

LAND ACQUISITION ACT, 1894
¹ACT No. I OF 1894

[2nd February, 1894]

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

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for

¹For Statement of Objects and Reasons, *see* Gaz. of India, 1892, Pt. V., p. 32; for Report of the Select Committee, *see ibid.*, 1894, Pt. V, P. 23 and for Proceedings in Council, *see ibid.*, 1892, Pt. VI, p. 25, and *ibid.*, 1894, Pp. 19, 24 to 42.

This Act has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3 and Sch. I.

It has also been extended to the Leased Areas of Baluchistan, *see* the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950); and applied in the Federated Areas of Baluchistan, *see* Gaz. of India, 1937, Pt. I, p. 1499.

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

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

It has been amended in the N.W.F.P. by the Land Acquisition (N.W.F.P. Amdt.) Act, 1947 (19 of 1947) and the Land Acquisition (N.W.F.P. Amdt.) Act, 1952, N.W.F.P. Act 9 of 1952.

For modifications in this Act to make provision for the acquisition of land (i) in the Punjab, *see* the Punjab Town Improvement Act, 1922 (Punjab 4 of 1922), s. 59 and Sch., and the Thal Development Act, 1949 (Punjab 15 of 1949), s. 35 and Sch., (ii) in Karachi, *see* the Karachi Improvement Trust Act, 1950 (48 of 1950), s. 72 (a) and Sch.

The Act has further been amended in its application to the Punjab by the Land Acquisition (Punjab Amdt.) Act, 1954 (Punjab Act, 12 of 1954) and Punjab Soil Act, 1952 (12 and 21 of 1952), Sch.

This Act, together with rules, if any, made thereunder as in force for the time being in the Punjab, shall apply to the excluded areas of Dera Ghazi Khan District, *see* Gaz. of Punjab, 1955, Ext., p. 373.

This Act has also been amended in its application to the Province of West Pakistan (except the Capital of the Federation) by West Pakistan Act 16 of 1957, s. 3 (3) and 3rd Sch. (*with effect from the 14th October*, 1955).

This act has also been amended in its application to the Federal Capital, by the Karachi Development Authority Order, 1957 (P.O. 5 of 1957), Art. 95 and Sch.

It has been amended in its application to the Province of West Pakistan by West Pakistan Act, 27 of 1958.

This Act has further been amended in its application to the Province of West Pakistan by W.P. Ord. 1 of 1965 (*with effect from the 13th February*, 1965).

The Act, as in force in the North-West Frontier Province immediately before the commencement of N.W.F.P. Regulation No. II of 1974, has been applied to the Provincially Administered Tribal Areas of Chitral, Dir, Kalam, Swat and Malakand Protected Area, by N.W.F.P. Regulation No. II. of 1974, s. 3.

This Act has also been amended in its application to the Province of West Pakistan, by W. P. Act. No. III of 1969, and by the W.P. Ordinance No. XLIX of 1969.

This Act has been amended to the extent of Islamabad Capital Territory, *see* Ordinance No. 27 of 1981, s. 5 and 4th Sch.

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;

¹[(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 Deputy Commissioner and any officer specially appointed by the ²[Provincial Government] to perform the functions of a Collector under this Act:
- (d) the expression “Court” means a principal Civil Court of original jurisdiction, unless the ²[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 ³Indian Companies Act, 1882(VI of 1882), or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament ⁴[of the United Kingdom]

¹Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (*with effect from the 14th October, 1955*), for the original sub-section (2), as amended by A.O., 1949, Arts. 3 (2) and 4.

²Subs. by A. O., 1937, for “L. G.”.

³See now the Companies Act, 1913 (7 of 1913).

⁴Ins. by A.O., 1961, Art. 2 and Sch. (*with effect from the 23rd March, 1956*).

or ¹[by ⁴[a Pakistan law]], or by Royal Charter or Letters Patent ²[and includes a society registered under the Societies Registration Act, 1860, (XXI of 1860) and a registered society within the meaning of the Co-operative Societies Act, 1912]: (II of 1912).

- (f) the expression “public purpose” includes the provision of village-sites in districts in which the ³[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; ⁴[and]

⁴* * *

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that–

- (i) no person shall be deemed “entitled to act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;
- (ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;
- (iii) the provisions of ⁴[“Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908 (XIV of 1882)] 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

¹The original words “of the G.G. in C.” were first subs. by A.O., 1937, and then amended by A.O., 1949, Sch., to read as above.

²Ins. by the Land Acquisition (Amdt.) Act, 1919 (17 of 1919), s. 2.

³Subs. by A.O., 1937, for “L. G.”.

⁴Subs. added and Omitted by Ord. XXVII of 1981, s. s sch. IV (only to the extent of Islamabad Capital Territory)

- (iv) no person “entitled to act” shall be competent to receive the compensation - money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II ACQUISITION

Preliminary Investigation

¹4. Publication of preliminary notification and powers of officers thereupon.- (1) Whenever it appears to the ²[Provincial Government] that land in any locality ³[is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,—

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

to dig or bore into the subsoil;

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

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

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

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

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

¹As to amendments with which this section should be read when land is required for the purposes of a Company, *see* s. 38 (2), *infra*.
A protected monument may be acquired under this Act as if its preservation were a “public purpose” within the meaning of the Act, *see* s. 10 of the Ancient Monuments Preservation Act, 1904 (7 of 1904).

²Subs. by A.O., 1937, for “L. G.”.

³Ins. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s. 2.

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 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.

¹*[Objections*

5A. 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 further inquiry, if any, as he thinks necessary, submit the case for the decision of the ²[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 ²[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.]

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, ³[when the ²[Provincial Government] is satisfied, after considering the report, if any, made under section 5A, sub-section (2),] that any particular land is needed for a public purpose, or for a Company, a ⁴declaration 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 place where such plan may be inspected.

¹Sub-heading and section 5A ins. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s.3.

²Subs. by A.O., 1937, for "L. G.".

³Subs. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923) , s.4, for "whenever it appears to the L. G.".

⁴For specimen, see Gaz. of P., 1953, Pt. I. p. 233.

(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 ¹[Provincial Government] may acquire the land in manner hereinafter appearing.

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 ¹[Provincial Government], or some officer authorised by the ¹[Provincial Government] in this behalf, shall direct the Collector to take order for the acquisition of the land.

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

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

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

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

(4) In case any person so interested resides elsewhere, and has no such, agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under ²[the Post Office Act, 1898 (VI of 1898)].

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

¹Subs. by A.O., 1937, for "L.G."

² Subs. By Ord. XXVII of 1981, s. 5 & Sch. IV (only to the extent of Islamabad Capital Territory).

thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Pakistan Penal Code(XLV of 1860).

Enquiry into Measurements, Value and Claims, and Award by the Collector.

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

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

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

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

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

14. Power to summon and enforce attendance of witnesses and production of documents. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of a Civil Court under the ²Code of Civil Procedure. [Code of Civil Procedure, 1908 (Act V of 1908)].

¹Ins. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s. 5.

²See now the Code of Civil Procedure, 1908 (5 of 1908).

³ Subs. by Ord. XXVII of 1981, s. 5 & Sch. IV (only to the extent of Islamabad Capital Territory).

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

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 ¹[vest absolutely in the ²[Government]], free from all encumbrances.

17. Special powers in cases of urgency.-(1) In cases of urgency, whenever the ³[provincial Government] so directs, the Collector, though no such award has been made, may, 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 ¹[vest absolutely in the ²[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 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, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the ³[Provincial Government], enter upon and take possession of such land, which shall thereupon ¹[vest absolutely in the ²[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 moveable 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[(4) In the case of any land to which, in the opinion of the ³[Provincial Government], the provisions of sub-section (1) or sub-section (2) are applicable, the ³[Provincial Government]

¹Subs. by A.O., 1937, for "vest absolutely in the Govt."

²Subs. by A.O., 1961, Art. 2, for "Crown" (*with effect from the 23rd March, 1956*).

³Subs. by A.O., 1937, for "L. G."

⁴Sub-section (4) ins. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s. 6.

may direct that the provisions of section 5A shall not apply, and, if it 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 section 4, sub-section (1).].

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 expire².

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 persons whom he has reason to think interested in such land;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

¹For Notifn. directing that ss. 5 and 5A of this Act shall not apply to certain areas of Rawalpindi; see West Pakistan Gazette, 1959, Ext. pp. 705-706.

²Two new sections 18-A and 18-B have been ins. in the N.W.F.P., see the Land Acquisition (North-West Frontier Province Amendment) Act, 1947 (N.W.F.P. Act 19 of 1947).

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

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

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

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 practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

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 ¹[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 the time of the Collector's taking possession of the land, by reason of severing, such land from his other land;
- fourthly* the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, 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 (if any) incidental to such change; and

¹Subs. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s. 7, for "declaration relating thereto under s. 6".

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 every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

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

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

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

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

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

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

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

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected with out the sanction of the Collector after the date of the publication of the ¹[notification under section 4, subsection (1)].

25. Rules as to amount of compensation.-(1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount w 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 not be less than, and may exceed, the amount awarded by the Collector.

¹Subs. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s. S. for "declaration under s. 6".

¹**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 sub-section, together with the grounds of awarding each of the said amounts.

²[(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 (V of 1908).]

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

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

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

PART IV APPORTIONMENT OF COMPENSATION

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

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

¹S. 26 was re-numbered as sub-section (1) of that section by the Land Acquisition (Amdt) Act, 1921 (19 of 1921), s. 2.

²Sub-section (2) ins., *ibid*.

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 some one 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 ¹[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 ²competent to contract in respect thereof.

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

- (a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

¹ Subs. by A.O., 1937, for "L. G."

As to persons who are competent to contract, *see* s. 11 of the Contract Act, 1872 (9 of 1872).

- (b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the court shall think fit;

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

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

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

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

33. Investment 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 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.

PART VI TEMPORARY OCCUPATION OF LAND

35. Temporary occupation of waste of arable land Procedure when difference as to compensation exists.-(1) Subject to the provisions of Part VII of this Act, whenever it appears to the ¹[Provincial Government] that the temporary occupation and use of any waste or arable land are

¹ Subs. by A.O., 1937, for "L. G.".

needed for any public purpose, or for a Company, the ¹[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.

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

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

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the ¹[provincial Government] shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

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

PART VII

ACQUISITION OF LAND FOR COMPANIES

38. Company may be authorised to enter and survey.-(1) 2* * * The ¹[Provincial Government] may authorise any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

¹Subs. by A. O. 1937, for "L. G.".

²The words "Subject to such rules as the G.G. of India in C. may from time to time prescribe in this behalf" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 aa. Sch. I

(2) In every such case section 4 shall be construed as if for the words “for such purpose” the words “for the purposes of the Company” were substituted; and section 5 shall be construed as if after the words “the officer” the words “of the Company” were inserted.

¹**[38A. Industrial concern to be deemed Company for certain purposes.** An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 5A, 6, 7, 17 and 5O shall be interpreted as references also to such concern.]

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 ²[Provincial Government] nor unless the Company shall have executed the agreement hereinafter mentioned.

40. Previous enquiry.-(1) Such consent shall not be given unless the ²[Provincial Government] be satisfied, ³[either on the report of the Collector under section 5A, sub-section (2), or] by an enquiry held as hereinafter provided,-

- ⁴[(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 ²[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 ⁵Code of Civil Procedure (XIV of 1882) in the case of a Civil Court.

41. Agreement with Provincial Government. ⁶* * * If the ²[Provincial Government] is satisfied ⁷[after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making

¹S. 38A ins. by the Land Acquisition (Amdt.) Act, 1933 (16 of 1933), s.6.

²Subs. by A.O., 1937, for “L. G.”.

³Ins. by the Land Acquisition (Amdt.) Act, 1923 (38 of 1923), s. 9.

⁴Subs. by Act, 16 of 1933, s. 3, for the original clauses (a) and (b).

⁵See now the Code of Civil Procedure, 1908 (5 of 1908).

⁶The words “Such officer shall report to the L. G. the result of the enquiry, and” rep. by Act, 38 of 1923, s. 10.

⁷Ins. *ibid.*

an inquiry under section 40] that ¹[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 ²* * * require the Company to enter into an agreement ³[with the Provincial Government], providing to the satisfaction of the ⁴[Provincial Government] for the following matters, namely :-

- (1) the ⁵[payment to the Provincial Government] of the cost of the acquisition;
- (2) the transfer, on such payment, of the land to the Company;
- (3) the terms on which the land shall be held by the Company;

⁶[(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].

42. Publication of agreement. Every such agreement shall, as soon as may be after its execution, be published ⁷* * * in the ⁸[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.

⁹* * * * *

¹Ins. by the Land Acquisition (Amdt.) Act, 1933 (16 of 1933), s. 4.

²The words "subject to such rules as the G.G. in C. may from time to time prescribe in this behalf" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

³Subs. by A.O., 1931, for "with the Secretary of State for India in Council".

⁴Subs. *ibid.*, for "L. G."

⁵Subs. *ibid.*, for "payment to Govt."

⁶Subs. by Act 16 of 1933, s. 4, for the original clauses (4) and (5).

⁷The words "in the Gazette of India and also" rep. by A.O., 1937.

⁸Subs. *ibid.*, for "local official Gazette".

⁹Subs. by Ord. XXVII of 1981, s. 5 and Sch. IV (only to the extent of Islamabad Capital Territory).

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 proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII MISCELLANEOUS

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

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

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

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under ²[Post Office Act, 1898 (VI of 1898)], 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.

¹This section has been amended in N.W.F.P. by the Land Acquisition (North-West Frontier Province Arndt.) Act, 1947 (N.W.F.P. Act 19 of 1947).

²Subs. by Ord. XXVII of 1981, s. 5 and Sch. IV (only to the extent of Islamabad Capital Territory).

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^{1***} and such Magistrate,^{2***} 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 costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

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

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

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

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

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

(2) If, in the case of any claim under Section 23, sub-section (1) thirdly, by a person interested, on account of the severing of the land to be acquired from his other land, the ³[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.

¹ The words and brackets "or (within the towns of Calcuta, Madras and Bombay) to the Commissioner of Police" Omitted by A.O , 1949m Sch.

² The words and brackets "or Commissioner (as the case may be)" Omitted , ibid,

³Subs. by A. O., 1937, for "L. G."

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under Sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the ¹[Provincial Government] to the person interested and shall thereafter proceed to make his award under Section 11.

50. Acquisition of land at cost of a local authority or Company.-(1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental .to such acquisition shall be defrayed from or by such fund or Company.

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

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

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

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

53. Code of Civil Procedure to apply to proceedings before Court. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the ²Code of Civil Procedure(XIV of 1882), 1908 (V of 1908) shall apply to all proceedings before the Court under this Act.

³**54. Appeals in proceedings before the Court.** Subject to the provisions of the Code of Civil Procedure, 1908 (V of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary contained in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to ⁴[the Supreme Court] subject to the Provisions ⁵[of article 185 of the Constitution].

¹ Subs. by A.O. , 1937, for "L.G".

² See now the Code of Civil Procedure, 1908 (5 of 1908).

³Subs. by S. 3 of the Land Acquisition (Amendment) Act, (10 of 1921), for the original section.

⁴Subs. by A.O., 1961, Art. 2 and Sch., for "His Majesty-in-Council".(with effect from the 23rd March, 1956).

⁵Subs. By Ord. XXVII of 1981, s.5, and Sch. IV (only to the extent of the Islamabad Capital Territory).

55. Power to make rules.-(1) The ¹[Provincial Government] shall ²* * * have power to make ³rules 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.

4* * * * *

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

(3) All such rules, alteration and additions shall ⁵* * * be published in the official Gazette, and shall thereupon have the force of law.

¹Subs. By A.O., 1937, for "L.G.

²The words "subject to the control of the G.G. in C." which had been ins. By the Decentralization Act, 1914 (4 of 1914), were rep. By the Devolution Act, 1920 (38 of 1920), s.2 and Sch. I.

³For rules made under this section, see different local rules and Orders.

⁴The proviso, which had been added by s.2 and Sch. I of the Devolution Act, 1920 (38 of 1920), was rep. by A.O 1937.

⁵The words "when sanctioned by the G.G in C.," were rep. by the Decentralization Act, 1914 (4 of 1914), were rep. By the Devolution Act, 1920 (38 of 1920), s.2 and Sch. I, s.2 and Sch., Pt. I