules for the protection of rights of the persons interested in so far as

¹⁶¹ 1999 MLD 1186.

¹⁶² Under Displaced Persons (compensation and Rehabilitation) Act, XXVIII of 1958.

¹⁶³ 1997 CLC 121.

¹⁶⁴ 2010 CLC 7.

¹⁶⁵ PLD 2010 Lahore 349.

¹⁶⁶ PLD 1993 SC 455.

¹⁶⁷ Rule 15 of 1983 Rules.

the LAC and the Collector of the District report to the EDO(R)¹⁶⁸ and the entire process is supervised by the BOR, such safeguards and checks and balances are loosely implemented. This view is fortified by the excessive litigation against acquisition before the courts.

121 The checks and balances provided by the Act have been entrusted to within the same hierarchy from the Member BOR down to the patwari. This means that only one department of the Government i.e. the Revenue Department implements the Act and the 1983 Rules and exercises the discretion conferred upon them. This results in inadequate, inefficient and ineffective monitoring and lack of transparency.

122 Various provisions of the Act have granted an unguided discretion on the LAC, the Collector of the District and the EDO(R). Unguided discretion has also been conferred upon the EDO(R) under Section 17 of the Act and the Supreme Court has held that the existence of urgency was a matter solely for determination of the Government and was generally not the subject of review¹⁶⁹. According to the Sindh High Court (SHC), the authority concerned has to apply his mind to the facts of each case and then pass orders giving reasons as to why he wanted to dispense with right of hearing under Section 5-A¹⁷⁰.

123 The Collector of the District has no expert personnel and no adequate resources to assess the suitability of the land to be acquired. His office is comprised of a few clerks, typist and other staff. He relies on reports filed by the subordinate staff, the acquiring agency or the LAC. No survey instruments are used.

124 In cases of urgency there is no independent authority for assessing and monitoring the decision of the EDO (R). However, in case of companies, the satisfaction and consent of the Government represented by Revenue Department is required¹⁷¹. The Act does not provide for any reference, appeal, or other remedy before any competent forum in the event that the LAC or the EDO(R) rejects the objections of persons interested to the acquisition.

¹⁶⁸ Section 5-A and Rules 6 & 10 of 1983 Rules.

¹⁶⁹ 1997 SCMR 296.

¹⁷⁰ 1990 ALD 169 (2).

¹⁷¹ Section 40.

3.13 Locus Standi to File Reference and Appeals

125 Until 2010 it was consistently held by the Supreme Court¹⁷² that the beneficiary i.e. local authority or company has no right to file a reference or appeal against the award of the court and that only persons interested and the Government could file a reference or appeal in view of the provisions of Sections 18 (3), 50(2) and 54 of the Act.

126 In the year 2010¹⁷³ a decision of the Shariat Appellate Bench¹⁷⁴ was brought to the notice of the Supreme Court, in appeal, whereby the Shariat Appellate Bench had held that Sections 18 (3) and (4), 22 (a), 50 (2) and 54 of the Act are repugnant to the injunctions of Islam. In light of the above decision the earlier judgments stated above were dissented by the Supreme Court thereby recognizing the right of the Federal Government, local authority and company to file a reference or appeal.

¹⁷² PLD 2008 SC 400, 2008 SCMR 1280, 2006 SCMR 402, 1996 SCMR 1389, PLD 1995 SC 418, 1992 SCMR 1245, 1991 SCMR 2193, PLD 1987 SC 485, 1985 SCMR 707.

¹⁷³ PLD 2010 SC 745.

¹⁷⁴ Shariat appeal no. 7 of 1989 decided on 18-02-91, titled Land Acquisition Collector vs. Mohammad Nawaz and others (unreported case).

CHAPTER IV

KEY RECOMMENDATIONS AND CONCLUSIONS

4.1 Policy related Recommendations

- 127 The Act does not recognize the concept of resettlement and rehabilitation as earlier explained in Chapter 2¹⁷⁵. The Act needs to be amended to introduce the concept of resettlement and rehabilitation.
- 128 The meaning and concept of compensation, its evaluation and the scope of compensation in the Act is materially different from that envisaged in the Policy.
- 129 The factors for payment of compensation as deemed necessary by the Policy are missing in the Act. The presumption is that payment of 15% or 25% compulsory acquisition charges under the Act is meant to cater for factors which the Act does not address. It is, therefore, advisable to provide specific guidelines to determine compensation. As stated earlier, the Act should provide for resettlement and rehabilitation of displaced persons together with or in lieu of compensation.
- 130 Additional factors i.e., restoration of livelihood, assessment of social impacts, potential adverse economic, social or environmental impacts from project activities, opportunities to share project benefits, consultation with displaced person and host population when market conditions are absent, resettlement and rehabilitation plans for assessing and grant of compensation are missing in the Act and may be added in Section 23 of the Act for calculating compensation¹⁷⁶.
- 131 The Act only recognizes money compensation for compulsory acquisition of land. Further, there is a specific bar on compensation through grant of land for land in light of a decision of the Supreme Court of Pakistan. Therefore, the Act needs to be amended to authorize the land acquisition authorities to grant land for land as compensation. Article 24 of the Constitution also provides for specifying the principles on, and the manner in which, compensation is to be determined and given. It, therefore, implies that the Constitution does not prohibit grant of land for land as compensation and any amendment in the Act shall not be ultra vires of the Constitution.

¹⁷⁵ See paragraph 2.7.

¹⁷⁶ For existing factors for determination of compensation under the Act refer to Paragraph 2.2 of Chapter 2.

132 The third category of persons recognized by the Policy eligible for compensation is that of squatters. Detailed principles, guidelines and procedures need to be framed for explicit recognition of squatters in the Act. The definition of persons interested may be amended so as to include the squatters.

133 The Act does not recognize the rights of indigenous people. The Act may be amended to recognize such rights insofar as payment of compensation to indigenous people is concerned.

134 As provided under Article 142 of the Constitution, land acquisition is a provincial subject. Therefore, each Province may amend or frame a new law in line with the recommendations suggested in this chapter

135 As provided under Article 142 of the Constitution, land acquisition is a provincial subject. Therefore, each Province may amend or frame a new law in line with the recommendations suggested in this chapter.

4.2 General Recommendations with respect to the Act

136 The purchase of land by negotiations should be laid down as a condition precedent before issuance of notification under Section 4. The acquisition under the Act should only be resorted to when it is properly documented and proved that the land cannot be acquired through private negotiations.

137 The Collector of the District is required to submit certain certificates and information to the EDO(R) together with the draft notification under Sections 5 or 17 as explained in paragraph 2.2 of this paper. However, relevant no objection certificates, licenses or permissions for project approvals and certificates relating to availability of infrastructure facilities are not included in Rule 11 of 1983 Rules and need to be incorporated.

138 For maintaining better transparency and objective decision making instead of the Collector of the District, a body/committee should be constituted to evaluate whether proposed acquisition of land should at all be undertaken before issuance of notification under Section 4 of the Act. Such body/committee should be comprised of members of DPAC, representatives of persons interested, representatives of acquiring authority and any other person deemed appropriate for a particular acquisition.

4.3 Scope of Public Purpose

139 The acquisition of land for public purpose needs to be specifically limited for essential needs only of the Government Departments, local authorities, statutory bodies or companies with Governmental management/control for developmental purposes. Such acquisition should be restricted to cases where the land cannot be purchased by agreement and must, therefore, be acquired under the Act. In order to curtail any misuse of the law, the Act should be amended to clearly define Public Purpose.

4.4 Exclusion of Private Sector

140 In view of the amendment suggested under public purpose, private housing schemes and companies other than the statutory bodies or companies with management/control of the Government should be removed from the purview of the Act. General practice has shown that misuse of law is usually done for the benefit of the private sector.

4.5 Parameters for Urgency

141 As discussed in Paragraphs 2.3, the Act does not contain parameters under which the EDO(R) can decide when an urgent situation exists and, therefore, there is room for misuse. Hence, the Act needs to be amended to specify the parameters to determine when an urgent situation exists.

4.6 Timelines

142 There are no timelines prescribed in the Act between issuance of first notification and final acquisition and payment of compensation causing undue delays resulting in loss for the person interested. Therefore, the Act needs to be amended to prescribe timelines for each stage of acquisition. Further, the Act should be amended to prescribe timelines for decision of cases before the referee courts established under the Act.

143 The Act should be amended in particular to ensure that the entire acquisition proceedings starting from notification under Section 4 to payment of compensation should be finalized within a given period. This is to safeguard the financial interest of the persons interested against inflation or devaluation of currency or land. The 1983 Rules introduced timelines but they were struck down by the superior courts as being ultra vires the Act. Unless the Act is amended to incorporate timelines (which has been done in the provinces of Sindh and

Baluchistan), the setting of timelines through rules will not be possible. Therefore, it is essential to amend the Act.

4.7 Hearing

144 Before the issuance of notification under Section 4, all the persons interested should be meaningfully associated with the process of evaluation of land and determination of compensation before the Collector of the District and the DPAC.

145 The acquiring authority should be required to give reasons justifying the issuance of the notification under Section 4 as well as any justifications for deeming an acquisition as urgent. These reasons should be communicated to the persons interested.

4.8 Compensation

146 The Act should be amended to lay down that the crucial date for evaluation of land shall be the date of possession instead of date of notification under Section 4. This view is already laid down by the FSC as a rule of law in terms of the Constitution.

147 The Act recognizes Potential value and the superior courts have also laid down detailed parameters for determining potential value. It is, therefore, essential that the potential value of land to be acquired should be taken into account in every acquisition according to the principles laid down by the superior courts.

148 Procedure for payment of compensation is missing in the Act and the 1983 Rules. Such procedure should be provided in the Act or the 1983 Rules. Provisions should be made for payment of compensation directly to persons interested through cross cheques.

149 The DPAC presently consists of officials of acquiring authority. It should also

150 include independent experts, surveyors and property dealers. The structure, role,

151 functions and jurisdiction of the DPAC should be incorporated in the Act.

152 The Act envisages payment and deposit of compensation in terms of money. The acquiring agencies should be given an option either to deposit the estimated cost of acquisition in terms of money or to furnish a bank guarantee in lieu thereof subject to satisfaction of the Collector of the District.

153 The land owners should be granted an option to accept compensation in terms of money or where possible in the form of alternate land. For the exercise of such option, the Act needs to be amended as discussed in Paragraph 2.7 of Chapter II.

4.9 Identification of Properties that cannot be Acquired

154 The Act should specifically provide as to what properties cannot be acquired. A reference to this affect is found in the 1983 Rules but the provisions of the 1983 Rules remain ineffective unless provided by the Act itself. The LHC has decided number of cases on properties which cannot be acquired but it is important for consistency and clarity that amendment is made in the Act.

4.10 Restoration of Land to Previous Owner

155 To further protect the rights of persons interested, it is important to incorporate provisions in the Act to permit the Government to reverse acquisition after the property has vested in it. Further, provisions should also be incorporated in the Act for restoration of land to previous owners, in case the Government withdraws from acquisition either before or after vesting of property.

156 In case the land acquired remains unutilized for a specified period, as may be provided in the Act, it should be restored to the previous owners.

4.11 Right to Reference/Appeal

157 The Act should be amended to provide for the right to file reference or appeal against the award of the LAC or the Court to all the beneficiaries of the acquisition.

4.12 Monitoring /Institutional and Infrastructural Amendments

158 The checks and balances provided by the Act have been entrusted to within the same hierarchy from the Member BOR down to the patwari. It is, therefore, imperative that a duly empowered regulatory authority independent of the Revenue Department be constituted by appropriate legislation to check the process of acquisition at every stage.

159 The Act does not provide for engagement of independent experts, surveyors and evaluators in the process of evaluation. It is important to have independent, impartial, authorized, duly qualified and licensed evaluators, surveyors and

property dealers to be engaged in the process of evaluation of the land to be acquired.

160 For implementation of the Act, it is essential that quality of human resource employed in the process be improved by employing better qualified, paid and trained personnel.

161 The system of record keeping under the Land Revenue Act, 1967 should be efficiently updated as and when the changes take place. The provisions should be incorporated in the Act to ensure that the persons interested have trouble-free access to revenue records and the records relating to the proceedings of land acquisition. Computerized service centers in each Tehsil can be established for these purposes. For running this system, a comprehensive scheme should be developed and trained, competent and duly qualified human resource should be employed to run this system. To achieve these objectives, the Land Revenue Act, 1967 and the Act should be appropriately amended.

162 Present forms used for land revenue records are outdated and complex. Standardized forms should be made in simple Urdu language or any other local language as may be needed.

4.13 1983 Rules

163 Several rules in the 1983 Rules are either inconsistent or extend beyond the scope of the Act. Rules 7 and 8 prescribing timelines for acquisition process have already been struck down and many others may come under judicial scrutiny. These rules should be framed in consonance with the Act and be limited to prescribe the procedure for the implementation of the Act. Rules can only provide for procedure which should also be in line with the Act. All other amendments in order to be effective need to be made in the Act.

REVIEW OF THE LAND ACQUISITION (AMENDMENT) BILL, 2017 AND COMPARISON

ANNEXURE “A”

BETWEEN THE ACT AND THE PROPOSED AMENDMENTS

Proposed Amended Provisions(Bill)	Existing Provisions (The Act)	Remarks
<p>3. Definitions. In this Act: (a) “Collector” means the Collector of a district or any officer specially appointed by the Board of Revenue or the Executive District Officer (Revenue) to perform the functions of a Collector under this Act</p> <hr/> <p>(b) “Company” means a Company registered under the Companies Ordinance 1984 (XLVII of 1984), a body corporate, a society registered under the Societies Registration Act 1860 (XXI of 1860) or a cooperative society registered under the Cooperative Societies Act 1925 (VII of 1925)</p> <hr/> <p>(c) “Compensation” means a full and complete equivalent for the loss sustained by the owner whose land has been acquired or damaged</p> <hr/> <p>(d) “Court” means a principal Civil Court of original jurisdiction and includes the Court of an Additional District Judge or a Civil Judge appointed by the</p>	<p>3. Definitions. In this Act, unless there is something repugnant in the subject or context, (C) the expression Collector means the Collector of a district, and includes a District Officer (Revenue) and any officer specially appointed by the Provincial Government or Executive District Officer (Revenue) to perform the functions of a Collector under this Act:</p> <hr/> <p>(e) the expression Company means a Company registered under the Companies Ordinance, 1984, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament of the United Kingdom or by a Pakistan law, or by Royal Charter or Letters Patent 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:</p> <hr/> <p>No definition is provided presently under the Act.</p> <hr/> <p>(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</p>	<p>The basic difference in the two definitions is that under the Bill the appointment of the Collector is to be made by the Board of Revenue which is the concerned authority. Presently under the Act it is done by the Provincial Government. The appointment by the Board of Revenue would be more effective for administrative control and for insuring continuity of acquisition process.</p> <hr/> <p>No substantial change, the provision in the Bill has removed the companies and institutions not registered in Pakistan. Therefore, acquisition will only apply for companies registered in Pakistan. We are of the view that the definition of the Company should be restricted to the companies constituted by the Federal or Provincial Government under a Statute or to such companies the management and control whereof vests in the Government. The recommendation is based on the fact that the private companies and housing society usually abuse the process of law prescribed by the Act to the disadvantage of the interested person.</p> <hr/> <p>The proposed definition of compensation in the Bill is not comprehensive and does not recognize the persons with limited interest and only speaks of owners. Therefore, the word owners in the definition should be substituted by the words persons interested. The proposed definition also does not take into consideration the necessary components of resettlement and relocation as they are perceived by ADB’s Safeguard Policy 2009. There is a need to define resettlement separately which should include compensation for the assets acquired as well as the compensation for the changed social, cultural, economic, political and environmental impacts etc. Further, the compensation itself must be elaborated to include compensation in terms of</p>

<p>Government 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 functions shall be exercised only up to the limits of his pecuniary jurisdiction;</p> <hr/> <p>(e) “Federal Government” means the Government of Pakistan and includes all Division of the Government of Pakistan;</p> <hr/> <p>(f) “Government” means the Government of the Punjab housed in the Revenue Department;</p> <p>(g) “land” includes benefits arising out of land, things attached to the earth or permanently fastened to anything attached to the earth;</p> <hr/> <p>(h) “market value of the land” means:</p> <p>(i) the value of the land in its actual condition at the time of taking possession under this Act with all its advantages and possibilities excluding any advantage due to the scheme for the purpose of which the land is being acquired;</p> <p>(ii) the price on which the owner is willing to sell the land or he may reasonably accept to obtain from a willing purchaser;</p> <p>(iii) the price of the land which may be obtained in the market considering the</p>	<p>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:</p> <hr/> <p>Presently not defined</p> <hr/> <p>Presently not defined</p> <hr/> <p>—(a) the expression —landll includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:</p> <hr/> <p>Not defined in the Act</p>	<p>money or otherwise that is to include relocation/resettlement and allotment of alternate land in lieu of land acquired at the option of person dispossessed.</p> <p>In the light of above section 23 needs to be amended to facilitate the changes proposed above.</p> <p>No practical difference except for change in language. However, the appointment of the judges should be made by the Provincial Government as defined in the Bill rather than the Government.</p> <hr/> <p>The new definition is correct and its inclusion will accurately define “Federal Government”</p> <hr/> <p>Provincial Government and Government are separately defined in the Bill they should be defined under —Provincial Governmentll.</p> <p>No practical difference except for change in language. The definition needs no further change.</p> <hr/> <p>In the definition of market value of land the word means should be replaced by the word includes. This would enlarge the scope of determination of market value.</p> <p>The definition of market value in the Bill takes the time of possession as for determination of valuation of land, which is an improvement on the Section 23 of the Act which considers the time of notification under section 4.</p> <p>In (h) (i) & (v) the word possibilities should be replaced by the word potentials.</p> <p>In (h)(iii) is repetitive and is practically saying what is being said (h) (i)</p> <p>In (h)(vi) the word recent pastll should either be defined or be substituted by the phrase — within one to six months of date prior to taking possession by the “Collector”</p>
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<p>particular advantages and drawbacks of the land; (iv) the price of the land which a prudent purchaser is willing to pay after evaluating the prices prevailing in the area; (v) the value of the land on account of its lawful use and reasonable future possibilities; (vi) the price on which a similarly situated land with similar use in the area has been sold in the recent past; and (vii) the value of the land ascertained by a valuation expert considering all the above mentioned factors and any other factor which he deems appropriate in the peculiar facts and circumstances of a case; (i) “person interested” includes a person claiming an interest in compensation to be made on account of the acquisition of land under this Act or interested in an easement affecting the land;</p> <hr/> <p>(j) “Provincial Government” means the Government of the Punjab and includes all Departments of the Government; and</p> <hr/> <p>(k) “Public purpose” includes the provision of village site in a district which the Government has declared by notification in the official gazette that it is customary for the Government to make such provision. 3-A. Persons entitled to act-(1) Subject to any other law for the time being in force, the following persons are entitled to act on behalf of the person interested to</p>	<p>a) the expression person interested includes 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;</p> <hr/> <p>Not defined in the Act</p> <hr/> <p>f) the expression public purpose includes the provision of village sites in districts in which the Provincial Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision: and</p> <p>(g) the following persons shall be deemed person entitled to act as and to the extent hereinafter provided (that</p>	<p>In (h) (vii) after the words —expertsll the words —recognized by the State Bank of Pakistanll shall be inserted. This would ensure the transparency of valuation of land. The persons interested should be entitled to opt for one of the values determined by the modes provided in this definition.</p> <p>No material change in the Bill. The definition should include the persons who have no title and no rights recognizable by law but are occupation of the land.</p> <hr/> <p>Please see comment on “Government.</p> <hr/> <p>Both the Bill and Act fail to define the Public Purpose. There is a need to remove the current definition of —public purpose from the Bill and redefine the same as proposed here under. Public Purpose should be well defined and should be restricted to very specific areas. There is no fundamental difference between the two provisions except that the proviso has become sub-section. There is no need for any further change.</p>
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<p>the extent provided in this section:</p> <p>(a) trustee for other person or persons beneficially interested shall be deemed the person entitled to act with reference to any such case and that to the same extent as the person or persons beneficially interested could have acted if free from disability; and</p> <p>(b) guardian of a minor and committee or manager of a lunatic shall be deemed to be the persons so entitled to act, to the same extent as the minor or lunatic himself, if not suffering from disability, could have acted.</p> <p>(2) A person shall not be entitled to act whose interest in the subject matter is 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.</p> <p>(3) A person interested suffering from a disability may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court shall appoint a guardian for the case to act on his behalf.</p> <p>(4) The provisions of Order XXXI and Order XXXII of the Code of Civil Procedure 1908 (V of 1908) shall, as nearly as possible apply in the case of a person interested appearing before the Collector or Court by a next friend or guardian in the proceedings under this Act.</p> <p>(5) A person entitled to act shall not be competent to receive the compensation money payable to the person for whom he is entitled to act unless he is competent to alienate the land, receive and give a good discharge for the purchase money on a voluntary sale on behalf of the person interested.</p>	<p>is to say) —</p> <p>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.</p> <p>A married woman, in case to which the English law is applicable, shall be deemed the person entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age;</p> <p>The guardian 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.</p> <p>Provided that:</p> <p>i. no persons 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;</p> <p>ii. in every such case the person interested may appear by a next friend, the Collector or Court as the case may be, shall appoint a guardian for the case the act on his behalf in the conduct thereof;</p> <p>iii. the provisions of Chapter XXXI of 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</p> <p>iv. no person entitled to act shall be competent to receive compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land</p>	<p>The Bill has prescribed a period of limitation for publication of Notification under section 5 which was lacking in the Act. However, the period limitation as proposed is too long and should be reduced to at the most three months to ensure and protect the rights of the —interested persons.</p> <p>The power granted to the Government to extend the period of notification should be removed and the time limitation should be strictly observed. Further in the light of our earlier comments The Word Company should be removed. And in all the provisions where it appears with public purpose i.e. public purpose or company. Meaning to say public purpose should be required for a company also.</p>
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<p>5. Notification that land is needed for a public purpose or Company- (1) If the land is to be acquire for a public purpose, the Executive District Officer (Revenue), or if it is to be acquired for a Company, the Government is satisfied, after considering the result of a survey, if any, that the land is needed for a public purpose or a Company, a notification to that effect shall be published in the official gazette, stating the district or other territorial division in which the land situates, the purpose for which it is needed, its approximate area and situation, and if a plan of the land has been made, 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.</p> <p>(2) Subject to sub-section (3), the notification under this section shall not be published after the expiry of three hundred and sixty five days from the date of publication of notification under sec. 4.</p> <p>(3) The Government may, for reasons to be recorded in writing justifying such extension, extend the period for publication of notification under this section for a term not exceeding one hundred and eighty days.</p> <p>(4) In commuting the limitation period under this section the time during which a Court has passed the restraining order against the issuance of notification under this section, shall be excluded.</p> <p>(5) If the notification under this section has not been published within the specified period, the Collector of a district may start the acquisition process afresh under section 4.</p> <hr/> <p>6. Declaration that land is required for a public purpose etc.- (1) Subject to the provisions of the Part VII, if the Executive District Officer (Revenue) is satisfied on the</p>	<p>and receive and give a good discharge for the purchase money on a voluntary sale.</p> <hr/> <p>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 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 near the land to be acquired.</p> <hr/> <p>6. Declaration that land is required for a public purpose- (1) Subject to the provisions of Part VII of this Act, when the Executive District Officer (Revenue) is</p>	<hr/> <p>The Bill has prescribed a period of limitation for declaration under section 6 which was lacking in the Act. However, the period of limitation of nine hundred and twelve days as proposed is too long and unjustified.</p> <p>We suggest that period for deciding the objections under section 5-A should be limited to three months from the date of issuance of notification under section 5 and thereafter the period of limitation for issuance of declaration under section 6 should also be limited to three months from the date of decision of the objections under section 5-A to ensure and protect the rights of the interested persons.</p> <hr/> <p>Notice under section 9 should be given within one month from declaration under section 6. No time limit is prescribed by the Bill.</p> <p>Local Authority is neither been defined in the Act</p>
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<p>basis of report under section 5-A, if any, that the land is needed for public purpose or for a Company, the Executive District Officer (Revenue) or any other officer authorized in this behalf shall, under his signatures, make a declaration to that effect.</p> <p>(2) The declaration shall be published in the official gazette, and shall state the district or other territorial division in which the land situates, 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.</p> <p>(3) The declaration under this section shall be conclusive evidence that the land is needed for a public purpose or for a Company and after making such declaration, the Executive District Officer (Revenue) may acquire the land in manner hereinafter appearing.</p> <p>(4) If the area, in respect of which the declaration under this section is made, is less than the area previously notified under section 4, the previous notification, so far as it relates to the excess area, shall be deemed to have been superseded by the declaration.</p> <p>(5) The declaration under this section shall not be made:</p> <p>(a) unless the compensation to be awarded for the acquisition is to be paid by a Company, or out of public revenue or out of funds managed by a local authority; and</p> <p>(b) after the expiry of nine hundred and twelve days from the date of publication of notification under section</p> <p>(6) In commuting the limitation period under this section, the time, during which a Court has passed the restraining order against the issuance of notification under section 5 of making of declaration under this section, shall be excluded.</p> <p>(7) If the declaration under this section has not been made within the</p>	<p>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 Executive District Officer (Revenue) or of some officer duly authorized to certify such order:</p> <p>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.</p> <p>(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 maybe inspected.</p> <p>(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 Executive District Officer (Revenue) may acquire the land in manner hereinafter appearing.</p> <p>(4) When the area in respect of which the said declaration is made is less than the area previously notified under sub-section (I) 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.</p>	<p>nor the Bill and needs to be added.</p> <hr/>
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<p>specified period, the Collector of a district may start the acquisition process afresh under section 4'</p> <hr/> <p>9. Notice to persons interested. (4) If a person interested resides elsewhere and has no 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 through registered post acknowledgment due or courier. (5) The Collector shall also serve notice of the enquiry under section 11 on the Provincial Government, Federal Government, local authority or Company, for which the land is being acquired, and require it to depute an authorized representative to attend the enquiry on its behalf for the purpose of making objections, if any, to the measurement of the land, claims to an interest in the land or the amount of compensation and make the authorized representative a party to the proceedings.</p> <hr/> <p>11. Enquiry and award by Collector (I) The Collector shall enquire into the objections, if any, which a person interested, the Provincial Government, Federal Government, local authority or Company has raised on notice under section 9, measurements under section 8, value of the land or the interests of the persons claiming the compensation and he shall make an award under his hand of the (i) area of the land; (ii) compensation which in his opinion should be allowed for the land; and (iii) apportionment of the compensation among all the persons known or believed to be interested in the land. (2) The Collector shall make the</p>	<hr/> <p>9. Notice to persons interested. (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 Indian Post Office Act, 1866. (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 authorized 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 authorized representative shall be a party to the proceedings.</p> <hr/> <p>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 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 at the date of the publication of the notification under section 4, subsection (I), 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</p>	<p>The time period intervening the issuance of notice under section 9 and the making of the award should not exceed 6 months Clause (ii) of section 11 should also be amended so as to ensure that the compensation to be allowed is calculated in accordance with the definition of value of land and the provisions of section 23 and 24 and should not be left to the discretion/opinion of the LAC.</p> <hr/>
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<p>award within a period of one hundred and eighty days after the publication of declaration under section 6.</p> <p>17. Special power in cases of urgency: (1) In case of urgency and where the Executive District Officer (Revenue) so directs, the Collector may, even if no award has been made, but after the expiry of fifteen days from the date of the public notice under section 9, take possession of the land needed for public purpose or for a Company and thereupon, the land shall vest in the Government, free from all encumbrances. (1 -A) The Executive District Officer (Revenue) shall not issue the direction to the Collector unless the Provincial Government, Federal Government, local authority or Company has deposited the estimated cost of acquisition of the land, determine by the Collector under this Act. (4) If the Executive District Officer (Revenue) is of the opinion that the provision of sub-section (1) or sub-section (2) is applicable, he may direct that the provisions of sections 5 and 5-A shall not apply and if he so directs, the direction under section 6 may be made in respect of the land immediately after the publication of the notification under section 4.</p>	<p>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.</p> <p>17. Special power in cases of urgency- (1) In cases of urgency, whenever the Executive District Officer (Revenue) so directs, the 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 Executive District Officer (Revenue) shall not issue any direction to the Collector under this subsection 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 cot of acquisition of such land as determined by the Collector of the district, keeping in view the provisions of sections 23 and 24. (4) In cases where in the opinion of the Executive District Officer (Revenue), the provisions of sub-section (1) or subsection (2) are applicable, the 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 subsection (1) of section 4.</p>	<p>The provisions of section 17 are being misused generally, by the acquiring agencies therefore, the —urgencyll needs to be defined and be limited to the acquisition of land for public services and utilities very stringently. Defining of urgency is a paramount requirement and the provisions of section 17 should be employed only where there is a threat to public safety, health and public order.</p>
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<p>18. Reference to Court. (3) The Provincial Government, Federal Government, local authority or Company may, if it has not accepted the award, refer the matter to the Court within a period of one hundred and eighty days from the date of announcement of the award but the Court shall not entertain the reference unless there is a prima facie case for enquiry into and determination of the objections against the award.</p> <hr/> <p>20. Service of notice.</p> <p>(c) if the objection is with respect to the area of land or the amount of the compensation the Collector, and the Provincial Government, Federal Government, local authorities or Company, for which the land is being acquired</p> <hr/> <p>21. Decision of reference from the Department etc. A reference from the Provincial Government, Federal Government, local authorities or Company, entertained under section 18, shall be decided by the Court after affording an opportunity of hearing to the effected parties.</p> <hr/> <p>22-A. Cross objections. The Provincial Government, Federal Government, local authority or Company may lodge cross objections to the objections made by a person interested and the Court may reduce the amount awarded by the Collector, if the Court deems it appropriate.</p> <hr/> <p>23. Matters to be considered in determining compensation. (I) In determining the amount of compensation to be awarded for the land acquired under this Act, the Court shall take into consideration:</p>	<p>18. Reference to Court. (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.</p> <hr/> <p>20. Service of notice. (c)if he objection is in regard to the area of the land or to the amount of the compensation, the Collector, and the Department of Government, local authority or Company, as the case may be, for which land is being acquired.</p> <hr/> <p>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.</p> <hr/> <p>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.</p> <hr/> <p>23. Matters to be considered in determining compensation(I) 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</p>	<p>Proviso c should be added to sub-section 2 of section 18- limitation The time limit provided in subsection (3) of 18 should be reduced to 3 months. S. 5 of the limitation Act, 1908 should be made applicable to References made under S.18. S. 5 of limitation Act provides extension of period in certain cases</p> <hr/> <p>Only language change nothing significant it is sufficiently defined.</p> <hr/> <p>The Bill has included Local Authorities and Company in the preview of entitlement to file reference who were earlier excluded by application of proviso to sub-section (2) of Section 50. It now gives a fair chance to all parties to reference and is in line with the judgment of the Supreme Court reported as PLD 2010 SC 745</p> <hr/> <p>The power of the Court to reduce the amount of compensation awarded by the LAC should be deleted in the whole Act, wherever it is so conferred.</p> <hr/> <p>Section 23(1) should be amended as stated in our comments on the definition of compensation hereinabove.</p>
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<p>(a) the market value of the land at the time of taking possession under the Act;</p> <p>(b) the damage sustained by the person interested due to standing crops and trees on the land at the time of taking possession under the Act;</p> <p>© the damage sustained by the person interested by reason of serving the land from the other land of the person interested;</p> <p>(d) the damage sustained by the person interested to injury caused to any other property of the person interested, loss of earning or any other injury because of the acquisition of his land;</p> <p>(e) the direct or incidental damage caused to the person interested due to change of residence or place of business, forced upon him because of the acquisition; and</p> <p>(f) the damage resulting from the diminution of the profits of the land between the time of declaration under section 6 and taking possession under the Act.</p> <p>(2) If the acquisition has been made for a public purpose, the Court shall award a sum of fifteen per centum of the market value of the land in addition to its market value and in case of a Company, a sum of twenty-five per centum of such value, in consideration of the compulsory nature of the acquisition.</p>	<p>the date of the publication of the notification under section 4, sub-section (I). 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 under sub-section (I) 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-</p> <p>(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</p> <p>(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.</p> <p>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;</p> <p>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</p>	
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<p>24. Matters to be neglected in determining compensation. Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired; or 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</p>	<p>serving 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. 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 ninety-five per centum on such market value if the acquisition has been made for a Company</p> <p>24. Matters to be neglected in determining compensation. Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired; or 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, disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (I).</p>	<p>This section will also need amendment I light of our comments on definition of compensation.</p>
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<p>31. Payment of compensation or deposit of the same in Court. (I) Subject to sub section (2), when the Collector has made an award under section 11:</p> <p>(a) if the persons interested or the Provincial Government, Federal Government, local authority or Company, accept the award and intimate their acceptance in writing to the Collector before the expiry of the period prescribed in section 18 or if the period specified in the section has expired and no application or reference has been made, the Collector shall, before taking possession of the land, tender payment of the full amount of the compensation to the persons entitled according to the award, and shall pay it to them; and</p> <p>(b) if the persons interested or the Provincial Government, Federal Government, local authority or Company, object to the award through an application for reference to Court has been made to the Collector or the award has been referred to the Court by the Provincial Government, Federal Government, local authority or Company under section 18, the Collector shall, before taking possession of the land and subject to the receipt of a sufficient security for refund of the amount according to the direction of the Court, tender payment of the compensation to the persons entitled under the award and shall pay it to them.</p>	<p>31. Payment of compensation or deposit of the same in Court- (I) When the Collector has made an award under section 11.</p> <p>(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 subsection (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 as 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 subsection (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 (I) 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 subsection (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.</p>	<p>Collector should not be permitted to take possession of the land in cases where reference has been filed irrespective of the fact that the collector has deposited Compensation money in the Court except in cases of urgency.</p> <p>31(3) arrangement with every person interested.</p>
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<p>41. Agreement with Government- if the Executive District Officer (Revenue) is satisfied after considering the 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 the object of the proposed acquisition is to obtain land for one of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (l) of section 40 he shall require the Company to enter into an agreement with the Government, providing to the satisfaction of the Government for the following matters, namely:</p> <p>(1) the payment to the Executive District Officer (Revenue) of the cost of the acquisition;</p> <p>(2) the transfer, on such payment, of the land to the Company;</p> <p>(3) the terms on which the land shall be held by the Company.</p> <p>(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</p> <p>(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.</p>	<p>41. Agreement with Provincial Government, If the Executive District Officer (Revenue) is satisfied after considering the 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 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 (l) of section 40 he shall require the Company to enter into an agreement with the Provincial Government, providing to the satisfaction of the Provincial Government for the following matters, namely:</p> <p>(1) the payment to the Executive District Officer (Revenue) of the cost of the acquisition;</p> <p>(2) the transfer, on such payment, of the land to the Company</p> <p>(3) the terms on which the land shall be held by the Company;</p> <p>(4) where the acquisition is for the purpose of erecting dwelling house 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</p> <p>(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.</p>	<p>No change in the Bill and Act.</p>
<hr/> <p>43. Omitted</p>	<hr/> <p>43. Section 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 section of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for</p>	<hr/> <p>The section is rightly omitted.</p>

<p>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 Government.”</p> <p>44. Omitted</p> <p>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 Court. (2) If it is practicable, the service of the notice shall be made on the person therein named. (3) If the 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 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 courthouse, and also in some conspicuous part of the land to be acquired. (4) The Collector or Court may send</p>	<p>the purposes of which, under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State the Federal government or any Provincial Government] is or was bound to provide land.</p> <p>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.</p> <p>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.</p> <p>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. (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 ember 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:</p>	<p>There is no material change.</p> <p>This correctly removed</p> <p>45. We suggest that incase of refusal to receive the notice the record of the post office or the courier service or a witness from such office or service should be used as evidence of refusal</p>
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<p>the notice to a person by registered post acknowledgement due or courier at the last known residence, address or place of business of the person and service of the notice may be proved by the production of its receipt by the person or an adult male member of his family.</p> <hr/> <p>50. Acquisition of land at cost of a local authority or Company. (2) The local authority or Company for which the land is being acquired, may appear and produce evidence for the purpose of determining the amount of compensation before the Collector or Court.</p> <hr/> <p>51. Power to make rules. (1) The Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.</p>	<p>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 Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.</p> <hr/> <p>50. Acquisition of land at cost of a local authority or Company. (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.</p>	<hr/> <p>50. The Bill has correctly included local authority and company in line section 18(3).</p> <hr/> <p>51. The Bill has substituted Provincial Government by Government</p>
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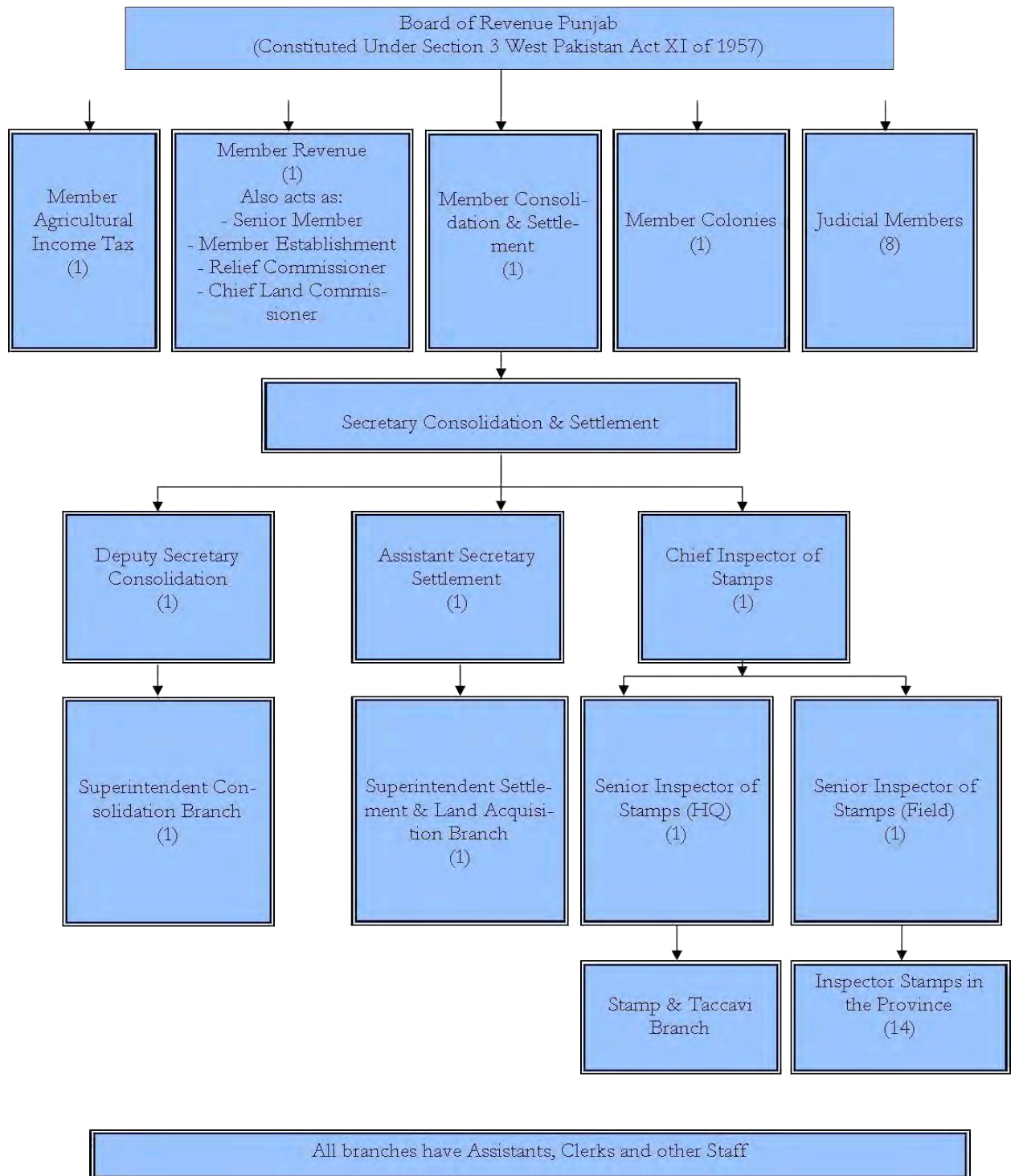


Figure 4

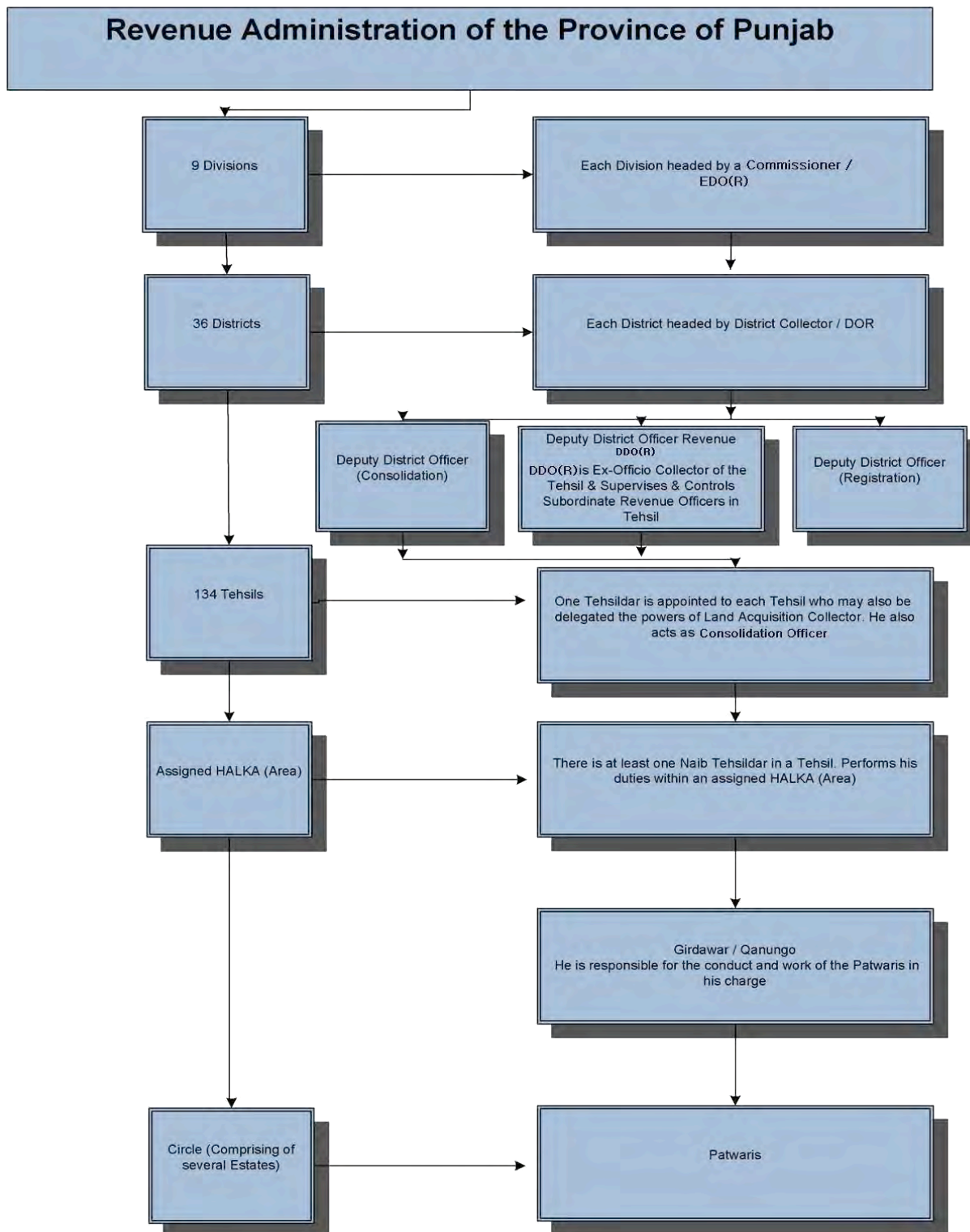


figure - 5

FINANCIAL COMMISSIONER'S STANDING ORDER NUMBER 28 PARA 19 A

- i. Any person interested in a land which has been notified under section 4, subsection (1) may in 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. Every such objection must be made to the collector in writing and the following procedure is to be observed for the disposal thereof:
- ii. When the Collector receives an objection he shall fix a date for hearing, and shall give notice of the date to the objector and to the officer of the department or the local body on whose application the notification under section 4 has been issued. It will generally be convenient to hear all objections after the limit of 30 days has expired.
- iii. On the date fixed for hearing, if the objector fails to appear in person or by pleader, the Collector may, if he thinks fit, make an ex party enquiry regarding the objections or may at once report to the local government the fact of the objector's failure to appear. In either case he shall, without unnecessary delay, report his opinion to the validity of each ground for the objections.
- iv. The Collector shall forward his report together with the record of his proceedings direct to the home secretary to the Government¹⁷⁷, if the acquisition appertains to a reserve subject, and to the secretary concerned when it appertains to a transferred subject.
- v. No costs shall be allowed.
- vi. If the Local Government¹⁷⁸ after consideration of the report of the Collector decides to withdraw from the acquisition proceedings, the notification under section 4 of the act shall be cancelled.

¹⁷⁷ "Substituted by the words" Executive District Officer (Revenue)" vide the Punjab Amendment Ordinance XXXIII of 2002 dated 25-10-2001.

¹⁷⁸ The function of withdrawal from acquisition has been entrusted to the EDOR vide section 48 (1) as amended.

**MODEL, NOTIFICATIONS, PETITIONS, PLEADINGS
AND FORMS OF AGREEMENTS
Model Notifications and Agreements
FORM I**

Form of Notifications under section 4 of the Act:

(a) General

WHEREAS it appears to the Provincial Government that land is likely to be required to be taken by Government at the public expense for a public purpose, namely, for _____ it is hereby notified that land in the locality described below is likely to be required for the above purpose.

This notification is made, under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Provincial Government is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of

(Specification)

District	Tehsil	Locality	Area

Note. (1) The description of the locality should be so framed as to indicate, as clearly as practicable, where the land lies in a particular village.

(2) When land is required to be taken by Government at the expense of a company for a work of public utility, the words at the expense of the (name of the company) should be substituted for the words at the public expense, and instead of the words, a public purporell, the work should be concisely described.

(3) When the acquisition is on behalf of a local authority and the cost is borne partly out of public revenues and partly out of the funds of a local authority or wholly out of the funds of a local authority, the provision under which the local authority is authorised to acquire the land will be referred to in the notification, and the words partly at the public expense/expense of (name of local authority) and partly at the expense of (name of local authority shall be substituted for the words at the public expense.

(b)

Form of notification under section 4, Act, I of 1894 for use when a preliminary investigation is necessary.

WHEREAS it appears to the Provincial Government that land in the district of _____ is likely to be needed for a public purpose, viz., for the construction of a (a line of railway, or road, canal, etc., as the case may be) from _____ to _____ notice is hereby given to all whom it may concern that in exercise of the powers

conferred by section 4 of the Land Acquisition Act, I of 1894, the Provincial Government has authorised the Engineers of the_____ for the time being engaged on this undertaking to enter upon and survey land, and do all other acts required for the proper execution of their work as provided for or specified in the said section.

The general route to be taken for the survey will be from_____ to_____

FORM II

Notice under section 5-A of the Land Acquisition Act, 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923.

NOTICE is hereby given that the land specified in the appended schedule and situated in the estate of _____ in the Tehsil of _____ in the district of _____ is needed or is likely to be needed for a public purpose, viz., for _____ in accordance with the notification under section 4(I) of the Land Acquisition Act I of 1894 as amended by the Land Acquisition Amendment Act XXXVIII of 1923 published by Government at page _____ of Part I of the Punjab Gazette, dated _____.

All Persons interested in the land/You are accordingly required to lodge before the within 30/15 days from the date of publication of the above notification/service of this notice a statement in writing of their/your objections, if any, to the acquisition of the said land.

Any objection statement which does not clearly explain the nature of the sender's/your interest in the land is liable to be summarily rejected.

Objections received within the due date, if any, will be enquired into on at when the objectors/your will be at liberty to appear in person or by pleader and to adduce any oral or documentary evidence in support of their/your objections.

(Schedule)

Field No.	Description	Extent required	Reputed owner

FORM III

Form of declaration under section 6 of the Act:

WHEREAS it appears to the Provincial government that land is required to be taken by Government at the public expense for a public purpose, namely, for _____ it is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector of _____ is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Collector of _____ district and of the Executive Engineer _____ division.

(Specification)

District	Tehsil	Village	Area in acres	Direction	Boundaries

Note: In the case of acquisition for a company or for a local authority changes in the declaration should be made on the same lines as indicated in the foot notes under form of Notification under section 4 of the Act.

FORM IV

Notice under section 9 (I) and 10 of the Land Acquisition Act, 1894.

WHEREAS the under-mentioned land is about to be taken up for a public purpose namely _____, under notification of the Punjab Government No. _____, published in the Punjab Gazette of _____ all persons interested in the said land are hereby called upon to attend personally, or by agent at a place _____ on the _____ (date) at _____ o'clock _____ to state _____ put in a statement in writing signed by themselves) (or their agents).

Showing the nature of their interests in the lands, the amounts and particulars of their claims to compensation in respect of such interest and their objections (if any to the measurements made under section 8 of the Act and to put in a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part of it as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise the nature of such interest and the rents and profits (if any) received or receivable on account of it for three years next preceding the date of the statement.

This notice is issued under section 9(I) and 10 of Act I of 1894.

Particulars of the lands.

Dated _____ 20 _____ Collector.

FORM V.

Notice under sections 9 (3) and 10 of the Land Acquisition Act I of 1894.

Collector of _____ district _____

Whereas the under mentioned* land is about to be taken up for a public purpose, namely _____ under notification of the Punjab Government No. _____, published in the Punjab Gazette of _____ you are hereby required to appear in person or _____ by authorized agent on _____ before _____ at _____ and to state _____ put in statement in writing signed by you or your authorized _____ agent showing the nature of your interest (in the lands, the amount and particulars of your claims to compensation in respect of such interests) and your objections (if any) to the measurements made under section 8 of the Act and to put in a statement containing so far as may be practicable, the name of every other person possessing any interest in the land or any part of it as co-proprietor, sub-proprietor, mortgage, tenant or otherwise the nature of such interest and the rents and profits (if any) receive or receivable on account of it for three years next preceding the date of the statement.

Particulars of the lands.

FORM VI

Notice under section 12 (2) of Act I of 1894.

Project.

Number of cases

To

Notice is hereby given that in the above case, in which you have been treated as a person interested, an award was made by me on the _____ 19 _____ under section 11 of Act I of 1894. The sum payable to you is Rs. _____ if you are willing to accept payment, you should appear before me personally or by a duly authorized agent on or before _____. Interest will not be payable in the case of failure to appear

Dated _____ 20 _____ Collector under Act I of 1894

FORM VII

Reference to the Court under section 18, Act of 1894.

WHEREAS, A,B, son of _____ has not accepted the award made by me under section 11 of Act I of 1894 a copy of which is hereto annexed, and has required by the accompanying application that the matter be referred to the Court, I hereby make reference to the Court of the

Name of project.

Notification No. dated

Declaration No. dated

Published at page part of

Situation and extent of the land in acres and decimals, the number of field plots on the map, the name of the village, and the number of mile plan, if any. Particulars of trees, buildings or standing crops, if any.

Names and address of the persons found to be interested in the land and nature of each person's interest.

Amount awarded for damages and paid or tendered under section 5 and 17.

Compensation awarded under for land _____
section 11.

For trees, houses, etc.

For crops and huts

Total Rs.

Schedule under section 19 (2) of the Act, giving particulars of notice served.

Description of notice	Date	Name of person	Where Served	How served
Notice under section 9 (3) and 10 of the Act. Notice under section 12 (2) of the Act.				

Dated _____ 20 _____ Collector

Schedule,-- Particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested.

Schedule under section 19 (2) of the Act, giving particulars of statements made in writing.

Annex C7

From whom	Date of statement	Date of receipt	Abstract of statement	Remarks

FORM VIII

Reference to the Court under section 30, Act I of 1894.

WHEREAS a dispute exists between the parties interested (or between A and B) as to the apportionment of the compensation (or of a portion of the compensation) settled by me in the award made under section 11 of Act I of 1894, of which a copy is hereto annexed, I hereby refer such dispute for decision to the Court of

Name of project.

Number and date of notification and declaration under which the land has been acquired.

Situation and extent of the land in acres and decimals, the number of field plots on the map, the name of the village, and the number of mile plan, if any.

Names and address of the persons interested in the land, and the nature of their respective interests.

Amount of compensation awarded under section 11.

Particulars of the dispute.

Dated _____ 20 _____ Collector

FORM X

Notice for taking over possession:

To

Take, notice that the marginally noted property has been acquired by Government under the Land Acquisition Act I of 1894 for _____ as per notification in the Punjab Gazette, dated _____ page, _____ part _____ and that you should vacate and deliver possession of it before the evening of the _____ to the _____ who has received instructions in the matter. If you fail to do so, the _____ will be addressed to enforce the surrender of the property, to this department under section 47 of the Land Acquisition Act.

Dated the _____ 200

_____ Collector

FORM XI

Draft form of agreement under section 41 of the Land Acquisition Act, 1894.

Articles of agreement made the day of _____ 20 _____ between the _____ a company') having its office at _____ (hereinafter called 'the company') of the one part and His Excellency the Governor of (hereinafter called the 'Governor') the other part.

WHEREAS, upon the application of the company, the Government of provisions of the Land Acquisition Act, 1894 (I of 1894) the pieces or parcels of land described and delineated in the Schedule hereto annexed Village _____ Tehsil _____ district is having been shown to the satisfaction of the said Government that the proposed acquisition is needed for the construction of a work likely to prove useful to the public namely, _____ and whereas the said Government have called upon the company under the provisions of section 41 of the said Act to enter into the agreement with the Governor hereinafter contained. Now these presents witness and it is hereby agreed and declared as follows:-

The company shall pay to the Government of _____ before the said land is transferred to the company the cost of the land as settled by the Collector, or if reference is made to the Court, by the final Court of appeal, and all costs of acquisition inclusive of all payments and allowances in respect thereof payable under the said Act and all Court costs and Pleader's fees, etc., incurred by the said Government in defending the reference, if any, made to the Court as aforesaid and on appeal or appeals filed in connection therewith and all costs, Pleader's fee, etc., payable or paid by the said Government to the claimant in the said matters. The said Government shall not be bound to give possession of the land until all the said moneys have been paid and may withdraw from the acquisition, and in case of withdrawal the company shall be liable to indemnify the said Government against all expenses incurred and damage sustained as the result of anything done by them in the matter of acquisition till the date of withdrawal.

2. Upon such payment by the company the Governor shall execute and do all such acts, deeds, matters and things as may be necessary or proper for effectively vesting the said land in the company and giving the company an absolute title thereto subject to the payment of an assessment or ground rent as hereinafter provided.

3. The terms upon which the said land shall be held by the company are—

- (a) that the land shall be used for the _____
- (b) that the company shall pay to the Government of annually the appropriate assessment of ground rent, as the case may be on the land which shall be liable to revision at any general revision of the land revenue settlement;

(H.E. the special clauses to be provided for in each case).

- © that in the event of the company being wound up or in the event of failure on the part of the company to carry out the terms of the agreement that is to say _____ the land shall be liable to be resumed and taken back by the said Government on repayment to the company of the amount of the award as finally settled less the 15 per cent. Awarded for compulsory acquisition or the estimated market value of the land at the time of resumption whichever shall be less and if there are any buildings on the land, the Governor may at his option either purchase the buildings on payment of their estimated value at the time, or direct the company to remove the buildings at its own cost within such time as may be allowed by the said Government.

Annex C10

4. All the costs and expenses of, and incidental to, the preparation and execution of this agreement (including stamp duty and costs of registration, if registration be required by the said Government) shall be paid by the company.

In witness whereof the seal of the company hath hereunto been affixed and the indenture executed for and on behalf of the company by _____ and Mr. _____ Secretary to the Government of _____ Department, by order and direction of, _____ and acting for and on behalf of His Excellency the governor of hath hereunto set his hand the day and year first above witness.

District

Tahsil

Estate

Description of the land

Signature

Witness

1.

2.

Signed, sealed and delivered by the above-named in the presence of 1.

2.

FORM I

Petition of Objection to Acquisition under section 5-A of the L.A. Act. I of 1894.

To

The Collector

District

Re: Acquisition of

The humble petition of _____ of

Respectfully Sheweth:-

1. That your petitioner is the proprietor (co-proprietor, sub-proprietor, mortgagee or tenant, as the case may be) of the aforesaid land, which has been notified under section 4, subsection (I) of Act I of 1894 as being needed or likely to be needed for the public purpose, viz.

2. That your petitioner, being a person interested in the said land as a proprietor (co-proprietor, sub-proprietor, mortgagee, or tenant, as the case may be) begs to prefer objections to the acquisition of the same on the following amongst other grounds :-

- (a) for that regard being had to the condition of the locality it is unnecessary and useless to acquire any land for the purpose for which it is proposed to be acquired;
- (b) for that the purpose, for which the land is said to be needed, or is likely to be needed is not a public purpose;
- © for that the purpose, for which the land is said to be needed, would not be in the interest of public health and sanitation;
- (d) for that, on the contrary, the lands, if required for the purpose aforesaid, would greatly affect the health and sanitation of the locality;
- (e) for that the purpose may be equally served with comparatively less costs and much less hardship and inconvenience to the people of this locality if it is carried out in the following manner, that is to say (here state the alternative proposal).

ACQUISITION AND RESETTLEMENT LAWS FOR THE PROVINCE OF PUNJAB

1. Punjab Development of Cities Act, 1976 (PDCA 1976)

1.1 Applicability

In Punjab, several Development Authorities have been established under the PDCA. Each Authority has been authorized to acquire land (Section 7 (viii)). The Development Authorities have been named after the cities to which they belong such as Faisalabad Development Authority, Multan Development Authority and Gujranwala Development Authority, (etc. Acquisition has to be made in accordance with the PDCA and the provisions of the Punjab Acquisition of Lands (Housing) Act, 1973 have been made applicable notwithstanding anything to the contrary contained in the Land Acquisition Act, 1894 (the Act)¹⁷⁹. The Punjab Acquisition of Lands (Housing) Act, 1973 was repealed in 1985 through the Punjab Acquisition of Land (Housing) (Repeal) Act, 1985. However, the Punjab Acquisition of Lands (Housing) Act, 1973 still has a reference in the laws relating to Development Authorities.

1.2 Procedure

Under the Punjab Acquisition of Lands (Housing) Act, 1973, all Development Authorities are described as Official Development Agencies and include autonomous and semi-autonomous bodies, peoples, Local Councils and Improvement Trusts.

The Punjab Acquisition of Lands (Housing) Act, 1973 provides similar procedure as provided in the Act to the extent of:

- i. Publication of Preliminary notification¹⁸⁰,
- ii. Land to be marked out, measured and planned¹⁸¹,
- iii. Notice to person interested for hearing of objections and intention to take possession¹⁸²,
- iv. Enquiry and award by the Collector¹⁸³.

However, the provisions for assessment and payment of compensation are materially different in so far as:

- i. Section 9 of the Punjab Acquisition of Lands (Housing) Act, 1973 provides that the maximum rate of compensation determined by the Collector shall not exceed Rs. 20,000 per acre.

¹⁷⁹ Section 24 & 25 of Punjab Development of Cities Act, 1976. Section 24 & 25 of Punjab Development of Cities Act, 1976.

¹⁸⁰ Section 4 of Punjab Acquisition of Lands (Housing) Act, 1973.

¹⁸¹ Section 5 of Punjab Acquisition of Lands (Housing) Act, 1973.

¹⁸² Section 6 of Punjab Acquisition of Lands (Housing) Act, 1973.

¹⁸³ Section 7 of Punjab Acquisition of Lands (Housing) Act, 1973.

- ii. Payment of compensation was prescribed to be made as per Section 11 in the form of cash, bonds, debentures, annuities over a period not exceeding 20 years or in the form of developed sites or in a combination of such forms as may be prescribed.

This law was only enacted for the Province of Punjab. The rest of the provinces did not adapt or frame such law. Fortunately, for the owners, the Punjab Acquisition of Lands (Housing) Act, 1973 was repealed in 1985 through the Punjab Acquisition of Land (Housing) (Repeal) Act, 1985. Although the pending proceedings were to continue, however, the compensation was to be paid in accordance with the Act in case the Award had not been made by the date of coming into force of the Punjab Acquisition of Land (Housing) (Repeal) Act, 1985. Further, if the award had been made and compensation remained to be paid, such compensation was to be paid in accordance with the Act. Although the Punjab Acquisition of Lands (Housing) Act, 1973 has been repealed, however, the provisions of Sections 4-20 are still applicable for the purposes of acquiring the land under the PDCA as if these provisions have been enacted and form part of the PDCA. However, after the repeal of the Punjab Acquisition of Lands (Housing) Act, 1973 application of Section 9 with respect to compensation is not practically being applied.

1.3 Compensation

After the repeal of the Punjab Acquisition of Land (Housing) Act 1973 the procedure provided by the evaluation of compensation in the Act is being followed by the Development Authorities.

1.4 Appeal

PDCA has inserted the procedure of the repealed Punjab Acquisition of Land (Housing) Act, 1973. Section 14 of the repealed Act contains provisions for Appeal and Review before the Commissioner EDO(R) as the final authority against the order of the Collector.

2. Lahore Development Act, 1975 (LDA)

2.1.1 Applicability

The LDA was established in 1975 as an authority for development work for the metropolitan city of **Lahore**. **The LDA is deemed to be an —Official Development Agencyll and schemes prepared by it to be deemed to be —Housing Schemesll as defined in Section 2 of the Punjab Acquisition of Land (Housing) Act, 1973 for the purpose of acquiring land and the provisions of Sub-section 4 of Section 20 of the Punjab Acquisition of Land (Housing) Act, 1973 have been made applicable as if these provisions form part of the LDA. Notwithstanding anything to the contrary contained in the Act, all land within the area shall be liable to acquisition at any time in accordance with the provisions of the LDA.**

2.1.2 Procedure

Identical provisions to the PDCA are available under Sections 25 and 26 of the LDA.

2.1.3 Appeal

The LDA has inserted the procedure of the repealed Punjab Acquisition of Land (Housing) Act, 1973.

3. Punjab Thal Development Act, 1949 (Thal Development)

3.1.1 Applicability

The preamble of the Thal Development relates to speedy development of any local area brought under irrigation by execution of the Thal Project and for re-settlement thereon of refugees and others and for levy of development fee. The Thal Development is one of the legislation which provides for re-settlement.

The Authority constituted under the Thal Development is empowered to frame scheme for development of any local area and to acquire any land or interest therein under the Thal Development as modified by Thal Development for the purposes of implementation of the schemes.

3.2 Procedure

The land is to be acquired under the Thal Development in accordance with the provisions of the Act as modified by the Thal Development:

- i. Notices of preparation of schemes and proposed acquisition are also issued by the Authority to the owners and occupiers under Sections 22 and 23. The notice of preparation of schemes shall be published weekly for three consecutive weeks in the official gazette and in the newspapers.
- ii. Objection shall be submitted to the Authority which shall not be less than 30 days from the publication of notices regarding the scheme¹⁸⁴ The objections to acquisition are also invited under Section 23(2)(b) which are to be submitted within 30 days from the service of notice.
- iii. These objections are heard by the Authority¹⁸⁵ who may abandon the scheme or apply to the Provincial Government for sanction of the scheme.
- iv. The Thal Development also provides for acquisition of land comprised in local area for resettlement of refugees or for development or any other purpose.
- v. The acquisition for the purposes under the Thal Development¹⁸⁶ shall be treated as urgent cases as defined in Section 17 of the Act.

3.3 Evaluation of Compensation

- 3.3.1 For determining compensation under the Thal Development the crucial date for this purpose shall be deemed to be 16th June 1949. Furthermore, for the purposes of the Thal Development costs and damages shall also be added to compensation.
- 3.3.2 In addition, Section 24-A shall also be deemed to be inserted to the Act as further provisions for determining compensation.

¹⁸⁴ Section 22(2)(ii).

¹⁸⁵ Authority constituted under Section 4 by the Provincial

¹⁸⁶ Section 36 of Thal Development.

3.3.3 For the purposes of determination of compensation, Sub-section 2 of Section 23 has also been substituted as follows:

For the purpose of the first clause of sub-section (1), the market value of the land shall be deemed to be 20 times the annual net income from such land subject to the following provisos:

Proviso 1– If any person interested exercises the option to claim compensation as provided in sub-section (2) of section 9 of this Act as amended by the Thal Development Act, 1949, the

market value so far as his interest in the land is concerned, shall be assessed accordingly.

Proviso 2– In respect of the land which is situated within the limits of a Municipal Committee, Small Town Committee, Notified Area Committee, or recorded village abadi of a revenue estate, or which is attached to a house, manufactory or other building and is reasonably required for the enjoyment and use of such house, manufactory or building, the market value shall be the market value according to the use to which the land was put at the time of the publication of the first notice under section 22 of the Thal Development Act, 1949, or the issue of the notification under section 36 of that Act, whichever is earlier.

i. Appeals

Under Section 37 a Tribunal shall be constituted for the purpose of performing the functions of the Court in reference to the acquisition of land for the Authority under the Act, as modified by the Thal Development, the Provincial Government may by a notification, constitute one or more Tribunals.

For the purpose of the award to be made by the Tribunal under the Act, the following rules shall apply, that is to say–

- if there is disagreement between the members of the Tribunal regarding measurement of land, or the amount of compensation or costs, the opinion of the majority shall prevail;
- the decision on questions of law and procedure shall rest solely with the President;
- the President shall not be bound to consult the assessors relating to the determination of persons to whom compensation is to be paid, or apportionment thereof and may in his discretion dispose of such question singly and in that case his decision shall be deemed to be a decision of the Tribunal.
- In some cases appeal shall lie to the High Court.

4. Punjab Town Improvement Act, 1922 (1922 Act)

4.1 Applicability

The 1922 Act is applicable to the cities where Development Authorities have not been established. Land can be acquired for the Trust constituted under the 1922 Act in accordance with the Act, as modified by the 1922 Act. For this purpose, several provisions of the Act shall be deemed to have been amended vide Schedule attached to 1922 Act.

4.2 Procedure

Annex D1

- 4.2.1 Notification under Section 4 and declaration under Section 6 to be replaced by notification under Sections 32, 36 and 42 of the 1922 Act.
- 4.2.2 Section 17 of the Act, for acquiring land in urgency has also been amended by the insertion of Sub-section (4) according to which Sub-sections (1) and (3) of the Act shall apply also to any area certified to be unhealthy by any Magistrate of the first class. After Section 17 of the Act, 17-A is deemed to have been inserted, which provides that upon payment of the cost of acquisition, land shall vest in the Trust.
- 4.2.3 The 1922 Act provides for abandonment of acquisition¹⁸⁷ in consideration of special payment and constitution of Tribunal to act as a Court¹⁸⁸ for the purpose of acquiring land under the Act. The President of the Tribunal is deemed to be a judge under the 1922 Act and the award of the Tribunal to be the award of the Court. The 1922 Act also lays down the principles upon which the award of the Tribunal shall be determined and grants vast powers upon the Tribunal and its members.

4.3 Evaluation of Compensation

- 4.3.1 Under the 1922 Act market value would be determined from the time of declaration under Section 6.
- 4.3.2 In addition to the above ss 3 for the purposes of the first clause of ss 1 of the Act shall be deemed to be inserted which provide several other criterion for determination of value of the land.

4.4 Appeal

The 1922 Act provides for constitution of Tribunal to act as a Court¹⁸⁹ for the purpose of acquiring land under the Act. The President of the Tribunal is deemed to be a judge under 1922 Act and the award of the Tribunal to be the award of the Court. The 1922 Act also lays down the principles upon which the award of the Tribunal shall be determined and grants vast powers upon the Tribunal and its members.

5. Punjab Soil Reclamation Act, 1952

5.1 Applicability

The Punjab Land and Water Development Board (the Board) frames schemes for reclamation of a local area or for prevention of thur or sem (salinity and water logging). The Board has power to acquire land or interest in land necessary for or affected by the execution of the scheme. The tribunal is also constituted to act as a Court for the purpose of acquiring land under Punjab Soil

¹⁸⁷ Section 36 of Thal Development.

¹⁸⁸ Section 58 Punjab Town Improvement Act.

¹⁸⁹ Section 58 Punjab Town Improvement Act.

Reclamation Act, 1952. The acquisition has to be made in accordance with the provisions of the Act as modified by Punjab Soil Reclamation Act, 1952.

5.2 Procedure

The President of the Tribunal shall be qualified to be a judge of High Court and shall have various powers under the Code of Civil Procedure, 1908. The tribunal shall make the award and the award shall be enforced by Senior Civil Judge of the district in which the land is situated. The award shall be treated as if it was a decree of that Court. The Punjab Soil Reclamation Act, 1952 also lays down the principles upon which the award of the tribunal shall be determined and grants vast powers upon the tribunal and its members. The right to appeal to the High Court has also been provided.

The acquisition has to be made in accordance with the provisions of the Act as modified by the Punjab Soil Reclamation Act, 1952. The Punjab Soil Reclamation Act, 1952 also provides for issuance of notice of proposed acquisition and scheme¹⁹⁰ consideration of objections¹⁹¹, power of the Board to enter upon the land to be acquired¹⁹² and acquisition of land in urgent cases¹⁹³. In such cases the Government may by notification in the official gazette declare that any local area or part thereof in the local area be acquired. The Board has also been authorized to abandon the acquisition¹⁹⁴.

In urgent cases the Collector may deliver possession of the land to the Board after giving reasonable notice to the owners and occupiers. Thereupon, the land absolutely vests in the

Board free from all encumbrances subject to compensation in accordance to the Act as modified¹⁹⁵.

5.3 Evaluation of Compensation

- 5.3.1 Under the Soil Reclamation Act, 1952 the date of determining market value has changed from the date of notification under Section 4 to such date as the Government may declare.
- 5.3.2 In addition further amendments have been carried out to Section 23 of the Act for the purposes of the first clause of Sub-section 1 to the effect that the market value of the land shall be determined on the basis of the average net income of that land for the 5 years preceding the date declared by the Government under Sub-section 1 of Section 23 of the Act subject to certain provisos contained in the amendment.

¹⁹⁰ Sections 19 and 22 of Punjab Soil Reclamation Act.

¹⁹¹ Section 20 Punjab Soil Reclamation Act.

¹⁹² Section 32 Punjab Soil Reclamation Act.

¹⁹³ Section 34 Punjab Soil Reclamation Act.

¹⁹⁴ Section 37 of Punjab Soil Reclamation Act.

¹⁹⁵ Section 34(2) of Punjab Soil Reclamation Act.

5.4 Appeals

Tribunals¹⁹⁶ of a similar nature as constituted in the Punjab Town Improvement Act and the Thal Development Act shall be constituted. Appeals from the order of the Tribunal under Section 36 shall lie before the High Court.

6. Land Acquisition (Mines) Act, 1885 (Mines Act)

6.1 Applicability And Procedure

The Mines Act was promulgated for cases in which mines or minerals are situated under land which it desires to acquire.

The Mines Act stipulates that when a declaration is made under Section 6 of the Act¹⁹⁷, it should state that minerals, ores and under lying material is not needed. The Provincial Government shall pay compensation for injury done to mine, in accordance with the Act¹⁹⁸. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Act¹⁹⁹. Acquisition shall take place in accordance with the Act²⁰⁰.

7. Rules for Acquisition of Land by Government for the use of Aided Schools in Punjab

7.1 Applicability and Procedure

The use of the Act for the purchase of land for the use of schools under private management was recommended by the Punjab Sanitary Conference of 1930 and the Punjab Agricultural Education Conference of 1918. The Punjab Government decided to extend the use of the Act for the benefit of aided institutions in accordance with the Rules.

Recourse will only be made to the Act when negotiations for the acquisition of land by private treaty have proved unsuccessful.

8. Punjab Katchi Abadis Act, 1992 (Katchi Abadis Act)

8.1 Applicability and Procedure

Under Section 4(2) (vii) of the Katchi Abadis Act, the Director General has the power to acquire, hold, control and administer movable or immovable property or to dispose of such property.

¹⁹⁶ Section 35.

¹⁹⁷ Previously the land acquisition act 1870.

¹⁹⁸ Section 9.

¹⁹⁹ Section 17.

²⁰⁰ Section 17.

Land is to be acquired by consent or agreement and if no consent or agreement is reached, then land may be acquired under the provisions of the Act under Section 6.

9. Punjab Jinnah Abadis for Non-Proprietors in Rural Areas Act, 1986

9.1 Applicability and Procedure

Under Section 8, notwithstanding anything to the contrary contained in the Act residential sites in abadi-deh in possession of non-proprietors²⁰¹ where they have build residential housing for permanent residence shall be liable to acquisition by the Government under the Act. The purpose of acquisition of land is to be deemed as public purposes²⁰² under the Act. The acquisition is undertaken to provide housing facilities and ancillary uses to non proprietors²⁰².

10. Punjab Housing and Town-Planning Agency Ordinance, 2002 (PHATPA)

10.1 Applicability and Procedure

In order to provide shelter to the shelterless and to establish a comprehensive system of town planning, the Punjab Housing and Town Planning Agency can under Section 17 acquire land for the said purpose in accordance with the provisions of the PHATPA. Sections 37 and 38 confer powers to make rules and regulations, respectively. Although, the Agency has been authorized to acquire land, however, no specific procedure has been provided in the PHATPA for acquisition of land.

11. Punjab Local Government Ordinance, 2001

11.1 Applicability

The local government may under Section 125 acquire or purchase any immovable property for public purpose. In case of purchase of said property the agreement must be in writing. No specific procedure for acquisition is prescribed, therefore, the provisions of the Act shall apply.

11.2 Procedure

Until the Development Authorities are merged with any other department or authority of a local government, the Development Authorities decentralized to District Government, Tehsil Municipal Administration and Town Municipal Administration have also been authorized to acquire land for development purposes. Since no specific procedure has been prescribed, therefore, the provisions of the Act shall apply.

²⁰¹ According to section 2(g) non-proprietors means a person who is permanently residing in a rural area and who or any member of whose family does not own any agricultural land or other immovable property anywhere in Pakistan.

²⁰² Section 8 Punjab Jinnah Abadis for Non-Proprietors in Rural Areas Act, 1986.

12. The Punjab Local Councils (Property) Rules, 2003

12.1 Applicability and Procedure

Under rule 15 wherever any land or property is required for the purposes for the Punjab Local Government Ordinance, the Chairman may take the necessary steps to obtain the same by an agreement with the owners and if an agreement is not reached between the parties, the land may be acquired in accordance with provisions of the relevant law. This implies application of the Act.

13. DEFENCE HOUSING AUTHORITY LAHORE ORDER, 2002 (DHAO)

13.1 Applicability

Under Section 7(2)(a) of the DHAO, the Executive Board may acquire any land in accordance with the Act in the Province of Punjab. Annex D1

FEDERAL LAWS DEALING WITH ACQUISITION AND RESETTLEMENT OF LAND²⁰³ (APPLICABLE TO WHOLE OF PAKISTAN)

1. Defence of Pakistan Ordinance, 1965 and the Rules framed under Defence of Pakistan Ordinance, 1965 (DOP)

1.1 Applicability

Section 3 of the DOP authorizes the Federal Government to frame rules including the rules for requisitioning of any property. The Federal Government may acquire the requisitioned property under the Rules. Where any immovable property or a commercial or industrial undertaking or any interest in such undertaking is compulsorily acquired, compensation therefor is paid.

1.2 Procedure

Where any immovable property or a commercial or industrial undertaking or any interest in such undertaking is compulsorily acquired, compensation therefor is paid. The compensation is paid either by an agreement between the parties or is determined by the arbitrator appointed by the Central Government. Such persons must be qualified for appointment as a judge of the High Court.

While making the award the arbitrator shall, inter alia, take into consideration the provisions of Sub-section (1) of Section 23 of the Act so far as the same can be made applicable. The Central Government may make rules for the purpose of carrying into effect the provision of Section 18 of the DOP. In particular and without prejudice to the generality of the power to make rules, such rules may prescribe the maximum amount of an award against which no appeal shall lie.

1.3 Compensation

1.3.1 The compensation is paid either by an agreement between the parties or is determined by the arbitrator appointed by the Central Government.

1.3.2 While making the award the arbitrator shall, inter alia, take into consideration the provisions of Sub-section (1) of Section 23 of the Act so far as the same can be made applicable.

1.3.3 The Central Government may make rules which may prescribe the maximum amount of an award.

2. Oil and Gas Development Corporation (Re-Organization) Ordinance, 2001

2.1 Applicability and Procedure

According to Section 24 of the Oil and Gas Development Corporation Ordinance 1961, land may be acquired in accordance with the Act. The said Ordinance has, however, been repealed vide Oil and Gas Development Corporation (Reorganization) Ordinance, 2001. The corporation has been transformed into a company incorporated under the Companies Ordinance, 1984. Subsection 4 of Section 4 of the Oil and Gas Development Corporation (Re-organization) Ordinance, 2001 stipulates that the objects of the corporation as set out in the Ordinance so far as they are not in conflict with the objects contained in the memorandum of the company shall be, the objects of the company. This implies that the power to acquire land also subsists with the newly formed company. The land shall be acquired according to the Act.

3. Pakistan Civil Aviation Authority Ordinance, 1960

²⁰³ No laws on resettlement.

3.1 Applicability

The Authority may acquire by purchase, lease, exchange or otherwise any land or immovable property or any interest in such land or property according to the Act.

4. **Electricity Act, 1910**

4.1 Applicability and Procedure

Under the Electricity Act, 1910 on the application of any person the Provincial Government may if it thinks fit direct that the applicant may acquire such land under the provisions of the Act in the same manner and subject to same conditions as if the applicant was a company. The land shall be acquired according to the Act.

5. **Railways Act, 1890 (Railways Act)**

5.1 Applicability

According to Section 7(1) of the Railways Act, the railway administration is authorized to carry out its functions subject to the provisions of Railways Act and any enactment for the time being in force for the acquisition of land for public purposes and for companies. The exercise of such powers is subject to control of the Federal Government. The Railways Act also specifically provides for acquisition of land for railways under Section 17 (2) of the Act.

5.2 Procedure

The land shall be acquired according to the Act. The Railways Act provides for temporary entry upon land for repairing etc and for payment of compensation caused by lawful exercise of powers under Sections 7 or 9 of this Act. The Railways Act also specifically provides for acquisition of lands for railways under Section 17 (2) of the Act.

6. **West Pakistan Water and Power Development Authority Act, 1958 (WAPDA Act)**

6.1 Applicability and Procedure

Section 13 of the WAPDA Act authorizes the WAPDA to acquire any land or any interest in land. Such acquisition can be made in accordance with the Act. Under Section 13 of the WAPDA Act, the Act is applicable for acquisition of land.

7. **Cantonment Ordinance, 2002 (Ordinance 2002)**

7.1 Applicability and Procedure

The Ordinance 2002 is applicable to the Cantonment areas all over Pakistan and provides for acquisition of land in accordance with the Act as per Section 104 of the Ordinance 2002. The land shall be acquired according to the Ac.

Annexure D2

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

PRELIMINARY

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

[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;

[3][(c) the expression “Collector” means the Collector of a District appointed under the Punjab Land Revenue Act, 1967 (XVII of 1967) and includes any officer specially appointed by the Board of Revenue or the Commissioner:]

[4][(cc) the expression “Commissioner” means a Commissioner of a Division appointed under the Punjab Land Revenue Act, 1967 (XVII of 1967) and includes an Additional Commissioner:]

[5][(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]:

(e) the expression “Company” means a Company registered under the [6][Companies Ordinance, 1984], or under the (English) Companies Acts, 1862

to 1890, or incorporated by an Act of Parliament [7][of the United Kingdom] or [8][by a Pakistan law], or by Royal Charter or Letters Patent [9][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[10]]:

(f) the expression “public purpose” includes the provision of village-sites in districts in which the [11][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 guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Chapter XXXI of the [12]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.– [13][(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 [14][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:

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.

[15] [(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].

[16] [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 [17] [Commissioner], 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].

[18] [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 [19] [Commissioner] together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the [20] [Commissioner] 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 [21] [Commissioner] 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, [22][when the [23][Commissioner]] 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 [24][Commissioner] or of some officer duly authorised to certify [25][such] 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 [26][Commissioner] may acquire the land in manner hereinafter appearing.

[27][(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 [28][Commissioner], or some officer authorised by the [29][Commissioner] 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 [30]Indian Post Office Act, 1866.

[31][(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.[32]

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 [33][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 [34][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.

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.

[35][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 [36]Code 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, [37][subject to the provision of section 31], take possession of the land, which shall thereupon [38][vest absolutely in the [39][Government]] free from all encumbrances.

[40][17. Special power in cases of urgency.— (1) In cases of urgency, whenever the [41][Commissioner] so directs, the 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 [42][Commissioner] 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 [43][Commissioner] 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 [44][Commissioner], 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.

(4) In cases where in the opinion of the [45][Commissioner], the provisions of sub-section (1) or sub-section (2) are applicable, the [46][Commissioner] 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.

[47][(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

(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, [48][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.

[49][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 [50][notification under section 4, sub-section (1)].

[51][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 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.

[52][(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;

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 [53][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 [54][* * *].

(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.— [55][(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.

[56][(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[57]].

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 [58][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.

[59][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

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

(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 [61][Commissioner] 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.

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 [62][compound 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 [63][:]

[64][Provided 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].

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 [65][Commissioner] that the temporary occupation and use of any waste or arable land are needed for any public purpose or for a Company, the [66][Commissioner] 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.

[67][(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.]

[68][(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.]

[69][(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:

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 [70][Commissioner] 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.— [71][(1)

The [72][Commissioner] 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 [73][sub-section (3) of section 4] shall be construed as if after the words “the officer” the words “of the Company” were inserted.

[74][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 [75][Commissioner] and execution of agreement necessary.— The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the [76][Commissioner] nor unless the Company shall have executed the agreement hereinafter mentioned.

40. Previous enquiry.— (1) Such consent shall not be given unless the [77][Commissioner] be satisfied, [78][either on the report of the Collector under section 5-A, sub-section (2), or] by an enquiry held as hereinafter provided—

[79][(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

[80][(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][81]

[82][(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 [83][Commissioner] 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 [84]Code of Civil Procedure in the case of a Civil Court.

41. Agreement with Provincial Government.— [85][* * *] If the [86][Commissioner] is satisfied [87][after considering the 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 [88][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] [89][he] shall [90][* * *] require the Company to enter into an agreement [91][with the Provincial Government], providing to the satisfaction of the [92][Provincial Government] for the following matters, namely:-

- (1) the [93][payment to the [94][Commissioner]] 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;
[95][(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].

42. Publication of agreement.— Every such agreement shall, as soon as may be after its execution, be published [96][* * *] in the [97][official Gazette] [98][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 [99]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, [100][under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, [101][the [102][Federal] government or any Provincial Government] is or was bound to provide land].

[103][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.

(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 [104]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 [105][* * *] and such Magistrate[106][* * *] 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 [107][Commissioner] shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the [108][Commissioner] 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 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 [109][Commissioner] is of opinion that the claim is unreasonable or excessive, [110][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 [111][Commissioner] 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 any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

[112][(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 [113]Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

[114][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 [115][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 [116][Provincial Government] shall [117][* * *] have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

[118][* * * * * * * * * *]

(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 [119][* * *] be published in the Official Gazette, and shall thereupon have the force of law.

[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).

[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]Substituted by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[4]Inserted *ibid.*

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

[6]Substituted for the words "Indian Companies Act, 1882" by the Land Acquisition (Punjab Amendment) Ordinance, 2001 (XXXIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

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

[8]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.

[9]Inserted by section 2 of the Land Acquisition (Amendment) Act, 1919 (XVII of 1919).

[10]II of 1912.

[11]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".

[12]XIV of 1882, subsequently replaced by the Code of Civil Procedure, 1908 (V of 1908).

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

[14]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).

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

[16]Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), section 5.

[17]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[18]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.

[19]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[20]Ibid.

[21]Ibid.

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

[23]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[24]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

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

[26]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

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

[28]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[29]Ibid.

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

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

[32]XLV of 1860.

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

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

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

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

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

[38]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".

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

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

[41]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[42]Ibid.

[43]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[44]Ibid.

[45]Ibid.

[46]Ibid.

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

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

[49]Inserted ibid, section 15.

[50]Substituted, by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), section 7, for "declaration relating thereto under section 6".

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

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

[53]Substituted by the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923), section 8., for "declaration under section 6".

[54]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.

[55]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).

[56]Added by Land Acquisition (Amendment) Act, 1921 (19 of 1921).

[57]V of 1908.

[58]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".

[59]Added *ibid*.

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

[61]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[62]Substituted 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".

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

[64]Added by the Land Acquisition (West Pakistan Amendment) Act, 1969 (III of 1969).

[65]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[66]*Ibid*.

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

[68]Inserted *ibid.*, section 19(b).

[69]Sub-section (3) was re-numbered as sub-section (4) *ibid*.

[70]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

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

[72]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[73]Substituted by the Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX of 1969), for "Section 5".

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

[75]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[76]*Ibid*.

[77]*Ibid*.

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

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

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

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

[82]Added *ibid*.

[83]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

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

[85]The 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.

[86]Substituted for the words and brackets "Executive District Officer (Revenue)" by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

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

[88]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".

[89]Substituted by the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957), for "it".

[90]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.

[91]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".

[92]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.

[93]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”.

[94]Substituted for the words and brackets “Executive District Officer (Revenue)” by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[95]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).

[96]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.

[97]Substituted, *ibid.*, for “local official Gazette”.

[98]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”.

[99]X of 1870, repealed by this Act.

[100]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”.

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

[102]Substituted by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974).

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

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

[105]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).

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

[107]Substituted for the words and brackets “Executive District Officer (Revenue)” by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[108]Substituted for the words and brackets “Executive District Officer (Revenue)” by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

[109]*Ibid.*

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

[111]Substituted for the words and brackets “Executive District Officer (Revenue)” by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

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

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

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

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

[116]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”.

[117]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).

[118]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.

[119]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.

Annexure D3

PUNJAB LAND ACQUISITION RULES, 1983

[23rd May, 2011]

1. (1) These rules may be called the Punjab Land Acquisition Rules, 1983 (2) They shall come into force at once 2. (1) In these rules unless the context otherwise requires----- (i) "Act" means the Land Acquisition Act 1894 (1 of 1894); (ii) "Government" means the Government of the Punjab; (iii) "Acquiring Agency" means the Department, the local authority or the Company for which land is being acquired under the Act. 2. The words and expression used but not defined in these rules shall have the same meaning as are respectively assigned to them in the Act. 3. The acquiring agency shall submit an application to the Collector of the District concerned in the prescribed form for the acquisition of land under the Act given full justification of the public purpose involved and the minimum area required by it with full details of all other area owned by it in same locality. 4. On receipt of the application under rule (3) the Collector of the district shall examine its feasibility taking into consideration the genuineness of the public purpose involved, the minimum requirements of the acquiring agency and suitability of the area proposed for requisition keeping in view its alternate uses if any. 5. Where after the examination of feasibility under Rule 4, the Collector of district, is of the view that the land be acquired for the acquiring agency, he shall issue a notification, under section 4 of the Act stating clearly the name of the revenue state/village or locality, tehsil, board details of the dimensions and boundaries of square or rectangles field numbers and the approximate area to be acquired. 6. After the issue of a Notification under Section 4 the Collector shall take immediate necessary step to have the area surveyed and submit his report to the Commissioner not later than sixty days from the date of publication of the Notification under section 4. 7. Where the land is to be acquired for a public purpose the Commissioner shall issue a Notification under section 5 of the Act not later than one year from the date of the publication of the Notification under section 4 if no Notification is issued under section 5 within the period specified in this rule, the Commissioner shall immediately report the matter to the Board of Revenue, for extension in time and the Board of Revenue may, in its discretion, extend the time for the issue of a Notification under Section 5, which shall not be more than sixty days if the Board of Revenue declines to grant the extension applied for or if the Commissioner fails to issue a Notification under section 5 within the extended period, the acquisition proceedings shall be deemed to have come to an end. However any time spent in the prosecution of a judicial remedy shall stand excluded from the period of litigation. 7-A. (1) After the publication of notification under section 5, the commissioner shall within six months issue declaration under section 6, of the Act, and if no notification is issued within the said prescribed date, the acquisition proceeding shall be deemed to have come to an end. Provided the Board of Revenue may, in its discretion, extend the time for the issuance of notification under section 6 which shall not be more than sixty days. Any time spent in the prosecution of judicial remedy shall stand excluded from the period of litigation. (2) After the publication of declaration under section 6 of the Act, the Land Acquisition Collector shall announce the award within a period of six months, failing which the entire responsibility towards the payments of 8% compound interest shall fall on the officers / official found guilty for inordinate delay. 8. Where the land is to be acquired for Company the Commissioner immediately on receipt of the survey report of the Collector under Rule 4, forward the same to the Board of Revenue under section 5 within a period of one year from the date of the Notification under

section 4, the acquisition proceedings shall be deemed to have come to an end. 9. Every objection received by the Collector under section 5-A of the Act, shall be disposed of by Collector with the least Possible delay and his report under sub-section (2) thereof or recommendations under sub-section (3), as the case may be shall be forwarded to the Commissioner within a period of ninety days from the date of publication of the Notification under section 5. The decision of Commissioner on these objections shall be announced by him within a period of three months from the date of receipt of the report or the recommendations of the Collector, as the case may be. If the report of the Collector or his recommendations, as the case may be, are not forwarded to the Commissioner, or if the decision of the Commissioners is not announced within the period specified in this rule, the objection shall be deemed to have been carried and the acquisition proceeding shall come to an end. 10. (1) The Commissioner of the Division while issuing a Notification under section 5 or 17 of the Act shall ensure that:- (i) Full description of the village, Tehsil and district, square and rectangle, field numbers and area of the land is mentioned in the Notification; (ii) A note is given at the bottom of the Notification to exclude waqf, state and evacuee lands, tombs, graveyards and places of religious character; (iii) The Collector of the district has carefully and prudently calculated the estimated price of the land sought to be acquired keeping in view:- (a) the factors laid down in sections 23 and 24 of the Act; (b) the classification of the land to be acquired and its location; and (c) the average market price of similar kind of land similarly located, on the basis of the price prevalent during the period of twelve months preceding the date of publication of Notification under section 4; (iv) The Collector of the district has placed funds, equivalent to the estimated cost assessed by him under sub-rule (iii) at the disposal of the Land Acquisition Collector and has deposited the same in Treasury under the head Revenue Deposit as security for payment of compensation: and (v) In the case of a Company, it has been ascertained by inquiry as required under Section 5-A of the Act that the area sought to be acquired is not excessive and is reasonable and the excess area, if any, is deleted while issuing a declaration under section 6 of the Act. (2) Where the Company makes an urgent request for invoking the provisions of section 17 of the Act for the acquisition of land, the Commissioner shall deputed an officer shall hold an inquiry and make specific recommendations regarding the matters mentioned in section 4 of the Act. Particularly about the aspect that the area proposed to be acquired is reasonable for the purpose and is not excessive. This report along with other justification, if any given by the Collector of the district or the Industries Department of Government or the Company, shall be carefully considered before deciding whether the provisions of Section 17 are attracted in the case or not. (3) No land lying near a town, meant for fodder cultivation or for orchards or otherwise culturable shall be notified for acquisition for the establishment of any industries. For the location of industries units all concerned Departments of Government including Health, Industries and Agriculture shall be consulted to ensure that no hazards to public health or agriculture economy would be involved, in case of such an acquisition.. 11. While forwarding the draft notification under section 5 or 17 of the Act to the Commissioner, the Collector of the district shall keep in view the considerations mentioned in rule 10 and append the following certificates documents/information with the case:-- (i) A certificate to the effect that estimated cost as worked out under subrule (iii) of rule 10 has been physically placed at the disposal of the Land Acquisition Collector and deposited in the Treasury under the Head "Revenue Deposit" as security for payment of compensation. (ii) A recommendation to the effect that the area sought to be

acquired is not excessive and is reasonable for the purpose of declaration under section 6 or for taking possession under section 17 of the Act. (iii) A certificate to the effect that any State or waqf or evacuee land, tomb, graveyard or place of religious character has not been included in the draft notification. (iv) A certificate to the effect that endeavors to obtain land through private negotiations have been unsuccessful or has been considered inexpedient. (v) Site plan of the land involved. (vi) The classification of the land, i.e. whether ghair mumkin or banjar, culturable or under cultivation, whether irrigated or not and its distance from the main road and town to enable the Commissioner to form an opinion whether it would be proper to acquire it or whether the possibility of acquiring some other less valuable land should be explored to minimize loss to the agricultural economy. 12. The estimated cost of the land worked out under sub-rule (ii) of rule 10 shall be approved by the following: - (i) upto Rs.5 lacs, by the Collector; (ii) upto Rs.10 lacs by the Commissioner; and (iii) above Rs.10 lacs, by the Board of Revenue. 13. The Collector or the Commissioner, as the case may be shall not deliver possession of land sought to be acquired by any Department or agency concerned unless sufficient funds for the payment of compensation are placed at the disposal of the Collector in advance. 14. (1) Where any land has been acquired for any Department of the Government or a local authority for a public purpose and it is proposed to abandon the same, it shall be handed over to the Collector who shall be responsible for the disposal of the same in accordance with the order of Government. (2) The disposal of land under sub-rule (1) shall be made by Government in its discretion, and its possession restored to the persons from whom it was acquired or to their heirs as under: - (i) Free of cost to the original owners or their heirs, if compensation for the acquisition of land has not been paid. (ii) On refunding the amount paid as compensation less than 15 percent granted for compulsory acquisition, if the original landowners or their heirs have already received cash compensation in respect of their land. The price may be lowered, if necessary, on account of deterioration, or enhanced in the rare case of land having been improved by the use to which Government has put it. (3) Where the original land-owners or their heirs were provided ultimate land in lieu of their acquired land, such land shall not be restored to them, but shall be utilized or disposed of by the Board of Revenue in accordance with the policy of the Government regarding disposal and alienation of lands. 15 (1) Where any land has been acquired for a company, it shall not be sold or otherwise disposed of except with the prior and express approval of Government. (2) If the Company for which any land has been acquired makes an application to Government under sub-rule (1) for permission to sell or otherwise dispose of the acquired land of any part thereof, and in case the required permission is declined, then the following procedure shall be followed: - (i) In a case where compensation to the original owners or their, heirs has not been paid the land shall be resumed and restored to the original owners or their heirs. (ii) In a case where compensation has been paid fully or partly, the land shall be resumed and offered for sale to the original landowners or their heirs, in lieu of reimbursement of the amounts of compensation with interest at the Government rate prevalent during the period the land remained out of their possession. (iii) If the original landowners or their heirs have been provided alternate land in lieu of their acquired land, or if the original owners or their heirs are not prepared to accept their restoration of land clause (ii), the land shall be resumed in lieu of reimbursement of the amount of compensation with interest at the Government rate prevalent during the period the land remained in possession of the company. The land shall just be utilized and disposed of by the Board of Revenue in accordance with the policy of

the Government regarding disposal of lands. (iv) In a case where any improvement has been made or any structure has been raised by the company on the land proposed to be disposed of, the permission to sell land may be granted by Government subject to the condition that the difference in the market value of the land at the time of the sale and the amount of the acquisition shall be payable to the original landowners or their heirs. 16 Where the land is used for a proposed other than the one for which it was got acquired, by the acquiring agency, the same shall be resumed immediately by Government without compensation and the acquiring agency shall also be liable to a penalty which may extend to Rs,50,000,.00 depending upon the nature of each case

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