

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Dated: 20th February, 2020

No. LD/Legis-Act/151-62/2020. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 30th January, 2020 and received the assent of the President on the 16th day of February, 2020, is hereby published for general information.

(ACT XII OF 2020)

**An
Act**

to amend and consolidate the law relating to acquisition of land or other properties for public purpose or for companies

WHEREAS, it is expedient to amend and consolidate existing law relating to acquisition of land needed for public purposes or 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 Azad Jammu and Kashmir Land Acquisition Act, 2020.
 - (2) It shall extend to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Act, unless there is anything repugnant to the subject or context;
 - (a) **“Acquiring Agency”** means any department of the Government or any authority created or established by the Government under a statute,

or a ministry or a department of Government of Pakistan or any authority created or established under an Act of Parliament of Pakistan or a Company as defined under clause (e) of this Section for which Land may be acquired under this Act;

- (b) **“Board of Revenue”** means the Board of Revenue established under the Azad Jammu and Kashmir Board of Revenue Act, 1993 (Act III of 1993);
- (c) **“Collector”** means an officer appointed as Collector Land Acquisition by the Government or any officer designated as such to whom powers are delegated by the Azad Jammu and Kashmir Board of Revenue to perform functions of a Collector under this Act;
- (d) **“Commissioner”** means Commissioner of the Division appointed under the West Pakistan Land Revenue Act, 1967 (Act XVII of 1967) as in force in Azad Jammu and Kashmir or any other officer on whom powers are conferred under said Land Revenue Act, to perform functions of the Commissioner;
- (e) **“Company”** means a company registered under the Companies Ordinance, 1984, as in force in Azad Jammu and Kashmir, or a statutory company incorporated by an Act of the Legislature, or a company registered in Pakistan under the law relating to companies and permitted by the Government to carry on its business within Azad Jammu and Kashmir and includes a society registered under the Societies Registration Act, 1860, or registered under Co-operative Societies Act, 1925, as both are in force in Azad Jammu and Kashmir;
- (f) **“Court”** means a Court of District Judge unless the Government has appointed a special judicial officer, within any specified local area for a

particular class of cases, to perform functions of the Court under this Act;

- (g) **“Government”** means the Azad Government of the State of Jammu and Kashmir;
- (h) **“Land”** includes things attached to the earth or permanently fastened to anything attached to the earth and benefits to arise out of the land;
- (i) **“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 also be deemed to be interested in land if he is interested in an easement attached to the land;
- (j) **“Public Purpose”** means a purpose with a primary object to benefit the people, in general, or with an object to benefit a class of people who need resettlement or uplift on account of their displacement in consequence of some natural calamity or execution of some developmental project or scheme funded by the Government or by Government of Pakistan or by any other relief agency having lawful permission.
- (k) **“Prescribed”** means prescribed by the rules made under this Act; and
- (l) **“Rules”** means rules made by the Government under this Act.

3. Acquisition of land by private treaty:-

Notwithstanding anything contained in this Act or in any other law for the time being in force, provisions of this Act shall not be put in force for compulsory acquisition of land for any Acquiring Agency unless it is proved to the satisfaction of the district Collector that acquisition of the land through private treaty was unsuccessful, inexpedient or impracticable.

PART-II
SURVEY, COMPENSATION,
AWARD AND POSSESSION

4. **Publication of preliminary notification and powers of officers thereupon:-** (1) Whenever it appears to the district Collector that land in any locality is needed or is likely to be needed for a 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. Thereupon it shall be lawful for any officer, either general or specially authorized by the district Collector in this behalf, and for his servants and workmen;
- (i) to enter upon and survey and take levels of any land in such locality;
 - (ii) to dig or bore into the subsoil;
 - (iii) to do all other acts necessary to ascertain whether the land is suitable for such purpose;
 - (iv) 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;
 - (v) to mark such levels, boundaries and lines by placing marks and cutting trenches; and
 - (vi) to cut down and clear away any part or any standing crop, fence or jungle where the survey otherwise cannot be completed or the levels taken or the boundaries and lines marked:
- Provided that no person shall enter into any building or upon any enclosed court or garden, attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.
- (2) The officer so authorized shall at the time of such entry pay or tender payment for all necessary damages

caused or to be caused to the standing crops, trees, fences, bushes, land or to the property on account of conduct of preliminary survey as aforesaid. In case of dispute as to sufficiency of the amount so paid or tendered, he shall at once refer the dispute for the decision of the Collector or other chief revenue officer of the district, and such decision shall be final.

(3) Any land lying within the municipal limits of town committees, municipal committees or municipal corporations or land located near rural townships meant for agricultural produce or for fodder or for orchards or for growing vegetables shall not be notified for acquisition for establishment of industrial units:

Provided that where Environmental Protection Agency or any other Authority concerning the environmental protection concurs through a formal "No Objection Certificate" that such industrial unit shall not be injurious to public health or environment, provision of this sub-section shall not apply.

5. Objections to the proposed acquisition:- (1) Any person interested in any land which has been notified under Section 4, may file objections, in writing, before the Collector regarding proposed acquisition of the land within thirty days from the date of issue of the notification.

(2) The Collector shall give the objector an opportunity of being heard, either in person or by pleader, and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for decision of the Commissioner together with record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Commissioner on the objections shall be final. Where land is needed for a Company, the Collector shall, after making such inquiries as he deems necessary, also make his recommendations to the Commissioner with

regard to the size and area that in his opinion is reasonable for the purpose.

(3) If no objection is filed before the Collector within the specified period of thirty days, he shall evaluate the Public Purpose, size and area of the land proposed to be acquired and shall submit his report to the Commissioner for making declaration of intended acquisition within a maximum period of ninety days from the date of notification under Section 4.

6. Declaration of intended acquisition of land for a public purpose and measurement thereof:-

(1) Subject to the provisions contained in this Act when, after considering the report, if any, made under Section 5, the Commissioner is satisfied, that any particular land is needed for a public purpose or for a company, a declaration shall be made to that effect by the Commissioner or by some other officer duly authorized by the Commissioner in this behalf.

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

(3) 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.

(4) The Collector shall thereupon cause the land, unless it has already been 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.

7. Price assessment of land, building and trees etc:- (1)

The Collector, shall work out market price of land to be acquired under this Act keeping in view,-

- (i) classification of land *i.e.* agricultural, residential or commercial;
- (ii) kind of soil where land is agricultural;
- (iii) location of the land where it is residential or commercial; and
- (iv) average market price of similar kind of land located similarly.

(2) Average market price of land to be acquired shall be ascertained on the basis of *bona-fide* transactions of sale and purchase of land taken place, in the same locality, estate or village, as the case may be, within a period of one year preceding the date of issue of notification under Section 4 and where no such transaction is available in such locality, estate or village the land alienation transactions of sale and purchase taken place in the adjoining locality, estate or village may be made basis of such ascertainment.

(3) For purpose of ascertaining average market price of the land, subject to the provisions contained in this Section, unless proved otherwise, all *bona-fide* transactions of sale and purchase of an area;

- (i) up to four marlas shall be deemed to be commercial transactions;
 - (ii) more than four marlas to two kanals shall be considered transactions for residential purpose; and
 - (iii) more than two kanals shall always be deemed to be agricultural transactions.
- (4) For the purpose of this Section;

- (i) all lands under consecutive cultivation till last harvest next preceding to the notification under Section 4 and all cultivable land but unsown for last twelve or less harvest next preceding to the notification, as aforesaid, recorded as Banjar, Bandar Khams or Bandar Jaded, shall be evaluated subject to their kind of soil;
 - (ii) all lands not under cultivation for more than twelve consecutive harvests and recorded as such in the crop inspection register (*Girdawari*), kept with the patwari of the revenue department shall be classed as banjar qadeem and be evaluated accordingly;
 - (iii) all lands which are waste, barren or under roads, tanks, streams, canal, graveyards or other structure or lands which are barren sands or ravines and permanently uncultivable shall be classed as *Ghair-Mumkin* and be evaluated accordingly;
 - (iv) all lands occupied as site of town or village or under the houses or situated within site of a town or village, either cultivated or not, shall be classed as residential and be evaluated accordingly; and
 - (v) all lands situated alongside the roads passing though sites of towns or villages and under direct use for commercial activities or situated in the areas generally used for carrying on commercial activities may be classed as commercial and be evaluated accordingly.
- (5) Cost or price of buildings, houses, wells, tanks, other structures, orchards, fruit trees, ornamental plants, timber or forest trees or bushes or other botanical plants or crops situated in or standing on the land shall be evaluated by the respective professional and technical personnel of the concerned department.

(6) For such assessment as referred to in the preceding sub-section (5), professional and technical members shall be guided by the procedures and principles laid down for similar kind of assessment in the Government departments of public works, agriculture and forestry.

(7) In determining the amount of compensation to be awarded for land to be acquired under this Act, the Collector shall take into consideration;

- (i) 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 taking possession thereof;
- (ii) the damage, if any, sustained by the person interested, at the time of taking possession of the land, by reason of severing such land from his other land;
- (iii) the damage, if any, sustained by the person interested, at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immovable, in any other manner, or earning from such other property;
- (iv) if, in consequence of acquisition of land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;
- (v) the economic loss, if any, sustained by the person interested in case of closure of the business in consequence of acquisition of land which shall always not be more than the net income of one preceding year; and
- (vi) the damage, if any, *bona-fide* resulting from diminution of profits of the land between the time of publication of the declaration under Section 6 and the time of taking possession of the land.

(8) In determining the amount of compensation to be awarded for land to be acquired under this Act, the Collector shall not take into consideration;

- (i) the degree of urgency which has led to the acquisition;
- (ii) any disinclination of the person interested to part with the land acquired;
- (iii) any damage which sustained by him which, if caused by a private person, would not render such person liable to a civil suit;
- (iv) any damage which is likely to be caused to the land acquired, after the date of publication of declaration under Section 6, by or in consequence of the use to which it will be put;
- (v) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;
- (vi) any increase to the value of the other land of the person interested likely to accrue from the use which the land acquired will be put; or
- (vii) any outlay or improvements commenced, made or effected on, or disposal of the land to be acquired without sanction of the Collector after the date of issue of notification under Section 4.

(9) The Collector shall, in addition to the market-value of the land determined as aforesaid, in every case of acquisition of land for a public purpose, award a sum of fifteen per centum on such market-value, in consideration of compulsory nature of the acquisition. Where land is acquired for a company the rate of compulsory acquisition charges shall be twenty five per centum of the market value of the land.

- 8. Determination of compensation and provision of funds thereof:-** (1) After hearing objections, if any, regarding valuation of the land, from the person interested or Acquiring Agency, as the case may be,

made in response to the notices issued under the succeeding section, the Collector shall, subject to the provisions of Section 9, finalize unit price of the land and determine whole amount of compensation thereof.

(2) Price evaluated and compensation determined in accordance with the provisions of this Act shall be approved in the manner as may be prescribed.

(3) The Acquiring Agency shall provide funds to the district Collector required for payment of compensation of the land as determined under sub-section (1) of this Section, who shall place the same at the disposal of the Collector conducting acquisition proceedings which shall, for safe custody, be kept in the official account of the Collector to be maintained with the National Bank of Pakistan or Bank of Azad Jammu and Kashmir, as the case may be.

(4) No award shall be pronounced unless money required for payment of compensation is deposited with the Collector.

9. Notice to persons having interest in the land:- (1)

The Collector shall then cause a public notice to be given at convenient places on or near the land to be taken, stating that on behalf of the Government, the Commissioner 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 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 which shall not be earlier than fifteen days from the date of publication of the notice. The notice shall require the interested persons 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 6. 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, or lawful agents authorized 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.

10. Power to require and enforce the making of statement as to names and interests:-

(1) The Collector shall also serve notice of the enquiry to be held under this Act not less than fifteen days prior to the date fixed under sub-section (2) of Section 9, for determination of claims and objections, on the Acquiring Agency and require it to depute a duly authorized representative to attend the enquiry on its behalf for the purpose of making objections, if any, to the measurement of the land, claims to any interest in the land or the amount of any compensation. The acquiring agency shall be deemed to be a party to the proceedings represented through such authorized agent.

(2) The Collector may also require any person to make or deliver to him, at a time and place mentioned, which shall not be earlier than fifteen days from the date of the requisition, a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, receive or receivable on account thereof for three years next preceding the date of the statement.

(3) Every person required to make or deliver a statement under this Section or Section 9 shall be deemed to be legally bound to do so within the meaning of Section 175 and 176 of the Azad Penal Code, 1860 (Act XLV of 1860).

- 11. Enquiry and award by Collector:-** (1) On the day so fixed, or on any other day to which the enquiry may be adjourned, the Collector shall proceed to enquire into the objections, if any, made pursuant to a notice given under Section 9 to the measurement of the area of land to be acquired made under sub-section (4) of Section 6 and into respective interests of the persons claiming compensation and shall make an award under his hand of true area of the land, the compensation which in his opinion should be allowed and apportionment of the said compensation among all the persons known or believed to be interested in the land of whom or of whose claims, he has information, whether or not they have respectively appeared before him.

(2) In case of large scale acquisition, if Collector does not specify apportionment in the award he shall cause to be prepared village wise apportionment registers which shall be deemed to be integral part of the award.

- 12. Award of the Collector when to be final:-** (1) Award made under Section 11 shall except as hereinafter provided be final and conclusive evidence as among the Collector, the acquiring agency and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and apportionment of compensation among the persons interested which shall be entered in a bound register, to be kept for the purpose in the Collector's office and be numbered consecutively.

(2) The Collector shall give immediate notice of his award to all such persons, individually, in whose name apportionment of compensation has been made and may fix a date therein to open payment of compensation under the award.

(3) Notwithstanding anything contained in the preceding sub-sections or elsewhere in this Act, the Collector shall cause a notice of his award to be affixed or displayed on the conspicuous places of the locality, village or the estate of which land was acquired for general information of the public.

13. **Adjournment of enquiry:-** The Collector may, for the reasons to be recorded, from time to time adjourn the enquiry to a day to be fixed by him.
14. **Power to summon and enforce attendance of witness and production of document:-** For the purpose of inquires 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 applicable, in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), as in force in Azad Jammu and Kashmir.
15. **Power to take possession and vesting of the land:-** 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.
16. **Incorporation of award into the land records:-** (1) On completion of process for taking possession of the land acquired, the Collector shall transmit a certified copy to the Collector of the district in whose jurisdiction acquired land is situated for incorporation of the award into revenue record of the estate concerned.

(2) On receipt of certified copy of the award, the district Collector shall cause it to be incorporated into the revenue record through a mutation to be sanctioned by the revenue officer of the area concerned.
17. **Special powers in cases of urgency:-** (1) In cases of urgency whenever the Commissioner so directs, the Collector, though no such award has been made, may,

on the expiration of fifteen days from publication of the notice under Section 9, take possession of the land needed for public purpose or for a company:

Provided that the Commissioner shall not issue any such direction under this Section unless the acquiring agency has placed funds at disposal of the Collector for payment of compensation of land to be acquired as determined in accordance with the provisions of this Act.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any department of the Government or Government of Pakistan or any authority or company, as the case may be, to take, immediately, possession of any land for the maintenance of vehicular traffic on a public road or for the purpose of making a river side safety bund, the Collector may, immediately after publication of notice under Section 9 and with the previous sanction of the Commissioner, enter upon and take possession of such land:

Provided that the Collector shall not take possession of any building or part of a building under this Section without giving to the occupier thereof at least seventy two hours notice of his intention of doing so, 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 subsections 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. In case such offer is not accepted, the value of such crops and trees and the amount of such other damages, as the case may be, shall be allowed by the Collector while

awarding compensation for the land under the provisions of this Act.

(4) In case of any land to which, in the opinion of the Commissioner, the provisions of this section may be made applicable, the Commissioner may direct that the provisions of Section 5 and 6 shall not apply, and, if he does so direct, a declaration may be made under Section 6 in respect of such land within time stipulated under this Act after publication of notification under Section 4.

PART-III
REFERENCE TO COURT AND
PROCEDURE THEREON

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

Provided that any person who has received compensation in accordance with the apportionment made by the Collector otherwise than under protest, shall not be entitled to make any application under this Section.

(2) The applicant shall prepare separate pleadings addressed to the Court who shall state grounds on which objection or objections to the award are raised which shall be attached with application to be preferred by the person interested under the preceding sub-section:

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 sixty days from the date of the Collector's award; and

(b) Where the interested person was not present at the time of making award or notice was not issued under Section 12, within six months from the date of the Collector's award or from the date of knowledge whichever shall expire earlier.

(3) Subject to the provisions contained in this Act while computing period of limitation provisions of the Limitation Act, 1908 (Act IX of 1908), as in force in Azad Jammu and Kashmir shall apply *mutatis mutandis* to all the proceedings under this Act.

19. Parties to the pleadings: (1) Where pleadings or objections of the applicant filed under Section 18 relate to measurement of the land or area acquired, the applicant shall, in his pleadings prepared under the preceding section, expressly mention the Collector, the acquiring agency and such other persons against whom he claims relief as party to the reference case.

(2) Where pleadings or objections of the applicant filed under Section 18 relate to sufficiency of amount of compensation awarded, the applicant shall, in his pleadings prepared under the preceding section expressly mention, the Acquiring Agency and such other person against whom he claims relief as party to the reference case except the Collector.

(3) Where the pleadings relate to the entitlement of one or more persons for compensation to whom it is payable, or apportionment thereof among the persons interested, all such persons against whom relief is claimed shall be mentioned as parties to the reference case except the Acquiring Agency and the Collector.

20. Collector's statement regarding reference case:- On receiving application under Section 18 for making a reference, the Collector shall prepare para-wise comments and send the same to the Court along with

the reference in light of the pleadings of the person interested in addition to the following information:

- (a) the situation and extent of the land, with particulars of any trees, building or standing crops thereon;
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount awarded for damages and paid or tendered under Section 5 and 17, or either of them, and the amount of compensation awarded under section 11;
- (d) if the objection be to the amount of compensation, ground on which the amount of compensation was determined; and
- (e) schedule giving the particulars of the notices served upon, and the statements, in writing, made or delivered by the parties interested respectively during course of inquiry made under this Act.

21. Filing of reference in the Court:- (1) On receipt of application for reference the Collector shall examine the pleadings and shall ascertain whether the application is within the period allowed under this Act, for filing such applications, and shall file the reference in the Court.

(2) Where the Collector is satisfied that pleadings of the applicant are not in proper form he shall require the applicant to bring his pleadings into proper form and where the period allowed for filing such applications has lapsed he shall dismiss the reference application.

(3) Every reference case shall be filed in the Court within a period of thirty days from the date of receipt thereof in the office of the Collector.

(4) The Court shall, thereupon, cause a notice specifying the day on which the Court will proceed to determine the objection, and direct their appearance

before the Court on that day, to be served on the following persons, namely:-

- (a) the applicant;
- (b) all persons who may be interested in the objection, except such, if any, of them as have consented without protest to receive payment of the compensation awarded;
- (c) where the application relates to measurement of the land or amount of the compensation, the Collector and Acquiring Agency; and
- (d) where application relates to the entitlement or apportionment of compensation among the persons interested, applicant and all such persons against whom relief was claimed.

22. Restriction on scope of proceedings:- (1) The Court shall, before regular hearing of the reference case, hold a preliminary inquiry on the day fixed in the notice issued under the preceding section and shall determine whether the case requires further adjudication keeping in view that inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons to be affected by the objection if not heard and comments offered by the Collector.

(2) Every such proceeding shall take place in open Court, and all persons entitled to practice in any Civil Court in Azad Jammu and Kashmir as pleader or advocate shall be entitled to appear, plead and act, as the case may be, in such proceeding.

23. 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 make

such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

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

24. Form of awards:- (1) Every award under this part shall be in writing, signed by the Judge and shall specify the amount awarded under each clause of Section 7, distinctively, together with the grounds of awarding each of the said amounts.

(2) 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 those are to be paid.

(3) 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 provisions contained in the Code of Civil Procedure, 1908, (Act V of 1908), as in force in Azad Jammu and Kashmir.

(4) Every award of the Court shall be pronounced within a period of one hundred and eighty days from the date of filing of reference application by the Collector.

25. Provision of funds for enhanced compensation:- (1) Where the Court does not uphold award of the Collector and compensation money is enhanced, the Acquiring Agency or Company, as the case may be, shall be bound to deposit the sum enhanced into the Court within a period of one hundred and twenty days from the date of award thereof.

(2) Where Acquiring Agency or Company does not comply with the provisions contained in this section, it shall, in addition to the proceedings which may be initiated against such Acquiring Agency or Company under this Act or under any other law for the time being in force relating to realization of enhanced sum, be

liable to pay an additional amount as fine on such enhanced amount at a rate of ten per centum per annum from the date of its taking possession of the acquired land or other property till the date of payment of such enhanced sum.

(3) Notwithstanding anything contained in any other law for the time being in force, in a case where the proprietary rights over acquired land are retained with the Government and the land is transferred or is made available to a Company, authority, statutory body etc., for perpetual or temporary use, such Company, authority, statutory body etc., shall be responsible to provide the actual or enhanced compensation:

Provided that where such Company, authority, statutory body etc, fails to provide the actual or enhanced compensation funds, such Company, authority, statutory body etc., shall be the sole responsible for all legal consequences:

Provided further that no property of the Government shall be attached in any legal proceeding or in execution of a decree in lieu of nonpayment of amount of award or enhanced compensation; however the government shall be responsible to execute the decrees issued against the company, authority, statutory bodies etc.

26. Payment of Costs:- (1) When award of the Collector is not upheld, the cost of the case shall ordinarily be paid by the Acquiring Agency, 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.

(2) 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 Acquiring Agency shall pay cost on such enhanced amount at the rate of six per centum per annum from

the date on which possession of the land was taken to the date of payment of such excess amount into the Court.

- 27. Reference of disputes to the Court as to title or apportionment:-** When the amount of compensation was settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the person to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

- 28. Realization of money enhanced by the Court:-** Where the Acquiring Agency is failed to deposit sum enhanced, as aforesaid, the Court may effect recovery of such sum from the acquiring agency in accordance with the procedure laid down in the Code of Civil Procedure, 1908, (Act V of 1908), as in force in Azad Jammu and Kashmir, for recovery of moneys from the judgment debtors through execution of decrees of civil courts against officers of the Government:

Provided that no official or officer of the Government shall be liable to arrest and detention in execution of a decree issued under this Act unless it is proved to the satisfaction of the Court that he has personally been defying, or willfully offers obstruction to the execution of, such decree.

Explanation:- For the purposes of this section all persons employed in the service of the Government and responsible for approval, arrangement and provision of enhanced funds shall always be deemed to be judgment debtors.

PART-IV PAYMENT, DEPOSIT AND INVESTMENT OF COMPENSATION MONEY

- 29. Payment of compensation or deposit of same in the Court:-** (1) On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the person interested entitled thereto

according to the award, and shall pay it to them, unless prevented by some one or more of the reasons mentioned in the next sub-section.

(2) If they do 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 may deposit 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.

30. Liability to reimbursement:- (1) Nothing herein contained shall affect the liability of any person who has received the whole or any part of any compensation awarded under this Act, not lawfully entitled thereto, to reimburse the same to the Collector for its payment to the person lawfully entitled thereto.

(2) Where any person liable to reimburse any sum, as aforesaid, does not comply with the provisions of sub section (1) of this Section, the sum so recoverable shall be recovered by the Collector as arrears of land revenue and provisions of West Pakistan Land Revenue, Act, 1967, (Act XVII of 1967) as in force in Azad Jammu and Kashmir shall apply mutatis mutandis.

31. Alternate arrangements in lieu of monetary compensation:- (1) Notwithstanding anything contained in this Act the Collector may, with the sanction of the Commissioner, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of the 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.

(2) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the

Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate:-

If any money shall be deposited in Court under subsection (2) of Section 30 and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall,-

- (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held; or
- (b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court may think fit; and shall direct the payment of proceeds arising from such investment to the person or persons who would, for the time being, have been entitled to possession of the said land, and such moneys shall remain so deposited and invested until the same be applied,-
 - (i) in the purchase of such other lands as aforesaid; or
 - (ii) in payment to any person or persons becoming absolutely entitled thereto.

33. Investment of moneys 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, profit or other proceeds, as the case may be, of any such investment to

be accumulated and paid in such manner as it may consider just which will give the parties interested therein the same benefit there from 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. Indemnification of loss caused by delayed payment:-

(1) When the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay an amount, in addition to the compensation awarded, at a rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited to indemnify the loss caused by delayed payment.

(2) Funds required for indemnification of loss would be provided to the Collector by the Acquiring Agency as determined under the provisions of preceding subsection (1).

**PART-V
TEMPORARY ACQUISITION OF LAND**

35. Temporary occupation of waste or arable Land:- (1)

Subject to the provisions of this Act whenever it appears to the Commissioner that the temporary occupation and use of any waste or arable land is required for any public purpose, or for a Company, the Commissioner may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(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 Court for decision.

36. Power to enter and take possession, and compensation on restoration:- (1) On payment of such compensation, or on executing such agreement or on making a reference under sub-section (3) of Section 36, the Collector may enter upon and take possession of 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 Commissioner shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

(3) 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 Court for decision.

PART-VI ACQUISITION OF LAND FOR COMPANIES

37. Permission for acquisition and survey:- (1) Where a Company make a request for invoking provisions of this Act for acquisition of Land for purposes of a Company, the Commissioner shall cause an investigation to be made by the Deputy Commissioner of the district concerned, regarding entity of the company and feasibility of the project, as ascertained by the

concerned department, permission for establishment of the industry from the Government or concerned ministry of Government of Pakistan, as the case may be, and quantum of land proposed for acquisition. Permission for invoking provisions of this Act may be granted after careful consideration of investigation report, as aforesaid by the Commissioner. Where the Commissioner allows application, the case would be forwarded to the district Collector for further proceedings.

(2) The Commissioner may authorize an officer of the Company desiring to acquire land for its purposes to exercise the powers conferred by Section 4 of this Act.

(3) In every such case Section 4 shall be construed as if for the words for any public purpose the words "for the purposes of company" were substituted; and subsection (2) of section 4 shall be construed as if after the words "he officer" the words "of the company" were inserted.

38. Industrial concern to be deemed company for certain purposes:- An industrial concern ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land be deemed to be a company for the purposes of this part, and the references to company in other provisions of this Act shall be interpreted as references also to such concern.

39. Declaration to be issued after execution of agreement:- (1) Declaration under the provisions contained in Section 6 of this Act to acquire land for a company shall not be issued unless the company shall have executed the agreement hereinafter mentioned.

(2) Where the Commissioner is not satisfied with the report of the Collector furnished under Section 5 of this

Act he may direct an officer to hold any inquiry as hereinafter provide,-

- (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 provisions 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; or
- (c) that the purpose of acquisition is to obtain land for establishment of such an industrial unit which may be proved useful for national economic development.

(3) Such enquiry shall be held by such officer at such time and place as the Commissioner shall appoint. Officer conducting inquiry may summon and enforce the attendance of witnesses and compel 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, 1908 (Act V of 1908), as in force in Azad Jammu and Kashmir in the case of a civil court.

40. **Agreement with Government:-** If the Commissioner is satisfied after considering the report, if any, of the Collector under Section 5 or on the report of the officer making inquiry under the preceding section that the purpose of the proposed acquisition is to obtain land for 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 or that the purpose of acquisition is to obtain land for establishment of such an industrial unit which may be proved useful for economic development, he shall require the company to enter into an agreement with the Government, providing to the satisfaction of the Commissioner for the following matters, namely;--

- (i) the payment to the Commissioner of the cost of the acquisition;
- (ii) the transfer of land to the company on payment of costs;
- (iii) the terms on which the land shall be held by the company;
- (iv) 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;
- (v) where the acquisition is for 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; and
- (vi) where the acquisition is for installation of a useful industrial unit, the time within which, the conditions on which and the manner in which the proposed project would be completed, controlled, managed and run.

- 41. Publication of agreement:-** Every such agreement shall, as soon as may be after execution, be notified and 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 it had formed part of this Act.

PART-VII MISCELLANEOUS

- 42. Sovereign and Proprietary Rights of Government over Acquired Land in certain cases:-** Notwithstanding anything contained in this Act or in any other law for the time being in force, the Government shall have the sovereign and proprietary rights over the land which has been acquired for a

Company, which is not a State Subject within the meaning assigned to this term in the Azad Jammu and Kashmir Interim Constitution, 1974, or Federal Government or a Provincial Government of Pakistan or a Company, authority, statutory body etc., of Pakistan

43. Inquires under the Act to be deemed judicial proceedings: -

(1) Every proceeding by the Collector under this Act shall be deemed to be a “judicial proceeding” within the meaning of Section 193, 219 and 228 of the Azad Kashmir Penal Code, (Act XLV of 1860), and the Collector while holding an inquiry or proceeding with a matter under this Act shall be deemed to be a court for the purposes of such inquiry or proceeding.

(2) Every hearing and decision in such inquiry shall be in public, and the parties or their authorized agents shall have due notice to attend.

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

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

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

Provided that, if the Collector or Judge shall so direct a notice may be sent by post in a registered letter addressed to the person named therein, at his last

known residence, address or place of business, and service of it may be proved by the production of the addressee's receipt.

- 45. Penalty for obstructing acquisition of Land:** - Whoever willfully obstructs any person, in doing any of the acts authorized under this Act, or willfully fills up, destroys, damages or displaces any trench or mark made under Section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding three years, or to fine not exceeding thirty thousand rupees or to both.
- 46. 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 Sub-Divisional Magistrate and such Magistrate or any other Magistrate authorized by him shall enforce the surrender of the land to the Collector.
- 47. Acquisition of partially affected land, 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 further that, if any question shall arise as to whether any land proposed to be taken under this Act, does or does not form part of a house, manufactory or building within the meaning of this Section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined;

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

(2) If any person interested claims compensation on account of severing of the land to be acquired from his other land and the Commissioner is of opinion that the claim is unreasonable or excessive, he may, at any time before the Collector has made his award, order acquisition of 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 shall be necessary, but the Collector shall without delay furnish a copy of the order of the Commissioner to the persons interested, and shall thereafter proceed to make his award under Section 11.

48. 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 of the authority or company as the case may be.

(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.

49. Withdrawal from acquisition before possession:- (1) The Acquiring Agency shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Acquiring Agency withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage sustained by the owner in consequence of the notice or of any proceeding thereunder, and shall pay such amount to the person interested, together with all costs reasonably

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

(3) Other provisions of this Act shall apply mutatis mutandis for determination of the compensation payable under this Section.

(4) Where a possession of Land has been taken over by the Collector in consequence of an award issued under Section 11 of the Act, it may be de-awarded if it is considered expedient by the Government, market value of the Land, determined by the Collector in accordance with the provisions of the Act, shall be realized from the interested person.

50. Disposal of land becoming surplus:- (1) Where any land acquired under this Act for a public purpose or for a company becomes, wholly or partly surplus, the Acquiring Agency with the previous approval of the Government shall hand over the surplus land to the Collector who shall make its disposal in the manner hereinafter provided.

(2) Where compensation of the land has not been paid to the owners the Collector shall restore the land, free of cost and free from encumbrance of all kinds, to its owners or their successors-in-interest, as the case may be.

(3) Where compensation of the land has been paid to the owners the Collector shall restore the land on reimbursement of cost of land excluding compulsory acquisition charges, free from encumbrance of all kinds, to its owners or their successors in interest, as the case may be.

(4) Where compensation of the land has been paid to the owners and all or any of them is not willing to reimburse cost of the land, as aforesaid, the Collector shall dispose of the same to the extent of the share of the owner who declined to reimburse the cost to other willing co-sharers at the prevailing market price and where co-sharers are also not willing to accept offer of

the Collector, he shall be at liberty to dispose of the same through open auction in such manner as may be prescribed.

(5) Where the original land owners or their successors-in-interest were provided alternate land in lieu of compensation of their acquired land, such surplus land shall not be restored to them and it shall be utilized or disposed of by the Board of Revenue in accordance with the policy of the Government regarding disposal and alienation of lands, in vogue.

(6) Where any improvement has been made or any structure has been raised by the company on the land proposed to be disposed of, the permission to sell land may be granted by the Government subject to the condition that the difference in the market value of the land at the time of the sale and the amount of compensation determined at the time of acquisition shall be payable to the original land owners or their successors-in-interest. The sale of such land shall be conducted by the Collector in such manner as may be prescribed.

51. Correction and amendment of award:- (1) 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.

(2) Subject to the provisions contained in the General Clauses Act, 1897 (Act XXXI of 1897), as in force in Azad Jammu and Kashmir, no material change shall be allowed to be made in the award unless it is proved to the satisfaction of the Collector that such material change is expedient to be made in accordance with the facts proved or facts admitted to have occurred or interested persons have agreed expressively to such material change.

(3) Where change is to be made for correction of names of interested persons or persons entitled to the compensation or change is to be brought in the

apportionment thereof, such change shall be incorporated into the record by the Collector through an amending award which shall state reasons therefor. In all other cases no change in the award shall be made without previous approval of the Commissioner.

52. **Penalty for misuse of acquired land:-** Where the land acquired for a company is used for a purpose other than that for which it had been acquired, the same shall be resumed immediately by the Government without any compensation of land or any structure raised thereon and the company shall also be liable to a penalty which may extend to one hundred million rupees to be imposed by the Commissioner.

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

Provided that provisions of this Section shall not apply to the acquisition of land for the Companies.

54. **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 one month's previous notice in writing of the intended proceedings, and of the cause thereof nor after tender of sufficient amends.

55. **Jurisdiction of Courts barred:-** Save as otherwise provided by this Act, no Court shall take cognizance of any case, relating to the land and properties intended to be acquired for public purposes, after issuance of Notification under Section 4 of this Act nor the interim injunction would be issued.

56. **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, 1908 (Act V of

1908), as in force in Azad Jammu and Kashmir shall apply to all proceedings before the Court under this Act.

- 57. Power to make rules:-** (1) The Government shall have power to make rules consistent with this Act for 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) All such rules, alterations and additions shall be published in official Gazette, and shall thereupon have the force of law.

- 58. Pending proceeding to continue:-** For removal of doubts, it is hereby provided that all proceedings pending immediately before commencement of this Act under the Land Acquisition Act, 1894 (Act I of 1894) and rules made there under, or any other law or rules, for the time being in force, shall continue under the said laws and rules, as the case may be.

- 59. Repeal:-** The Land Acquisition Act, 1894 (Act I of 1894) is hereby repealed.

Sd/-
(Gulfranz Ahmed Khan)
Section Officer (Legislation)