

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 23TH JULY, 2020.

GOVERNMENT OF KHYBER PAKHTUNKHWA REVENUE AND ESTATE DEPARTMENT

NOTIFICATION

Dated Peshawar, the 22nd July, 2020.

No. REV:V/4/B.J/2019/1726-72.— In exercise of the powers conferred by sub-section (1) of section 55 of the Land Acquisition Act, 1894 (Act No. I of 1894) and having fulfilled the requirements of previous publication, in terms of sub-section (2) thereof, the Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:

THE KHYBER PAKHTUNKHWA LAND ACQUISITION RULES, 2020

PART - I

GENERAL

1. **Short title and commencement.**— (1) These rules may be called the Khyber Pakhtunkhwa Land Acquisition Rules, 2020.
(2) They shall come into force at once.
2. **Definitions.**— (1) In these rules unless the context otherwise requires,-
 - (a) "Act" means the Land Acquisition Act, 1894 (Act No.1 of 1894);
 - (b) "Acquiring Agency" means the public or Governmental body which has the authority to acquire land under the Act and these rules;
 - (c) "Acquiring Department" means the Department, local authority, or Government organization for which land is being acquired under the Act;

- (d) "Company" means a company registered under the Companies Act, 2017 (Act No. XIX of 2017) or any other law for the time being in force relating to the registration of companies, and includes both a public and a private company;
- (e) "Provincial Government" means the Government of Khyber Pakhtunkhwa; and
- (f) "Revenue and Estate Department" means the Revenue and Estate Department, Government of Khyber Pakhtunkhwa.

(2) The words and expressions used, but not defined, in these rules shall have the same meanings as are respectively assigned to them in the Act.

PART-II

A. COMPULSORY ACQUISITION

3. **Application for acquisition.**--- The Acquiring Department shall submit an application to the Collector concerned for the acquisition of land under the Act, given full justification of the public purpose involved and the area required by it, with full details of all other area owned by it in the same locality.
4. **Procedure on application.**--- On receipt of the application under rule (3), the Collector shall examine its feasibility taking into consideration the genuineness of the public purpose involved, the requirements of the Acquiring Department and suitability of the area proposed for acquisition keeping in view its alternate uses, if any.
5. **Procedure for issuance of notification under section 4 of the Act.**--- (1) Where after the examination of feasibility under rule 4, the Collector, is of the view that the land may be acquired for the Acquiring Department, he shall issue a notification under section 4 of the Act stating clearly the name of the revenue estate or locality, tehsil, details of the dimensions and boundaries of square of rectangles, field numbers and the approximate area to be acquired.
 (2) After the issue of a notification under section 4 of the Act, the Collector shall take immediate necessary steps to have the area surveyed and submit his report to the Commissioner not later than fifteen (15) days from the date of publication of the notification under section 4 of the Act.
6. **Procedure for issuance of notification under section 5 of the Act.**--- (1) Where the land is to be acquired for a public purpose, the Commissioner shall issue a notification under section 5 of the Act, not later than fifteen (15) days from the date of the publication of the notification under section 4 of the Act. If no notification is issued under section 5 of the Act within the period as given above, the Commissioner shall, immediately report the matter to the Revenue and Estate Department for extension of time

(2) In the absence of the Commissioner, the Revenue and Estate Department

may in its discretion extend the time for the issue of a notification under section 5 of the

Act, which shall not exceed a period of fifteen (15) days from the date of publication of the

notification under section 4 of the Act.

(3) If the Revenue and Estate Department declines to grant the extension

required for or if the Commissioner fails to issue a notification under section 5 of the

Act within the period specified in sub-rule (1), the Commissioner shall immediately

report the matter to the Revenue and Estate Department for extension of

time

and the period of time specified in sub-rule (1) shall be deemed to have expired.

(2) On the request of the Commissioner, the Revenue and Estate Department may, in its discretion, extend the time for the issue of a notification under section 5 of the Act, which shall not be more than fifteen (15) days in total.

(3) If the Revenue and Estate Department declines to grant the extension requested for or if the Commissioner fails to issue a notification under section 5 of the Act within the extended period, the acquisition proceedings shall be deemed to have come to an end:

Provided that any time spent in the prosecution of a judicial remedy shall be excluded from the said period.

7. **Declaration under section 6 of the Act.**--- After notification under section 5 of the Act, the Commissioner shall, within thirty (30) days, issue declaration under section 6 of the Act, and if no declaration is issued within the said period, the acquisition proceedings shall be deemed to have come to an end:

Provided that the Revenue and Estate Department may, in its discretion, extend the time for the issuance of declaration under section 6 of the Act which shall not be more than thirty days:

Provided further that any time spent in the prosecution of a judicial remedy shall be excluded from the said period.

8. **Additional value in case of compulsory acquisition.**--- (1) In assessing the cost of land, fifteen percent (15%) of the value of the land shall be added on account of compulsory acquisition charges where the land is needed for a public purpose and in case of acquisition for a Company the value to be added shall be twenty five percent (25%).

(2) In calculating the taxes and fee over the transfer of land in favour of the Acquiring Department, regard shall be had to section 51 of the Act.

B. PRIVATE NEGOTIATIONS

9. **Procedure for acquisition through private negotiations.**--- (1) The Acquiring Department, whenever expedient, may communicate to the Collector in writing that it intends a particular land to be acquired through private negotiations.

(2) For entering into private negotiations, the Acquiring Department shall ensure that prior permission, in writing, for acquisition of land through private negotiations has been duly obtained from the head of the Administrative Department or Company, as the case may be.

10. **Committee.**--- (1) The acquisition of land through private negotiations, the cost of land and determination of compensation in private negotiations and the subsequent auction of acquired land under PART-II and V of these rules, if any, shall be approved by the following committee consisting of-

- | | |
|---|------------------|
| (a) Collector of the District; | Chairman |
| (b) Additional Deputy Commissioner (G); | Member/Secretary |
| (c) concerned Revenue Officer; | Member |
| (d) representative of Acquiring Department; and | Member |
| (e) any co-opted member. | Member |

(2) The provisions of the Code of Civil Procedure, 1908 (Act No. V of 1908) shall apply to the proceedings of the committee relating to the production and examination of documents, calling of witnesses or any person for the clarification of any matter regarding land acquisition and the recording of evidence, if any.

(3) The committee shall meet after the formalities for acquisition of land through private negotiations are completed and shall examine the feasibility of land taking into consideration the genuineness of the public purpose involved, the requirements of the Acquiring Department and suitability of the area proposed for acquisition through private negotiations keeping in view its alternate uses, if any.

11. **The Acquiring Department to identify land.**--- (1) The identification of land shall be the responsibility of the Acquiring Department to whom the Collector shall provide the revenue documents of such land.

(2) The agreement between the Acquiring Department and the land owner shall be reduced to writing on a stamp paper duly attested by at least two witnesses, the Notary Public and certified by the Collector.

12. **Notification under section 4 of the Act.**---The Collector shall, if the private negotiations between land owners and Acquiring Department are successful, issue notification under section 4 of the Act and shall thereupon start surveying the land and shall send the survey report to the Commissioner within seven (7) days.

13. **Delivery of possession.**--- The Collector shall deliver possession of the land to the Acquiring Department where after it shall be the responsibility of the Acquiring Department to retain its possession over the acquired land.

14. **Disbursement of compensation.**--- The Collector shall disburse the amount of compensation to the landowners through the concerned revenue officer. In determining

he amount of compensation, the assessment of cost of trees, orchards and buildings, if any, shall be carried out by the committee through the concerned department.

PART-III ACQUISITION FOR COMPANIES

15. **Report of Collector.**--- Where the land is to be acquired for a Company, the Commissioner shall, immediately on receipt of the survey report of the Collector under rule 4, forward the same to the Revenue and Estate Department under section 5 of the Act within a period of thirty (30) days from the date of the notification under section 4 of the Act.

16. **Disposal of objections.**--- (1) Every objection received by the Collector under section 5-A of the Act shall be disposed of by him at the earliest with the least possible delay and shall forward his report under sub-section (2) or recommendations under sub-section (3) of section 5 of the Act, as the case may be, to the Commissioner within a period of thirty (30) days from the date of publication of the notification under section 5 of the Act.

(2) The Commissioner shall decide these objections within a period of sixty (60) days from the date of receipt of the report or the recommendations of the Collector, as the case may be, under sub-rule (1).

(3) If the Collector fails to forward his report or recommendations, as the case may be, under sub-rule (1), to the Commissioner, or if the Commissioner fails to announce decision within the period specified in sub-rule (2), the objections shall be deemed to have been carried and the acquisition proceedings shall come to an end.

17. **Requirements of notification under section 5 of the Act.**--- (1) The Commissioner, while issuing a notification under section 5 or section 17 of the Act, shall ensure that-

- (a) full description of the village, tehsil and district, square and rectangle, field numbers and area of the land is mentioned in the notification;
- (b) a note is given at the bottom of the notification to exclude waqf, state and evacuee lands, tombs, graveyards and places of religious character;
- (c) the Collector has given a certificate that the land under acquisition is free from any encumbrance;

- (d) the Collector has carefully and prudently calculated the estimated price of the land sought to be acquired keeping in view-
 - (i) the factors laid down in sections 23 and 24 of the Act;
 - (ii) the classification of the land to be acquired and its location; and
 - (iii) the average market price of similar kind of land, on the basis of the price prevalent during the period of twelve months preceding the date of publication of notification under section 4 of the Act;
- (e) the Collector has placed funds, equivalent to the estimated cost assessed by him under clause (d) at the disposal of the Land Acquisition Collector and has deposited the same in Treasury under the head Revenue Deposit as security for payment of compensation; and
- (f) in the case of a Company, it has been ascertained by inquiry as required under section 5-A of the Act that the area sought to be acquired is not excessive, is reasonable and the excess area, if any, is deleted while issuing a declaration under section 6 of the Act.

(2) Where a Company makes an urgent request for invoking the provisions of section 17 of the Act for the acquisition of land, the Commissioner shall depute an officer who shall hold an inquiry and make specific recommendations regarding the matters mentioned in section 4 of the Act, particularly about the aspect that the area proposed to be acquired is reasonable for the purpose and is not excessive.

(3) The report along with other justifications, if any, given by the Collector or the Industries, Commerce and Technical Education Department of Provincial Government or the Company, shall be carefully considered before deciding whether the provisions of section 17 are attracted in the case or otherwise.

(4) No land lying near a town, meant for fodder cultivation or for orchards or otherwise culturable, shall be notified for the establishment of any industry.

(5) For the location of industrial units, all concerned Departments of Provincial Government including Agriculture Department, Environment Department, Health Department and Industries Department shall be consulted to ensure that no hazards to public health or agricultural economy is observed as a result of such acquisition.

PART-IV

LAND ACQUISITION IN MERGED AREAS

18. **Procedure for acquisition in merged areas.**--- (1) In the merged areas, where the Collector is satisfied and subject to the availability of sufficient funds for acquisition by the Acquiring Department, after fulfilling the requirements of rules 3 and 4, that the land required to be acquired is needed for a public purpose or for a Company, he shall immediately issue notification under section 4 of the Act, stating clearly the name of the revenue estate or locality, tehsil, details of the dimensions and boundaries of square of rectangles, Global Positioning System coordinates, if any, or identification number and the approximate area to be acquired.

(2) The Collector shall submit his survey report under sub-rule (2) of rule 5, together with all the relevant documents, to the Commissioner not later than fifteen (15) days from the date of publication of the notification under section 4 of the Act.

(3) The notification in the official gazette under section 5 of the Act, as regards the purpose of acquisition, should be made within fifteen (15) days of the receipt of the survey report under sub-rule (2) of rule 5.

(4) The Collector shall give a public notice of the notification under this rule at conspicuous places on or near the proposed land to be acquired.

19. **Disposal of objections.**--- The objections, if any, under section 5-A of the Act shall be filed within seven (7) days of the notification under section 5 of the Act. The Collector shall decide such objections within fifteen (15) days of the last day for filing objections.

20. **Qaumi Commission.**--- (1) The Collector shall, after approval by the committee under rule 10, notify a Qaumi Commission of elders comprising of members up to twenty in number, from amongst the notables of the area where the land is proposed to be acquired:

Provided that where a person is owner, or has any interest, in the proposed land, he shall not be included in the Qaumi Commission as member.

Explanation: For the purposes of these rules the Qaumi Commission means a group of notables of the area where the land is proposed to be acquired, notified by the Collector, for the purpose of facilitating the Acquiring Agency in the land acquisition process, with functions and responsibilities prescribed under these rules.

(2) The responsibilities of the Qaumi Commission include assisting the Acquiring Agency in the determination of ownership of the land and assessment of price and compensation, resolving any dispute as to the ownership or share of any person in land, acting on behalf of the owners of land and transferring the land in favour of Acquiring Department free from any encumbrance.

(3) The disbursement of the cost and compensation amount, received from the Acquiring Department, amongst the owners of land according to their respective shares, shall be the responsibility of the Collector.

21. Cost Assessment and determination of ownership.--- The Collector shall, through the Qaumi Commission and revenue officer concerned, determine the ownership of land and assess the cost and compensation amount within thirty days of the notification under section 4 of the Act.

22. Placement of cost assessment before the committee.--- (1) The cost and compensation so assessed by the Qaumi Commission and revenue officer concerned, along with list of owners of land, shall be placed before the committee under rule 10 for approval.

(2) If the committee does not agree with the said assessment, it may refer back the matter to the Qaumi Commission, with its own recommendation, for re-consideration.

(3) If the Qaumi Commission does not change its original recommendation, the committee shall decide the matter in the best public interest.

23. Publishing the list of owners.--- (1) The Collector may publish the list of owners in a local daily newspaper of repute for the information of all persons interested in the land to file objections, if any, in his office within fifteen (15) days of such publication.

(2) No objection shall be received by the Collector after the laps of fifteen (15) days.

(3) If no objection is received within fifteen (15) days of such publication, the Collector may confirm the list as final.

24. Procedure on receipt of objections.--- (1) In case where objections are received under rule 23, the Collector shall decide the objections within fifteen days of the last day for receiving such objections.

(2) For deciding the objections, the Collector may seek recommendations from the Qaumi Commission which shall submit its recommendations on an undertaking to the Collector confirming the names of owners of land.

(3) The Collector may consider the recommendations of the Qaumi Commission in finalizing the list of owners and shall cause the list of owners, so finalized, to be displayed in his office for the information of all the persons interested in the land:

Provided that such list shall be subject to any decision of the civil court pronounced finally in favour of a person whose name is not included in the list.

25. **Announcement of award.**--- (1) The Collector shall announce the award within fifteen (15) days of the finality of the list of owners under rule 24.

(2) The cost and compensation amount shall be disbursed to the land owners by the Collector on Qabz-ul-Wasool according to law and rules.

26. **Power of Attorney by land owners.**--- (1) A power of attorney may be executed by the land owners in favour of members of the Qaumi Commission or any other person, duly registered under the prevailing registration law, for receiving the amount on behalf of the owners.

(2) The Qabz-ul-Wasool shall be executed from the persons, who hold the power of attorney on behalf of the land owners, to the extent of the amount so received who shall also execute it in the same manner from individual owners or their legal heirs to whom they disburse the amount.

27. **Liability for any omission or act etc.**--- (1) The Members of the Qaumi Commission shall be personally liable for any omission or commission, whether due to fraud, negligence or otherwise, regarding any matter within their responsibilities in the whole process of land acquisition.

(2) If any member of the Qaumi Commission is found liable for any omission or commission, he shall be liable for criminal prosecution under the relevant criminal laws for time being in force:

Provided that a member penalized under sub-rule (2) shall not be entitled to be a member of Qaumi Commission in future.

28. **Honoraria to the members of Qaumi Commission.**--- (1) Consequent upon the issuance of award, members of the Qaumi Commission shall be entitled to honoraria in the following manner, namely:

S.No	Cost of land	Quantum of honoraria
1.	Where the cost of land covers upto Rs.80.00 million; and	0.5% of the cost of land
2.	The cost of land exceeds Rs.80.00 million	0.25% of the cost of land exceeding Rs. 80.00 million, in addition to amount prescribed at Serial No. 1 above.

(2) The honoraria in any case mentioned in sub rule (1) shall equally be distributed by the Collector amongst the members.

(3) In case the award of the Collector is not upheld the honoraria so distributed amongst the members shall not be further enhanced with the enhancement of the cost of land:

29. **Certain Provision of the Code of Civil Procedure, 1908 to apply.**--- The provisions of the Code of Civil Procedure, 1908, (Act No. V of 1908) contained in section 75 and Order XXVI, shall apply to the proceedings of the Qaumi Commission.

30. **The provisions of PART-IV not to apply to certain lands.**--- The provisions contained in PART-IV shall not be applicable to lands situated in merged areas for which the record of rights exists, whether in digitized or in manual form, and where land shall be acquired on normal process of compulsory acquisition or through private negotiations.

PART-V SUPPLEMENTAL

31. **Certificates by the Collector.**--- While forwarding the draft notification under section 5 or section 17 of the Act to the Commissioner, the Collector shall keep in view the considerations and append the following certificates with the case, namely:

- (a) a certificate to the effect that estimated cost as worked out under clause (d) of sub-rule (1) of rule 17 has been physically placed at the disposal of the Land Acquisition Collector and deposited in the Treasury under the Head "Revenue Deposit" as security for payment of compensation;
- (b) a certificate to the effect that the land is not agricultural. If no other land is available except agricultural land, a certificate may be given that endeavors were made to select the less productive land for acquisition;
- (c) a certificate to the effect that any State or waqf or evacuee land, tomb, graveyard or place of religious character has not been included in the draft notification;
- (d) a certificate to the effect that endeavors to obtain land through private negotiations have been unsuccessful or have been considered inexpedient;
- (e) a recommendation to the effect that the area sought to be acquired is not excessive and is reasonable for the purpose of declaration under section 6 of the Act or for taking possession under section 17 of the Act;

- (a) site plan of the land involved; and
- (b) the classification of the land, i.e. whether *ghairmumkin* or *banjar*, culturable or under cultivation, whether irrigated or not and its distance from the main road and town to enable the Commissioner to form an opinion whether it would be proper to acquire such land or whether the possibility of acquiring some other less valuable land needs to be explored to minimize loss to the agricultural economy.

32. **Authority for approving cost of land.**---The estimated cost of the land worked out under clause (d) of sub-rule (1) of rule 17 shall be approved:

- (a) upto Rupees eighty (80) million, by the Collector;
- (b) upto Rupees one hundred fifty (150) million, by the Commissioner; and
- (c) above Rupees one hundred fifty (150) million, by the Revenue and Estate Department.

33. **Placement of funds in advance.**---The Collector or the Commissioner, as the case may be, shall not deliver possession of land sought to be acquired by any Acquiring Department or company concerned unless sufficient funds for the payment of compensation are placed at the disposal of the Collector in advance.

34. **Procedure when land acquired is no more required.**--- (1) Where any land permanently acquired for a specific public purpose by any department of Provincial Government is no longer required by that department for the said purpose or for any other public purpose, it shall be handed over to the Collector who shall be responsible for further utilization or disposal of it under the orders of the Provincial Government.

(2) The Provincial Government may utilize the land surrendered by a department for any other public purpose.

(3) If the land is agricultural or pastoral and is no longer required for any public purpose, the Provincial Government may give option to the previous owners or their legal heirs to purchase the land on payment of its present market value to be assessed by the committee under rule 10 and approved by the Revenue and Estate Department.

(4) If the previous owners or their legal heirs do not exercise their option to purchase the land under sub-rule (3) on the terms offered to them, within six (6) months

of the service of notice on them by the Collector, the land shall be disposed of by open auction through the committee under rule 10 by obtaining prior approval in writing of the Revenue and Estate Department.

(5) If the land is non-agricultural or non-pastoral and is no longer required by the Provincial Government, it may be disposed of by open auction through the committee under rule 10 by obtaining prior approval in writing of Revenue and Estate Department.

(6) Where any land, permanently acquired for a specific public purpose by a local authority or any other body corporate set up by a provincial law, is no longer required for that purpose, the local authority or body corporate may utilize that land for any other public purpose or dispose of the land in accordance with the law regulating immovable property vesting in such local authority or body corporate.

35. Resumption of land by the Provincial Government.--- Where the land is used, by the Acquiring Department, for a purpose other than the one for which it was acquired, such land shall be resumed immediately by the Provincial Government without compensation.

36. Mutation in favour of Acquiring Department.--- (1) The District Collector shall ensure attestation of mutation or registered deed, as the case may be, in favour of Acquiring Department within one month after issuance of award.

(2) The acquired land shall be mutated in the name of Provincial Government or Federal Government, as the case may be, and the name of Acquiring Department or company, as the case may be, shall be entered in the column of cultivation.

37. Award to be exempted from stamp duty.--- (1) An award under the Act shall be exempted from stamp duty in terms of section 51 of the Act. A person who claims under such award or agreement shall also be exempted from payment of any kind of fee levied on obtaining a copy of such award or agreement.

(2) Notwithstanding anything contained in sub-rule (1) no Acquiring Department or company whether public or private shall be exempted from any other provincial taxes, fees and duties except the one mentioned in this rule.

38. Notice to owners on award.--- After the announcement of award, the Collector or Land Acquisition Collector, as the case may be, shall give notice to land owners through a registered post, courier or any electronic media.

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA,
REVENUE AND ESTATE
DEPARTMENT