

THE ¹[KHYBER PAKHTUNKHWA] TENANCY ACT, 1950.

(Act No. XXV of 1950)

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THE ¹[KHYBER PAKHTUNKHWA] TENANCY ACT, 1950.

(Act No. XXV OF 1950).

Received the assent of the Governor General on the 20th June, 1950.

**AN
ACT**

*to consolidate and amend the law relating to the tenancy of land
in the ²[Khyber Pakhtunkhwa]*

WHEREAS it is expedient to consolidate and amend the law relating Preamble.
to the tenancy of land in the ³[Khyber Pakhtunkhwa].

It is hereby enacted as follows:-

(1) This Act may be called the ⁴[Khyber Pakhtunkhwa] Tenancy Act, Short title, Extent
1950. and
Commencement.

(2) It extends to the whole of the ⁵[Khyber Pakhtunkhwa].

(3) This Act shall come into force at once.

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

(i) "land " means land which is not occupied as the site of any
building in a town or village and is occupied or has been let for
agricultural purposes or for purposes subservient to agriculture,
or for pasture, and includes the sites of buildings and other
structures on such land or to any right or interest in any such
land;

(ii) "pay" with its grammatical variations and cognate expressions,
includes, when used with reference to rent "deliver" and "render"
with their grammatical variations and cognate expressions;

(iii) "rent" means whatever is payable to a landlord in money or kind
by a tenant on account of the use or occupation of land held by
him;

(iv) "arrear of rent" means rent which remains unpaid after the date
on which it becomes payable;

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

² Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

³ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁴ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁵ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

- (v) "tenant" means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person, but it does not include:—
- (a) an inferior landowner, or
 - (b) a mortgagee of the rights of a landowner, or
 - (c) a person to whom a holding has been transferred, or an estate or holding has been let in farm under the Punjab Land Revenue Act, 1887 for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or
 - (d) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it;
- (vi) "landlord" means a person under whom a tenant holds land and to whom the tenant is or but for a special contract would be, liable to pay rent for that land;
- (vii) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord, respectively;
- (viii) "tenancy " means a parcel of land held by a tenant of a landlord under one lease or one set of conditions;
- (ix) "estate " means any area:—
- (a) for which a separate record of right has been made: or
 - (b) which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for, or redeemed ; or
 - (c) which the ¹[Board of Revenue] may, by general rule or special order, declare to be an estate,
- (x) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, 1887, and includes:-
- (a) any rates imposed in respect of the increased value of land due to irrigation, and
 - (b) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to

¹ Subs., for "Provincial Government" by West Pakistan Act XVI of 1957 s. 3 (3) Sch.-III.

a person to whom the Government has assigned the right to receive the payment,

(xi) "rates and cesses " means rates and cesses which are primarily payable by land owners, and includes:-

(a) the local rate, if any, payable under the Punjab District Board Act, 1883, and any fee leviable under Section 33 of that Act from Landowners for the use of or benefits derived from such works as are referred to in Section 20 clauses (i) and (j) of that Act;

(b) any annual rate chargeable on owners of land under Section 59 of the Northern India Canal and Drainage Act, 1873;

(c) the zaidari and village officer's cesses; and

(d) sums payable on account of village expenses,

(xii) "village cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force;

(xiii) "village officer " means a Chief Headman, Headman or Patwari;

(xiv) "Revenue Officer" or "Revenue Court" means a Revenue Officer or the Revenue Court having authority under this Act to discharge the functions of a Revenue Officer or Revenue Court, as the case may be, under that provision;

(xv) "Jagirdar" includes any person, other than a village servant, to whom the land revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government;

(xvi) "Legal Practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a muktar;

(xvii) "agricultural year" means the year commencing on such date as the Provincial Government may by notification appoint for any local area;

- (xviii) "notification" means a notification published by authority of the Provincial Government ¹[or the Board of Revenue] in the official Gazette;
- (xix) "occupancy tenant" means a tenant who has the right of occupancy under Section 5 or is deemed to have such right under Section 6 or is taken to have such right under Section 7 or has acquired such right under Section 8 or continues to have such right under Section 11 of the Punjab Tenancy Act, 1887, or is deemed to have such right under Section 5 of the Hazara Tenancy Regulation, 1887 and shall include the heirs and successors of such occupancy tenant;
- (xx) "improvement" means with reference to a tenancy any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy is either executed directly for its benefit, or is after execution, made directly beneficial to it.

Explanation I.—It includes among other things:—

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes;
- (b) the construction of works for drainage and for protection against floods;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and
- (e) the renewal or construction of any of the foregoing works or such alterations therein or additions thereto, as are not of the nature of mere repairs and as durably increase their value.

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry.

¹ Inserted by West Pakistan Act, XVI of 1957, s. 3 (3) Sch-III.

Explanation II. — A work which benefits several tenancies may be deemed to be, with respect to each of them an improvement.

Explanation III. — A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his land lord's Property.

(xxi) ¹[* * * * *]

(xxii) "Small Cause" means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887;

(xxiii) "Unclassed suit" means a suit which is neither a land-suit nor a small cause;

(xxiv) "Value" used with reference to suit means the amount or value of the subject matter of the suit;

(xxv) "Government" includes the Provincial and the Central Government ²[* * *].

(xxvi) "Landowner" has the same meaning assigned to it in the Punjab Land Revenue Act, 1887.

³(xxvii) "Kaghan Valley" means the area specified in the schedule to this Act;

(xxviii) "Waste Land" means the land recorded at settlement as Shamilat or common land or which has been specifically reserved as a grazing ground or as a fuel and timber preserve of a village under any law for the time being in force, but does not include reserved forests, graveyards, sacred places, land recorded at settlement part of village site and land shown as 'Khali' 'BanjarJadid in annual records.]

3. Subject to the Provisions of this Act no person whether a tenant or not, shall, after the commencement, of this Act, acquire, have or continue to have a right of occupancy in any land under any enactment, contract, decree or order of any Court or officer. Non Acquisition of occupancy right.

⁴4. Any occupancy tenant, who had the right of occupancy in the land so occupied by him under section 5(1)(c) of the Punjab Tenancy Act, Rights of ownership of certain persons.

¹ Clause (xxi), which defined "Judicial Commissioner" omitted by West Pakistan Act XVI of 1957, s. 3 (3) Sch-III.

² The words "and Crown" omitted by West Pakistan, A. O., 1964, s. 2 (1) Sch. Part-III.

³ Inserted by Khyber Pakhtunkhwa Ord. No. III of 1980, s. 3 (a).

⁴ Subs. by Khyber Pakhtunkhwa Act No. XI of 1992.

1887, or who may prove by a reliable, clear and unambiguous evidence, before a court of competent jurisdiction, that he is the real owner, according to Sharia, of the land under his tenancy, and who occupies any land as such, shall become full owner of such land without payment of any compensation to the landlord and acquire it free from any encumbrance created in respect of that land by the land lord.

¹[4-A.

- (1) Any occupancy tenant who at the commencement of this Act, occupies land as such and pays rent by division of the produce shall become full owner of the portion of the land in proportion to his share of the produce, which he retains for himself, without payment of any compensation to the land lord,
- (2) Any occupancy tenant acquiring land in accordance with the provisions of sub-section (I) shall acquire it free from any incumbrance created in respect of that land by the land-lord.
- (3) Subject to the provisions of sub-sections (1) and (2), the landlord shall take possession of the remaining portion of the land at the expiry of the current agricultural year, free from any incumbrance or lease created by the tenant and occupancy rights therein shall be extinguished.

Determination of occupancy tenancies in cases where rent in kind is paid.

²(4) [* * * * *].

³[***]

5. (1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

Respective rights of landlord and tenant to produce.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his field in due course of husbandry without any interference on the part of his landlord.

(3) Except when the rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce but, in the case of food grains and oil seeds that have to be thrashed, he shall not remove the produce from the thrashing-floor until the rent payable by him for the preceding agricultural year has been paid to the landlord.

(4) Where rent is taken by division of the produce:—

¹ Ins. by Khyber Pakhtunkhwa Act VI, of 1952, s. 3.

² Sub-section (4) deleted by Khyber Pakhtunkhwa Act I of 1953, s. 2.

³ Deleted by Khyber Pakhtunkhwa Act No. XI of 1992.

- (a) the tenant shall be entitled to the exclusive possession of the whole produce but shall not be entitled to remove it from the thrashing-floor until it is divided,
- (b) no sooner the produce is ready for division on the thrashing-floor, any Assistant Collector of 2nd grade, specially empowered in this behalf on his own accord, or on the application of either the tenant or the landlord shall himself or, through any Revenue Officer not below the rank of Field kanungo or a Police Officer not below the rank of a Station House Officer divide the produce on the thrashing-floor,
- (c) if the tenant or landlord removes any portion of the produce in such a manner as to prevent the due division thereof, the Officer conducting the division of the produce may enter the building or the premises as the case may be where the produce is kept and divide the produce there,
- (d) landlord and the tenant shall be entitled to be present, and take part in, the division of the produce,
- (e) when the produce has been divided the landlord and the tenant shall be entitled to the possession of their respective shares immediately.

Explanation:—The practice of appraisalment of the standing crop (Kankat) shall henceforth be discontinued.

6. (1) When rent is taken by any of the following methods, namely:— Commutation and alteration of rent.
- (a) by division of the produce;
 - (b) by rates fixed with reference to the nature of crops grown;
 - (c) by a rate on a recognised measure of area;
 - (d) by a rent in gross on the tenancy, or
 - (e) partly by one of the methods specified in Clauses (a), (b) and (c) of this sub-section, and partly by another or others of them.

One of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant, whose rent is taken by any of the methods specified in Clauses (a), (b) and (c) of sub-section (1), or by the method specified in Clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case

may be, than the rate or amount payable in respect of the tenancy for the proceeding agricultural year.

7. Any person in possession of land occupied without consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not to be payable in that year, at such rates the Court may determine to be fair and equitable. Payment for land occupied without consent of land lord.
8. When two or more persons are land-lords of tenant in respect of the same tenancy, the tenant shall not be bound to pay part of rent of his tenancy to one of those person and part to another. Collection rents of undivided property.
- ¹["8-A. (1) Notwithstanding anything to the contrary contained in any law for the time being in force or any agreement or entry in a revenue record, or any decree or order of any court or other authority, the rent of any land payable by a tenant by division of the produce shall not exceed forty per centum of the produce, and if at the time of the coming into force of the ²[Khyber Pakhtunkhwa] Tenancy (West Pakistan Amendment) Act, 1963, hereinafter referred to as the Amending Act, rent at a higher rate is being charged in respect of any tenancy, it shall be reduced to the aforesaid limit: Rights and liabilities regarding rent and Government dues.

Provided that if any tenant is, at the time of the coming into force of the Amending Act, holding any land on more favourable terms he shall continue to do so.

(2) All Government dues levied on the land comprised in a tenancy shall be paid by the landlord and the tenant in the same proportion in which they share the produce in accordance with the provisions of this section:

Provided that if at the time of the coming into force of the Amending Act, a tenant is not paying any portion of such dues, or is paying less than what he would have paid under the provisions of this sub-section, he shall not become liable for any such payment or, as the case may be, for any additional payment:

Provided further that in case, the tenant's share of the produce was less than sixty per centum but is increased by virtue of the provisions of sub-section (1), he shall become liable to pay the Government dues in such proportion as the increase in his share of the produce bears to the entire produce irrespective of the fact whether he was already paying any portion of the Government dues or not but in no case will be required to pay more than sixty per centum.

Explanation.—For the purposes of this sub-section "Government dues" means the sum total of land revenue, water rate, local rate and all other sums levied by Government on the land, except the tax levied under

¹ Ins. by W. P. Act VI of 1964, s. 2

² Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

the West Pakistan Urban Immovable Property Tax Act, 1958 (West Pakistan Act V of 1958).

(3) Nothing in this section shall apply to the case of a tenant holding any land under the Provincial or the Central Government].

¹[8—B (1) Notwithstanding anything to the contrary contained in any Law for the time being in force, or any entry in a revenue record, or any decree or order of court or other authority, but subject to any written agreement between the parties, every tenant in Kaghan Valley shall be liable to pay rent to his landlord, by division of the produce, at the following rates;—

Rights and liabilities regarding rent.

(a) in the case of bariabi, hoter and bari land, one half of the produce; and

(b) in the case of bahir-deabi, mera and bela land, two fifth of the produce; and

(c) in other cases, one fourth of the produce.

(2) Nothing in this section shall apply to the tenants holding land under the Provincial or the Federal Government].

9. Where rent is taken by division of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division thereof, or deals therewith in a manner contrary to, established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for the harvest.

Presumption with respect to produce removed before Division.

10. If either the landlord or the tenant neglects after a notice of the time and Place at which the division will be made, is given to him, to attend either personally or through agent at the proper time for making the division of the produce, or if there is a dispute about the division the decision of the officer conducting the division shall be final.

Finality to the decision of the Officer conducting the Division.

11. The result of the division shall be recorded and signed by the officer conducting the division who also make such order as to the costs of division as he thinks fit.

Costs of Division.

12. Notwithstanding any thing contained to the contrary in any law, enactment, custom, usage or order of any officer or Court or in any entry in any existing Record of Rights, or Wajibul Arz, no tenant shall be liable to pay any village cess or render any service in lieu of any such cess or rent to his landlord.

Village Cess or Service to a Landlord.

13. (1) Every tenant shall:—

Alteration of rent on alteration of area.

(a) be liable to pay additional rent for all land proved to be in

¹ Sec: 8-B inserted by Khyber Pakhtunkhwa Ord; III of 1980 s. 3 (b).

excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made, and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters namely :-

(a) Whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the Landlord, and

(b) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

14. Notwithstanding any thing in the foregoing sections of this Act, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by, drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed the Court may, with the previous sanction of the Collector allow such remission from the rent payable by the tenant as may appear to it to be just.

Remission of Rent
by Courts
Decreeing Arrears.

15. (1) Wherever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue officer may, if the rent be payable in cash or the rent be payable in kind of which the amount is fixed, by order remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which payment has been remitted or suspended bears to the whole of the land revenue payable in respect of the land.

Remission and
suspension of Rent
consequent on
Like Treatment of
Land Revenue.

When the payment of the rent of any land has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue Officers may recover from the landlord the amount or value of the rent so collected and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him.

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied so far as they can be made applicable to land of which the land revenue has been released, compounded for or redeemed in any case in which, if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue Officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land revenue.

(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land revenue.

16. In either of the following cases, namely:—

- (a) when a landlord refuses to receive, or grants a receipt for, any rent payable in money when tendered to him by a tenant, or
- (b) when a tenant, is in doubt as to the person entitled to receive rent payable in money,

Power to deposit Rent in Certain Cases with Revenue Officer.

the tenant may apply to Revenue Officer for leave to deposit the rent in his office and Revenue Officer shall receive to deposit it, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

17. (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

Effect of depositing Rent.

(2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person

appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Government or any Officer of the Government in respect of any thing done by a Revenue Officer under this section but nothing in this subsection shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer.

18. (1) If an order is made by any Court for the attachment of the produce of a tenancy, or of any part of a tenancy, the landlord may apply to the Revenue Officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of:—

Recovery of Rent from Attached Produce.

(a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue Officer shall give the person at whose instance attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue Officer under sub-section (2) shall have the force of a decree in a suit between the landlord and the tenant.

19. (1) Where a lease has been granted, or an agreement has been entered into, by a land owner in respect of any land assessed to land revenue fixing for a period exceeding the terms for which the land Revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable;—

Treatment of Leases for Period Exceeding or Equal to Term of Assessment of Land Revenue.

(a) at the option of the landowner if the land revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the land owner, determines to be fair and equitable; and

Where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the person who entered into the agreement:-

(b) at the option of the tenant if the land revenue of land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant determines to be fair and equitable.

(2) any agreement relative to the occupation, rent, profits, or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

20. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish, his tenancy without notice at the end of that term.

Relinquishment by Tenant for a Fixed Term.

21. (1) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the Agricultural year then current.

Relinquishment by any other tenant.

(2) The tenant may, instead of or in addition to, giving the notice in the manner mentioned in sub-section (1) apply to a Revenue Officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue Officer, on receiving the cost of service from the tenant, shall cause notice to be served as may be.

(3) If the tenant does not give notice in the manner prescribed in this section he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

22. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

Relinquishment of Part only Tenancy.

23. A tenant holding for a fixed term under a contract or a decree or order of a competent authority, shall be liable to be ejected from his tenancy or the expiration of that term and, on any of the following grounds, before the expiration thereof, namely :-

Grounds of Ejectment of Tenant for a Fixed Term.

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(c) on any ground which would justify ejectment under the contract, decree or order.

24. (1) A tenant who does not hold for a fixed term under a contract or a decree or order of any competent authority, may be ejected at the end of the third year from the commencement ¹[of this Act] and not before and on any of the following grounds, before the expiration thereof, namely:—

Ejectment of other tenant.

- (a) that he has failed to pay the rent on the date when it falls due;
- (b) that he has removed the whole or part of the produce from the thrashing-floor before it is divided;
- (c) that he has used the land comprised in the tenancy in the manner which renders it unfit for the purposes for which he held it;
- (d) where the rent is payable in kind, that he has without sufficient cause, failed to cultivate that land in the manner or to the extent customary in which the land is situate.

(2) No landlord, in the case of a tenant who does not hold for a fixed term under a contract or a decree or order of competent authority shall entrance the rent during the period that he is not entitled to eject the tenant under the last preceding sub-section.

25. A tenant shall not be ejected otherwise than in execution of decree for ejectment, except in the following cases, namely :-

Restriction on Ejectment.

- (a) When a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;
- (b) when the tenant does not hold for a fixed term under a contract or a decree or order of competent authority.

26. In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section, and subject to the provision of section 24, the landlord may apply to a Revenue Officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the later clause.

Application to Revenue Officer for Ejectment.

27. (1) On receiving the application in any such case as is mentioned in clause (a) of section 25, the Revenue Officer shall, after such inquiry with respect to the existence of the arrear as he deemes necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue Officer within fifteen days from receipt of the notice he will be ejected from the land.

Ejectment for Failure to Satisfy Decree for Arrear of Rent.

¹ Subs., for the words " of the Tenancy" by Khyber Pakhtunkhwa Act VI of 1952, s. 4.

If the amount is not so paid, the Revenue Officer, shall, subject to the provisions of this Act with respect to the payment of compensation order the ejectment of the tenant unless good cause is shown to the contrary.

28. (1) On receiving the application of the landlord in any such case as is mentioned in clause (b) of Section 25, the Revenue Officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

Ejectment of
Certain Tenants by
Notice.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any agricultural year.

(3) No notice under sub-section (1) shall be served on the tenant if the application of the landlord is opposed to the provisions of Section 24.

(4) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(5) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment he should, within two months from the date of the service of the notice, prefer his claim to the Revenue Officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(6) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected a Revenue Officer, on the application of the landlord, shall subject to the provisions of this Act, with respect to the payment of compensation, order the ejectment of the tenant;

Provided that Revenue Officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(7) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

29. The ¹[Board of Revenue] may make rules prescribing:-

Power to make
rules.

(a) the form and language of applications and notice under the two last fore-going sections ; and

¹ Subs., for the "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957, s. 3 (3) Sch-III

(b) the manner in which those applications and notices are to be signed and attested.

30. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under Section 27 the Officer making the order, otherwise directs. Times for ejectment.

31. (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of Section 23 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied or that an award of compensation will be sufficient satisfaction to the landlord therefore, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into court, within such a period, such compensation as the court thinks fit. Relief against Forfeiture.

(2) The Court may, from time to time, for special reasons, extend a period fixed by it under sub- section (1).

(3) If within the period, or extended period, as the case may be, fixed by the court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

32. (1) Where at the time of proposed ejectment of tenant from any land his uncut or un-gathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have been ripened and he has been allowed a reasonable time to harvest them. Rights of ejected tenants in respect of crops and land prepared for sowing.

(2) The Court or Revenue Officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant and may in its or his discretion.—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or,

(b) determine the value of the tenants un-cut and un-gathered crops and, on payment thereof by the landlord to the Court or Revenue Officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken, has conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue Officer before which or whom the proceedings are pending shall on the application of the tenant, determine the sum payable to the tenant, under this sub-section and stay his ejectment until that sum has been paid to him.

33. In either of the following cases, namely :-
- Relief for wrongful dispossession or ejection.
- (a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of any order under Section 27 or Section 28:
- (b) if a tenant who, not having instituted a suit under Section 28 has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected, the tenant may, within one year from the date of his dispossession or ejection, institute a suit for recovery of possession or for compensation, or for both.
34. No person whose ejection has been ordered by a Revenue Court under Section 28 sub-section (7) or whose suit has been dismissed under Section 33, may institute a suit in a Civil Court to contest his liability to ejection or to recover possession or to recover compensation. Bar to civil suits.
35. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under Section 9 of the Specific Relief Act. 1877, by a tenant dispossessed thereof. Bar of Relief by suit under Section 9 Act 1 of 1877.
36. (1) The ¹[Board of Revenue or Commissioner] for all or any of territories under its administration by notification ²[fix] for the purposes of Sections 21, 28, and 30, or of any of those sections, any other dates instead of those specified therein. Power of Board of Revenue or Commissioner to fix dates for certain purposes.
- (2) A notification under this section shall not take effect till after the expiration of six months from the date of publication thereof.
37. (1) A tenant may make improvement on his tenancy with the assent of the landlord. Title of Tenants to make Improvements.
- (2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant, the assent may be inferred from circumstances.
- (3) Improvement made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless it is shown that the improvement was made in contravention of written agreement between him and his landlord.
38. A tenant ejected in execution of a decree, or in pursuance of a notice of ejection, shall not be entitled to compensation for any improvement begun by him after the institution of the suit or service of the notice, which resulted in his ejection. Improvements begun in Anticipation of Ejection.
39. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than 20 years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if Tender of Lease for 20 years to Tenant to be a bar to Right of compensation.

¹ Subs., for "Provincial Government" by West Pakistan Act, XVT of 1957, s. 3 (3) and Sch.-III.

² Subs, ibid, for the word "fixed".

accepted by the tenant, shall bar any claim by him to compensation in respect of improvement previously made on the tenancy.

40. Subject to the provision of this Act, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for improvement,

Liability to pay compensation for improvements to tenant on Ejectment or on Enhancement of his Rent.

41. (1) A tenant who has cleared, and brought under cultivation waste land shall if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by the Revenue Court or Revenue Officer in accordance, with the merits of the case, but not exceeding 5 years, rent of the land:

Compensation for disturbance of clearing tenants.

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for land by division of the produce, or by rates fixed with reference to the nature of the crops grown, the compensation may be computed as if double the amount of the revenue of the land were the annual rent thereof.

42. (1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

Determination of compensation by revenue court.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

43. In either of the following cases, namely :-

Determination of compensation by revenue officers.

- (a) when a notice has been served on tenant under Section 27;
- (b) when a notice of ejectment has been served on a tenant under Section 28 and the tenant has not instituted a suit to contest his liability to be ejected,

The tenant may apply to the Revenue Officer having authority to order his ejectment under Section 27 or Section 28 as the case may be, to determine the amount of compensation due to him for improvement or for disturbance, or for both, and the Revenue Officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue Officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue Officer to be due to the landlord from the tenant.

44. In estimating the compensation to be awarded under this Act to a

Matters to be

tenant for an improvement the Court or Revenue Officer shall have regard to:-

regarded in Assessment of compensation for improvement.

- (a) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effects;
- (c) the labour and capital required for the making of such an improvement;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and
- (e) in the case of reclamation or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

45. (1) The compensation shall be made by payment in money unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

Form of Compensation.

(2) If the parties so agree, the Court or Revenue Officer shall make an order accordingly.

46. (1) If from any cause the amount of compensation payable to a tenant.

Relief in case of ejection before determination of compensation.

(a) under this Act for improvements or disturbance, or

(b) under Section 32 for the value of uncut or ungathered crops or the preparation of land for sowing;

Has not been determined before the tenant is ejected, the ejection shall not be invalidated by reason of the omission, but the Court or Revenue Officer, which decreed or who ordered the ejection may, on application made by the tenant within one year from the date of the ejection correct the omission by making in favour of the tenant an order for the payment to, him by the landlord of such compensation as the Court or Officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

47. (1) There shall be the following classes of Revenue officers, namely:-

Classes of Revenue officers.

(a) the ¹[Commissioner];

(b) the Collector ;

¹ Subs., for the "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957 s. 3 (3), Sch.-III.

(c) the Assistant Collector of the first grade; and

(d) the Assistant Collector of the second grade.

(2) The Deputy Commissioner of a district shall be the Collector thereof.

(3) The ¹[Board of Revenue] may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildar to be Assistant Collector of the first or of the second grade as it thinks fit, and any Naib-Tehsildar to be an Assistant Collector of the second grade.

(4) Appointments made under sub-section (3) shall be by notification, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(5) Subject to the provision of this Act the Jurisdiction of the ²[Board of Revenue] extends to the whole of ³(* * * * *) the ⁴[Khyber Pakhtunkhwa] and of ⁵[Commissioners Collectors and Assistant Collectors to the Divisions and districts, respectively,] in which they are for the time being employed.

48. (1) The following applications and proceedings shall be disposed of by the Revenue Officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had:—

Application and
Proceedings
Cognizable by
Revenue Officers.

FIRST GROUP.

(a) proceedings relating to the remission and suspension of rents under section 15;

(b) applications under section 26 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;

(c) applications under section 28, sub-section (6) for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under Section 43;

(d) applications by landlords for possession of land, the right of

¹ Subs., *ibid.*, for "Provincial Government".

² Subs., for the "Revenue and Divisional Commissioner" by W. P. Act, XVI of 1937, s. 3 (3), Sch-III.

³ Omitted, *ibid.*, for the "the territories for the time being administered by the Governor of-*

⁴ Substituted *vide* Khyber Pakhtunkhwa Act. No. IV of 2011.

⁵ Subs., for the "Collectors and Assistant-Collectors to the Districts" by West Pakistan Act, XVI of 1957 s. 3 (3), Sch-III.

occupancy in which has become extinct;

- (e) proceedings with respect to the award of compensation for improvements or disturbance;

SECOND GROUP.

- (f) applications under Section 28 sub-section (6) for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under Section 43.

- (g) applications for the determination:—

(i) under Section 32 of the rent payable for land occupied by crops uncut or un-gathered at the time of an order being made for the ejectment of a tenant or

(ii) under Section 32 or Section 46 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP.

- (h) applications under Section 16 by tenants to deposit rent;

- (i) applications under Section 21 for service of notice of relinquishment;

- (j) applications under Section 26 for service of notice of ejectment;

(2) Except as otherwise proved by any rule made by the ¹[Board of Revenue] in this behalf: —

(a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1);

(b) an Assistant Collector of the second grade, not being a Naib-Tehsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section; and

(c) a Naib-Tehsildar, when invested with the powers of an Assistant Collector, of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

¹ Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957, s. 3(3) Sch. III.

49. (1) When a Revenue Officer is exercising jurisdiction with respect to any such suit as it described in sub-section (3) or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court. Revenue Courts and suits Cognizable by them.

(2) There shall be the same classes of Revenue Courts as of Revenue Officers under this Act, and in the absence of any order of the Provincial Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(3) The following suits shall be instituted in and heard and determined by Revenue Courts, and no other Courts shall take cognizance of any such dispute or matter with respect to which any suit might be instituted:

Provided that: —

(1) Where in a suit cognizable by and instituted in a civil court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII, rule 10, Civil Procedure Code, and return the plaint for presentation to the Collector; Procedure where Revenue matter is raised in a Civil Court.

(2) On the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in Section 49 (3) First Group, of the ¹[Khyber Pakhtunkhwa] Tenancy Act, 1950, and in other cases may send the suit to an Assistant Collector of the 1st Grade for decision.

FIRST GROUP.

- (a) suits between landlord and tenant for addition to or abatement of rent under Section 13 or for commutation of rent;
- (b) suits under section 19 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue; and suits relating to the rent to be paid under a mortgage made in accordance with Form (c) as prescribed by Section 6 of the Punjab Alienation of Land Act, 1900.

SECOND GROUP.

- (c) suits by a landlord to eject a tenant;
- (d) suits by a tenent under Section 28 to contest liability to ejectment when notice of ejectment has been served;

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

- (e) suits by a tenant under Section 33 for recovery of possession or occupancy, or for compensation, or for both;
- (f) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held;
- (g) suits for sums payable on account of village expenses;
- (h) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;
- (i) suits for the recovery of over-payments of rent or land revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;
- (j) suits relating to the emolument of Kanungos, zaildars, inamdars or village officers;

THIRD GROUP.

- (k) suits by a landlord for arrears of rent or the money equivalent of rent, or for sums recoverable under section 7;
- (l) suits by a landowner to recover money claimed as due for the enjoyment of rights in or over land or in water including rights of irrigation, right over fisheries, rights of pasturage and forest rights;
- (m) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue under any enactment for the time being in force, and by a superior land owner for other sums due to him as such.

(4) Except as otherwise provided by any rule made by the ¹[Board of Revenue or the Commissioner] in this behalf:—

- (a) Collector may hear and determine any of the suits mentioned in sub-section (3);
- (b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Provincial Government, any of the suits mentioned in the first group; and

¹ Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act, XVI of 1957 s. 3 (3) Sch. III.

- (c) an Assistant Collector of the second grade may hear and determine any of the suit mentioned in the third group.

¹[50. (1) The general superintendence and control over all Revenue Officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to the Board of Revenue.

Superintendence and control of Revenue Officers and Revenue Courts.

(2) Subject to the general superintendence and control of the Board of Revenue, a Commissioner shall control all other Revenue Officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner a Collector shall control all other Revenue Officers and Revenue Courts in his district].

51. (1) The ²[Board of Revenue or the Commissioner] or Collector may by a written order distribute, in such manner as ³[it or he] thinks fit, any business cognizable by any Revenue Officer or Revenue court or under ⁴[its or his] control.

Power to Distribute business and withdraw and transfer cases.

(2) The ⁵[Board of Revenue or the Commissioner] or Collector may withdraw any case pending before any Revenue Officer or Revenue Court under ⁶[its or his] and either dispose of it [itself or himself], or by written order refer it for disposal to any other Revenue Officer or Revenue Court under ⁷[its or his] control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue Officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

52. Subject to the provisions of this Act, and the rules thereunder, an appeal shall lie from an original or appellate order or decree, made under this Act by a Revenue Officer or Revenue Court, as follows, namely:—

Appeals.

(a) to the Collector when the order or decree is made by an Assistant Collector of either grade;

(b) to the ⁸[Commissioner] When the order or decree is made by a Collector:

¹ Subs, by W. P. Act No. XVI of 1957 for the original section 50.

² Subs, by W. P. Act No. XVI of 1957.

³ Subs ibid, for the word "he".

⁴ Subs, ibid, for the word "his".

⁵ Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act XVI 1957, s.3(3) Sch., III.

⁶ Subs, ibid for the word "him self".

⁷ Subs, ibid for the word "him self".

⁸ Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act XVI 1957, s.3(3) Sch., III.

Provided that when an original order or decree is confirmed on first appeal, a further appeal shall not lie.

53. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say :—

Limitation for appeals.

(a) when the appeal lies to the Collector thirty days,

(b) when the appeal lies to the ¹[Commissioner] ninety days.

54. (1) A Revenue Officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Review by Revenue Officers.

Provided as follows:—

(a) when a Collector thinks it necessary to review any order which he has not himself passed and when the Revenue Officer of a class below that of the Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue Officer to whose control he is immediately subject;

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue Officer that he had sufficient cause for not making the application within that period;

(c) an order shall not be modified or reversed unless reasonable notice has been given to parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue Officer of a lower class who has left the district or has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

55. In the computation of the period for an appeal from or an

Computation of period limited for

¹ Subs. for "Revenue and Divisional Commissioner" by West Pakistan Act XVI 1957, s.3(3) Sch., III.

application for the review of, an order under this Act, the limitation therefor shall be governed by the Limitation Act, 1908.

56. (1) The ¹[Board of Revenue or the Commissioner] may at any time call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court subordinate to ²[it or] him.

appeals and applications for review.
Power to call for examine and Review proceedings of Revenue Officers and Revenue Court.

(2) A Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) if in any case in which a Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the ³[Commissioner].

(4) If, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3), the ⁴[Commissioner] is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

(5) If, after examining the record, the ⁵[Board of Revenue or the commissioner] is of the opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the ⁶[High Court], in the exercise of its revisional jurisdiction may, under the law for the time being in force, interfere with proceedings or an order or decree of a Civil Court, ⁷[it or he] shall fix a day for hearing the case, and may, on that or any subsequent day to which ⁸[it or he] may adjourn the, hearing or which ⁹[it or he] may appoint in this behalf, pass such order as ¹⁰[it or he] thinks fit in the case.

(6) Except when the ¹¹[Board of Revenue or the Commissioner] fixes under sub-section (5), a day for hearing the case, no party has any right to be heard before the ¹²[Board of Revenue or the Commissioner] when exercising ¹³[its or his] powers under this section.

57. (1) The Provincial Government may make rules consistent with this Act for regulating the procedure of Revenue Officers under this Act in cases in which a procedure is not prescribed by this Act.

Procedure of Revenue Officers.

¹ Subs, for "Revenue and Divisional Commissioner", by West Pakistan Act XVI of 1957, s. 3(3) Sch Pt. III.

² Subs, *ibid.*, for "Revenue and Divisional Commissioner".

³ Subs, *ibid.*, for "Judicial Commissioner".

⁴ Subs, *ibid.*, for "Judicial Commissioner".

⁵ Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957- 3 (3) Sch III

⁶ Subs, *ibid.*, for "Judicial Commissioner"

⁷ Subs, *ibid* for the word "he".

⁸ Subs, *ibid* for the word "he".

⁹ Subs, *ibid* for the word "he".

¹⁰ Subs, *ibid* for the word "he".

¹¹ Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957- 3 (3) Sch III

¹² Subs, for "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957- 3 (3) Sch III

¹³ Subs *ibid*, for the word "his".

(2) The rules may provide, among other matters for the mode of enforcing orders of ejectment from and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) The Rules may also provide for the mode of executing orders as to costs, and may adopt to proceedings under this Act, all or any of the provisions of the Punjab Land Revenue, Act, 1887, with respect to arbitration.

(4) Subject to the rule under this section, a Revenue Officer may refer any case which he is empowered to dispose of under this Act to another Revenue Officer for investigation and report, and may decide the case upon the report.

58. (1) Appearances before a Revenue Officer as such, and applications to and acts to be done before him, under this Act may be made or done—

Persons by Whom appearances may be made before Revenue Officers as such and not as Revenue Courts.

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the Officer.

(2) For the purposes of sub-section (1), recognized agents shall be such persons as the ¹[Board of Revenue] may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue Officer under this Act unless that Officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

59. (1) A Revenue Officer may give and apportion the cost of any such proceeding under this Act in any manner he thinks fit.

Cost.

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

60. (1) The Provincial Government may make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by such

Procedure of Revenue Courts.

¹ Subs, for "Provincial Government" by West Pakistan Act XVI of 1957 s.3 (3) Sch. III

rule direct that any provisions of the code of Civil Procedure shall apply, with or without modification to all or any classes before these Courts.

(2) Until rules are made under sub-section (1) and subject to those rules when made and to the provisions of this Act:—

(a) the Code of Civil Procedure shall, so far as it is applicable apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the ¹[Board of Revenue] shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall subject to the provisions of this Act, exercise, as regards the Courts under ²[its] control, all the powers of a High Court under the Code.

61. (1) A Revenue Officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or to it as a Revenue Officer or Revenue Court.

Power to Revenue Officer or Revenue Court to Summon persons.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matters as the Revenue Officer or Revenue Court may require.

62. (1) A summons issued by a Revenue Officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognised agent or (c) an adult male member of his family who is residing with him.

Mode of Service of summons.

(2) If service cannot be so made or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue Officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not

¹ Subs, *ibid.*, for "Revenue and Divisional Commissioner".

² Subs, for the word "his" by W.P. Act XVI of 1957 s. 3(3) Sch.III

reasonably practicable, it may, if the Revenue Officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue Officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person registered under Chapter VI of Post Office Act, 1898.

(5) When a summons is forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

63. A notice, order or proclamation or copy of any such document, issued by a Revenue Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of summons. Mode of Service of Notice, Order or Proclamation or copy thereof.
64. When a proclamation relating to any land is issued by a Revenue Officer or Revenue Court, it shall in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates. Additional Mode of Publishing Proclamation.
65. (1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue Officer or Revenue Court and subject to any rules which the Provincial Government may make in this behalf, be made parties to any proceeding under Sections 6 to 9 and 13 to 19 of this Act. Joinder of Tenants as to Projoinder of Tenants as Parties to Proceedings Relating to rent.
- (2) But a decree or order shall not be made in any such proceedings unless the Revenue Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.
- (3) A decree or order made in any such proceedings shall specify the extent to which each of the tenant is affected thereby.
66. Nothing in Section 80 of the Code of Civil Procedure, or in Section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in Section 49 of this Act. Exception of suits under this Act from Operations of certain Enactments.
67. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due. Payment into Court of Money admitted to be due to a third person.
- (2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person, within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

(5) When a defendant pays money into Court under this section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

68. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder order execution thereof against the movable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrears is decreed.

Execution of Decrees for Arrears of Rent.

69. A tenant shall not, during the continuance of his occupancy be liable to imprisonment on the application of his landlord in execution of a decree for arrears of rent.

Prohibition of Imprisonment of Tenants in Execution of Decrees for Arrears of Rent.

70. (1) If, in any proceedings pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition may decide the question as it thinks fit.

Power to refer party to Civil Court.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceedings pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

71. (1) If the presiding Officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or Collector, or if he is a District Judge or Collector, directly to the ¹[High Court].

Power to refer to ²[High Court] question as to jurisdiction

(2) On any such reference being made, the ³[High. Court,] may order the Presiding Officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

¹ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

² Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

³ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

(3) The order of the ¹[High Court] on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

72. (1) In either of the following cases namely:—

Power of High Court to validate proceeding made under mistake as to jurisdiction.

(a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in Section 49 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court, the Civil Court or Revenue Court, as the case may be shall submit the record of the suit to the ²[High Court].

(2) If on perusal of the record it appears to the ³[High Court], that the suit was so determined in good faith and that the parties have not been prejudiced by the mistake as to jurisdiction, the ⁴[High Court], may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the ⁵[High Court], otherwise than on submission of a record under sub-section (1), that a Civil Court under its control as determined a suit of a class mentioned in Section 49 which under the provisions of that section should have been heard and determined by a Revenue Court, the ⁶[High Court], may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceedings subsequent to decree the ⁷[High Court,] may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the ⁸[High Court], under this section shall be conclusive as against persons who were not parties to the suit or proceedings as well as against persons who were parties thereto, and the decree or proceedings to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the commencement of this Act.

¹ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

² Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

³ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

⁴ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

⁵ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

⁶ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

⁷ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

⁸ Subs, for "Judicial Commissioner" by W.P. Act. XVI of 1957 s. 3 (3) Sch. III.

73. (1) An Assistant Collector may exercise his power under this Act at any place within the limits of the district in which he is employed. Place of Sitting.

(2) Any other Revenue Officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

74. (1) The ¹[Board of Revenue], with the approval of the Provincial Government, shall publish in the ²[* * *] official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue Officers and Revenue Courts. Holidays.

(2) A proceeding held before a Revenue Officer or Revenue Court on a day specified in the list as a day to be observed by the Officer or a Court as a holiday shall not be invalid by reasons only of its having been held on that day.

75. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which maybe generally or specially issued by the Provincial Government in this behalf shall be deemed to be Collector under this Act. Discharge of duties of Collector Dying or being disabled.

76. When a Revenue Officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the Provincial Government ³[or the Board of Revenue] otherwise directs or has otherwise directed. Retention of Powers by Revenue Officers on Transfer.

77. (1) The Provincial Government may by notification confer on any person:- Conferment of Power of Revenue Officer or Revenue Court.

(a) all or any of the powers of a ⁴[Board of Revenue, Commissioner] or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Provincial Government may direct, and, except, as otherwise directed by the Provincial Government shall for all purposes connected with the exercise thereof be deemed a ⁵[Board of Revenue, Commissioner], Collector, or Assistant Collector, as the case may be.

¹ Subs. ibid for "Revenue and Divisional Commissioner".

² The word "local" omitted ibid.

³ Inserted by West Pakistan Act, XVI of 1957, s. 3(3) and, Sch. III .

⁴ Subs. ibid for "Revenue and Divisional Commissioner".

⁵ Subs. ibid for "Revenue and Divisional Commissioner".

(3) If any of the powers of a Collector under Section 50, Section 51, Section 52 or Section 54 are conferred on an Assistant Collector, they shall unless the ¹[Board of Revenue] by special order Otherwise directs, be exercised by him subject to the control of the Collector.

78. (1) The ²[Board of Revenue, Commissioner], may, in addition to the other rule which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force:—

Power of the ³[Board of Revenue] to make Rule.

- (a) determining notwithstanding any thing in any record of right, the number and amount of the instalments and the time by and at which rent is to be paid;
- (b) for the guidance of Revenue Officers in determining, for the purposes of this Act, the amount of the land revenue of any land;
- (c) prescribing for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue Officer or Revenue Court is not except for reasons of arrest to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;
- (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officer or Revenue Courts or to obtain copies of the same and prescribing the fees payable for searches and copies;
- (e) prescribing forms for such books, entries, statistics and accounts as the ⁴[Board of Revenue] thinks necessary to be kept, made or compiled in Revenue Offices or Revenue Courts or submitted to any authority;
- (f) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English; and
- (g) generally for the guidance of Revenue Officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (a) of sub-section (1), rent shall be payable by instalments and at the time by and at which it is now payable.

¹ Subs. *ibid* for "Provincial Government".

² Subs. *ibid* for "Revenue and Divisional Commissioner".

³ Subs. *ibid* for "Revenue and Divisional Commissioner".

⁴ Subs. for "Revenue and Divisional Commissioner" by West Pakistan Act XVI of 1957 s. 3(3) Sch. III.

(3) Rules made by the ¹[Board of Revenue] under this or any other section of this Act, shall be made subject to the control of the Provincial Government.

79. The power to make any rules under this Act is subject to the condition of the rules being made after previous publication. Rules to be made after previous Publication.
80. All powers conferred by this Act on the ¹[Board of Revenue Commissioner] may be exercised from time to time as occasion requires. Powers Exercisable by the ²[Board of Revenue or the Commissioner] from time to time.
81. An entry in any record of rights providing:—
- (a) that a landlord may prevent a tenant from making or eject him for making such improvements on his tenancy as he is entitled to make under this Act, or
- (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements of or for disturbance in any case in which he would under this Act be entitled to compensation therefor; or
- (c) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act, shall be void of that extent. Nullity of certain entries in record of rights.
82. (1) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall:—
- (a) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or where compensation for disturbance can be claimed under this Act, to claim such compensation, or
- (b) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.
- (2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by or at the expense of his landlord and to the benefit of which the tenant is not otherwise entitled.
- ³[82 A. (1) Whenever it appears to be necessary in Kaghan Valley to prohibit the breaking up for cultivation of waste land or its occupation as sites for sheds, buildings or enclosure in order to the better protection Power to protect waste land.

¹ Subs: for "Revenue and Divisional Commissioner" by W.P. Act, XVI of 1957. s.3 (3), Sch. III

² Subs: for "Revenue and Divisional Commissioner" by W.P. Act, XVI of 1957. s.3 (3), Sch. III

³ Sections 82-A, 82-B, 82-C and 82-D, ins by Khyber Pakhtunkhwa Ord. III of 1980 s. 3. (3)

of.—

- (a) the crests and slopes immediately below the crests of hills within the limits of tree vegetation,
- (b) catchment-basins of streams, torrents or ravines,
- (c) the banks and beds of rivers, streams, torrents and ravines,
- (d) steep- slopes,
- (e) waste land which though not situated in any of the above positions, are nevertheless of such value of utility for the supply of forest-produce or otherwise that their breaking up or occupation would in the judgement of the Collector be inadvisable,

the Collector may issue orders prohibiting the breaking up or occupation of such waste land, and defining the area to which such prohibition shall extend, and may cause the limits of such area to be shown on the village map and to be demarcated on the ground with boundary-mark so far as may be necessary.

(2) No such order as is referred to in sub-section (1) shall be cancelled by the Collector without the sanction of the Board of Revenue, but the Collector may, from time to time, revise such orders by altering the boundary of the protected land so as to include any particular plot the protection of which may appear to be necessary.

82 B. Where waste land is broken into by cultivation or is occupied in contravention of an order under sub-section (1) of section 82 A, the Collector on the application of any right holder in the village or of his own motion may cause to be summarily ejected the author of the encroachment and may direct that any building or enclosure erected or crop grown on such land in contravention of such order shall be confiscated to Government;

Treatment of encroachment on common land.

¹[Provided that no order of ejection shall be passed without given the author of the encroachment an opportunity of being heard.

82 C. Whoever breaks up or occupies or abets in breaking up or occupying, or, being the owner or a joint owner of the land, permits the breaking up or occupation of any waste land protected under Sections 82A shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences in waste land.

82 D. (1) The offence under section 82 C shall be cognizable.

Cognizance of offence

¹ In section-82B, at the end the full-stop subs, by a colon and the proviso ins. by Khyber Pakhtunkhwa . Act No. II of 1985 read with the schedule

(2) No Court shall take cognizance of an offence under section 82 C, except on a report in writing of the facts constituting such offence made by the Collector or by an officer authorised by him in this behalf].

¹[83. Notwithstanding the repeal of the Punjab Tenancy Act 1887, as applicable to the ²[Khyber Pakhtunkhwa] by the ³[Khyber Pakhtunkhwa] Law and Justice Regulation, 1901, and the Hazara Tenancy Regulation, 1887, the Hazara Tenancy (Amendment) Regulation, 1904, any person who but for this Act would have been entitled to be declared an occupancy tenant within the meaning of section 5 of the Punjab Tenancy Act, 1887, as applicable to the ⁴[Khyber Pakhtunkhwa] by the ⁵[Khyber Pakhtunkhwa] Law and Justice Regulation, 1901, or section 5 of the Hazara Tenancy Regulation, 1887, shall within three years after the commencement of this Act apply for such declaration and on such declaration being granted he shall be entitled to the benefit of section 4 of this Act].

Limitation for Declaration of Occupancy rights.

84. The Provincial Government may, by Notification in the official Gazette, make rules for the purpose of carrying out all or any of the provisions of ⁶[Sections 4,4-A] and 5 of this Act,

Power of Provincial Government to make rules.

85. The following Acts are hereby repealed.

Repeal and saving.

(a) The Punjab Tenancy Act, 1887, as applicable to the ⁷[Khyber Pakhtunkhwa] by the ⁸[Khyber Pakhtunkhwa] Law and Justice Regulation, 1901.

(b) Hazara Tenancy Regulation, 1887,

(c) Hazara Tenancy (Amendment) Regulation, 1904.

(d) The Punjab Tenancy (⁹[Khyber Pakhtunkhwa] Amendment) Act, 1939.

(e) The Punjab Tenancy (¹⁰[Khyber Pakhtunkhwa] Amendment) Act, 1945.

(f) The Punjab Tenancy (¹¹[Khyber Pakhtunkhwa] Amendment) Act, 1946.

¹ Subs for the original "Section 83" by W. P. A. O. 1964 S. 2(1) Sch Part III

² Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

³ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁴ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁵ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁶ Subs, for the word and figure "section 4 " by Khyber Pakhtunkhwa Act VI of 1952 s. 5

⁷ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁸ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

¹⁰ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

¹¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

(g) The Punjab Tenancy ¹[Khyber Pakhtunkhwa] (Amendment) Act, 1948.

Provided that:

- (a) any notice, form, order, rule, regulation or direction prescribed, made, issued, or given under any enactment repealed by this Act shall continue in force as if it had been prescribed, made, issued, or given under this Act, and may be repealed, revoke varied or amended accordingly;
- (b) any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment of this Act; and
- (c) any officer or person appointed to act or employed under or by virtue of any enactment repealed by this Act shall continue and be deemed to have been appointed or employed under or by virtue of this Act:

Provided further that until the rights of an occupancy tenant are determined under ²[Section 4 and 4-A] of this Act, all the provisions of the Punjab Tenancy Act, 1887, as applied to the ³[Khyber Pakhtunkhwa] or the Hazara Tenancy Regulation, 1887, as the case may be, so far as they relate to the occupancy tenancy, shall remain in force.

⁴[86. Notwithstanding anything contained in any other law for the time being in force, the following procedure is prescribed for effecting partition of land between the landlords and the occupancy tenants who have acquired rights of ownership under Section 4-A of this Act.—

Procedure for
partition of lands
acquired by the
Occupancy Tenants.

- (i) As soon as a mutation is entered in the Revenue Record, the Patwari shall make a report to the Revenue Officer who shall immediately summon the parties proceed with the partition of land after such enquiry as he may deem fit and deliver possession of the respective shares in such land to the parties on the spot.
- (ii) Air questions arising out of the partition proceedings shall be determined by the Revenue Officers.]

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

² Subs for the word and figures "section 4" by Khyber Pakhtunkhwa Act VI of 1952 s. 6.

³ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁴ This section added by Khyber Pakhtunkhwa Act T of 1953.

¹[SCHEDULE]

[See sections 2 (xxvii), 8B and 82 A]

Name of Valley	District	Sub-Division	Area
1	2	3	4
Kaghan	Mansehra	Mansehra	10, 05, 268 acres situated in the following Villages: (1) Mitikot, (2) Satbani (3) Khait Sarash. (4) Jiggan. (5) Banbagar (6) Hangarai. (7) Ghaneela. (8) Bambara Patlang. (9) Balakot (10) Garlot. (11) Bagir. (12) Tar-anna (13) Shohal Najaf. Khan. (14) Jabir Kalish. (15) Lasso Sultani. (16) Kauuara. (17) Lasso Zamindari. (18) Shohal Mazullah. (19) Pasted. (20) Bajmori. (21) Nikot. (22) Bat Karar. (23) Hassa (24) Kumi Khan Giri. (25) Kanshian. (26) Bangiran Josucha. (27) Hassam Abad. (28) Sangar. (29) Ganool. (30) Kouuai. (31) Sohan. (32) Paras. (33) Bela Sucha. (34) Shakar Haa. (35) Ghoshal. (36) Boonja (37) Jared. (38) Kalas Mamai (39) Manoor Arshala Khan (40) Manoor Bostan (41) Manoor Mohammad Jan (42) Manoor Hafizullah (43) Phagil. (44) Kanial Ban. (45) Butfandes. (46) Kaghan.]

¹ The schedule ins. by Khyber Pakhtunkhwa Ord. III of 1980 s.3. (d)