

The Land Acquisition Act, 1984

(I of 1894)

[2nd February, 1894]

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

Preamble: 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) It extends to the whole of Pakistan]; and (3) It shall come into force on the first day of March, 1894.

2. [Repeal], Rep. partly by the Repealing and Amending Act, 1914 (X of 1914), S. 3 and Schedule II and partly by the Repealing Act, 1938 (I of 1938), S. 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**' 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 ;
- (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 to perform the functions of a Collector under this Act;

- (d) the expression '**Collector**' means a principal Civil Court of original jurisdiction, unless the Provincial Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act;
- (e) the expression '**Company**' means a Company registered under the "Companies Ordinance, 1894", 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;
- (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
- (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 persons 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 of 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 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.

AMENDMENTS

West Pakistan: For the existing clause (d), the following clause shall be substituted, namely:

- (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 upon to the limits of his pecuniary jurisdiction.

Balochistan: After clause (e) the following clause shall be deemed to be inserted, namely: -

- (ee) the expression 'local authority' includes the Quetta Development Authority, established under Section 3 of the Quetta Development Authority Ordinance, 1976.

Town Improvement: After clause (e) of Section 3 the following shall be deemed to be inserted, namely: -

- (ee) the expression 'local authority' includes a Trust constituted under the Town Improvement Act, 1922'.

West Pakistan (Soil Reclamation): Clause (f) shall be deemed to have been modified so as to read as follows: -

'(f) the expression 'public purpose' includes-

1. 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

2. (i) Soil reclamation carried out under the Punjab Soil Reclamation Act, 1952;

(ii) the full-stop at the end of clause (g) shall be replaced by a colon and the following clauses shall be deemed to have been added after clause (g) :-

(h) 'board' means the Punjab Soil Reclamation Board appointed under Soil Reclamation Act, 1952 ;

(i) 'net income' shall mean the income from the land after deducting therefrom the ordinary expenses of cultivation, land revenue, rates and ceases ; and

(j) 'rates and ceases' have the same meaning as given in Section 3 (9) of the Land Revenue Act, 1887.

Punjab (Thal Development): After clause (g) in Section 3 of the said Act, the following shall be deemed to be added: -

(h) 'Authority' shall mean the Thal Development Authority appointed under the Thal Development Act, 1949.

(i) 'Net income' from land shall mean the net assets or the landlord's share, as assumed by the Settlement Officer for the same class of land in the same assessment Circle, during the Settlement subject to a deduction of 25 per cent, on account of land-revenue, ceases, collection charges and other dues:

Provided-that in the cases of such land as has not borne at least four harvests during the four years immediately preceding the date of the publication of the first notice under Section 22 of the Thal Development Act, 1949 or the date of notification under Section 36 of that Act, which ever is earlier, the 'net income' shall mean one-third of the net assets or the landlord's share as assumed at the last Settlement for barani land in the same Assessment circle during the last Settlement subject to a deduction of 26 per cent, on account of land-revenue, ceases, collection charges and other dues;

(j) 'rates and ceases' have the same meaning as given in Section 3 (9) of the Land Revenue Act, 1887

Karachi (Development), '(ee) the expression 'local authority' includes in the Karachi Development Authority, established under Article 3 of the Karachi Development Authority Order, 1957.'

PART II ACQUISITION

Preliminary Investigation

4. Publication of preliminary notification and powers of officers thereupon: (1) Whenever it appears to the Provincial Government that land in any locality is needed or is likely to be needed for any public purpose, a notification to 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 such Government in this behalf, and for his servants and workmen, -

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 line 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 with out previously giving such occupier at least seven days' notice in writing of his intention to do so.

AMENDMENTS

West Pakistan: (a) For sub-section (1), the following sub-section shall be substituted, namely: -

(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’;

(b) in sub-section (2), for the words “‘Executive District Officer (Revenue)” or the Board of Revenue’, the words ‘Collector of the district’ shall be substituted ; and

(c) after sub-section (2), as so modified, the following new sub-section shall be added, namely :-

(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’.
Town Improvement: The first publication of a notice of any improvement scheme under Section 36 of the Punjab Town Improvement Act, 1922 shall be substituted for and have the same effect as publication in the official Gazette and in the locality of notification under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 except where a declaration under Section 4 or Section 6 of the said Act has previously been made and is still in force

Quetta Development: The first publication of a notice of an improvement scheme under Section 47 of the Quetta Development authority Ordinance, 1977 shall be substituted for and have the same effect as publication in the official Gazette and in the locality of a notification under subsection (1) of Section 4 of the Land Acquisition Act except where a notification under sub-section (1) of Section 4 or a declaration under Section 6 of the said Act has been previously made and is in force.

Punjab (Thal Development): The first publication of a notice of a development scheme under S. 22 of the Thal Development Act, 1949, shall be substituted for and have the same effect as publication in the Gazette and in the locality of a notification under sub-section (1) of Section 4 of the said Act, except where a notification under Section 4 or a declaration under Section 6 of the said Act has previously been made and is still in force.

W.P. Soil Reclamation: The first publication of a notice of a reclamation scheme under S. 18 of the Punjab Soil, Reclamation Act, 1952, shall be substituted for and have the same effect as publication in the Gazette and in the locality, of a notification under sub-section (1) of Section 4 of the said Act, except where a notification under Section 4 or a declaration under Section 6 of the said act has previously been made and is still in force.

Karachi Development: The first publication of a notice of an improvement scheme under Article 45 of the Karachi Development Authority Order, 1957, shall be substituted for and have the same effect as

publication in the official Gazette and in the locality of a notification under subsection (1) of Section 4 of the said Act except where a notification under sub-section (1) of Section 4 or a declaration under Section 6 of the said Act has been previously made and is in force.

5. Payment for damage. The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as afore—said, 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.

AMENDMENTS

West Pakistan: For Section 5 the following section shall be substituted, namely: -

5. Notification that particular land is needed or a public purpose for a company: Where land is to be acquired or a public purpose, if 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 or near the land to be acquired.

Sindh: Same as for [West Pakistan.]

Balochistan: [Same as for West Pakistan.]

Objections

5-A. Hearing of objections: (1) Any person interested in any land which has been notified under Section 4, sub-section (1), as being needed or likely to be 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 farther inquiry, if any, as he thinks necessary, submit the case for the decision of the Provincial Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Provincial Government on the objections shall be final.

(3) For the purposes 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.

AMENDMENTS

West Pakistan 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 farther inquiry, if any, as he thinks necessary, submit the case for the decision of the "Executive District Officer (Revenue)", together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the "Executive District Officer (Revenue)" or 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 "Executive District Officer (Revenue)" with regard to the area that in this 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.

Sindh: Same as for West Pakistan

Balochistan: Same as for West Pakistan.

Karachi (Development): Proceedings under Article 45 and clause (1) of Article 49 of 'the Karachi Development Authority Order, 1957, shall be substituted for and have the same effect as proceedings under Section 5-A of this Act.

Punjab (Thal Development) ' Proceedings under Section 23 and sub-section (1) of Section 24 of the Thal Development Act shall) be substituted for and have the same effect as proceedings under Section 5-A of this Act.

Soil Reclamation: Proceedings under Section 19 and sub-section (1) of Section 20 of the Punjab Soil Reclamation Act, 1952, shall substitute for and have the same effect as proceedings under Section 5-A of the said Act.

Quetta Development: Proceedings under Section 47 of sub-section (1) of Section 51 of the Quetta Development Authority Ordinance, 1977, shall be substituted for and have the same effect as proceeding under Section 5-A of the Land Acquisition 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 when the Provincial Government 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 a Secretary to such Government or of some officer duly authorised to certify its orders:

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 piece 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 Provincial Government may acquire the land in manner hereinafter appearing.

AMENDMENTS

West Pakistan: In clauses (1) and (3) of Section. 6 for 'such Government' substitute 'the "Executive District Officer (Revenue)"' After sub-section (3), the following new sub-section shall be added, namely:

'(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.

Sindh: Same as for West Pakistan.

Balochistan: Same as for West Pakistan.

Karachi (Development): Subject to the provisions of paragraphs 6 and 7 of this Schedule, the issue of a notice under sub-clause (c) of clause (3) of Article 36 of the Karachi Development Authority Order, 1957, in the case

of the land proposed to be acquired in pursuance of that clause, and in any other case the publication of a notification under Article 50 of that Order shall be substituted for and have the same effect as a declaration under Section 6 of the said Act except where a declaration under the last-mentioned section has been previously made and is in force.

Town Improvement: (1) The first publication of a notice of any improvement scheme under Section 36 of this Act shall be substituted for and have the same effect as publication in the official Gazette and in the locality of a notification under sub-section (1) of Section 4 of the said Act, except where a declaration under Section 4 or Section 6 of the said Act has previously been made and is still in force.

(2) Subject to the provisions of clauses (10) and (11) of the Schedule, the issue of a notice under sub-section (1) of Section 32 in the case of land acquired under that sub-section and in any other case the publication of a notification under Section 42 shall be substituted for and have the same effects a declaration by the Provincial Government under Section 6 of the said Act, unless a declaration under the last-mentioned section had previously been made, and is still in force.

West Pakistan (Soil Reclamation): Subject to the provisions of paragraphs 10 and 11 of this Schedule, the publication of a notification under Section 22 of the Punjab Soil Reclamation Act, 1952, shall substitute for and have the same effect as a declaration by the Provincial Government under Section 6 of the said Act, unless a declaration under the last-mentioned Section has previously been made and is still in force.

Punjab (Thal Development): The first publication of a notice of an development scheme under S. 22 of the Thal Development Act, 1949, shall be substituted for and have the same effect as publication in the Gazette and in the locality, of notification under sub-section (1) of Section 4 of the said Act, except where a notification under Section 4 or a declaration under Section 6 of the said Act has previously been made and is still in force.

Quetta (Development): Subject to the provisions of paragraphs 6 and 7 of this Schedule, the issue of a notice under clause (e) of sub-section (3) of Section 38 of the Quetta Development Authority Ordinance, 1877, in the case of land proposed to be acquired in pursuance of that subsection, and in any other case the publication of a notification under Section 52 of that Ordinance shall be substituted for and have the same effect as a declaration under Section 6 of the, said Act except where a declaration under the last-mentioned section has been previously made and in force.

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 Provincial Government, for some officer authorised by the Provincial

Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

AMENDMENTS

West Pakistan: For 'Provincial Government' substituted "'Executive District Officer (Revenue)'".

Sindh: Same as for West Pakistan.

Balochistan: same as for West Pakistan

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 Post Office Act, 1866.

AMENDMENTS

West Pakistan: In Section 9 after sub-section (4), the following new sub-section shall be added, namely: -

'(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 be 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 epute 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 party to the proceedings'

Punjab (Thal Development): In sub-section (2) of Section 9 of the Act after the first sentence ending with the word and figure 'Section 8', the following sentence shall be deemed to have been inserted -

The notice shall furthermore contain a direction to the effect that any person interested may, if he so chooses, while preferring his claim to compensation for his interest in the land, intimate to the Collector in writing his option that compensation be paid to him:

(a) on the basis of the average price derived from the sale transactions in respect of which mutations have been attested during the five years immediately preceding the 30th June, 1939, and which relate to the same class of land the same revenue estate in which the land to be acquired is situated ; or

(b) if no mutations of sale transactions of land in that revenue estates were attested during the five years preceding the 30th June, 1939, then on the basis of the average price derived from the sale transactions relating to the same class of land about which mutations have been attested during the said period, in all the contiguous revenue estates in the same assessment circle.

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 a 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) Ever person required to make or deliver a statement under this section of 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.

Enquiry into Measurement, value and claims, 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 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, 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 appointment 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.

AMENDMENTS

West Pakistan: Between the words 'any person interested' and the 'words 'has stated', the words and commas 'and a Department of Government, a local authority, or a Company, as the case may be', shall be inserted.

Karachi (Development): The word 'and' shall be omitted in clause (ii) and added at the end of clause (iii) and, after clause (iii) the following clause shall be inserted: -

(iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation and who is not entitled to receive the additional sum of fifteen per cent, mentioned in sub-section (2) of Section 23 as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector :

Provided that the Collector may disallow wholly or in part the cross incurred by any person if he considers that the claim made by such person is extravagant'.

Punjab (Thal Development): The full-stop at the end of the section shall be deemed to be changed to a semi-colon, and the following shall be deemed to be added, namely: -

(iv) the costs which in his opinion, should be allowed to any person who is found to be entitled to compensation, as having been actually and reasonably incurred by such person in preparing, his claim and putting his case before the Collector.

The Collector may disallow, wholly or in part cost incurrent by any person, if he considers that the claim made by such person for compensation is extravagant

Town Improvement: The full-stop at the end of the section shall be deemed to be changed to a semi-colon, and the following shall be deemed to be added, namely: -

'and

(vi) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation, and who is not entitled to receive the additional sum of fifteen per centum mentioned in sub-section (2) of Section 23, as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector.

The Collector may disallow wholly or in part, costs incurred by any person if he considers that the claim made by such person for compensation is extravagant'.

Soil Reclamation: In Section 11 the conjunction 'and' between clauses (ii) and (iii) shall be deleted, the full-stop at the end of clause (iii) shall be replaced by a semi-colon followed by the conjunction 'and' and the following clause shall be deemed to have been added thereafter, namely '(iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation, as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector'.

Quetta Development: The word 'and' shall be omitted in clause (ii) and added at the end of clause (iii) and, after clause (iii) the following clause shall be inserted: -

(iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation and who is not entitled to receive the additional sum of fifteen per cent, mentioned in sub-section (2) of Section 25 as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector : Provided that the Collector may disallow wholly or in part the costs incurred by any person if he considers that the claim made by such person is extravagant.

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.

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 before 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 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.

AMENDMENTS

Karachi (Development); For the word and figures 'and 24', the figures, would and letter '24 and 24-A', shall be deemed to be substituted

Soil Reclamation: For the word and figures 'and 24' the figures, would, and letter '24' and '24-A', preceded by a comma shall be deemed to be substituted;

Quetta Development: Same as for Karachi Development.'

(Town Improvement) : Same as for West Pakistan (Soil Reclamation).

Punjab (Thal Development): Same as for West Pakistan (Soil Reclamation).

Taking Possession

16. Power to take possession: When the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

AMENDMENTS

West Pakistan: Between the word 'may' and the word 'take', the common words and figures, 'subject to the provision of Section 31', shall be inserted.

16-A. Transfer of land to Board: In every case referred to in Section 16 of Collector shall upon payment or tender of compensation for acquisition, make over charge of the land to the Board and the land shall thereupon vest in the Board.

17. Special powers in cases of urgency: (1) In case of urgency, whenever the Provincial Government so directs, the Collector, though no such award has been made, on the expiration of fifteen days from the publication of the notice mentioned in Section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for and 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, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Provincial Government, 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 a 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 or in awarding compensation for the land under the provisions herein contained.

(4) In the case of any land to which, in the opinion of the Provincial Government, the provisions of' sub-section (1) or sub-section (2) are applicable, the Provincial Government may direct that the provisions of Section 5-A shall not apply, and, if it does so direct, a 'declaration may be made under Section 9 in respect of the land at any time after the publication of the notification under Section 4, sub-section (1).

AMENDMENTS

West Pakistan: For Section 17 of the following shall be substituted, namely :

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 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 "Executive District Officer (Revenue)" to acquire the immediate possession of any land for the purposes of maintaining traffic over a public road, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the "Executive District Officer

(Revenue)", enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

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

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

(4) In cases where in the opinion of the "Executive District Officer (Revenue)", the provisions of sub-section (1) or sub-section (2) re 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 sub-section (1) of Section 4

Balochistan: Same as for West Pakistan

Sindh: Same for West Pakistan

Soil Reclamation: For Section 17 of the said Act, the following shall be deemed to have been substituted: -

'17. (1) In cases where the Board considers it expedient to take possession of any land at any time before an award under Section 11 has been made; it shall notify this fact in writing to the Collector intimating in addition the date by which the land is required by it. The Collector shall after causing a notice to this effect to be served on the person or persons interested in the land take possession of the land and transfer it to the Board in whom it shall vest absolutely free from all encumbrances subject its liability to pay any amount which may be incurred on account of acquisition.

(2) The Collector shall at the time of taking possession of land offer to the person interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them on account of dispossession and not excepted in S. 24 or 24-A; and, in case such offer is not accepted, the value of such crops or trees and the amount of such other damages shall be allowed for while awarding compensation for the land under the provisions herein contained.

Karachi (Development): After sub-section (4) of Section 17, the following sub-sections shall be deemed to be inserted, namely:

(5) The provisions of sub-sections (1) and (3) shall apply in the case of any area which is stated in a certificate granted by a Magistrate of the First Class to be unhealthy.

(6) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the person referred to in sub-section (3) of Section 9 and shall hear without any avoidable delay any objections which may be urged by him.

(7) When proceedings have been taken under this section for the acquisition of any land and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession'

Town Improvement: In sub-section (3) of Section 17 of the said Act, after the figures '24' the words, figures and letter 'or Section 24-A' shall be deemed to be inserted

(2) To Section 17 the following shall be deemed to be added, namely:

(4) Sub-sections (1) and (3) shall apply also to any area certified to be unhealthy by any Magistrate of the First Class.

(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of Section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(6) When proceedings have been taken under this section for the acquisition of any land, any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession'

Punjab (Thal Development): For Section 17 of the Act the following shall be deemed to be substituted: -

'17. (1) In cases where the Authority considers it expedient to take possession of the land at any time before an award under Section 11 of the Land Acquisition Act has been made it shall notify this fact in writing to the Collector intimating in addition the date by which the land is required by it.' The Collector shall after causing a notice to this effect to be served on the person interested to take possession of the land and transfer it to the Authority in whom it shall vest absolutely free from all encumbrances subject to its liability to pay any amount which may be incurred on account of acquisition.

(2) The Collector shall at the time of taking possession of land offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damages sustained by them on account of dispossession and not excepted in Section 24 or 24-A; and, in case such offer is not accepted, the value of such crop or trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

Quetta Development: (1) In sub-section (3) of Section 17 of the Act after the word and figures 'Section 24' the words, figures and letter 'or Section 24-A' shall be deemed to be inserted.

(2) After sub-section (4) of Section 17 of the Act, the following sub-section shall be deemed to be inserted, namely: -

(5) The provisions of sub-sections (1) and (3) shall apply in the case of any area which is stated in a certificate granted by a Magistrate of the First Class to be unhealthy.

(6) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the person referred to in sub-section (5) of Section 9 and shall hear without any avoidable delay any objections which may be urged by him.

(7) When proceedings have been taken under this section for the acquisition of any land and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession.

AMENDMENTS

Quetta Development: Same as for Karachi Development.

Town Improvement:

17-A. In every case referred to in Section 16 or Section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Trust ; and the land shall thereupon vest in the Trust subject to the liability of the Trust to pay and further costs which may be incurred on account of its acquisition'

Punjab (Thal Development):

'**17-A.** In every case referred to in Section 16 the Collector shall, upon payment or tender or compensation for acquisition, make over charge of the land to the Authority and the land shall thereupon vest in the Authority, subject to the liability of the Authority to pay any further compensation or costs which may be incurred on account of its acquisition'

17-B. Notwithstanding anything to the contrary contained in this Act, if the Authority has given an undertaking as contemplated by sub-section (4) of Section 36 of the Thal Development Act, 1949, in respect of any land, the compensation payable in respect of such land shall be equivalent to the 'Net income' from the period that the land remains in the possession of the Authority'.

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 persons 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.

AMENDMENTS

West Pakistan: After sub-section (2), the following new sub-section shall be added, namely: -

(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'.

Note- This amendment extends to the whole of the Province of West Pakistan, except the Districts of Compbellpur, Dera Ghazi Khan, Gujranwala, Gujrat, Jhelum, Jhang, Lahore, Faisalabad, Mianwali, Muzaffarabad, Rawalpindi, Sahiwal, Sargodha, Sheikhpura and Sialkot and the Tribal Areas.

West Pakistan (Soil Reclamation): The following shall be deemed to have been substituted for sub-section (1) of Section 18 namely: -

‘Any person interested who has not accepted the award of the Board may be written application to the Collector, require that the matter be referred by the Collector, for determination of the court, whether his or its objection be to the measurement of the land, the amount of compensation, the persons to whom it is payable or the appointment of the compensation among the persons interested, amount or costs allowed’.

N.W.F.P.: In sub-section (3) shall be omitted.

The following sub-section (4) shall be added, namely:

‘(4) 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 and determination of the objection against the award’

Punjab (Thal Development): The words ‘or the Authority’ shall be deemed to be added between words ‘award’ and ‘may’ under Section 18 (1).

(2) The full-stop at the end of sub-section (1) of Section 18 of the said Act shall be deemed to be changed to a comma, and the words ‘or the amount of costs allowed’ shall be deemed to be added.

Town Improvement: The full-stop at the end of sub-section (1) of Section 18 shall be deemed to be changed to a comma, and the words ‘or the amount of the costs allowed’ shall be deemed to be added.

N.W.F.P. Section 18-A omitted by, N.W.F.P. Ordinance, 16 of 1978 S. 3 w.e.f. 31.8.1978.

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, buildings or standing crops thereon ;
- (b) the names of the person 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, the grounds 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.

AMENDMENTS

West Pakistan: In clause (c) of sub-section (1) of Section 19 of the said Act, for the words and figures 'Sections 5 and 17' the words, figures and brackets 'sub-section (3) of Section 4 and Section 2' shall be substituted and shall be deemed to have been so substituted on the seventh days of April, 1954 'Town Improvement: After the words 'amount of compensation' in clause (c) of Section 19 of the words 'and of costs (if any)' shall be deemed to be inserted Punjab (Thal Development): Same as for Punjab (Town Improvement).

West Pakistan (Soil Reclamation): Same as for Punjab (Town Improvement)

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.

AMENDMENTS

West Pakistan: In clause (c), between the word 'Collector' and the full-stop at the end, the words and commas' and the Department of Government, local authority or Company, as the case may be, for which land is being acquired' shall be inserted.

West Pakistan (Soil Reclamation): After the words 'amount of the compensation' the words 'or costs' shall be deemed to have been inserted.

(2) Between the word 'Collector' and the full-stop at the end of Section 20 the words 'and the Board' shall be deemed to have been added.

(3) The existing Section 20 of the said Act shall be numbered as sub-section (1) of Section 20, and the following sub-section shall be deemed to have been added: -

(2) The Board or any person to whom a notice is issued under clause (b) or (c) of subsection (1) may support the award and may also take any cross-objection which could have been taken by making an application for reference provide such objection is filed within one months from the date of service of notice under this section or within such further time as the Tribunal may see fit to allow.

(3) The provisions of the Code of Civil Procedure, 1908, relating to cross-objections filed under that Code shall, so far as may apply to the cross-objections filed under this Section Town Improvement: After the words 'amount of the compensation' in clause (c) of Section 20 of the said Act, the words 'or costs' shall be deemed to be inserted

Punjab (Thal Development): Same as for Punjab (Town Improvement).

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 to be in open Court: Every such proceeding shall take place in open Court, and all persons entitled to practice in any Civil Court in the provinces shall be entitled to appear, plead and act (as the case may be) in such proceeding.

AMENDMENTS

West Pakistan: After Section 22 the following new section shall be added, namely: -

"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 notification under Section 4, sub-section (1),
- 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 'me 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, moveable 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 (it 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. '

(2) In addition to the market-value of the land as above provided, the Court shall in very case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition

AMENDMENTS

West Pakistan: (a) in sub-section (1) under clause first, the following explanation shall be added, namely: -

Explanation: For the purposes of determining the market-value, the Court shall take into account transfers 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 subsection (1) of Section 4, been transferred with a view to being put to the use relied upon as effecting 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', and

(b) For sub-section (2), the following sub-section shall be substituted, namely: -

'(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'

West Pakistan (Soil Reclamation): In sub-section (1) of S. 23, the words, figures and brackets ' the date of the publication of the notification under Section 4, sub-section (1)' occurring in clause first and the words and figures 'the time of the publication of the declaration under Section 6' occurring in clause sixth, shall be deemed to have been replaced by the words 'such date as Government may declare'.

(2) For the existing sub-section (2) of Section 23 of the said Act, the following shall be deemed to have been substituted, namely: -

'(2) For the purposes of clause 'first' of sub-section (1) of this section the market-value of the land shall be determined on the basis of the average net income of that land for the five years preceding the date. declared by Government under sub-section (1) of this section :

Provided that if that land or any portion of it has not been cultivated, the net income of such land or portion in that year, shall be taken to be four times the land revenue assessed thereon, or, if no land revenue has been so assessed, three times the lowest rate of land revenue assessed on neighbouring land: Provided further that in respect of land which is situated in a town or village abadi or land which is attached to a house, manufactory, or other building and is reasonably required for the ' enjoyment and use of the house, manufactory or building, the market-value shall be the market-value according to the use to which the land was being put on the date declared by Government under subsection (1) of this Section.'

Karachi (Development): For clauses first and sixthly, the following clauses shall respectively be deemed to be substituted, namely: -

'First, the market-value of the land at the date of the first publication of the notice under Article 45 of the Karachi Development Authority Order, 1957.

Sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the date referred to in clause first and the date on which the Collector takes possession of the land'.

(2) In the same section, to sub-section (2), the following proviso shall be deemed to be added, namely: - 'Provided that this sub-section shall not apply to any land acquired under the Karachi Development Authority Order, 1957.'

(3) In the same section, after sub-section (2), the following sub-section shall be deemed to be added, namely: -

(4) For the purpose of clause first of sub-section (1) of the section--

(a) If the market-value of the land has been increased or decreased owing to the land falling with or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded ;

- (b) If any person, otherwise than in accordance with the provisions of the Karachi Development Order, 1957 ; erects, re-erects, added to or alters any wall or building so as to make, the same project into the street alignment or beyond the building line prescribed by any scheme made under that Order, that, any increase in the market-value resulting from such erection, re-erection, addition or alteration shall be disregarded ;
- (c) If the market-value is exceptionally high 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 land if put to an ordinary use;
- (d) If the market-value of any building is exceptionally high in consequence of the building being so overcrowded, as to be dangerous to be health to 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 could be accommodated in it without overcrowding:

Provided that clause (d) shall not apply in the case of a building which is in the actual occupation of the owner or his family.

- (e) The market-value of the land shall be the value according to the use to which the land was put at the date with reference to which the market-value is to be determined;
- (f) If the market-value has been increased by any improvement made by the owner or his predecessor within two years before the aforesaid date such increase shall be disregarded unless it is proved that the improvement so made was made in good faith and in contemplation of proceedings' for the acquisition of the land being taken under this Act;
- (g) When the owner of land or building has, after the commencement of the Karachi Development Authority Order, 1957, and within the two years next preceding the date with reference to which the market-value is to be determined, made a return

under the City of Karachi Municipal Act, 1933, of the aforesaid land or building the rent in such cases shall not be deemed to be greater than the rent shown in the latest return so made and the market-value shall be determined on the basis of such return :

Provided that where addition to or improvement of, such land or building has been made after the date of such return but previous to the date with reference to which the market-value is to be determined, the Court may consider any increase in the letting value due to such addition or improvement'

Punjab (Thal Development): (1) In clause first of sub-section (1) of Section 23, for the words 'at the date of publication of the notification under Section 4, sub-section (1)' and in clause sixth for words 'the time of the publication of the declaration under Section 6' shall be deemed to be substituted by the words 'on 16th June, 1949'.

(2) The following shall be deemed to have been added under sub-section (1) of Section 23 of the said Act : 'Seventhly, any payment made under the Punjab Thal (Increase in Value) Act, 1940, as amended by Punjab Thal (Increase in Value) (Amendment) Act, 1949'.

(3) For sub-section (2) of Section 23 of the said Act the following shall be deemed to have been substituted, namely:

'(2) For the purpose of clause 'first' 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 provisions:

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, 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 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.

Town Improvement: In clause first and clause sixthly of sub-section (1) of Section 23 of the said Act, for the words 'publication of the declaration relating thereto under Section 6' and the words 'publication of the declaration and Section 6' shall be deemed to be substituted-

- (a) if the land is being acquired under sub-section (4) of Section 32 of this Act the words 'issue of the notice under sub-section (3) of Section 32 of the Town Improvement Act, 1922' and
- (b) in any other case, the words 'first publication of the notification under Section 36 of the Town Improvement Act, 1922'.

(2) The full-stop at the end of sub-section (2) of Section 23 of the said Act shall be deemed to be changed to a colon and the following proviso shall be deemed to be added:

'Provided that this sub-section shall not apply to any land acquired under the Town Improvement Act, 1922.'

(3) At the end of Section 23 of the said Act, the following shall be deemed to be added namely: -

'(3) For the purposes of clause first of sub-section (1) of this section-

- (a) the market-value of the land shall be the market-value according to the use of which the land was put at the date with reference to which the market-value is to be determined under that clause ;
- (b) if it be shown that before such date, the owner of the land had in good faith taken active 'steps and incurred expenditure to secure a more profitable use of the same, further compensation based on his actual loss may be paid to him ;
- (c) if any person without the permission of the Trust required by sub-section (1) of Section 31 of the Town Improvement Act, 1922, has erected, re-erected, added to or altered any building or well so as to make the same project beyond a street alignment or building line duly prescribed by the Trust then any increase in

- the market-value resulting from such erection, re-erection, addition or alteration shall be disregarded :
- (d) if the market-value has been increased by means of any improvement made by the owner or his predecessor-in-interest within two years before the aforesaid date, such increase shall be disregarded unless it be proved that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the, land being taken under the Town Improvement Act, 1922 ;
 - (e) if the market-value is specially high 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 put to ordinary use ; and
 - (f) when the owner of the land or building has after the passing of the Town Improvement Act, 1922, and within two years preceding the date with reference to which the market-value is to be determined-, made a return under any enactment in force of the rent of the land or building, the rent of the land or building shall not in any case be deemed to be greater then the rent shown in the lastest return so made save as the Court may otherwise direct, and the market-value may be determined on the basis of such rent :

Provided that where any addition to, or improvement of, the land or building has been made after the date of such latest return and previous to the date with reference to which the market-value is to be determined the Court may take into consideration any increase in the letting-value of the land due to such addition or improvement.

Quetta Development: In sub-section (1) of Section 23 of the said Act for clauses first and sixthly., the following clauses shall respectively be deemed to be substituted namely:-

- 'first, the market-value of the land at the date of the first publication of the notice under Section 47 of the Quetta Development Authority Ordinance, 1977.

Sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the date referred to in clause first and date on which the Collector takes possession of the land'.

2. In the same section, to sub-section (2), the following provision shall be deemed to be added, namely:-

'Provided that this sub-section shall not apply to any land acquired under the Quetta Development Authority Ordinance, 1977.'

3. In the same section, after sub-section (2), the following sub-section shall be deemed to be added, namely:-

(5) For the purpose of clause first of sub-sectional) of this section---

- (a) if the market-value of the land has been increased or decreased owing to the land falling with or near to the alignment of projected public street to' such of the increase or decrease as may be due to such cause shall be disregarded ;
- (b) if any person, otherwise than in accordance with the provisions of the Quetta Development Authority Ordinance, 1977 erects re-erects, adds to or alters any wall or building so as to make, the same project into the street alignment or beyond the building line prescribed by any scheme made under that Ordinance, then any increase in the market-value resulting from such erection, re-erection, addition or alteration, shall be disregarded;
- (c) if the market value, is exceptionally high 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 put to an ordinary use ;
- (d) if the market value of any building is exceptionally high 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 could be accommodated in it without overcrowding :

Provided that clause (d) shall not apply in the case of a

- building which is in the actual occupation of the owner or his family ;
- (e) the market-value of the land shall be the value according to the use to which the land was put at the date with reference to which the market value is to be determined ;
- (f) if the market value has been increased by any improvement made by the owner or his predecessor within two years before the aforesaid date such increase shall be disregarded unless it is provided that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under this Ordinance :
- (g) when the owner of land or building has, after the commencement of the Quetta Development Authority Ordinance, 1977 and within the two years next preceding the date with reference to which the market-value, is to be determined, made a return under the Municipal Act, is the aforesaid land or building the rent in such cases shall not be deemed to be greater than the rent shown in the latest return so made and the market value shall be determined on the basis of such return:

Provided that where addition to, or improvement of, such land or building has been made after the date of such return but previous to the date with reference to which the market value is to be determined, the Court may consider any increase in the letting value due to such addition or improvement'

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 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 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 improvement 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 notification under Section 4 of sub-section (1),

AMENDMENTS

Karachi (Development): For clause seventhly of the section the following clause shall be deemed to be substituted, namely:

‘seventhly, any outlay on additions to improvements to land acquired, which was incurred after the date with reference to which the market value is to be determined, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair’

Quetta (Development. Same as for Karachi Development.

Town Improvement : Same as for Karachi (Development)

Punjab (Thal Development) : For clause seventhly of the section the following shall be substituted namely:-

‘seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market value is to be determined, unless it is proved that these were necessary to keep the land in a fit state to command the profits accruing on the said date and were made in good faith and not in contemplation of proceedings for compulsory requisition.’

West Pakistan (Soil Reclamation) : Same as for Punjab (Thal Development)

24-A. Further provision for determining compensation: In determining the amount of compensation to be awarded for any land

acquired for the authority under the Thal Development Act, 1949, the Court shall also have regard to the following provisions, namely-

(1) when any interest in any land acquired under this Act has been acquired after the date with reference to which the market value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land :

(2) if, in the opinion of the Court, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, less the estimated cost of putting it into such condition or state ;

(3) if, in the opinion of the Court any building which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building less the costs of demolishing the building.

West Pakistan (Soil Reclamation): Same as for Punjab (Thal Development).

Town Improvement : Same as for Punjab (Thal Development).

Karachi (Development): Same as for Punjab (Thal Development) except that in sub-section (2) for the words 'in a defective state from a sanitary point of view', substitute the words 'in sanitary'

Quetta Development: Same as for Karachi Development.

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 or be less than the amount awarded by the Collector under Section 11.

(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 no be less than, and may exceed, the amount awarded by the Collector.

AMENDMENTS

West Pakistan: In sub-section (1), the words, 'or be less than the amount awarded by the Collector under Section 11' shall be omitted

N.W.F.P.: For sub-section (3) the following sub-section shall be substituted and shall be deemed to have always been so substituted, namely: -

'(3) When the applicant his omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court may exceed the amount awarded by the Collector.

Punjab (Thal Development): In sub-section (1), words 'or be less than the amount awarded by the Collector under Section 11' shall be deemed to be deleted.

(2) The following shall be deemed to be added as sub-section (4) of Section 25.

'(4) The Court shall be competent to award an amount less than that awarded by the Collector, if, after consideration of any reference or cross-objection, it is of the opinion that the amount awarded by the Collector is excessive' West Pakistan (Soil Reclamation): Same as for Punjab (Thal Development).

26. Form of awards: (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 subsection, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2, clause (2), and Section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.

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

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

28. Collector may be directed to pay interest on excess compensation: If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six 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.

AMENDMENTS

West Pakistan: In Section 28, for the words 'interest on such excess at the rate of six per centum' the words 'compound interest on such excess at the rate of eight per centum' shall be substituted; and the following proviso be added at the end :

'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 or balance shall be eight per centum'.

Sindh: West Pakistan amendment given above is deemed never to have been made in Sindh.

Where a Court has directed payment of interest on any amount of compensation payable under the Land Acquisition Act, 1894 (Act I of 1894), at a rate exceeding six per centum simple interest per annum, interest shall be payable on such amount, notwithstanding any judgment, decree or order of the Court at six per centum simple interest per annum.

PART IV APPORTIONMENT OF COMPENSATION

29. Particulars of apportionment to be specified: Where there are several person interested, if such person agree in the appositionment of the compensation, particulars of such apportionment shall be specified in the award, and as between such person 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 appointment of the same or any part thereof or as to the persons to whom the same or any part thereto is payable, the Collector may refer such dispute to the decision of the Court.

PART V
PAYMENT

31. Payment of compensation or deposit of same in Court: (1) On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by someone or more of the contingencies mentioned in the next sub-section.

(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 Provincial Government, 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.

AMENDMENTS

West Pakistan: For sub-section (1), the following sub-section shall be substituted, namely: -

(1) When the Collector has made an award under Section 11.

(a) If the persons interested is 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 ins 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 someone 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 established cost of acquisition of such land as determined by the Collector of the district under sub-section (1) of S. 17, whichever is less, to the persons entitled thereto under the award and shall pay it to them unless prevented by someone 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.”

In sub-section (3) for ‘Provincial Government’ substitute “‘Executive District Officer (Revenue)’.”

Balochistan: Same as for West Pakistan-.

N.W.F.P.: For sub-section (1), the following sub-section shall be substituted, namely:

- 11-
- (1) When the Collector has made an award under Section
- (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 (4) of the 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 (4) 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 person 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 (4) of that Section the Collector shall, before taking possession of the land, tender payment of the full amount of the compensation awarded by him or the estimated cost of acquisition of such land a determined by the Collector of the district under Sub-section (1) of S. 7 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 refunding or the amount, if any which may subsequently be found to be in excess of the compensation awarded to him by the Court.

Sindh: Same as for West Pakistan.

West Pakistan (Soil Reclamation): (1) After the words 'the compensation' in sub-section (1) of Section 31 of the said Act, and after the words 'the amount of compensation' in sub-section (2) of that section, the words and brackets 'and costs (if any)' shall be deemed to have been inserted.

Punjab (Thal Development) : Same as for West Pakistan (Soil Reclamation).

Town Improvement: Same as for West Pakistan (Soil Reclamation).

32. Investment of money deposited in respect of land 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 ins 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 land as aforesaid ; or
 - (ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of money 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 investment as aforesaid ;
- (b) the costs of the orders for payment or of the interest of other proceeds, of the securities upon which such money 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 any 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 interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

AMENDMENTS

West Pakistan: In S. 34, for the words 'interest thereon at the rate of six per centum' the words 'Compound interest at the rate of eight per centum' shall be substituted ; and for the full-stop appearing at the end a colon shall be substituted and the following proviso be added thereafter, namely:

'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.'

Sindh: The Land Acquisition (West Pakistan Amendment) Act, 1969, is repealed and shall be deemed never to have been enacted, and the Amendments affected thereby in the Land

Acquisition Act, 1894 (Act I of 1894), shall be deemed never to have been effected.

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 provision of Part VII of this Act, whenever it appears to the Provincial Government that the temporary occupation and use of any waste or arable land needed for any public purpose, or for a Company, the Provincial Government 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.

(2) The Collector shall thereupon 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 materials (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.

(3) 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.

AMENDMENTS

West Pakistan: In sub-section (1) for 'Provincial Government' substitute "Executive District Officer (Revenue)" (a) for sub-section (2), the following sub-section shall be substituted, namely:-

'(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'; and

(b) the existing sub-section (3) shall be re-numbered as sub-section (4) and the following shall be inserted as sub-section (3), namely:-

(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 materials, 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.'

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

36. Power to enter and take possession, and compensation on restoration: 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 Provincial Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose for a Company.

AMENDMENTS

West Pakistan: In sub-section (2) for 'Provincial Government' substitute "'Executive District Officer (Revenue)'".

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

37. Differences 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 COMPANIES

38. Company may be authorised to enter and survey: (1) The Provincial Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by 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 if the Company' were substituted; and Section 5 shall be construed as if after the words 'the officer' the words 'of the company' were inserted.

38-A. Industrial concern to be deemed Company for certain purposes: An industrial concern, ordinary 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 house 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 5-A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.

AMENDMENTS

West Pakistan: (i) For sub-section (1), the following sub-section shall be substituted namely

'(1) The "Executive District Officer (Revenue)" may authorize any officer of any company desiring to acquire land for its purpose to exercise the powers conferred by sub-section (2) of Section 4', and

(ii) in sub-section (2) for the word and figure 'Section 5', the words, figures, and brackets 'sub-section (3) of Section 4', shall be substituted.

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

39. Previous consent of Provincial Government 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 Provincial

Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

AMENDMENTS

West Pakistan: For 'Provincial Government' substitute "Executive District Officer (Revenue)".

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

40. Previous enquiry: (1) Such consent shall not be given unless the Provincial Government be satisfied, either on the report of the Collector under Section 5-A, sub-section (2), or by an enquiry held as hereinafter provided, -

- (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
- (b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Provincial Government 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 Code of Civil Procedure in the case of a Civil Court.

Amendments

West Pakistan: In sub-section (1) for 'Provincial Government' substitute "Executive District Officer (Revenue)". In sub-section (1), after clause (a), the following new clause shall be inserted :

'(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' In sub-section (1)-

- (i) in clause (b), for the full-stop at the end, the comma and the word 'or' shall be substituted, and
- (ii) after clause (b) as so modified, the following new clause shall be added, namely:-

'(c) that the area proposed to be acquired is reasonable for the purpose.

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

41. Agreement with Provincial Government: If the Provincial Government 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 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, it 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:-

(1) the payment to the Provincial Government of the costs 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 ;

(4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, 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 the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

Amendments

West Pakistan: In Section 41 (i), for 'Provincial Government' where it occurs for the first time substitute "'Executive District Officer (Revenue)'".

(a) for the words and commas 'the purpose of the proposed acquisition to obtain land for the creation 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', the words, brackets, letters, figures and comma '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 (1), of Section 40', shall be substituted ; and

(b) of clause (5), the following clause shall be substituted, namely:-

'(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.'

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

42. Publication of agreement: Every such agreement shall, as soon as may be after its execution, be published in the official Gazette 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.

AMENDMENTS

West Pakistan: For the words and brackets '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', the words 'and the acquisition shall be deemed to have been made subject to the terms of such agreement', shall be substituted.

43. Sections 39 of 42 not to apply where Government bound by agreement to provide land for Companies: The provisions of Sections 39 of 42, both inclusive, shall not apply and the corresponding sections of Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any railway or other Company, for the purpose 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.

AMENDMENTS

43-A. Restriction 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 purposes of a Railway Company, the existence of such an agreement as is mentioned in Section 43 may be provided by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII MISCELLANEOUS

45. Service of notice: (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 services 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 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 wilfully obstructs any person in doing any of the acts authorised by Section 4 or Section 8, or wilfully 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 and such Magistrate 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 Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government 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 cross 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 be 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 Provincial Government is of opinion that the claim is unreasonable or excessive, it 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 of 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 Provincial Government to the person interested, and shall thereafter proceed to make his award under Section 11.

AMENDMENTS

West Pakistan: For 'it' substitute 'he'.

Balochistan: Same as for West Pakistan.

Sindh: Same as for West Pakistan.

Karachi (Development) : After sub-section (1) of Section 49 of the said Act, the following shall be deemed to be inserted namely:

'(1a) For the purposes of sub-section (1), land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house'

Quetta (Development): Same as for Karachi Development.

Punjab (Thal Development): Same as for Karachi (Development).

Town Improvement: After sub-section (1) the following shall be deemed to be inserted, namely :

'Explanation: For the purpose of this sub-section land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house.'

West Pakistan (Soil Reclamation): Same as for Karachi (Development).

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.

(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.

AMENDMENTS

West Pakistan: After sub-section (1), following new sub-section shall be inserted namely: -

(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.

West Pakistan: (Soil Development): In sub-section (2) the words 'or the Punjab, Soil Reclamation Board' shall be deemed to have been inserted between the words 'concerned' and 'may' and the proviso to the sub-section shall be deemed to have been deleted.

Punjab (Thal Development): In sub-section (2) the words 'or the Thal Development Authority' shall be deemed to be added between the words 'concerned' any 'may' and the proviso to this sub-section shall be deemed to be deleted.

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 fees 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 Code of Civil Procedure shall to all proceedings before the Court under this Act.

54. Appeal 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 the 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 Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in Section 110 of the Code of Civil Procedure, 1908, and in order XLV thereof.

AMENDMENTS

Punjab (Thal Development): The section is deemed to be deleted.

West Pakistan (Soil Reclamation): Same as for Punjab (Thal Development).

Karachi Development: In case a Tribunal is constituted under Article 69 of K.D.A. Order :

- (i) the Tribunal shall (except for the purposes of Section 54 of the Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge thereof ;
- (ii) the President of the Tribunal shall have the power to summon and enforce the attendance of witnesses, and to compel the production of documents by the same means, and (so far as may be) in the same Civil Court under the Code of Civil Procedure, 1903 (Act V of 1908), when trying a civil suit; and
- (iii) the award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894 (I of 1894) and shall be final.

55. Power to make rules: (1) The Provincial 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.

(2) The power to make, alter and add to rules under subsection (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 be published in the official Gazette, and shall thereupon have the force of law.