

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated September, 14, 1974.

No.2291/SL/74 The following ordinance approved by the Legislative Assembly of Azad Jammu and Kashmir at its meeting held on 21st of August, 1974 and assented to by the President on 1st of September, 1974 is hereby published, for general information.

(ORDINANCE No. VI 1974)¹

AN ORDINANCE to consolidate and regularize Nautors of Khalsa land.

WHEREAS it is expedient to consolidate and to regularize Neuters of Khalsa land made on or before the issuance of this Ordinance and make provision for grant of Khalsa land in future;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which rendered immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred by section 24 of the Azad Jammu and Kashmir Government Act 1970 and all other powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance :-

1. **Short title, extent and commencement** (i) This ordinance, may be called the Azad Jammu and Kashmir Regularization of Nautors and grant of Khalsa land Ordinance, 1974.

¹ This Ordinance was approved by the Legislative Assembly on 21st August, 1974 and issued as an Act vide No. 2291/SL/74 dated 14 September, 1974, but retained its name as an Ordinance.

(ii) It shall extend to the whole of Azad Jammu and Kashmir

(iii) It shall come into force at once.

Definitions:

2. ¹**Definition.-** In the said Ordinance unless there is

¹ Section 2,3,4,5 & 6 substituted vide Sec 2 of Act XXI of 2121. Original are as:" In this ordinance unless there is anything repugnant in the subject or context :-

(i) "Commissioner, Collector and Revenue Officer" shall have the same meaning as defined in the Land Revenue Act.

(ii) "Demarcated forest" means such area as was under the control of the Forest" Department before the commencement of this ordinance, and such areas as are brought under demarcation in accordance with the provisions of any other law for the time being inforce.

(iii) "Government" means the Azad Government of the State of Jammu and Kashmir.

(iv) "Holding" means a cultivated land holding of a person which shall comprise the proprietary land together with the evacuee land, if any, his possession.

(v) "Khalsa land" means the land which is entered in the revenue record as such or which may be entered as such on any future date under any law but it does not include the demarcated forest and such other lands which are required for Village common purpose.

(vi) "Land owner" shall have the same meaning as defined in the Land Revenue Act.

(vii) "Land Revenue" shall have- the same meaning is defined in the Land Revenue Act.

(viii) "Nautors " means the existing Neuters made out of Khalsa land on or before the issuance of this ordinance or such Nautors which may be sanctioned in future. ¹[(xi)

"Public or Community purposes" means construction of Graveyards, Mosques, or establishment of Orphanage and institutions for free health and free educational facilities or the housing for refugees and landless persons.

(xii) **"Landless Persons"** means a person;

(a) who does not have any land inherited or otherwise in Azad Jammu and Kashmir or Pakistan and who;

(i) has no adequate sources of income;

anything repugnant in the subject or context,-

- (i) “Average Market Price” means price of Khalsa land assessed by Collector of the district for a particular locality in a revenue village on the basis of transactions of sale and purchase of land in that particular locality taken place during a period of three years calculated on 31st December every year.
- (ii) “Commissioner, Collector and Revenue Officer” shall have the same meaning as defined in the Land Revenue Act, 1967 (Act XVII of 1967), as in force in Azad Jammu and Kashmir.
- (iii) “Commercial Land” means Khalsa land which has potential for being utilized for commercial purposes or lands under shops, commercial buildings or buildings used for industrial purposes including lands situated within bazaars or commercial areas in townships.
- (iv) “Residential Land” means Khalsa land which is for the time being under dwellings, houses, courtyards or backyards of such houses or under such buildings used for residential purposes and includes lands situated within residential areas of the townships.
- (v) “Khalsa Land” means the land recorded in the revenue record of an estate as ‘Khalsa Sarkar or Siri Sarkar Daulat-madar or Crown land’ or howsoever worded which denotes that such land vests in the Government but it shall not include any land acquired by the Government for the public purpose under a law relating to Land Acquisition for the time being in force.
- (vi) “Village Common Purposes” includes common grazing lands, public roads, village paths, graveyards, water springs, cattle ponds, villagers

common assembly places, or such other purposes as may, by general usage or customs, established to be common purposes of the villagers or such other purposes as may be prescribed by the Government.

- (vii) "Government" means Azad Government of the State of Jammu and Kashmir.
- (viii) "Government Land" means a land purchased or acquired by the Government to be utilized by the departments or autonomous bodies or authorities, as the case may be, and includes such Khalsa lands which are notified for the purposes of the Government as aforesaid.
- (ix) "Prescribed" means for the purpose of this Ordinance as prescribed by the rules made thereunder.

3. **Conferment of proprietary rights of sanctioned Khalsa Lands.**—Proprietary rights of residential or commercial lands, duly sanctioned on ground rent (teh-zamini) or lease under the Azad Jammu and Kashmir Grant of Khalsa Lands (Ground Rent and Lease) Rules, 1985, or any other Government Order or Standing Order or Notification duly promulgated or issued by the Government, may be granted by the Collector of the District on payment of average market price of the land after clearing all arrears of rent or lease, if any:

Provided that where shops or commercial buildings were constructed on Khalsa lands sanctioned for residential purposes, the grantee or lessee shall be liable to pay rent of the land at commercial rates, for the time being in force, from the date of approval till grant of proprietary rights.

4. **Grant of proprietary rights of illegal houses, shops and structures.**—(1) Proprietary rights of residential or

commercial lands under illegal occupation may be granted up to two kanals, by the Collector of the district, to the occupants who have constructed houses, shops, commercial buildings or other structures thereon, before commencement of the Criminal Law (Fifth Amendment) Act, 2020, on payment of average market price. Before making the grant an additional amount at a rate of five percent of the market price shall also be recovered on account of illegal and unauthorized use of the land.

Provided that any area in excess of two kanals may be transferred to the occupant on payment of market price and surcharge at a rate of ten percent of the market price for illegal occupation.

(2) Any house, shop or other structure constructed on forest land or in violation of laws relating to highways shall not be regularized.

(3) The Collector of the district shall ensure transparent process for grant of propriety rights to the occupants within a maximum period of one month from the date of application of the occupant. Where the Collector is satisfied that the occupant is not willing to acquire propriety rights of land under his possession, he shall eject the occupant and resume the land without any cost or compensation of any improvement.

5. **Ejectment and Recovery of Penal Rent from illegal occupants.-**

(1) Illegal occupant of khalsa land not under residential house or shop or other structure shall be liable to summary ejectment. Every such illegal occupant shall also be liable to pay penal rent to the Government at a rate of one thousand rupees per kanal per year for whole period of illegal occupation under the orders of Tehsildar of the area concerned.

(2) All cases of illegal occupation of Khalsa land shall

be reported by the Field Staff to the Revenue Officer of the Circle who shall forward the same to the Tehsildar for further orders under this Section.

(3) Penal rent directed to be paid under this Section, if not paid within the period specified in the order, shall be recovered as an arrears of land revenue under the Land Revenue Act, 1967 (Act XVII of 1967), as in force in Azad Jammu and Kashmir.

6. **Cancellation of grants of lands obtained by illegal means.-**

(1) Notwithstanding anything contained in the Ordinance or in any other law for the time being in force, when it is proved that any grant of khalsa land on ground rent (teh-zamini), lease or proprietary rights was obtained on the basis of fraud, false information, misrepresentation of fact, cheating or through other illegal means, Commissioner of the Division, after giving an opportunity of being heard to the lessee or as the case may be the grantee, may cancel the grant or allotment and resume possession of the land alongwith all structures thereon free of cost, encumbrance or compensation.

(2) All cases of cancellation of allotments or revocation of grants of khalsa lands after final decision by the Commissioner shall be reported to the Board of Revenue.]

7. **Special grant of Khalsa Land.-** The Government may make special grants of Khalsa land for such purposes on payment subject to such limitations as may be prescribed:

[Provided that Government may dispense with the payment for special grant of Khalsa land made for Public or Community purposes.]

8. **Grant of Khalsa Land on Teh-Zamini.-** Khalsa land may be granted for residential, commercial or industrial purposes on payment of surface rent as may be prescribed from time to time.

¹**[8-A. Ban on grant of Khalsa Land.-**The Government may, if it deems expedient, impose ban on the grant of Khalsa Land under Section 7 or Section 8 of the said Ordinance, for any area or for whole of Azad Jammu and Kashmir for a period as may be specified in the notification to be published in the official gazette. The grant of Khalsa land if made during the continuance of such ban shall be void and carry no legal effect.]

²**[8-B. Prevention of encroachment upon Khalsa Land.-** (1) All Khalsa lands are hereby preserved safe for future public purposes and protected from illegal occupation and unauthorized use thereof.

(2) Where a person encroached upon any Khalsa land by illegal means, a Revenue Officer not below the rank of Tehsildar, shall immediately on receipt of information, summarily eject such person and resume possession of such land without any cost or compensation. The person so ejected shall also be liable to a fine which may extend to fifty thousand rupees.

(3) When a person, ejected under the preceding subsection, reoccupies the said land or a part thereof or any other Khalsa land, a Revenue Officer not below the rank of Tehsildar, shall immediately on receipt of information, summarily eject such person from such land and may also impose a fine which may extend to two hundred thousand rupees.

(4) Fines imposed under this Section, if not paid within the period specified by the ejecting officer, shall be recovered as an arrears of land revenue under the Land Revenue Act, 1967 (Act XVII of 1967), as in force in Azad Jammu and Kashmir.”

¹ Inserted vide Sec 4 of Act X of 2011.

² Inserted vide Sec 7 of Act XXI of 2021.

9. **Appeal, review and revision.**- The provisions of the ^{1**}[West Pakistan Land Revenue Act, 1967] and the rules made thereunder, as in force in Azad Kashmir, shall be applicable in matters of appeal, review, revision and other proceedings, unless otherwise provided in this ordinance.

Provided that only one appeal shall lie against an order or ejectment passed by a Revenue officer.

²[Provided further that all actions taken, notifications issued, orders passed for regularization of nautors, grant of khalsa land and teh zamini under Government Order Nos. 282/57, 65/67 or any other law before the commencement of Azad Jammu and Kashmir Regularization of Nautors and Grant of Khalsa Land Act, 1974 shall be subject to appeal, review and revision under the ^{**}[West Pakistan Land Revenue Act, 1967]

10. **Bar of jurisdiction of Civil Courts.** (1) No civil court shall have jurisdiction on any matter which the Government or any revenue officer is competent to dispose of under this ordinance and shall not take cognizance of the manner in which the Government or any revenue officer exercises any powers vested in it or in him by or under this ordinance or under Government order No. 282/57.

(ii) No civil court shall be competent to issue a temporary in-junction in respect of any matter referred to in subsection (i) above.

11. **Power to make Rules.**-The Government may by notification in the official gazette make rules to carrying out the purposes of this ordinance.

¹ Substituted vide Sec 2 of Act XXXIX of 1994. Original Words : Punjab Land Revenue Act 1887

² Added vide Sec 2 of Act XXIII of 1985.

12. **¹Offences and Penalties.**-(1) Any person who contravenes provisions of sub-section (1) of section 8-B, or disobeys any direction or order made under this Ordinance, or re-occupies any khalsa land, after being ejected under sub-section (3) of Section 8-B, or cuts down or removes trees from any such land or damages any such land by mischievous act, shall be liable to the imprisonment of either description for a term which may extend to three years or with fine which may extend to three hundred thousand rupees or with both.
- (2) No action shall be taken under this Section where criminal proceeding has already been initiated or pending under the Criminal Law (Fifth Amendment) Act, 2020.
- (3) All offenses under this Section shall be cognizable, non-bailable and triable by a Court of Magistrate of first Class under the provisions of Code of Criminal Procedure, 1898 (Act V of 1898), as in force in Azad Jammu and Kashmir.

¹ Substituted vide Sec 8 of Act XXI of 2021. Original sec was:” **Penalties.**- (i) Any person who contravenes any direction or order issued pursuant of the provisions of this ordinance shall be liable to a fine Rs. 200/- to be imposed by the Collector of the district.

(ii) Any person who, without lawful authority, clear or breaks up any land in a Forest or erects a fence or enclosure for cultivation or for any other purpose or otherwise encroaches upon or takes possession of such land by illegal trespass shall be punishable with imprisonment of either description for a term which may extend to three years and with fine.

(iii) Where any person is convicted by a court under this section or under any other law for the time being in force for breaking, clearing or otherwise encroaching upon any land in a forest, such court shall order, his ejection and shall restore possession of such land to the forest officer or other authority entitled to the possession thereof.

(iv) All offences under this ordinance shall be cognizable and bailable. They will be however compounded like any other offence under the Azad Jammu and Kashmir Forest Regulation 1930.

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(4) No Court shall take cognizance of any offence under this Section unless a written complaint is made by an officer not below the rank of Tehsildar.]

13. **Savings.-** The provisions of this ordinance shall not affect the provisions of the Azad Jammu and Kashmir Grant of Khalsa Waste Land as Shamlat Deh Act, 1969.

14. ¹[****]

Sd/-

(Sardar Muhammad Abdul Oayyum Khan)

President,

Azad Govt. of the State of Jammu & Kashmir.

Sd/-

(Malik Mohammad Aslam Khan)

Secretary Law,

Azad Govt. of the State of Jammu and Kashmir

¹ Added vide Sec 5 of Act X of 2011. "5. **Validation.**-If any special grant of Khalsa land has been made before the commencement of this Ordinance for the purposes described herein above, shall always be deemed to have been made under the said Ordinance.