

Punjab Soil Reclamation Act, 1952

21 of 1952

[14 July 1952]

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SCHEDULE 1 :- SCHEDULE I

Punjab Soil Reclamation Act, 1952

21 of 1952

[14 July 1952]

An Act to provide for the speedy reclamation and improvement of the areas damaged by thur and sem [2][for preventing further damage and for maximizing agricultural production] Preamble.- WHEREAS it is expedient to make provision for the speedy reclamation and improvement of the areas damaged by thur and sem, [3][for preventing further damage and for maximizing agricultural production]; It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the [4][Punjab] Soil Reclamation Act, 1952.

(2) It extends to the whole of [5][the Punjab except the Tribal Areas.]

(3) It shall come into force at once, but the provisions of Chapters IV to VI shall apply only to such areas and from such date as may be specified in the notification issued under section 27.

2. Definitions :-

In this Act unless there is anything repugnant in the subject or context-

(i) "Board" means the [6][Punjab Land and Water Development Board] appointed under this Act;

[7][(ii) "canal officer" means an officer defined as such in the Canal and Drainage Act, 1873[8], or the Sind Irrigation Act, 1879[9], as may be applicable to the area, and includes any officer appointed under this Act to exercise all or any of the powers of a canal officer;

(iii) "canal", "water-course" and "drainage work" have the same meanings as are assigned to them respectively in the Canal and Drainage Act, 1873[10], or the Sind Irrigation Act, 1879[11], as may be applicable to the area;]

(iv) "Chairman" means the Chairman of the [12][Punjab Land and Water Development Board] appointed under section 4 of this Act;

(v) "Collector" includes any officer appointed under this Act to exercise all or any of the powers of a Collector;

(vi) "Commissioner" includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

(vii) "Department" means a department of the [13][* * *] Government;

(viii) "District" means a district as fixed for revenue purposes;

(ix) "Government" means the [14][Provincial Government of the Punjab];

(x) "holding" means a share or portion of an estate held by one land owner or by two or more land owners jointly;

(xi) "improvement" means improving or preserving the productive capacity of a soil;

(xii) "land" includes land as defined in clause (a) of section 3 of the

Land Acquisition Act, 1894[15];

(xiii) [16][* * * * *];

(xiv) "local area" means an area to which the provisions of Chapters IV to VI of this Act have been extended;

(xv) "local authority" has the same meaning as in section 2 of the Local Authorities Loans Act, 1914[17];

(xvi) "Member" means member of Soil Reclamation Board appointed under section 4 of this Act;

[18][(xvi-A) "officer" means an officer of the Board other than the Chairman or a member;]

(xvii) "Prescribed" means prescribed by rules made by Government under this Act;

(xviii) "Reclamation fee" means a fee imposed for soil reclamation under this Act;

(xix) [19]["rent" includes rent as defined in any law relating to tenancy for the time being in force in the area;]

(xx) "scheme" means a scheme framed under this Act;

(xxi) "Secretary" means Secretary of the Board [20][* * *];

(xxii) "sem" means the rise of sub-soil water-table so high that the water actually oozes out of the land or the land remains constantly damp and where the context so permits "sem", "sem land" or "sem affected land" means any land or area affected by "sem" and includes such land or areas as may by notification be declared as "sem" from time to time;

(xxiii) [21]["soil reclamation" and "reclamation" means rendering thur and sem lands free from excessive salts and water respectively so as to make them fit for normal cropping and include-

(a) measures against deterioration of land;

(b) total development of the area with a view to maximizing agricultural production; and if any, question arises-

(1) whether any matter comes within the purview of the terms "soil reclamation" and "reclamation" or not, or

(2) as to the extent of reclamation operations carried out, or required to be carried out in any area,

the question shall be referred to the Board, whose decision shall be final and shall not be called in question by or before any Court.]

(xxiv) "tenant" includes the predecessors and successors-in-interest of a tenant;

(xxv) the expressions "tree", "timber" and "cattle" have the meanings respectively assigned thereto in the Forest Act, 1927[22];

(xxvi) "thur" means salt efflorescence at the surface of the land

rendering the surface white, ash coloured, black or brown, or not discoloured but presenting an oily appearance and where the context so permits "thur", "thur land" or "thur affected land" means any land or area affected by thur and includes such land or area as may by notification be declared as "thur" from time to time;
(xxvii) "Tribunal" means a Tribunal constituted under this Act; and
(xxviii) "tubewell" means well, worked with electric or thermal power to draw out sub-soil water.

CHAPTER 2

CONSTITUTION OF THE BOARD

3. The Board A Body Corporate :-

The duty and power of carrying out the provisions of this Act in any local area shall, subject to the conditions and limitations hereinafter contained, be vested in the Board which shall be a body corporate, and shall have perpetual succession and a common seal, and shall be competent to sue and be sued in its name.

4. Constitution Of The Board And Term Of Office Of Members :-

(1) The Board shall consist of-

- (a) Chairman appointed by Government, who shall not be below the status of Member Board of Revenue, [24]West Pakistan;
- (b) five members, who shall be Secretaries to Government of [25] [the Punjab] in the Departments of Finance, Irrigation, Agriculture, Co-operation, Basic Democracies, and Local Government;
- (c) Chairman, [26][the Punjab] Water and Power Development Authority; and
- (d) Chairman, [27][the Punjab] Agricultural Development Corporation.

(2) Every member shall be appointed by virtue of office and continue to be a member so long so he holds that office.

5. Power Of Government To Alter Membership Of The Board :-

Government shall have the power to alter the membership of the Board as and when considered necessary.

CHAPTER 3

PROCEEDINGS OF THE BOARD, ITS COMMITTEES, OFFICERS AND SERVANTS AND SUPPLY OF INFORMATION TO GOVERNMENT

6. Meetings Of The Board :-

(a) The Board shall ordinarily meet for the transaction of business at least once [28][in two months] at such time as the Chairman may fix, provided that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two members, and within 10 days of the request, call a special meeting.

(b) The quorum necessary for the transaction of business at an ordinary or special meeting shall be three, provided that if at any such meeting a quorum is not present, the Chairman or if he be not present the Secretary subject to such directions as the Chairman may have given, shall adjourn the meeting to such other day as he may think fit and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before and transacted at the adjourned meeting whether there be a quorum present or not.

(c) At every meeting the Chairman, if he be present, and in his absence such one of the members present as may be chosen by the meeting, shall preside.

(d) All questions which come before any meeting shall be decided by a majority of the votes of the members present, the Chairman of the meeting in case of an equality of votes having a second or casting vote.

(e) (i) Minutes of the proceedings with the names of the members present at each meeting shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting within one week of the meeting to which these relate, and shall at all reasonable times be open to inspection by any member, and no member shall be entitled to object to the minutes of any meeting unless he was present at the meeting to which they relate.

(ii) The minutes of a meeting shall be put up at the next meeting and shall be confirmed with such alterations as may be necessary to bring them in accord with the true facts of the proceedings of the meeting.

7. Temporary Association Of Members With The Board :-

(1) The Board may associate with itself in such manner and for such period as may be prescribed by bye-laws made under section 49, any officer of a Government department or other person whose assistance or advice it may desire in carrying out any of the

provisions of the Act.

(2) An officer or person associated with itself by the board under sub-section (1) for any particular purpose, shall have a right to take part in the discussions of the Board relative to that purpose, but shall not have a right to vote for its decision and shall not be deemed to be a member of the Board or be entitled even to take part in discussion regarding any purpose other than the purpose for which he was associated.

8. Constitution And Functions Of Committees :-

(1) The Board may from time to time appoint Committees consisting of such persons of any of the following classes as it may deem fit, namely:-

- (i) members;
- (ii) persons associated with the Board under section 7; and
- (iii) other persons whose services, assistance or advice the Board may desire as members of such committees;

provided that no such Committee shall consist of less than three persons and that at least one of them shall be a member of the Board and the Secretary shall be ex-officio Secretary of every such Committee.

(2) The Board may:-

- (a) refer to a Committee for inquiry and report any matter relating to any of the purposes of this Act; and
- (b) delegate to a Committee by resolution and subject to any bye-laws made under section 49, any of the powers or duties of the Board.

(3) The Board may at any time dissolve or, subject to the provisions of sub-section (1), alter the constitution of any Committee.

(4) Every Committee shall conform to instructions given to it by the Board from time to time.

(5) All proceedings of a Committee shall be subject to confirmation by the Board.

(6) Any person associated with the Board under sub-section (1) of section 7 or appointed as member of a Committee under clause (iii) of sub-section (1) shall be entitled to receive such remuneration as may be [29][fixed by the Board.]

9. Meetings Of Committees :-

(1) Committees appointed under section 8 may meet and adjourn

as they think proper; but the Chairman of the Board may whenever he deems fit call a special meeting of any such Committee, and shall call a special meeting upon the written request of not less than two members of the Committee within 10 days of the receipt of the request.

(2) A meeting of a Committee shall be presided over;

(i) by the Chairman if he be present; or

(ii) if the Chairman be not present and there be present only one member of the Board who is on the Committee, by such member; or

(iii) if there be not present the Chairman but there be present more than one members of the Board who are on the Committee by any one of them chosen by the Committee for the purpose; or

(iv) if there is no member of the Board present who is on the Committee, by any member of the Committee chosen by the Committee.

(3) All questions which come before any meeting of a Committee shall be decided by a majority of the votes of the members present, the person presiding at the meeting having a second or casting vote in case of equality of votes.

(4) No business shall be transacted at any meeting of a Committee unless at least two of its members are present. In the case of want of quorum the Chairman or if he be not present the Secretary shall proceed under the provisions of the proviso to section 6(1)(b).

10. Appointment Of Officers Etc :-

(1) The Board may appoint such officers, advisers and servants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit.

(2) The Chairman may, in cases of emergency appoint such officers, advisers or servants on such terms and conditions as he thinks fit:

Provided that every such appointment shall be reported to the Board without unreasonable delay and shall not continue beyond six months unless approved by the Board.

11. Recruitment, Conditions Of Service And Disciplinary Powers :-

(1) Procedure for the appointment of the officers and servants of the Board and the terms and the conditions of their service shall be such as may be provided by bye-laws.

(2) Subject to rules and bye-laws, the Board shall be competent to take disciplinary action against its officers and servants.

12. Control By Chairman :-

The Chairman shall exercise supervision and control over all officers and servants of the Board and subject to the foregoing sections, shall dispose of all questions relating to the service of these officers and servants and their pay, privileges and allowances.

13. Delegation Of Powers :-

(1) The Board may delegate to the Chairman or any member or officers any of its powers under this Act or the rules or bye-laws.

(2) The Chairman may likewise delegate to any member or officers any of his powers under this Act or the rules or bye-laws, not being a power delegated to him by the Board under sub-section (1).

14. Supply Of Information And Documents To Government :-

(1) The Chairman shall forward to the Government a copy of the minutes of the proceedings of each meeting of the Board within ten days from the date on which such minutes are signed as prescribed in clause (e) of sub-section (1) of section 6.

(2) If the Government so directs in any case the Chairman shall forward to it a copy of all the papers which were laid before the Board for consideration at any meeting.

(3) the Government may require the Chairman to furnish it with:-

(i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board; or

(ii) a report on any such matter; or

(iii) a copy of any document in the charge of the Chairman, or in the office of the Board.

The Chairman shall comply with every such requisition without unreasonable delay.

15. Scrutiny Of Soil Reclamation Activities Of Other Departments :-

The Board shall have powers, subject to any rules that may be framed by the Government, to scrutinize the activities of other departments affecting soil reclamation.

16. Use Of Mechanical Plants Of Departments :-

The Board shall be provided, subject to any rules that may be framed by the Government, if necessary, mechanical plants belonging to the various departments.

CHAPTER 4

SCHEMES AND PROCEDURE TO BE FOLLOWED IN FRAMING THEM

17. Scheme For Reclamation :-

The Board may on its own motion or on the application of any owner or any person interested in land within a local area frame or require a department [33][or any other agency] to frame, a scheme for reclamation of the local area or part thereof or for prevention of the spread of thur or semlikely in the opinion of the Board to threaten the local area in the near future [34][Providing amongst others for all] or any of the following matters:-

- (i) The acquisition under the Land Acquisition Act, 1894, as modified by this Act, of any land or any interest in land necessary for or affected by the execution of the scheme.
- (ii) The acquisition by purchase, lease, exchange or otherwise of such land or interest therein.
- (iii) The retention, letting on hire, lease, sale, exchange or disposal otherwise of any land vested in or acquired by the Board.
- (iv) The relaying of any land comprised in the scheme and reservation of any part thereof not exceeding one-fifth of the total area for the common purposes of the village or villages comprised totally or partially in the scheme, and the redistribution of the rest of the land among the owners of the property comprised in the scheme, and management of lands reserved for common purposes.
- (v) The layout and construction of villages including the demolition of the existing buildings by the Board or by the owners and by the Board in case of default by the owners.
- (vi) The provision of facilities for communication including the layout and the alteration of roads, streets, footpaths, bridle paths and waterways.
- (vii) The breaking up, cultivation, afforestation or plantation of lands, and the raising, lowering or reclamation of any land for the production of foodgrains, fruits, vegetables, fuel, fodder and the like and the provisions of means of irrigation and irrigation channels by the Board or by the owners, and the Board in default of owners, the cost being recoverable from the owners in the latter case, if

considered justified by the Board.

(viii) The draining of villages and land.

(ix) The provision of a system of drains, open or covered and outfalls for the improvement of ill-drained lands.

(x) The provision of fisheries, poultry farms, live-stock farms, dairy farms, sheep farms, bee farms, sericulture farms and the like.

(xi) The installation, management and maintenance of tube-wells and lifting and disposal of underground waters by other means.

(xii) The doing of all acts intended to promote the health, well being and prosperity of the residents of a local area, including the soil conservation and preservation from injury or pollution of rivers and other sources and means of water-supply.

(xiii) The advances to the owners, occupiers or tenants of land comprised in the scheme upon such term and conditions as may be prescribed under the scheme of the whole or part of the capital requisite for breaking up and cultivation of land, construction of watercourses, digging drains, laying pipes overground and underground, sinking of wells, purchase of cattle, agricultural implements, machinery and seeds and for any purposes subsidiary to agriculture and for erection of houses, godowns and cattle sheds.

(xiv) The establishment of an insurance fund for insurance on compulsory or voluntary basis of crops, and cattle, recovery for insurance premia, contribution and distribution of benefits from the insurance fund subject to the provisions of any law applicable thereto.

(xv) The execution or carrying out of survey of any scheme or part of the scheme by any department on such terms and conditions as may be agreed upon between the Board and the Government.

(xvi) Replacement of canal water-supply by tube-well or open well in part or whole.

(xvii) Carrying out of research work relating to soil reclamation through any department where the facilities exist or can be provided for.

(xviii) Carrying out of lining of channels in consultation with the Irrigation Department where the Board considers such a measure desirable.

(xix) All other matters which the Board with the approval of the Government or the Government may deem necessary to promote the general efficiency of a scheme or for the reclamation and improvement of any local area.

(xx) Notwithstanding anything contained in the Canal and Drainage Act, 1873[35], to provide for, in a local area-

- (a) the improvement, alteration, extension or curtailment of any watercourse;
- (b) the amalgamation or separation of any irrigation chak;
- (c) the transfer of any area from one source of irrigation to another;
- (d) the temporary increase or decrease of water allowance to any area or total curtailment of water-supply;
- (e) the alteration, amendment or cancellation of any order already in force regarding the distribution of water on any water-course or the mutual rights or liabilities in respect of the use, construction or maintenance of a water-course or the issue of a fresh order superseding any existing order or mutual agreement;
- (f) the prohibition of growing of any crops or laying down any specific crop rotation;
- (g) the application of any type and quantity of manuring whether green, artificial or farm yard; and
- (h) the construction of any field drains and drainage works.

18. Publication Of Notice As To Schemes And Supply Of Documents To Applicants :-

(1) when a scheme under this Act has been framed, the Board shall prepare a notice stating:-

- (i) the fact that the scheme has been framed;
- (ii) the boundaries of the locality comprised in the scheme; and
- (iii) the place at which details of the scheme including a statement of the land proposed to be acquired or on which it is proposed to charge a reclamation fee and a general map of the locality comprised in the scheme, may be inspected during specified hours.

(2) The Board shall-

- (i) cause the said notice to be published weekly for three consecutive weeks in the official Gazette and in a newspaper or newspapers selected by the Chairman for the purpose specifying the period which shall not be less than 30 days within which objections against the scheme will be received; and

[36][(ii) send a copy of the notice to-

- (a) the Deputy Commissioner of each District and the Chairman of each District Council and Union Council within whose jurisdiction the whole or any part of the locality comprised in the scheme is situated and ask them to send to the Board, within six weeks from the date of the receipt of the copy of the notice; any representation which they may wish to make in respect of the scheme; and

- (b) each police-station and patwarkhana within whose jurisdiction the whole or any part of the locality comprised in the scheme is situated for displaying it at a conspicuous place in the police-station or patwarkhana, as the case may be, for public information.]
- (3) The Chairman shall cause copies of the documents referred in clause (iii) of sub-section (1) to be delivered to any person applying for the same on payment of such fees as may be prescribed.

19. Notice Of Proposed Acquisition Of Land :-

- (1) During the thirty days next following the first day on which any notice is published under section 18 in respect of any scheme under this Act, the Board shall serve a notice on-
- (i) every person whom the Board has reason to believe after due enquiry to be the owner of any immovable property which it proposes to acquire for executing the scheme [37][* * *].
- (ii) the occupier or tenant (who need not be named) of such premises or land as the Board proposes to acquire for executing the scheme.
- (2) Such notice shall-
- (a) state that the Board proposes to acquire such property [38][* * *] for the purposes of carrying out a scheme under this Act, and
- (b) require such person, if he objects to such acquisition [39][* * *] to state his reason in writing within a period of 30 days from the service of the notice.
- (3) Every such notice shall be signed by the Chairman or by an officer of the Board authorised by him.

20. Consideration Of Objections And Application For Sanction Of Scheme :-

- After the expiry of the period respectively prescribed in clauses (i) and (ii) of sub-section (2) of section 18 and clause (b) of sub-section (2) of section 19, the Board shall consider any objection or representation received in response to the notice and after hearing all persons making any such objection or representation who may desire to be heard in person or through representative, the Board may either abandon the scheme or apply to the Government for sanction of the scheme as originally framed or with such modifications as the Board may deem necessary.
- (2) The application made by the Board to Government under sub-section (1) shall be accompanied by-
- (i) complete plans and details of the scheme and an estimate of the

cost of executing it;

(ii) a statement of the reasons for modifications, if any, made in the scheme as originally framed;

(iii) a statement of objections and representations, if any, received under section 18;

(iv) a list of the names of the persons, if any, who have objected under clause (b) of sub-section (2) of section 19, to the proposed acquisition of their property [40][* * *] and a statement of the reasons given for such objections; and

(v) a statement of the arrangements made or proposed by the Board for the resettlement or rehousing of persons who are likely to be displaced by the execution of the scheme.

21. Government May Sanction, Reject Or Return Scheme :-

(1) The Government may sanction with or without modifications, or may refuse to sanction or may return for reconsideration any scheme submitted to it under section 20.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Board, it shall be re-published in accordance with the provisions of section 18, in every case in which the modification affects the boundaries of the locality comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired, or the levy of reclamation fee on the land which was not previously proposed to be liable to such reclamation fee.

22. Notification Of Sanction Of Scheme :-

(1) Whenever the Government sanctions any scheme under this Act, it shall announce the fact by notification, and the Board shall forthwith proceed to execute the scheme.

(2) A notification under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned and shall not be called into question by or before any court.

23. Alteration Of Scheme After Sanction :-

A scheme sanctioned by government under this Act, may be modified by the Board at any time during its execution:

Provided that-

(a) if any modification is estimated to increase the estimated net cost of executing the scheme by more than rupees five lacs or 20

per cent of the said estimated net cost, whichever is less, such modification shall not be made without the previous sanction of the Government, or

(b) if any modification involves the acquisition, otherwise than by agreement of any land, the acquisition of which was not included in the scheme sanctioned by the government or involves the levy of reclamation fee on land not liable to such fee under the said scheme, the procedure prescribed in the foregoing sections of this chapter shall, so far as applicable, be followed as if the modifications were a separate scheme.

24. Merging Of Different Schemes In One Consolidated Scheme :-

The Board may any time merge in one consolidated scheme any number of schemes in operation, framed or proposed to be framed under this Act.

25. Passing Over Of Works And Services To Owners :-

As soon as any scheme has been executed by the Board or at a later date, the Board may by written requisition call upon the owner or owners of any particular area covered by the scheme to take over and maintain any of the works and services in that area and the owner or owners shall be bound to comply with such requisition.

26. Control Over Underground Water :-

(1) As soon as a scheme for a local area or part thereof is sanctioned as notified under sub-section (1) of section 22, the use of underground waters in that area except the water used for domestic purposes or for watering livestock shall come under control of the Board. The Board shall frame rules to define, for different areas from time to time, the uses which are to be included in the term "domestic purposes or watering livestock".

(2) As soon as it is practicable after the issue of the notification under sub-section (1) of section 22, the Collector shall cause public notice to be given at convenient places in the area concerned stating that the use of underground waters in the said area is controlled, and that all persons using underground waters, for purposes other than domestic or for watering livestock, through tube-wells, wells and other appliances worked by electricity, steam,

oil or wind power, should have all such tube-wells and wells and appliances existing on the date of the notification registered in the office of the Collector or the Divisional Canal Officer, as directed, within a period not exceeding three months from the date of the issue of such public notice.

(3) After publicity of the notice under sub-section (2) of this section, any owner or occupier of land who desires to put up any new tube-well or well, worked by electricity, steam, oil or wind power for using underground waters, for any purpose other than domestic or for watering livestock, shall apply for a licence to the Board. The Board shall frame rules with the sanction of Government to determine the form of the licence, its terms and the officers by whom it shall be granted. Such rules shall provide for a guarantee being obtained from the applicant before issue of the licence that if in the opinion of the Board his appliance, within six months of its erection, seriously affects any existing use of underground waters, he will either abandon the licence or pay compensation as assessed by the Collector.

(4) No claim or suit shall lie for damages against the Board, Government or any other person, on account of any ill-effects on the appliance of the licensee caused by the construction of a tube-well or the working of any appliance for the removal or use of underground water if the said appliance is erected or used in the manner prescribed by the Board.

(5) In the area for which the scheme has been sanctioned, the Board may order any tube-well or well, worked by electricity, steam, oil or wind power, for using underground waters, to be closed down either temporarily during specified periods of the year or permanently, provided that such order shall not prohibit the use of underground waters by any owner or occupier of land for domestic purposes and for watering livestock. In cases where permanent closing down is ordered, the board shall either provide some alternative source of water-supply or award reasonable compensation. In determining such compensation, regard shall be had to the diminution in the market value, at the time of making the order of closing down, of the property in respect of which compensation is claimed and where such market value is not ascertainable, the amount shall be reckoned at 12 times the amount of diminution of the annual net profits of such property by the said closing down.

(6) The Collector who will receive the application shall proceed to enquire into any such claim and to determine the amount of

compensation, if any, which should be given to the claimant and sections 8 to 11 (both inclusive), 25 to 39 (both inclusive), 50 to 56 (both inclusive) of the Land Acquisition Act, 1894, as modified by this Act shall apply to such enquiries.

(7) No claim for compensation for such permanent closing down of appliances shall be made after the expiry of one year from the date of the order unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

(8) Any owner or occupier of land who puts up and uses any tube-well or well, worked by electricity, steam, oil or wind power, without a licence after the publicity of the notice under sub-section (2) of this section or uses such an appliance in contravention of an order under sub-section (5) shall be charged a special rate for each separate occasion on which such use is made. The Board with the sanction of Government may frame rules to fix the amount of such rate and the manner in which it will be levied. The amount declared to be due shall be payable on the date so specified and in default shall be recovered as arrears of land revenue and credited to the Board fund under the provisions of sub-section (2) of section 40.

CHAPTER 5

POWERS AND DUTIES OF THE BOARD

27. Notification Of Local Area :-

(1) Whenever it appears to the Board that measures should be taken in any area to reclaim any land affected by thur or semunder the provisions of this Act or that preventive measures are necessary to stop spreading of thur or sem or both, or stopping or mitigating their appearance, it shall move Government to issue a notification specifying the area to be called local area to which the provisions of Chapters IV to VI (both inclusive) of this Act will apply.

(2) If in the whole or any part of the area mentioned in sub-section (1) the Board is of the opinion that the measures mentioned in section 17 for soil reclamation are necessary and are in view of the extent of cost beyond the resources of the individual owners or occupiers, or that the individual owners or occupiers neglect or refuse to carry out the measures required under section 28 (3) (e) the Government on being moved by the Board may by notification declare that the whole or any part of that area shall vest in the Board for the purposes of this Act for a period which shall be specified in the notification and which may be extended by Government from time to time by notification. Whenever any such

notification is issued all private rights of whatever kind existing in respect of any land comprising the area specified in the notification shall be suspended. The Government may lay down the terms and conditions on which the said area shall vest in the Board.

28. General Powers :-

(1) The Board may subject to such rules as may be framed by Government, undertake to carry out surveys for schemes including afforestation and area treatment if considered necessary, execute works, and incur any expenditure for the improvement, reclamation and lowering of sub-soil watertable in any local area.

(2) The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

(3) Without prejudice to the generality of the powers conferred by the preceding sub-sections, the Board may-

(a) exercise powers in respect of the measures stated in section 17 of this Act for any scheme;

(b) grant land vested in the Board to any person on any condition it thinks fit, and for this purpose issue a statement or statements of conditions on which the Board is willing to grant land to tenants:

Provided that no land which has been vested in the Board for management on behalf of the Government shall be granted to any person without the statement of conditions having been approved by the Government;

(c) if satisfied that a tenant has committed a breach of any condition of the tenancy, after giving the tenant an opportunity to appear and state his objections impose on him a penalty not exceeding five hundred rupees or resume the land so granted:

Provided that if the breach is capable of being rectified the penalty shall not be imposed nor resumptions ordered without giving the tenant an opportunity of rectifying it within 30 days of the receipt by him of the notice to this effect, unless the Board is of the opinion, for reasons to be recorded that such delay will frustrate the scheme:

Provided further that when any land is so resumed the tenant shall be entitled to such compensation for the standing crops and for improvements made by him during the tenancy as may be determined by the Board, notwithstanding anything contained in [42][any other law relating to tenancy for the time being in force in the area];

- (d) take over and reclaim any land on such terms and conditions as may be agreed upon between the Board and the owner or owners thereof;
- (e) direct in respect of any area-
- (1) the levelling, terracing and raising embankments of fields,
 - (2) the afforestation of such area or part thereof,
 - (3) the execution of earthworks in fields or ravines,
 - (4) for the provision and construction of surface field drains or sub-surface drains,
 - (5) the training of streams,
 - (6) field research,
 - (7) the permitting by the owners and occupiers of sitting of tube-wells and boring and use of water therefrom in place of that of canal,
 - (8) the execution of such other works and the sowing of such crops with specific rotation as are necessary in the opinion of the Board to protect the land from the deteriorating action of salts or water, sub-soil or otherwise or for the reclamation of such area;
- [43][(9) integration of surface and sub-surface irrigation supplies and replacement or partial replacement of one with the other;]
- (f) direct that any work which has been required to be done by any person under the preceding clause, and which remains undone shall after due notice to such person and consideration of any objection raised by him be executed by the Board, and specify the portion in which the risk and expense of such work shall be borne by such person, or by any other person who is held by the Board, upon due enquiry after reasonable notice to him to be responsible for the execution of such work, in whole or in part;
- (g) regulate, restrict or prohibit by general or special order in respect of any area-
- (1) the clearing or breaking up of land for cultivation,
 - (2) the quarrying of stone and the burning of lime or charcoal and extraction of salts,
 - (3) the admission, grazing, herding, parking and retention of cattle,
 - (4) the felling, girdling, lopping, tapping or burning of any tree or timber, and
 - (5) the kindling, keeping or carrying of any fire;
- (h) direct the growing of a particular kind or type of crops, trees, bushes or grasses in a particular area;
- (i) undertake the breaking of land, planting of trees, construction of water-courses and do all necessary acts to bring land vested in the Board under cultivation;

- (j) advance money either by way of grant or by way of loan, or partly in one way and partly in other to any person for the purpose of furthering any of the objects of this Act on such terms and conditions as to recovery of interest and subject to such terms and conditions as may be prescribed by the Government;
 - (k) make arrangements for the marketing of the produce and manufactures of the local area;
 - (l) promote and undertake research on any matter in furtherance of the objects of this Act;
 - (m) take over temporarily such other land which may be required to build offtaking and intaking channels and water-courses for the reclamation of the local area; but in such a case any disturbance or loss caused to the cultivation of the owner of such land shall be duly compensated for by the Board, by levying such special charge on the area benefitted as may be determined by the Board and the dimensions of the land needed, the position thereof marked on a plan duly approved by the Board or an officer to whom such powers are delegated shall be intimated to the owner mentioned in the civil records or ascertained otherwise as the case may be by sending a written notice per registered post to his last known address seven days before the work is started; provided that when the offtaking channel or the intaking water-course is in the opinion of the Board no more needed for the purpose for which it was constructed, the land shall be restored to the owner in its previous condition and all expenses incurred for achieving that condition shall be realised by the Board from the owner of the area benefitted.
- (4) Any general order made under this section shall be published in such manner as may be prescribed.

29. Power Of Controlling And Letting Of Land :-

- (1) The Board may with the previous approval of the Government make orders-
- (a) providing for the terms and conditions on which-
 - (i) land-holders or any class of land-holders in a local area shall be let land for reclamation; or
 - (ii) persons who at the commencement of this Act were in cultivating possession of agricultural land may continue in such possession to reclaim land; and
 - (b) specifying the person or class of persons to whom agricultural land shall be let by land-holders.
- (2) An order made under the provisions of sub-section (1) shall

have effect notwithstanding anything contained in any law regulating the letting of land for cultivation in force in the locality to which that order applies, or any notice sent or thing done under such law.

(3) On the written application of the Board, any Magistrate or Police Officer having jurisdiction in the area shall summarily eject any person who is in cultivating possession of any agricultural land contrary to the provisions of an order made under sub-section (1) and shall on similar application summarily restore possession to any person named in the application and for doing so may use such force as may be necessary for the purpose.

(4) In this section "land-holder" means any person who in accordance with any law or of any custom having the force of law has the right to let land for cultivation.

30. Facility In The Movement Of Population :-

In order to facilitate the movement of the population in and around a local area, the Board, may from time to time-

(a) subject to any conditions it may deem fit to impose-

(i) guarantee the payment from the funds at its disposal of such sums as it may deem fit, by way of interest on capital expended on the construction, maintenance or working of means of locomotion; or

(ii) make such payments as it may deem fit from the said funds, by way of subsidy to person undertaking to provide, maintain and work any means of locomotion; or

(b) either singly or in combination with any other person or body, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto; or

(c) construct, widen, strengthen or otherwise improve bridges:

Provided that no guarantee or subsidy shall be given or made under clause (a) and no means of locomotion shall be constructed, maintained or worked under clause (b) without the previous sanction of Government.

31. Surveys Or Contribution Towards Their Cost :-

The Board may-

(a) cause a survey of any land to be made when it considers that a survey is necessary or expedient for the carrying out of any of the purposes of this Act; or

(b) contribute towards the cost of any such survey made by any

other authority.

32. Power Of Entry :-

(1) The Chairman or any person acting under the general or special order of the Chairman may enter upon any land with such men, animals, vehicles, appliances and instruments as necessary and undertake investigations, surveys or levels thereon, and dig and bore into the sub-soil, and make and set up suitable land marks, pillars, levels marks and water gauges, and do all acts required for the determination of areas and intended lines of works, construct channels and aqueduct or alter them for securing the flow of water, and do all other acts which may be necessary in order to carry out all or any of the objects of the Act:

Provided that when the affected land does not vest in the Board, powers conferred by this sub-section shall be exercised in such manner as to cause the least interference with and the least damage to the rights of the owner therein [44][:]

[45][Provided further that where a Chairman or any person acting under his orders proposes to enter into any building or enclose court or garden attached to dwelling house, he shall previously give to the occupier of such building, enclosed court or garden such reasonable notice as the urgency of the case may allow.]

(2) It shall be lawful for any person authorised under sub-section (1) to make an entry for the purpose of inspection or search, to open or cause to be opened a door, gate or other barrier-

(a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search; and

(b) if the occupier or owner, as the case may be, is absent or being present, refuses to open such door, gate or barrier:

Provided that the compensation shall be paid for the damage caused in such manner as the Board may prescribe by bye-laws and in case of dispute as to its adequacy, the matter shall be referred to the Tribunal.

CHAPTER 6

ACQUISITION/ABANDONMENT OF ACQUISITION OF LAND AND LEVY OF RECLAMATION FEE

33. Modification Of Act I Of 1894 :-

For the purpose of compulsory acquisition of land by the Board, the Land Acquisition Act I of 1894 shall be deemed to have been modified as indicated in the schedule to this Act.

34. Acquisition Of Land In Urgent Cases :-

(1) The Government may by notification in the official Gazette declare any locality comprised in a local area to be acquired immediately for the purposes of reclamation or any other purpose connected therewith, and direct the Board to undertake in respect of such locality all or any such matters as may be included in a scheme under section 17.

(2) After a notification has been issued under sub-section (1) in respect of any locality, the Board may apply to the Collector who after giving such reasonable notice to the owners and occupiers as may be prescribed, shall deliver possession of any land in such locality to the Board and the land shall thereupon, notwithstanding anything contained in the Land Acquisition Act I of 1894, vest absolutely in the Board free from all encumbrances subject only to payment of compensation under the Land Acquisition Act, 1894, as modified in the schedule referred to in section 33 of this Act.

(3) The Board shall in respect of any such locality do all such acts as it may be required to do by the notification and shall proceed to frame a scheme under section 17 as soon as may be possible.

35. Tribunals :-

(1) For the purpose of performing the functions of the Court in reference to the acquisition of land for the Board under the Land Acquisition Act I of 1894 as modified by this Act, the Government may by notification, constitute one or more Tribunals, and may define the local limit of their jurisdictions.

(2) The Tribunal shall consist of three members namely a President and two Assessors chosen by the Government.

(3) The President of the Tribunal shall be a person qualified to be a Judge of the High Court.

(4) The term of office of the President and Assessors of the Tribunal shall be three years and they shall be eligible for reappointment.

(5) The Tribunal shall be deemed to be the Court and the President shall be deemed to be the Judge for the purpose of compulsory acquisition under the Land Acquisition Act I of 1894, as modified by this Act.

(6) The President of the Tribunal, shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for purposes of contempt of Court proceedings, to summon and enforce the attendance of witness and to compel the production of documents

by them.

(7) The Government may, at its discretion, remove any member of the Tribunal and appoint any other person in his place.

(8) The Government may, by notification, frame rules providing for-

(a) the emoluments or allowances to be paid to the President and the Assessors of the Tribunal and other conditions of their service;

(b) the employment by the President of such ministerial staff as is necessary to carry out the work of the Tribunal, and the fixation of scales of pay of such staff;

(c) the grant of leave, promotion, or taking of disciplinary actions by the President in respect of the ministerial staff; and

(d) generally for the conduct of business before the Tribunal.

(9) For the purpose of the award to be made by the Tribunal under the Land Acquisition Act I of 1894, the following rules shall apply, that is to say-

(a) if there is disagreement between the members of the Tribunal regarding measurement of land, or the amount of compensation or costs, the opinion of majority shall prevail;

(b) the decision on questions of law and procedure shall rest solely with the President; and it shall also be for him to decide whether a matter is a question of law or not;

(c) the President shall not be bound to consult the Assessors relating to the determination of persons to whom compensation is to be paid, or apportionment thereof, and may in his discretion dispose of such question singly and in that case his decision shall be deemed to be a decision of the Tribunal.

(10) An award of the Tribunal shall be enforced by the Court of Senior Civil Judge of the district in which the land under acquisition is situated as if it were the decree of that Court.

36. Appeals :-

(1) An appeal shall lie to the High Court against the decision of the Tribunal which shall for that purpose be deemed to be a Civil Court Subordinate to the High Court, and the provisions of the Code of Civil Procedure, 1908, in respect of first appeals shall in so far as these may be applicable apply to such appeals.

(2) Every order passed by the High Court on appeal under this section, shall be enforced by the Court of the Senior civil Judge within the limits of whose jurisdiction the award or order appealed against was made, as if it were a decree of that Court.

(3) An appeal under this section shall be deemed to be an appeal

under the Code of Civil Procedure, V of 1908, within the meaning of Article 156 of the First Schedule to the Limitation Act, IX of 1908.

37. Abandonment Of Acquisition :-

(1) An owner of land comprised in any scheme sanctioned by the Government, or any other person having an interest therein, may apply to the Board that the acquisition of the land which is not required for the execution of the schemes be abandoned. The Board may admit for consideration such application if it is made at any time before the Collector has made an award under section 11 of the Land Acquisition Act, I of 1894. If the application is admitted the Board shall intimate this fact to the Collector who shall thereupon stay further proceedings connected with the acquisition of land in respect of which the application is admitted and the same shall not be reopened until so desired by the Board.

(2) The Board may, in its discretion allow such application on payment of prescribed fee and subject to such terms and conditions as it may impose in this behalf.

(3) If any application under sub-section (1) is rejected by the Board or though the application is allowed, the fee mentioned in sub-section (2) is not paid or the conditions are not fulfilled by the person concerned within the prescribed period, the Board shall intimate the fact to the Collector, who shall take up the proceedings for the acquisition of the land from the stage at which they had been stayed.

38. Reclamation Fee :-

(1) When by the execution of any scheme, the value of the land included therein is expected to be increased the Board may at any time after the sanction of the scheme under section 21 proceed to levy and recover reclamation fee in respect of such land in accordance with the rules framed by Government under sub-section (4).

(2) When by the execution of any scheme under this Act increase has actually taken place in the value of any land in the area comprised therein or the expenditure actually incurred on the execution of the scheme is in the opinion of the Board more than the increase or expenditure anticipated at the time of assessing the reclamation fee recovered under sub-section (1), the Board may, before restoring the land, levy and recover in respect of the land such further amount of reclamation fee as it may consider suitable.

(3) In fixing the amount of reclamation fee to be charged in respect of any land or class of land, the Board shall also take into consideration the actual expenditure incurred or to be incurred on the execution of the scheme and the degree to which the land or any part of the land has or will be benefited thereby.

(4) The Government may frame rules providing for-

(a) the manner in which the demand for the reclamation fee shall be assessed and distributed on the land comprised in the scheme and the person or persons by whom the fee shall be payable;

(b) the acceptance by the Board of a satisfactory and sufficient security in lieu of immediate payment of reclamation fee by an owner of land or any person interested therein;

(c) the mode by which the reclamation fee shall be realised and the number of installments to be allowed in this connection and the interest chargeable on balances outstanding from time to time; and

(d) the mode of preferring appeal from assessment by the Board and the authority to which the appeal shall lie.

39. Fresh Acquisition :-

If any land in respect of which any reclamation fee has been charged under the provisions of section 37 or 38 be subsequently required for any of the purposes of this Act, the payment of fee or any other act done under the rules framed under section 38(4) shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration under section 6 of the Land Acquisition Act I of 1894.

CHAPTER 7

FINANCE

40. Board Fund :-

(1) There shall be a fund to be known as "Board Fund" vested in the Board which shall be utilised by the Board to meet charges in connection with its functions under this Act including the salaries and other remuneration of the staff of the Board and the Tribunal and any officers and servants duly appointed under the Act.

(2) All sums received by the Board shall be credited to the Board Fund.

41. Board To Levy Taxes :-

(1) The Board may, with the previous sanction of the Government,

levy on any local area or part thereof a tax to be known as "Land Improvement Tax" to implement various measures of reclamation: Provided that the Board may exempt any person or class of persons from the payment of whole or part of any such tax due from him or them on such conditions as it may impose.

42. Grants-In-Aid :-

(1) The Government may allow any grant-in-aid to the Board for carrying out its duties under the Act.

(2) Any local body may, and when so required by the Government shall, grant such amount of money to the Board as may be specified in the requisition.

43. Borrowing Of Money :-

The Board shall be deemed to be a local authority for the purpose of borrowing money under the Local Authorities Loans Act, IX of 1914, and the making and execution of any scheme under this Act shall be deemed to be a work which such Board is legally authorised to carry out.

44. Custody And Investment Of Board Funds :-

(1) In any place in [46][West Pakistan] where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, all moneys at the credit of the Board shall be kept in such treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, such moneys may be kept with a banker or person acting as a banker, who has given such security for the safe custody and repayment on demand of the sums so kept as the Government may in each case deem sufficient.

(3) Nothing in the foregoing provision of this section shall be deemed to preclude the Board from investing any such moneys as are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, II of 1882 or placing them in fixed deposit with a bank approved by the Government.

45. Procedure On Failure Of The Board To Repay Loans :-

If any money borrowed under section 43 or any interest or costs due in respect thereof is or are not repaid according to the

conditions of the loans the Government may itself make such payment and may attach the rents and other income of the Board: and thereupon the provisions of section 5 of the local Authorities Loans Act, IX of 1914 shall, with all necessary modifications, be deemed to apply.

46. Recouping Of Payments Made By Government :-

The Government may further impose or increase a tax on the annual value of buildings or lands situated within the local area and enhance the rate of land revenue and occupiers rates within the local area to such extent as may be necessary for the purpose of recouping a payment made by Government under section 45.

47. Payment By Government To Be A Charge On The Property Of The Board :-

All moneys paid by the Government under section 45 shall constitute a charge upon the property of the Board.

CHAPTER 8

RULES AND BYE-LAWS

48. Power Of Government To Make Rules :-

(1) In addition to the power conferred by any other provision of this Act the government may by notification in the official Gazette make rules consistent with this Act:-

- (i) as to the authority on which money may be paid from the Board Fund;
- (ii) for fixing the fees payable for copies of, or extracts from, the record furnished by the chairman;
- (iii) as to the employment, terms of service, suspension and removal of officers and servants of the Board and the conduct of such officers and servants;
- (iv) as to the intermediate office or offices, if any, through which correspondence between the Board and the Government or servants of the Government shall pass;
- (v) as to the accounts to be kept by the Board, the manner in which such accounts shall be audited and published, and the powers of auditors in respect of the disallowance and surcharge;
- (vi) as to the authority by whom, the conditions subject to which and the mode in which contracts may be entered into and executed on behalf of the Board;

[47][(vii) as to the preparation of annual estimates of income and expenditure of the Board;]

(viii) as to the returns, statements and reports to be submitted by the Board;

(ix) to prescribe and define the mutual relations, to be observed between the Board, other departments and local authorities in any matter in which they are jointly interested;

(x) for regulating the grant of leave of absence, leave allowance and acting allowance to the officers and servants of the Board;

(xi) for establishing and maintaining a provident or annuity fund for compelling all or any of the officers in the service of the Board or of the Tribunal (other than any servant of Government in respect of whom a contribution is paid under section 69) to contribute to such fund at such rates and subject to such conditions as may be prescribed by such rules and for supplementing such contributions out of the funds of the Board:

Provided that a Government servant, employed as an officer or servant of the Tribunal as also those who are on deputation to the Board shall not be entitled to leave or leave allowance otherwise than as may be prescribed by the conditions of his service under the Government.

(xii) for determining the conditions under which the officers and servants of Board or of the Tribunal, or any of them, shall on retirement receive gratuities or compassionate allowances, and the amount of such gratuities and compassionate allowances and providing that it shall be at the discretion of the Board or of the Tribunal, as the case may be, to determine whether all such officers and servants or any and if so, which of them, shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid;

(xiii) generally for the guidance of the Board and officers in all matters connected with the carrying out of the provisions of this Act;

(xiv) for regulating the grant of subsidies to the Board by the Government, the conditions under which they may be earned or forfeited and the arrangements for their repayments;

(xv) as to the methods, details and programs for reclamation of land under different circumstances.

(2) All acts authorised or enjoined under this Act shall be held to be authorised or enjoined subject to such rules.

49. Power Of The Board To Make Bye-Laws :-

The Board may from time to time with the previous sanction of the Government and shall, if required by the Government, make bye-laws consistent with this Act and with any rules made under this Act by the Government-

- (i) for fixing the amount of security to be furnished by any officer or servant of the Board under the provisions of this Act;
- (ii) for associating persons with the Board under sub-section (1) of section 7;
- (iii) for regulating the delegation of powers or duties of the Board to committees or to the Chairman;
- (iv) for guidance of persons employed by it under this Act;
- (v) for the management, use and regulation of dwellings constructed under any scheme under this Act; and
- (vi) generally for discharging the functions of the Board under this Act.

50. Printing And Sale Of Copies Of Rules And Bye-Laws :-

(1) The chairman shall cause the rules and bye-laws made under sections 48 and 49 respectively to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of such fees as he may fix.

(2) Notice of the fact of copies of rules and bye-laws being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the Chairman by advertisement in one or more newspapers selected by him for the purpose.

51. Power Of Government To Cancel Bye-Laws Made Under Section 49 :-

The government may, after previous publication of its intention, cancel any bye-laws made by the Board which it has sanctioned, and thereupon the bye-laws shall cease to have effect.

CHAPTER 9

PROCEDURE AND PENALTIES

52. Signature On Notice, Summons, Order, Requisition, Proclamation Or Bill :-

Every notice, summons, order, requisition, proclamation or bill issued by the Board under this Act shall be signed by the

Chairman, or by any other member or any officer or servant of the Board specially or generally authorised by the Board, or so authorised by the Chairman under sub-section (1) of section 13, and every such notice, summons, order, requisition, proclamation or bill shall be deemed to be properly signed, if it bears the facsimile of the signature of the chairman or such member, officer or servant stamped or printed thereon.

53. Method Of Giving Public Notice :-

Subject to provisions of this Act, every public notice required to be given under this Act shall be deemed to have been duly given if it is published in some newspapers and pasted upon a notice board to be exhibited for public information at the building in which the meetings of the Board are ordinarily held.

54. Service Of Notice :-

(1) Every notice, other than a public notice, summons, order, requisition, proclamation and bill, issued under this Act shall, unless it is under this Act otherwise expressly provided, be served, delivered or presented-

(a) personally or by sending it by registered post to the person to whom it is addressed; or

(b) if such person cannot be found, then by leaving the notice, summons, order, requisition or bill at his last known place of abode, or by giving or tendering it to some adult male member or servant of his family, ordinarily residing with him, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(2) When notice, summons, order or requisition is required or permitted under this Act to be served upon an owner, occupier or tenant, as the case may be, of a building or land, it shall not be necessary to name the owner, occupier or tenant therein, and the service thereof in cases not otherwise specially provided for in this Act shall be effected-

(a) personally, or by sending it by registered post to the owner, occupier or tenant, or if there be more owners, occupiers, or tenants, then to any one of them; or

(b) if such owner, occupier or tenant cannot be found, then, by giving or tendering the notice to an adult male member or servant of his family ordinarily residing with him or by causing the notice, summons, order or requisition to be affixed on some conspicuous

part of the building in which the person on which the notice is to be served resides; or

(c) in the case of a proclamation, in addition to any other mode of proclamation which may be prescribed by this Act, by beat of drum or other customary method and by the pasting of a copy thereof on any conspicuous place in or near the property to which it relates.

(3) Whenever the person on whom a notice, summons, order, requisition or bill is to be served is a minor, service upon his guardian shall be deemed to be service upon the minor.

55. Penalty For Disobedience :-

Where under this Act or under a notice, summons, order or requisition issued thereunder the public or any person is required to do or to refrain from doing anything, a person who fails to comply with the requirements shall, if such failure is not an offence punishable under any other section of this Act or any other law for the time being in force, be liable on conviction by a Magistrate of the 1st Class to a fine not exceeding five hundred rupees for every such failure, and in the case of a continuing breach, to a further fine which may extend to fifty rupees for every day after the date of the last conviction during which the offender is proved to have persisted in the breach:

Provided that where the notice, summons, order or requisition fixes without authority from this Act a time within which a certain act is to be done, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time so as to justify conviction.

56. Powers Of The Board To Execute Works On Failure To Comply With Notice, Summons, Order Or Requisition :-

If a notice, summons, order or requisition has been addressed by the Board under this Act to a person requiring him to execute a work in respect of any property, movable or immovable, public or private, or do or refrain from doing anything within a time specified in the notice, summons, order or requisition, and if such person fails to comply with it then the Board may cause such work to be executed or such things to be provided or done, and may recover all expenses incurred by it on such account from the said person.

57. Liability Of Occupier To Pay In Default Of Owner :-

(1) If the person to whom the notice, summons, order or

requisition mentioned in section 56 has been addressed is the owner or the property in respect of which it is given, the Board may whether any action or other proceedings have been brought or taken against such owner or not, require the person, if any, who is the occupier or tenant of such property or a part thereof under such owner, to pay to the board instead of paying to the owner the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 56; and any such payment made by the occupier or tenant to the Board shall be deemed to have been made to the owner of the property.

(2) For the purpose of deciding whether action should be taken under sub-section (1) the Board may require an occupier or tenant of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable, and if the occupier or tenant refuses to furnish such information he shall be liable for the expenses referred to in section 56 as if he was the owner.

58. Right Of Occupier To Execute Works In Default Of Owner :-

Notwithstanding any provisions of any other law whenever default is made by the owner of a building or land in the execution of a work required under this Act to be executed by him, the occupier or tenant of such building or land may, with the approval of and shall if so directed by the Board, cause such work to be executed and the expense thereof shall be paid by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

59. Opposition To Execution By Occupier :-

(1) If, after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice, summons, order or requisition issued under this Act, the occupier or tenant refuses to allow such owner to take such action the owner may intimate the fact to a Magistrate, having jurisdiction in the area.

(2) The Magistrate, upon proof of such refusal may by order in writing require the occupier or tenant to give the owner reasonable facility for executing such work with respect to such building or land, as may be necessary for compliance with the notice, order or requisition and may also, if he deems fit, order the occupier or

tenant to pay to the owner the costs incurred by the source to bring the matter before the Magistrate and to obtain his order.

(3) If, after the expiry of the period which the Magistrate may fix by taking into consideration the nature and urgency of the work to be executed, the occupier or tenant continues to refuse to allow the owner to execute such work, the occupier or tenant shall be liable upon conviction to a fine which may extend to fifty rupees per day and to eviction from the property. The warrant for eviction shall be addressed by the Magistrate to the officer incharge of the police station concerned, and shall be complied with without any delay.

(4) Every owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in the execution of such works.

60. Recovery Of Cost Of Execution By The Occupier From Owner :-

Notwithstanding any provisions of any other law when the occupier or tenant of a building or land has, in compliance with a notice, order or requisition issued under this Act, executed a work for which the owner of such building or land is responsible either in pursuance of the contract of tenancy or by law, he shall be entitled to recover from the owner by deduction from the rent payable by him or otherwise the reasonable cost of such work.

61. Relief To Agents And Trustees :-

(1) When a person, by reason of his receiving, or being entitled to receive, the rent of immovable property as trustee or agent of a person or society would under this Act be bound to discharge an obligation imposed by this Act on the owner of the property for the discharge of which money is required he shall not be bound to discharge the obligations unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owners sufficient for the purpose.

(2) When an agent or trustee has claimed and established his right to relief under this section the Board may give him notice to apply to the discharge of such obligation as aforesaid the moneys which come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

62. Penalty For Removing Machinery, Etc :-

If any person, without lawful authority-

- (a) removes any machinery, pipes, survey or other marks, gauges, fence or any timber used by the Board for propping or supporting any building, wall or other thing, or extinguishes any light set up at any place where the surface of a street or other ground has been opened, or broken up by the Board for the purpose of carrying out any work; or
- (b) infringes any order given, or removes any bar, chain or post fixed by the Board for the purpose of closing any street to traffic, he shall be punishable with fine which may extend to fifty rupees.

63. Penalty For Obstructing Land Reclamation Operations Or A Contractor Or Removing Mark :-

If any person-

- (a) damages, alters, obstructs or interferes with any soil reclamation operation so as to endanger, or damage them or to render them less useful, or
 - (b) obstructs, or molests any person in the performance or execution of contract which the Board has entered into with him under this Act; or
 - (c) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act;
- he shall be punishable with fine which may extend to two hundred rupees or with imprisonment for a term which may extend to two months.

64. Power Of Board In Case Of Squatters And Trespassers And Persons In The Unauthorised Possession Of Land :-

When the Chairman is satisfied that any person has taken or is in possession of land comprised in any scheme, or any other land owned by or vested in the Board and to which such person has no right or title, or when a tenant refuses to surrender the land which has been resumed by the Board in consequence of a breach of the conditions on which it was held by such person the Chairman or any person authorised by him may in addition to any other powers he may possess, forthwith, with the use of such force as may be necessary, re-enter upon the land and resume its possession and also take possession of all crops, trees and buildings thereon on

behalf of the Board without payment of any compensation whatsoever.

65. Penalty For Unauthorised Cultivation, Etc :-

(1) If any person without the permission of the Chairman of the Board-

(a) clears or breaks up for cultivation or cultivates any land which is owned by or vests in or is in the possession of the Board and is not included in any tenancy or allocated residential enclosure, or which has been set apart for the common purposes of a town or a village community or section of the same or for a road, canal or water-course, the Chairman may confiscate the crops growing on any land cultivated in contravention thereof or if the crops have been cut, recover such sum as he may assess as the value of such crop from the offender; or

(b) fells or otherwise destroys standing trees on such land the Chairman may recover such sum as he may assess as the value of the trees felled or destroyed; or

(c) erects any building on such land or otherwise encroaches on or makes an excavation or construction of water channel on such land, the Chairman may cause the building or other encroachment to be demolished or removed or the excavation or the channel to be filled up and levy the cost of so doing from the offender.

(2) No order shall be passed under sub-section (1) without giving the person affected an opportunity of being heard and showing cause against the proposed order.

66. Section 66 :-

[Additional remedy against offences.] Omitted by West Pakistan Laws (Amendment) Ordinance, 1965 (XXXIV of 1965).

CHAPTER 10

SUPPLEMENTAL PROVISIONS

67. Members, Etc., Deemed Public Servants :-

Every member and every officer and servant of the Board, and every member and officer and servant of the Tribunal, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, and shall as far as practicable be subject to the same rules of conduct and be entitled to the same privileges and protection as are laid down from time to time for other officers

of the Government.

68. Contribution By The Board Towards Leave, Allowances And Pensions Of Government Servants :-

The Board shall be liable to pay such contributions for the leave, allowances and pension of any Government servant employed as Chairman or as an officer or servant of the Board, or as a member or officer or servant of the Tribunal as may be required by the conditions of his service under the Government, to be paid to him or on his behalf.

69. Authority For Prosecution :-

No court shall take cognizance of any offence punishable under this Act, except on the complaint of the Chairman or some person authorised by the Board or by the Chairman by general or special order in this behalf.

70. Recovery Of Dues :-

The Chairman or any person generally or specially authorised by him may apply to the Collector for the recovery of any sum due under this Act or under an agreement made under this Act and the Collector shall thereupon proceed to recover the sum due as if it were an arrear of land revenue.

71. Powers Of Chairman As To Institution, Etc., Of Legal Proceedings And Obtaining Legal Advice :-

The Chairman may, subject to the control of the Board-

- (i) institute, defend or withdraw from legal proceedings under this Act;
- (ii) compound any offence against this Act;
- (iii) admit, compromise or withdraw any claim made under this Act; and
- (iv) obtain such legal advice and assistance as he may from time to time deem necessary or expedient to obtain, or as he may be desired by the Board to obtain for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

72. Indemnity Of Acts Under The Act :-

No criminal proceedings of any kind shall be maintainable against the Board or any member, officer or servant thereof, or any other person in respect of anything done or purported to be done lawfully and in good faith and with due care and attention in exercise of powers under this Act or rules or bye-laws framed thereunder or under the direction issued in the exercise of such powers.

73. Notice Of Suit Against The Board, Etc :-

(1) No suit shall be instituted against the Board or any member, or any person associated with the Board under section 7 or any member of a committee appointed under section 8 or any officer or servant of the Board or of the Chairman or of any officer or servant of the Board, in respect of any act purported to be done within the scope of the functions under this Act, until the expiration of two months next from the date on which a notice in writing has been, in the case of the Board, left at its office, and in any other case delivered to or left at the office or place of abode of the person to be sued explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff; and in case the suit is filed, the plaint shall contain a statement that such notice has been so delivered or left.

(2) If the Board or other person referred to in sub-section (1) shall before the action is commenced have tendered in the opinion of the court sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in sub-section (1) shall, unless it is an action for the recovery of immovable property or for a declaration of the title thereto, be commenced otherwise than within six months from the date of the cause of action or the knowledge of the plaintiff, whichever is later:

Provided that nothing in sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by giving of the notice or the postponement of the institution of the suit or proceeding.

74. Mode Of Proof Of The Records :-

A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of the Board, shall if

duly certified by the legal keeper thereof, or other person authorized by the Board in this behalf be received as prima facie evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

75. Restriction On The Summoning Of The Servants Of The Board To Produce Documents :-

No member or officer or servant of the Board shall in any legal proceedings to which the Board is not a party be required to produce any register or document, the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the court for special cause.

76. Validation Of Acts And Proceedings :-

(1) No act done or proceedings taken under this Act shall be questioned on the ground merely of-

- (a) the existence of any vacancy in or any defect in the constitution of the Board or of any Committee; or
- (b) any person having ceased to be a member; or
- (c) the failure to serve a notice on any person where no substantial injustice has resulted from such failure; or
- (d) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceeding of which have been duly signed as prescribed in clause (e) of sub-section (1) of section 6 shall be taken to have been duly convened and to be free from all defects and irregularities.

77. General Power Of The Board To Pay Compensation :-

In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Act in the Board or the Chairman or any officer or servant of the Board.

78. Compensation For Damage To Boards Property :-

(1) If on account of any act or omission, any person has been convicted of any offence under this Act, and by reason of such act or omission damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the court before whom he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said court, as if it were fine imposed by it on the person liable therefor.

79. Ultimate Dissolution Of The Board And Transfer Of Its Assets And Liabilities To An Administrator :-

(1) When all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the Board, in the opinion of the Government, unnecessary, or when in the opinion of the Government it is expedient that the Board shall cease to exist, the Government may by notification declare that the Board shall stand dissolved from such date as may be specified in this behalf in such notification, and the Board shall be deemed to be dissolved accordingly.

(2) From such date-

(a) all properties, funds and dues which are vested in or realizable by the Board and the Chairman respectively shall vest in and be realizable by an Administrator appointed by the Government in this behalf;

(b) all liabilities which are enforceable against the Board shall be enforceable only against the Administrator;

[49][(c) for the purpose of preparing or executing new schemes or for the purpose of completing the execution of any scheme already sanctioned under this Act but not fully executed by the Board or for levying or recovering reclamation fee or for raising properties, funds and dues referred to in clause (a), the Administrator shall perform all the functions and exercise all the powers of the Board under the Act;]

(d) the Administrator shall keep separate accounts of all moneys respectively received and expended by him under this Act, until all loans raised hereunder have been repaid, and until all other

liabilities referred in clause (b) have been duly met.

[50] [(3) Government may, at any time remove the Administrator and reconstitute the Board and thereupon-

(a) all properties, funds and dues vested in or realizable by the Administrator shall vest in and be realizable by the Board;

(b) all liabilities enforceable against the Administrator shall be enforceable only against the Board;

(c) all actions taken by the Administrator shall be deemed to have been taken by the Board.

SCHEDULE 1

SCHEDULE I

(Referred to in Section 33)

MODIFICATIONS IN THE LAND ACQUISITION ACT I 1894 HEREIN AFTER CALLED "THE SAID ACT"

1. Amendment of section 3.- In section 3 of the said Act-

(i) clause (f) shall be deemed to have been modified so as to read as follows:-

"(f) the expression "public purpose" includes-

(1) the provision of village sites in districts in which the Provincial Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision;

(2) soil reclamation carried out under the Punjab Soil Reclamation Act, 1952:"

(ii) the full-stop at the end of clause (g) shall be replaced by a colon and the following clauses shall be deemed to have been added after clause (g):-

"(h) "board" means the [51][West Pakistan[52] Land and Water Development Board] appointed under the Punjab Soil Reclamation Act, 1952;

(i) "net income" shall mean the income from the land after deducting therefrom the ordinary expenses of cultivation, land revenue, rates and cesses; and

(j) "rates and cesses" have the same meaning as given in section 3(9) of the [53]Land Revenue Act, 1887[54]".

2. Notification under section 4 and declaration under section 6 to be replaced by notification under sections 18 and 22 of this Act.- (1) The first publication of a notice of a reclamation scheme under section 18 of the Punjab Soil Reclamation Act, 1952, shall be substituted for and have the same effect as publication in the Gazette and in the locality, of a notification under sub-section (1) of section 4 of the said Act, except where a notification under section 4 or a declaration under section 6 of the said Act has previously been made and is still in force.

(2) Proceedings under section 19 and sub-section (1) of section 20 of the Punjab Soil Reclamation Act, 1952, shall substitute for and have the same effect as proceedings under section 5-A of the said Act.

(3) Subject to the provisions of paragraphs 10 and 11 of the Schedule, the publication of a notification under section 22 of the Punjab Soil Reclamation Act, 1952 shall substitute for and have the same effect as a declaration by the Provincial Government under section 6 of the said Act, unless a declaration under the last mentioned section has previously been made and is still in force.

3. Amendment of section 11.- In section 11 of the said Act the conjunction "and" between clauses (ii) and (iii) shall be deleted, the fullstop at the end of clause (iii) shall be replaced by a semi-colon followed by the conjunction "and", and the following clause shall be deemed to have been added thereafter, namely "(iv) the costs which in his opinion should be allowed to any person who is found to be

entitled to compensation, as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector".

4. Amendment of section 15.- In section 15 of the said Act, for the word and figures "and 24", the figures, word, and letter "24 and 24-A", preceded by a comma shall be deemed to be substituted.

5. New section 16-A.- After section 16 of the said Act the following section shall be deemed to have been inserted, namely:-

"16-A. Transfer of land to Board.- In every case referred to in section 16 the Collector shall upon payment or tender of compensation for acquisition, make over charge of the land to the Board and the land shall thereupon vest in the Board".

6. Amendment of section 17.- For section 17 of the said Act, the following shall be deemed to have been substituted:-

"17. (1) In cases where the Board considers it expedient to take possession of any land at any time before an award under section 11 has been made, it shall notify this fact in writing to the Collector intimating in addition the date by which the land is required by it. The Collector shall after causing a notice to this effect to be served on the person or persons interested in the land take possession of the land and transfer it to the Board in whom it shall vest absolutely free from all encumbrances subject to its liability to pay any amount which may be incurred on account of acquisition.

(2) The Collector shall at the time of taking possession of land offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them on account of dispossession and not excepted in section 24 or 24-A; and, in case such offer is not accepted, the value of such crops or trees and the amount of such other damage shall be allowed for while awarding compensation for the land under the provisions herein contained".

7. Amendment of section 18.- The following shall be deemed to have been substituted for sub-section (1) of section 18 of the said Act, namely:-

"Any person interested who has not accepted the award of the Board may by written application to the Collector, require that the matter be referred by the collector, for determination of the court, whether his or its objection be to the measurement of the land, the amount of compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested or the amount of costs allowed".

8. Amendment of section 19.- In clause (c) of section 19 of the said Act, after the words "amount of compensation" the words and brackets "and of costs (if any)", shall be deemed to have been inserted.

9. Amendment of section 20.- (1) In clause (c) of section 20 of the said Act, after the words "amount of the compensation" the words "or costs", shall be deemed to have been inserted.

(2) Between the word "Collector" and the full-stop at the end of section 20 of the said Act, the words "and the Board", shall be deemed to have been added.

(3) The existing section 20 of the said Act shall be numbered as sub-section (1) of section 20, and the following sub-sections shall be deemed to have been added:-

"(2) The Board or any person to whom a notice is issued under clause (b) or (c) of sub-section (1) may support the award and may also take any cross objection which could have been taken by making an application for reference provided such objection is filed within one month from the date of service of the notice under this section or within such further time as the Tribunal may see fit to allow.

(3) The provisions of the Code of Civil Procedure, 1908, relating to cross objection filed under that code shall, so far as may be, apply to the cross objections filed under this section".

10. Amendment of section 23.- (1) In sub-section (1) of section 23 of the said Act, the word, figures and brackets "the date of the publication of the notification under section 4, sub-section (1)" occurring in clause first and the words and figure "the time of the publication of the declaration under section 6" occurring in clause sixth, shall be deemed to have been replaced by the words "such date as Government may declare."

(2) For the existing sub-section (2) of section 23 of the said Act, the following shall be deemed to have been substituted namely:-

"(2) For the purposes of clause "First" of sub-section (1) of this section the market value of the land shall be determined on the basis of the average net income of that land for the five years preceding the date declared by Government under sub-section (1) of this section:

Provided that if that land or any portion of it has not been cultivated, the net income of such land or portion in that year shall be taken to be four times the land revenue assessed thereon, or, if no land revenue has been so assessed, three times the lowest rate of land revenue assessed on neighbouring land:

Provided further that in respect of land which is situated in a town or village abadi or land which is attached to a house, manufactory, or other building and is reasonably required for the enjoyment and use of the house, manufactory or building, the market value shall be the market value according to the use to which the land was being put on the date declared by Government under sub-section (1) of this section."

11. Amendment of section 24.- For clause seventh of section 24 of the said Act, the following shall be deemed to have been substituted, namely:-

"Seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market value is to be determined, unless it is proved that these were necessary to keep the land in a fit state to command the profits accruing on the said date and were made in good faith and not in contemplation of proceedings for compulsory acquisition".

12. New section 24-A.- After section 24 of the said Act, the following section shall be deemed to have been inserted, namely:-

"24-A. In determining the amount of compensation to be awarded for any land acquired for the Board under the Punjab Soil Reclamation Act, 1952, the court shall also have regard to the following provisions, namely:-

(1) When any interest in any land acquired under this Act has been acquired after the date with reference to which the market value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.

(2) If in the opinion of the court any building is in a defective state from a sanitary point of view or is not in a reasonably good state of repairs, the amount of compensation for such building shall not exceed the sum which the court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repairs as the case may be, less the estimated cost of putting it into such condition or state.

(3) If, in the opinion of the court any building which is used or is intended or is likely to be used for human habitation is not reasonably capable of being made fit for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building less the cost of demolishing the building".

13. Amendment of section 25.- In section 25 of the said Act-

(i) in sub-section (1) the words and figures "or be less than the amount awarded by the Collector under section 11", shall be deemed to have been deleted, and

(ii) the following shall be deemed to have been added as sub-section (4):-

"(4) The court shall be competent to award an amount less than that awarded by the Collector, if, after consideration of any reference or cross objection, it is of the opinion that the amount awarded by the Collector is excessive".

14. Amendment of section 31.- (1) After the words "the compensation" in sub-section (1) of section 31 of the said Act, and after the words "the amount of compensation" in sub-section (2) of that section, the words and brackets "and costs (if any)" shall be deemed to have been inserted.

15. New section 48-A.- After section 48 of the said Act, the following section shall be deemed to have been inserted, namely:-

"48-A. (1) If within a period of two years from the date of the publication of the notification under section 22 of the Punjab Soil Reclamation Act, 1952, in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay.

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

16. Amendment of section 49.- After sub-section (1) of section 49 of the said Act, the following sub-section shall be deemed to have been inserted, namely:-

"(1-A) For the purpose of sub-section (1) land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house, shall be deemed to be part of the house."

17. Amendment of section 50.- In sub-section (2) of section 50 of the said Act, the words, "or the [55][Punjab Land and Water Development Board] shall be deemed to have been inserted between the words "concerned" and "may" and the proviso to the sub-section shall be deemed to have been deleted.

18. Deletion of Section 54.- Section 54 of the said Act shall be deemed to have been deleted.