

THE ¹[KHYBER PAKHTUNKHWA]

KATCHI ABADIS ACT, 1996.

²[KHYBER PAKHTUNKHWA] ACT NO. VI OF 1996.

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Appointment of Director General.
4. Powers and functions of the Director General.
5. Constitution of Implementation Committee.
6. Declaration of Katchi Abadis and acquisition of land.
7. Schemes.
8. Shifting of occupants of Katchi Abadis.
9. Katchi Abadis Fund.
10. Loans, Grants, Aid and Gifts.
11. Custody and Investment.
12. Utilisation of the fund.
13. Accounts.
14. Audit.
15. Betterment Fee.
16. Delegation of Powers.

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

17. Committee.
18. Powers of Government to give directions.
19. Offences and their cognizance.
20. Validation.
21. Power to make Rules.
22. Removal of difficulties.

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KATCHI ABADIS ACT, 1996.**

²[KHYBER PAKHTUNKHWA] ACT NO. VI OF 1996.

[First published after having received the assent of the Governor of the ³[Khyber Pakhtunkhwa] in the Gazette of ⁴[Khyber Pakhtunkhwa] (Extraordinary), dated the 28th July, 1996]

**AN
ACT**

to make provisions for regularisation, development and improvement of Katchi Abadis in the Province of North West Frontier.

Preamble:—WHEREAS it is expedient to make provisions for regularisation of Katchi Abadis in the Province of North- West Frontier and to provide for development and improvement thereof;

It is hereby enacted as follows:-

1. Short title, extent and commencement:—(1) This Act may be called the ⁵[Khyber Pakhtunkhwa] Katchi Abadis Act, 1996.

(2) It shall extend to the whole of the Province of North- West Frontier.

(3) It shall come into force at once.

2. Definitions:—(1) In this Act, unless the context otherwise requires,-

(a) "Council" means a Local Council constituted under the ⁶[Khyber Pakhtunkhwa] Local Government Ordinance, 1979;

(b) "Commissioner" means the Commissioner of a Division;

(c) "Committee" means an Implementation Committee constituted under section 5 of this Act;

(d) "Development Authority" means a Development Authority constituted under any law for the time being in force;

(e) "Division" means an area notified as Division under section 5 of the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967);

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (f) "dwelling unit" means a house or a similar structure, built of any material, and used wholly or partially for human habitation;
- (g) "Government" means the Government of the North-West Frontier;
- (h) "Katchi Abadi" means any area declared as such under section 6 of this Act;
- (i) "prescribed" means prescribed by rules made under this Act; and
- (j) "rules" means rules made under this Act.

(2) Words and expressions not defined in this Act shall, unless the context otherwise requires, have the meanings assigned to them in the ¹[Khyber Pakhtunkhwa] Local Government Ordinance, 1979 ²[Khyber Pakhtunkhwa] Ord. IV of 1979).

3. Appointment of Director General:—(1) There shall be appointed by Government a Director General for carrying out the purposes of this Act.

(2) The Director General may be provided with such officers and staff as is considered necessary by Government for the efficient performance of the functions of the Director General.

(3) Till such time as the Director General is appointed under sub-section (1), every Commissioner, in respect of Katchi Abadi in the Division concerned, shall exercise all the powers and perform all the duties and functions of the Director General conferred on, or assigned to him under this Act.

4. Powers and functions of the Director General:—(1) Subject to the provisions of this Act and general control of Government, the Director General shall exercise such powers and perform such functions and duties as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provisions, the Director General shall—

- (i) implement policies formulated by Government for the regularization, development and improvement of a Katchi Abadi;
- (ii) lay down guidelines for the implementation of such policies by the concerned authorities;
- (iii) identify an area to be declared as a Katchi Abadi under this Act;

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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- (iv) arrange or carry out detailed physical survey and census of occupants of Katchi Abadis and prepare or cause to be prepared plans and amelioration plans and designs of infrastructural works in connection with the regularisation and development of the Katchi Abadis;
- (v) formulate development and financial programmes in respect of Katchi Abadis and determine implementation strategy of such programmes;
- (vi) oversee the operation of the fund;
- (vii) acquire, hold, control and administer movable or immovable property or dispose of such property;
- (viii) prepare or cause to be prepared schemes and execute or cause to be executed such schemes;
- (ix) undertake, where necessary, low cost housing and redevelopment schemes for resettlement of shiftees from Katchi Abadis and the areas which are not regularisable as Katchi Abadis;
- (x) enter into and perform contracts;
- (xi) incur expenditure for carrying out the purposes of this Act;
- (xii) arrange civic amenities and civic services in Katchi Abadis through the Local Councils, other concerned agencies or donor agencies of Pakistan or foreign origin;
- (xiii) inspect or cause to be inspected the development schemes of Katchi Abadis and may issue such instructions as may be necessary with regard to the sanctioning and preparation of such schemes;
- (xiv) call for the record of any of the proceedings of an implementation Committee and subject to the prior approval of Government, alter its decisions if deemed proper;
- (xv) evict or cause to be evicted unauthorised persons or remove or cause to be removed encroachments from Katchi Abadis in accordance with the law for the time being in force;
- (xvi) decide, with the prior approval of Government, all disputes between an Implementation Committee and local authorities with regard to survey lists, fixation of market price of the land and all matters concerning the regularisation or development of Katchi Abadis; and

- (xvii) issue directions with regard to survey lists, fixation of market price and development charges.

5. Constitution of Implementation Committee:—(1) There shall be an Implementation Committee in each Development Authority or Council in which a Katchi Abadi is located.

(2) The Committee shall consist of a Chairman and such other members as Government may appoint.

(3) The Committee may co-opt any person as its member for any particular purpose.

(4) The Committee shall —

- (i) assist Government and the Director General in the performance of their functions under this Act;
- (ii) be responsible for effective co-ordination of the activities pertaining to Katchi Abadis with those of the concerned agencies in the respective areas;
- (iii) ensure prevention of encroachments in Katchi Abadis;
- (iv) take such steps as may be necessary or conducive to the attainment of the objective of this Act; and
- (v) perform such other functions as may be assigned to it by Government.

(5) The Committee shall function in such manner as Government may specify.

6. Declaration of Katchi Abadis and acquisition of land:—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5) and the direction, if any of Government, the Director General may after such enquiry as he deem fit, and after obtaining Government's specific permission, by notification in the official Gazette declare any area or part thereof which was occupied unauthorisedly before the 23rd of March, 1985, and continue to be so occupied and has at least forty dwelling units on it to be a Katchi Abadi:

Provided that Government may, by notification from time to time, redetermine the number of dwelling units for the purpose of declaration of a Katchi Abadi.

(2) No area belonging to the Federal Government or any authority or Corporation or body established or controlled by the Federal Government shall be declared as Katchi Abadi without the consent of the Federal Government.

(3) Except as otherwise provided, no area owned by a person or a society shall be declared as Katchi Abadi, except with the consent of such person or society and the Katchi Abadi

so declared shall be subject to such terms and conditions as may be agreed to between such person or, as the case may be, the society and the Director General.

(4) Except as otherwise directed by Government, no area which is reserved for the purposes of roads, streets water supply arrangements, sewerage or other conservancy arrangements, hospitals, schools, colleges, libraries, playgrounds, gardens, mosques, graveyards, railways, high tension lines, or similar other purposes or is not safe from flood hazard, shall be declared to be a Katchi Abadi.

(5) Where Government is of the opinion that the area referred to in sub-section (3) cannot be acquired by consent or agreement, the area may be acquired under the provisions of the Land Acquisition Act, 1894 (I of 1894).

7. Schemes:— (1) The Director General shall prepare or cause to be prepared schemes for development, improvement or regularization of Katchi Abadis, including the grant of proprietary rights in Katchi Abadis to the dwellers thereof and the schemes so prepared shall have effect on being sanctioned by Government.

(2) The scheme may relate to—

- (i) community planning, housing, re-housing, including low cost housing and amelioration;
- (ii) rehabilitation of occupants of Katchi Abadis in the same Katchi Abadis, or, where it is not possible, in some other area or locality;
- (iii) community facilities including water supply, sewerage disposal, electricity supply, gas and other public utilities or amenities;
- (iv) roads and streets; and
- (v) any subject or matter incidental or ancillary to the purposes of this Act.

(3) Government may, by notification in the official Gazette, alter or amend the list of subjects given in sub-section (2) and any such addition or modification shall take effect as if it had been enacted in this Act.

(4) All schemes shall be prepared in such manner and form as Government may specify, and shall contain, among other things, the following information, namely:-

- (i) description of the scheme and the manner of its execution;
- (ii) estimate of cost and benefits;
- (iii) allocation of cost to the various purposes to be served by the scheme;

- (iv) date of commencement; and
- (v) date of completion.

(5) At any time after sanctioning of any scheme but before its completion, Government may, on its own motion or on the recommendation of the Director General, alter it.

(6) The Director General, and if so directed by him, the concerned Development Authority or Council shall execute or cause to be executed the sanctioned schemes and take such measures and exercise such powers including the power of removal of encroachments in accordance with the law for the time being in force as may be necessary for the purpose.

8. Shifting of occupants of Katchi Abadis:—(1) Occupants of any Katchi Abadi may, with the prior approval of Government, be shifted by the Director General in the land under a Katchi Abadi or a part thereof—

- (a) is not transferred by the owner of the land; or
- (b) is required for providing civil amenities in the Katchi Abadis; or
- (c) is low-lying and its development is not economical; or
- (d) is required for any public purpose.

9. Katchi Abadis Fund:—(1) There shall be a separate fund of each concerned to be known as Katchi Abadis Fund.

(2) The fund shall consist of—

- (a) grants and subsidy received from the Federal Government, the Provincial Government or any Local Authority;
- (b) loans raised or obtained by the Development Authority or the Council;
- (c) contributions or donations, aid or gifts received by the Director General, the Development Authority or Council for a particular Katchi Abadis; and
- (d) price of land and development charges, recovered under this Act and other charges, if any, for services rendered by the Development Authority or the Council.

10. Loans, Grants, Aid and Gifts:—The Director General may with the previous sanction of Government and on such terms and conditions as may be approved by Government, obtain—

- (a) loans from banks and other sources for carrying out the purposes of this Act; and

(b) grants, aids, gifts from donor agencies.

11. Custody and Investment:—The amounts credited in the fund shall be operated, kept and invested in such manner as may be prescribed.

12. Utilisation of the fund:—The amount credited in the fund shall be utilised for carrying out the purposes of this Act.

13. Accounts:—(1) The accounts of the fund shall be maintained in such manner and form as may be prescribed.

(2) An annual statement of the accounts shall be prepared by the Development Authority or Council after the close of every financial year and shall be transmitted to the Director General by such date as may be prescribed.

14. Audit:—The accounts of the fund shall be audited by such Audit Agency as may be prescribed.

15. Betterment Fee:—(1) Where Government is of the opinion that in consequence of the execution of any scheme the value of any property involved in such scheme has increased or will increase, it may levy upon such property a betterment fee and collect or cause to be collected the same from the owner thereof or any person in possession thereof or having interest therein.

(2) The betterment fee shall be levied at such rate as may be determined by the Government;

Provided that such fee shall not be more than half of the amount by which the value of the property on the completion of the execution of the scheme exceeds the value of the property prior to such execution.

(3) When it appears to Government that any scheme is sufficiently advanced to enable the determination of the betterment fee, Government may, by an order made in this behalf, declare that for the purpose of levying the betterment fee the execution of the scheme shall be deemed to have been completed and thereupon give notice in writing to the owner of the property or any person in possession thereof or having interest therein that Government proposes to determine the betterment fee in respect of such property.

(4) Government shall at the expiry of fifteen days after the service of the notice under sub-section (3) or if any representation is received by Government against the determination of betterment fee, after decision on such representation, proceed to levy and collect or cause to be collected betterment fee in such manner and in accordance with such procedure as may be prescribed.

16. Delegation of Powers:—(1) Government may delegate any of its powers under this Act to the Director General.

(2) The Director General may, with the previous approval of the Government and subject

to such conditions as it may impose, delegate to any person, agency or authority any of his powers, duties or functions under this Act not being the powers delegated to him under sub-section (1).

17. Committee:—The Director General may constitute financial, technical or advisory Committees with such constitution and functions as Government may specify.

18. Powers of Government to give directions:—(1) Government may, from time to time, give such directions as it considers necessary for the guidance and compliance by the Director General.

(2) Government may require the Director General, the Development Authority or the Council to furnish to it any document, return, statement or any other information regarding any matter under this Act, and the Director General, Development Authority or the Council shall comply with such requirements.

19. Offences and their cognizance:—(1) Whoever obstructs or causes to obstruct any person in the discharge of his duties or execution of any scheme or work under this Act or contravenes, attempts to contravene or abets the contravention of the order or direction given under this Act or rules in connection with the execution of such scheme or work shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing made by Government, the Director General or by a person duly authorized by it or him in this behalf.

(3) No court, inferior to that of a Magistrate of the First Class, shall be competent to take cognizance of an offence under this Act.

20. Validation:—All appointments or regulations made, notifications, order, instructions or notices issued, Katchi Abadis declared schemes prepared, or caused to be prepared, surveys, conducted or caused to be conducted, contracts entered into rights acquired or granted, claims made, proceedings or actions taken before the commencement of this Act by Government or any officer or authority in exercise of powers derived from Government with regard to regularisation or development of Katchi Abadis shall be deemed to have been respectively made, issued declared prepared or caused to be prepared, conducted, caused to be conducted, entered into, acquired, granted, made or taken under this Act.

21. Power to make Rules:—Government may make rules for carrying out the purposes of this Act.

22. Removal of difficulties:—If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such orders as may appear necessary or expedient for the purpose of removal of the difficulty.

BY ORDER OF MR. SPEAKER,
PROVINCIAL ASSEMBLY OF
1[KHYBER PAKHTUNKHWA]

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.