



THE REQUISITIONED LAND (CONTINUANCE OF POWERS) ORDINANCE, 1969



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THE PAKISTAN CODE

THE REQUISITIONED LAND (CONTINUANCE OF POWERS)

ORDINANCE, 1969

ORDINANCE NO. II OF 1969

[16th February, 1969]

AN

ORDINANCE

to provide for the continuance of certain emergency powers in relation to requisitioned land

WHEREAS it is expedient to provide, in relation to land which, when the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), ceases to have effect under clause (7) of Article 30 of the Constitution, is subject to any requisition effected under any rule made under the said Ordinance, for the continuance of certain powers therefor, exercisable under the said Ordinance or the said rules;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter;

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

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 29 of the Constitution, read with clause (2) of Article 131 thereof, and of all other powers enabling him in that behalf, the President in pleased to make and promulgate the following Ordinance:—

1. Short title and commencement.— (1) This Ordinance may be called the Requisitioned Land (Continuance of Powers) Ordinance, 1969.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the date on which the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), ceases to have effect under clause (7) of Article 30 of the Constitution.

2. Definitions.— In this Ordinance, unless there is anything repugnant in the subject or context,—

- (a) “appropriate Government” means, in relation to any requisitioned land, the¹[Federal] or Provincial Government by which or under the authority of which the land has been requisitioned;
- (b) “requisitioned land” means immovable property which at the commencement of this Ordinance is subject to any requisition effected under the rules made under the Defence of Pakistan Ordinance, 1965 (XXIII of 1965).

¹ Subs. by Federal Adaptation of Laws Order, 1975, (P.O No. 4 of 1975), Art 2 and Table.

3. Continuance of requisitions.—Notwithstanding the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), and the rules made thereunder ceasing to have effect, all requisitioned lands shall continue to be subject to requisition and the appropriate Government may use or deal with any requisitioned land in such manner as may appear to it to be expedient :

Provided that the appropriate Government may at any time release from requisition any requisitioned land.

4. Release from requisition. —(1) Where any requisitioned land is to be released from requisition, the appropriate Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person to whom possession of the land shall be given.

(2) The delivery of possession of the requisitioned land to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the appropriate Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and publish the notice in the official Gazette.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

5. Power to acquire requisitioned land. —(1) Subject to the provisions of sub-section (3), the appropriate Government may, at any time when any requisitioned land continues to be subject to requisition under section 3, acquire such land by publishing in the official Gazette a notice to the effect that such Government has decided to acquire such land in pursuance of this section.

(2) When a notice as aforesaid is published in the official Gazette, the requisitioned land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the appropriate Government free from all encumbrances and the period of requisition of such land shall end.

(3) No requisitioned land shall be acquired under this section except in the following circumstances, namely:—

- (a) where any works have during the period of requisition been constructed on, in or over the land wholly or partly at the expense of Government and the appropriate Government decides that the value of, or the right to use, such works should be preserved or secured for the purposes of Government; or
- (b) where the cost of restoring the land to its condition at the time of its requisition would, in the determination of the appropriate Government, be excessive having regard to the value of the land at that time and the owner

declines to accept the release from requisition of the land without payment of compensation from Government.

(4) Any decision or determination of the appropriate Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3), “works” includes buildings, structures and improvements of every description.

6. Payment of compensation. —(1) In respect of the continued subjection of requisitioned land to requisition under this Ordinance, compensation shall be determined and paid in accordance with the provisions of section 18 of the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), and of the rules made thereunder :

Provided that all agreements and awards under the said section in respect of the payment of compensation for the period of requisition before the commencement of this Ordinance shall continue to be in force and shall apply to the payment of compensation for the period of requisition after such commencement.

(2) In respect of any acquisition of requisitioned land under this Ordinance, there shall be paid compensation the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say—

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the appropriate Government shall appoint as arbitrator a person who has been, or is qualified for appointment as, a Judge of a High Court;
- (c) the appropriate Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;
- (d) at the commencement of the proceedings before the arbitrator, the appropriate Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;
- (e) the arbitrator in making his award shall have regard to —
 - (i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894), so far as the same can be made applicable; and
 - (ii) whether the acquisition is of a permanent or temporary character:

Provided that, where any property requisitioned under any rule made under the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), is subsequently acquired under section 5 of this Ordinance, the arbitrator in any proceedings in connection with such acquisition shall, for the purposes of the provisions of the said section 23 of the Land Acquisition Act, 1894 (I of 1894), take

into consideration the market-value of the property at the date of its requisition as aforesaid and not at the date of its subsequent acquisition;

- (f) an appeal shall lie to the High Court against any award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the appropriate Government; and
- (g) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(3) The appropriate Government may make rules for the purpose of carrying into effect the provisions of this section.

(4) For the purposes of sub-section (1), all the provisions of section 18 of the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), and of the rules made thereunder, and for the purposes of sub-section (2) such of those provisions as relate to matters of procedure, shall be deemed to be continuing in force.

7. Power to obtain information.—(1) The appropriate Government may, with a view to carrying out the purposes of section 3 to 6, by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to any requisitioned land as may be specified.

(2) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Pakistan Penal Code (Act XLV of 1860).

8. Delegation of functions.—The appropriate Government may, by order notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Ordinance shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

9. Indemnity.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.

10. Savings.—Notwithstanding the Defence of Pakistan Ordinance, 1965 (XXIII of 1965), ceasing to have effect, anything done, action taken, obligation or liability incurred, proceeding commenced and any appointment of an arbitrator or other person and any rule made under section 18 of the said Ordinance shall, so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done, taken, incurred, commenced or made under this Ordinance.