

## **Thal Development Act, 1949**

**15 of 1949**

**[29 July 1949]**

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## **SCHEDULE 1 :- SCHEDULE I**

### **Thal Development Act, 1949**

**15 of 1949**

**[29 July 1949]**

An Act to provide for the speedy development of the area brought under irrigation by the execution of the Thal Project, and for the re-settlement thereon of refugees and others and for the levy of development fee Preamble.- WHEREAS the Governor of the Punjab has, in pursuance of a proclamation[2] issued by the Governor-General of Pakistan under section 92-A of the Government of India Act, 1935, assumed, on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act; Now, THEREFORE, in exercise of the powers so assumed the Governor is hereby pleased to enact as follows:-

#### CHAPTER 1 PRELIMINARY

#### **1. Title, Extent And Commencement :-**

(1) This Act may be called the Thal Development Act, 1949.

[3][(2) It extends to the districts of Mianwali, Bhakkar, Muzaffargarh, Layyah and Khushab; provided that the Provincial Government may by notification extend all or any of the provisions of this Act to any other part of the Province of the Punjab].

(3) It shall come into force at once.

#### **2. Definitions :-**

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

"Collector" has the same meaning as in clause (c) of section 3 of the Land Acquisition Act, 1894[4];

"Development Fee" shall mean fee imposed under section 40 of this Act;

"Holding" means a share or portion of an estate held by one landowner or by two or more landowners jointly;

"Improvement" when made by a tenant means such improvement

as the tenant is permitted to make under the conditions applicable to his tenancy;

"Land" includes land as defined in clause (a) of section 3 of the Land Acquisition Act, 1894[5];

"Local Area" means an area to which this Act has been extended;

"Local Authority" has the same meaning as in section 2 of the Local Authorities Loans Act, 1914[6];

"Member" means member of the Thal Development Authority appointed under section 4 of this Act;

"Notification" means a notification published in [7][the Punjab] Gazette;

"Prescribed" means prescribed by rules made by Provincial Government under this Act;

"Rent" includes rent as defined in section 4(3) of the Punjab Tenancy Act, 1887[8];

"Scheme" means a scheme framed under section 21 of this Act;

"Tenant" includes the predecessors and successors-in-interest of a tenant;

"Tribunal" means a Tribunal constituted under section 37 of this Act;

the expressions "tree", "timber" and "cattle" have the meanings respectively assigned thereto in the [9][\* \* \*] Forest Act, 1927[10].

## CHAPTER 2

### CONSTITUTION OF THE AUTHORITY

#### **3. Creation And Incorporation Of The Authority :-**

The duty of carrying out the provisions of this Act in any local area shall, subject to the conditions and limitations hereinafter contained, be vested in a Board to be called "The Thal Development Authority", hereinafter referred to as "The Authority" and the Board shall be a body corporate, and shall have perpetual succession and a common seal, and shall by the said name sue and be sued.

#### **4. Constitution Of The Authority :-**

(1) The Authority shall consist of not more than seven members appointed by the Provincial Government by notification [11][:]

[12][Provided that one of the Members shall be a person who, in the opinion of the Provincial Government, is qualified to hold charge of the finances of the Authority and he shall be appointed after

previous consultation with the Chairman:

Provided further that no person shall be appointed a Member of the Authority, who would, if he were a Member, be liable to removal under section 9.]

(2) One of the members shall be appointed by the Provincial Government as Chairman.

[13][(3) The Authority or the Chairman may and if directed by the Provincial Government shall delegate such powers and assign such duties to the various Members of the Authority as may be specified in writing by the Authority or the Chairman or the Provincial Government as the case may be.

#### **5. Term Of Office Of Member :-**

The term of office of the Members of the Authority shall be three years.

#### **6. Commencement Of Term Of Office, Reappointment And Resignation :-**

(1) The term of office of a Member shall commence on such date as shall be notified in this behalf by the Provincial Government.

(2) Any person ceasing to be a Member of the Authority by reason of the expiry of the term of his office shall, if otherwise qualified, be eligible for re-appointment.

(3) Any Member of the Authority may at any time resign, provided that his resignation shall not take effect until accepted by the Provincial Government.

#### **7. Section 7 :-**

[Filling of casual vacancies.] Deleted by the Thal Development (West Pakistan Amendment) Ordinance, 1959 (XIX of 1959), section 2.

#### **8. Remuneration Of Chairman And Members :-**

The Chairman and Members of the Authority shall receive such salary or remuneration as may be sanctioned by the Provincial Government.

#### **9. Removal Of Members :-**

The Provincial Government may [14][after giving him an

opportunity of being heard], by notification, remove any Member-  
(a) if he refuses to act, or becomes in the opinion of the Provincial Government, incapable of acting or has been declared as insolvent, or has been convicted of any such offence or subjected by a Criminal Court to any such order as implies in the opinion of the Provincial Government, a defect of character which renders him unfit to be a Member; or

(b) if he has been declared to be disqualified for employment in, or has been dismissed from the public service and the reasons for the disqualification or dismissal is such as implies, in the opinion of the Provincial Government, a defect of character which renders him unfit to be a Member; or

[15][(c) if he has absented himself from more than three consecutive meetings of the Authority, or of any committee of which he is a member, and is unable to explain such absence to the satisfaction of the Provincial Government; or]

(d) if, in the opinion of the Provincial Government he has flagrantly abused his position as a Member; or

(e) if he has knowingly acquired or continued to hold without the permission in writing of the Provincial Government, directly or indirectly or by a partner, any share or interest in any contract or employment with, by or on behalf of the Authority; or

(f) if he has knowingly acted as a Member in a matter other than a matter referred to in clause (iv) of the proviso to this section, in which he or a partner had, directly or indirectly, a personal interest; or

(g) if he has acted in contravention of section 15; or

(h) who being a legal practitioner, acts or appears on behalf of any other person in any suit or other proceedings instituted by or on behalf of the Authority or in any suit or other proceeding acts or appears on behalf of any other person against the Authority; or

(i) who is a salaried servant of the Government, and his continuance in office is in the opinion of the Provincial Government, unnecessary or undesirable:

Provided that a person shall not be deemed, for the purpose of clause (e) to acquire, or continue to have, any share or interest in a contract or employment by reason only of his-

(i) having a share or interest in any lease, sale or purchase of land or building, or in any agreement for the same, provided that such share or interest was acquired before he became a Member; or

(ii) having a share in a joint-stock company which shall contract with, or be employed by or on behalf of the Authority; or

(iii) having a share or interest in a newspaper in which an advertisement relating to the affairs of the Authority is inserted; or  
(iv) holding a debenture or otherwise being interested in a loan raised by or on behalf of the Authority; or  
(v) having a share or interest in the occasional sale of an article in which he regularly trades to the Authority, to a value not exceeding in any one year, such amount as the Authority, with the sanction of the Provincial Government, may fix in this behalf [16][:]  
[17][Provided further that it shall be lawful for the Provincial Government to remove any Member at any time without assigning any reason for his removal.

### **10. Disabilities Of Members Removed Under Section 9 :-**

A Member removed under section 9 shall not be eligible for re-appointment for a period of three years from the date of his removal:

Provided that if a Member has been removed by reason of his having been declared as insolvent, he shall be eligible for re-appointment when he shall have obtained his discharge.

#### **CHAPTER 3**

PROCEEDINGS OF THE AUTHORITY, COMMITTEES, OFFICERS AND SERVANTS AND  
SUPPLY OF INFORMATION TO PROVINCIAL GOVERNMENT

### **11. Meetings Of The Authority :-**

(a) The Authority shall ordinarily meet for the transaction of business at least [19][once in every month] at such time as it may fix, provided that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two members, 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 shall adjourn the meeting to such other day [20][not being later than fourteen days] 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 thereat or not.

(c) At every meeting the Chairman, if he be present, or 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 president of the meeting in case of an equality of votes having a second or casting vote.

(e) Minutes of the names of the members present and of the proceedings 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 or at the next ensuing meeting, and shall at all reasonable times and without charge be open to inspection by any Member.

(2) [21][\* \* \* \* \*]

## **12. Temporary Association Of Members With The Authority For Particular Purposes :-**

(1) The Authority may, [22][and when directed by the Provincial Government shall,] associate with itself in such manner and for such period as may be prescribed by rules made under section 51 any person whose assistance or advice [23][the Authority or Provincial Government] may desire in carrying out any of the provisions of the Act.

(2) A person associated with [24][\* \* \*] the Authority, under subsection (1) for any purpose shall have a right to take part in the discussions of the Authority relative to that purpose, but shall not have a right to vote at a meeting of the Authority, and shall not be deemed to be a Member for any other purpose.

## **13. Constitution And Functions Of Committees :-**

(1) The Authority may, [25][and if directed by the Provincial Government shall,] 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 Authority under section 12;

(iii) other persons whose services, assistance or advice the Authority may [26][consider useful] as members of such committees:

Provided that no such committee shall consist of less than three persons and that at least one Member of the Authority shall be a member thereof.

(2) The Authority may [27][, and when directed by the Provincial Government shall,]

(a) refer to such committees for inquiry and report any matter relating to any of the purposes of this Act; and  
(b) delegate to such committees by resolution, and subject to any rules made under section 51 [28][, or to any direction given by the Provincial Government,] any of the powers or duties of the Authority.

(3) The Authority [29][\* \* \*] may at any time, [30][with the permission of the Provincial Government] dissolve, or, subject to the provisions of sub-section (1) alter the constitution of any such committees.

(4) Every such committee shall conform to instructions from time to time given to it by the Authority [31][or by the Provincial Government and in case of conflict, instructions of the Provincial Government shall prevail.]

(5) All proceedings of any such committees shall be subject to confirmation by the Authority.

(6) Any person associated with the Authority under section 12(1) or appointed as member of a committee under clause (iii) of sub-section (1) shall be entitled to receive such remuneration as may be prescribed.

#### **14. Meetings Of Committee :-**

(1) Committees appointed under section 13 may meet and adjourn as they think proper; but the Chairman of the Authority may, whenever he deems fit, call a special meeting of any such committee, and shall do so [32][, when directed by the Provincial Government or,] upon the written request of not less than two members thereof.

(2) The Chairman may attend any meeting of a committee appointed under section 13 whether he is a member of such committee or not, and shall preside at every such meeting at which he is present; if he be absent, any member present and being a member of such committee as may be chosen by the Committee, shall preside; provided that if only one member is present, he shall preside.

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

(4) No business shall be transacted at any meeting of such committee when less than two members or if the committee

consists of more than eight members when less than one-fourth of such members are present.

In the case of an adjournment due to want of quorum, the provisions of section 11(1)(b) shall apply.

**15. Members And Associated Persons Of The Authority Or Committee Not To Take Part In Proceedings In Which They Are Personally Interested :-**

(1) A member who-

(i) has directly or indirectly by himself or by any partner, employer, or employee, any such share or interest as is described in the proviso to section 9, in respect of any matter, or

(ii) has acted professionally, in relation to any matter on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceedings of the Authority or any committee appointed under this Act relating to such matter.

(2) If any member, or any person, associated with the Authority under section 12 or any other member of a committee appointed under this Act, has, directly or indirectly, any beneficial interest in any land, situated in any locality comprised in any scheme framed under this Act or in any locality in which it is proposed to acquire land for the purpose of this Act-

(i) he shall, before taking part in any proceedings at a meeting of the Authority or any committee appointed under this Act relating to such area, inform the person presiding at the meeting of the nature of such interest;

(ii) he shall not vote at any meeting of the Authority or any such committee upon any resolution or question relating to such land; and

(iii) he shall not take any other part in any proceeding at a meeting of the Authority or any such committee relating to such locality if the person presiding at the meeting considers it inexpedient that he should do so.

**16. Power Of The Authority To Fix Number And Salaries Of Permanent Servants And Appointments Of Temporary Servants In Cases Of Emergency :-**

(1) Subject to such rules as the Provincial Government may make, the Authority may from time to time employ such servants as it may deem necessary and proper to assist in carrying out the

purposes of this Act, and may assign to such servants such pay as it may deem fit [33][:]

[34][(i) provided that where the maximum of the grade fixed for a post exceeds one thousand rupees, the previous approval of the Provincial Government shall be necessary:

(ii) provided further that the Provincial Government may, by general or special order, specify the post or posts to which appointments shall not be made except with the previous approval of the Provincial Government.]

(2) The Chairman, in case of emergency, may appoint such temporary servants as in his opinion may be required for the purposes of this Act, and may direct that the salaries of such temporary servants fixed as the emergency may require, shall be paid from the funds of the Authority:

Provided that-

(i) he shall not act under this sub-section in contravention of any order of the Authority prohibiting the employment of any temporary servants for any particular work; and

(ii) every appointment made under this sub-section shall be reported at the next following meeting of the Authority.

### **17. Power Of Appointment, Etc :-**

Subject to the provisions of section 16 and to any rules for the time being in force, the power of promoting and granting leave to officers and servants of the Authority, and reducing, suspending, or dispensing with their services for any reason or dismissing them shall vest-

(i) in case of officers and servants whose maximum monthly salary does not exceed five hundred rupees, in the Chairman; and

(ii) in other cases, in the Authority:

Provided that any officer or servant in receipt of a monthly salary exceeding one hundred rupees who is reduced, suspended or dismissed by the Chairman or whose services have been dispensed with by him, may appeal to the Authority whose decision shall be final; subject to revision by the Provincial Government:

Provided further that in all other cases in which an officer or servant who has been reduced, suspended or dismissed by the Authority or whose services have been dispensed with by the Authority may appeal to the Provincial Government: and

Provided still further that the Provincial Government may, by a general or special order, direct that the incumbents of such of the

posts carrying salaries not exceeding one hundred rupees per mensem, as may be specified by the Provincial Government, shall not be dismissed from service without the previous permission of the Provincial Government.

### **18. Control By Chairman :-**

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

### **19. Delegation Of Certain Powers Of Chairmans Functions :-**

(1) The Chairman may, by general or special order in writing, delegate to any officer of the Authority any of the Chairmans powers, duties or functions under this Act or any rule made thereunder except those conferred or imposed upon or entrusted to him by sections 11 and 14, respectively [36][:]

[37][Provided that when the Chairman delegates any powers, duties or functions under this sub-section, the delegation shall be subject to the approval of the Authority.]

(2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also be subject to control and revision by the Chairman or the Authority.

### **20. Supply Of Information And Documents To The Government :-**

(1) The Chairman shall forward to the Provincial Government a copy of the minutes of the proceedings of each meeting of the Authority, within ten days from the date on which the minutes of the proceedings of each meeting were signed as prescribed in clause (e) of sub-section (1) of section 11.

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

(3) The Provincial 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 Authority; or

(ii) a report on any such matter; or

(iii) a copy of any document in the charge of the Chairman.

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

## **20A. Powers Of The Provincial Government To Issue Directions :-**

(1) In cases where, in the opinion of the Provincial Government, there is sufficient ground for proceeding under this sub-section, it may, by an order in writing, direct the Authority, or any of its Members, or employees, or any other person purporting or required to act under this Act or the rules made thereunder, or in pursuance of any order passed under this Act or the said rules, to abstain from a certain act or acts or to act in such manner or follow such policy as may be specified in the order.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Provincial Government may, by order in writing, suspend the execution of any resolution or order of the Authority, or prohibit the doing of any act which is to be done, or is being done under this Act or the rules made thereunder, or in pursuance of any sanction or permission granted by the Authority in the exercise of its powers under this Act or the said rules, or if such act has been accomplished, may order its rectification in such manner as may be specified, if, in its opinion, the said resolution, or order, or act is in excess of the powers conferred by law.

(3) (i) When the provincial Government, after due enquiry, is satisfied that the Authority has made default in performing any duty imposed upon it by this Act, or by any order or rules made under this Act, the Provincial government may, by an order in writing, fix a period for the performance of that duty; and, should it not be performed within the period so fixed, the Provincial Government may cause such duty to be performed and may recover from the Authority the expenses incurred in doing so.

(ii) Should the expenses be not so paid within the time specified, the Provincial Government may make an order directing the person having the custody of the balance of the Authority fund to pay the said expenses out of such balance or from time to time as and when he has such balance in hand. The said person shall give priority to such payments over all other charges against the Authority fund.]

## **CHAPTER 4**

### **SCHEMES AND PROCEDURE TO BE FOLLOWED IN FRAMING THEM**

## **21. Scheme For Development :-**

[(1)] The Authority may frame a scheme or schemes for the development of any local area or part thereof providing for all or any of the following matters:-

(i) The acquisition under the Land Acquisition Act, 1894[40], 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 purchases, lease, exchange or otherwise of such land or interest in land;

(iii) the retention, letting on hire, lease, sale, exchange or disposal otherwise of any land vested in or acquired by the Authority;

- (iv) the relaying of any land comprised in the scheme, and reservation of any land not exceeding one-fifth of the total area for the common purposes of the village or villages comprised 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 towns, mandis, market places, villages and settlements including the demolition of existing buildings, the erection and re-erection of buildings by the Authority or by the owners, or by the Authority in default of the owners;
- (vi) the provisions of facilities for communication including the layout and alteration of roads, streets, foot-paths, bridle paths, aerodromes and water-ways;
- (vii) the provision of open spaces, playing fields, national parks, nature reserves, forests and forest parks, camping grounds, camp sites, holiday camps and holiday villages, and cemeteries and places of religious worship;
- (viii) the breaking up, cultivation, afforestation or plantation of lands, and the raising, lowering or reclamation of any land for the production of foodgrains, fruit, vegetables, fuel, fodder and the like and the provision of means of irrigation and irrigation channels by the Authority or by the owners or by the Authority in default of owners;
- (ix) the draining, water-supply and lighting of streets and sanitation of villages and settlements, towns, mandis and market places;
- (x) the provision of a system of drains or sewers for the improvement of ill-drained and insanitary localities;
- (xi) the provision of fisheries, poultry farms, live-stock farms, dairy farms sheep farms, bee-farms, sericulture farms and the like;
- (xii) the installation, management, maintenance and encouragement of public utility undertakings, rural trades and crafts, industries and works;
- (xiii) the doing of all acts intended to promote the health, well being and prosperity of the residents of a local area, including the conservation and preservation from injury or pollution of rivers and other sources and means of water-supply, and establishment of educational institutions, dispensaries and nursing homes;
- (xiv) the advance to the owners, occupiers or tenants of land comprised in the scheme upon such terms and conditions as to interest and sinking fund and otherwise 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 water-courses, sinking of wells, purchase of cattle and of agricultural implements and machinery, for seeds and for any purpose subsidiary to agriculture and for erection of houses, godowns and cattle-sheds;

(xv) the establishment of an insurance fund for the insurance on a compulsory or voluntary basis of crops, and cattle, and the recovery of insurance premia and contributions and the distribution of benefits from the insurance fund subject to the provisions of any law applicable thereto;

(xvi) the execution of any scheme or part of the scheme by any department of Government on such terms and conditions as may be agreed upon between the Authority and the Provincial Government;

(xvii) all other matters which the Provincial Government may deem necessary to promote the general efficiency of a scheme or for the development of the local area.

[41][(2) Every provision made in a scheme for acquisition of land under clause (i) of sub-section (1) after the coming into force of the Thal Development Act (Amendment) Ordinance, 1955, shall be subject to the following limitations and conditions:-

(i) The land which is outside the irrigation boundaries of the Thal Canal or is already irrigated by means of a well or any other means of irrigation other than the Thal Canal or which was not shown as banjar jadid, banjar qadim or ghair mumkin in Khasra girdawari of Rabi 1951 shall not be acquired.

(ii) If a person owns less than 15 acres of land within the irrigation boundaries it shall not be acquired.

(iii) If a person owns more than 15 but not more than 100 acres of land within the irrigation boundaries, not more than 50 per cent of the land in excess of 15 acres shall be liable to be acquired.

(iv) If a person owns more than 100 acres of land within the irrigation boundaries, not more than 75 per cent of the land in excess of 100 acres shall be liable to be acquired in addition to the land acquired under clause (iii) above in respect of the first 100 acres.

Explanation- "Irrigation boundaries" mean the boundaries determined by the Provincial Government to which irrigation by the Thal Canal has been extended or is likely to be extended.

## **22. Preparation, Publication And Transmission Of Notice As To Schemes, And Supply Of Documents To Applicants :-**



(1) When a scheme under this Act has been framed, the Authority 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 development fee and a general map of the locality comprised in the scheme may be inspected at reasonable hours.

(2) The Authority shall-

- (i) cause the said notice to be published weekly for three consecutive weeks in the official Gazette and in a newspaper or newspapers with a statement of the period which shall not be less than 30 days, within which objections will be received; and
- (ii) send a copy of the notice to the Chairman of the District Board in whose area the locality comprised in the scheme is situated and ask him to send any representation he may wish to make within six weeks from the date of the receipt of the copy.

(3) The Chairman shall cause copies of the documents referred to in clause (ii) of sub-section (1) to be delivered to any applicant on payment of such fees as may be prescribed.

### **23. Notice Of Proposed Acquisition Of Land :-**

(1) During the thirty days next following the first day on which any notice is published under section 22 in respect of any scheme under this Act, the Authority shall serve a notice on-

- (i) every person whom the Authority has reason to believe, after due enquiry, to be the owner of any immovable property which it proposes to acquire in executing the scheme or in respect of which it is proposed to charge a development fee;
- (ii) the occupier or tenant (who need not be named) of such premises or land as the Authority proposes to acquire in executing the scheme.

(2) Such notice shall-

- (a) state that the Authority proposes to acquire such property or to recover a development fee in respect of such property, for the purposes of carrying out a scheme under this Act, and
  - (b) require such person, if he objects to such acquisition, or recovery of development fee, to state his reasons in writing (in duplicate) within a period of 30 days from the service of the notice.
- (3) Every such notice shall be signed by, or by the order of the Chairman.

## **24. Abandonment Of Scheme, Or Application To Provincial Government To Sanction It :-**

(1) After the expiry of the period respectively prescribed in clauses (i) and (ii) of sub-section (2) of section 22 and clause (b) of sub-section (2) of section 23, the Authority shall consider any objection or representation received thereunder and after hearing all persons making any such objection or representation who may desire to be heard or their representatives, the Authority may either abandon the scheme, or apply to the Provincial Government for sanction of the scheme with such modification (if any) as the Authority may deem necessary.

(2) Every application submitted to Provincial 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 representation, if any, received under section 22;
- (iv) a list of the names of all persons (if any) who have objected under clause (b) of sub-section (2) of section 23, to the proposed acquisition of their property, or the proposed recovery of development fee, and a statement of the reasons given for such objection; and
- (v) a statement of the arrangements made or proposed by the Authority for the resettlement or re-housing of persons who are likely to be displaced by the execution of the scheme.

## **25. Power To Sanction, Reject Or Return Scheme :-**

(1) [42][Subject to the other provisions of this Act,] the Provincial Government may sanction, with or without modifications or may refuse to sanction or may return for reconsideration any scheme submitted to it under section 24.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Authority, it shall be republished in accordance with section 22 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 development fee on land which was not previously proposed to be liable to such development fee.

## **26. Notification Of Sanction Of Scheme :-**

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

[43][(2) The notification under sub-section (1) in respect of any scheme shall not be called in question in a court of law or in any other proceedings save to the extent to which the scheme is inconsistent with the provisions of sub-section (2) of section 21.

## **27. Alteration Of Scheme After Sanction :-**

A scheme under this Act may be altered by the Authority at any time between its sanction by the Provincial Government and its execution:

Provided as follows:-

(a) if any alteration is estimated to increase the estimated net cost of executing a scheme by more than Rs. five laks or by 20 per cent of the said estimated net cost, whichever is less, such alteration shall not be made without the previous sanction of the Provincial Government;

(b) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the Provincial Government or the levy of development fee on land not previously liable to such fee, the procedure prescribed in the foregoing sections of this chapter shall, so far as applicable, be followed as if the alteration were a separate scheme.

## **28. Inclusion Of Different Localities In Combined Schemes :-**

Any number of localities in respect of which the Authority has framed or has proposed to frame schemes under this Act may at any time, be included in one combined scheme.

## **29. Passing Over Of Works And Services To Local Bodies :-**

As soon as any scheme has been carried out by the Authority or at a later date, the Authority may,[44][with the permission of the Provincial Government], by written requisition call upon a local authority within whose jurisdiction any particular area covered by the scheme lies, to take over and maintain any of the work and

services in that area and the local authority shall be bound to comply with such requisition.

## CHAPTER 5

### POWERS AND DUTIES OF THE AUTHORITY

#### **30. Powers And Duties Of The Authority :-**

(1) Subject to such rules as may be made under section 50, the Authority may-

(a) undertake any works and incur any expenditure for the improvement and development of a local area; and

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

[46][\* \* \* \* \*

[47][(2)] Without prejudice to the generality of the powers conferred by the preceding sub-section, the Authority may-

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

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

[48][Provided further that where any land is given to a proprietor in lieu of land acquired from him by the Authority such land shall stand transferred in favour of such proprietor with full proprietary rights. The Provincial Government by notification shall determine the improvement fees for such land, which shall be recovered in such installments as may be prescribed and that amount shall be the first charge on such land;]

(b) resume the land so granted, or in the alternative impose a penalty not exceeding five hundred rupees, where the tenant is proved to the satisfaction of the Authority to have committed a breach of the conditions of the tenancy [49][and may resume the grant so made if the land forming the subject matter of the grant was acquired in contravention of the provisions of sub-section (2) of section 21:]

Provided that before an order is made under this clause, the tenant shall be given an opportunity to appear and state his objections:

Provided further that in a case of resumption, the tenant shall be

liable to restore possession forthwith, but will be entitled to compensation for the standing crops and for improvements made by him during the tenancy;

(c) notwithstanding anything contained in section 3 of the Consolidation of Holdings Act, 1936[50], hereinafter in this section referred to as the said Act, prepare or confirm schemes for consolidation of holdings in any locality by redistribution of title or any of the lands therein, so as to reduce the number of plots in the holdings, and order payment of compensation to any person who has received an allotment under any such scheme of consolidation of less market value than his original holding to be paid by all or any of the other persons affected by the said scheme and in such proportion as the Authority may decide. The duties of the Consolidation Officer under the said Act shall be performed by such officer as may be appointed by the Authority in this behalf. The provisions of the said Act will apply mutatis mutandis to the proceedings under this clause except that section 3 of the said Act shall be deemed to have been deleted;

(d) take over and manage Government lands on such terms and conditions as may be agreed upon between the Authority and the Government;

(e) regulate by general or special order the use of land and restrict or prohibit the carrying of any offensive or unwholesome trade or the construction of building or structure;

(f) direct in respect of any area-

(1) the levelling, terracing and embankment of fields,

(2) the construction of earthworks in fields or ravines,

(3) the provision of drains for storm water,

(4) the training of streams, and

(5) the execution of such other works as are necessary in the opinion of the Authority to protect the land from the erosive action of wind or water, or for the development of such area or for the exploitation of its mineral or water resources;

(g) 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 Authority, 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 Authority, upon due enquiry after reasonable notice to him, to be responsible for the execution of such work, in whole or in part;

(h) 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,
- (3) the admission, herding, parking and retention of cattle,
- (4) the felling, girdling, lopping, tapping or burning any of tree or timber, and
- (5) the kindling, keeping or carrying of any fire;
- (i) direct the growing of a particular kind or type of crops or trees in a particular area and prescribed rotation of crops to be followed;
- (j) undertake the breaking of land, planting of trees, construction of water-courses and to all necessary acts to bring land vested in the Authority under cultivation;
- (k) advance money either by way of grant or by way of loan, or partly in one way and partly in the 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 Provincial Government;
- (l) make arrangements for the marketing of the produce and manufactures of the local area;
- (m) promote and undertake research on any matter in furtherance of this Act.

[51][(3)] Any general order made under this section shall be published in such manner as may be prescribed.

### **31. Section 31 :-**

Power of Controlling, Letting of land and rights of tenants.] Omitted by the Thal Development (Amendment) Act, 1955 (XXof 1955) section 71.

### **32. Power Of Authority For Facilitating The Movement Of Population :-**

In order to facilitate the movement of the population in and around a local area, the Authority 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 persons undertaking to provide, maintain and work any means of locomotion; or
- (b) either singly or in combination with any other person, construct,

maintain and work any means of locomotion, under the provisions of any law applicable there to; or

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

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

### **33. Power To Make Surveys Or Contribute Towards Their Cost :-**

The Authority 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.

### **34. Power Of Entry :-**

(1) The Chairman or any person authorised by him in writing may enter upon and survey any land, erect pillars for the determination of areas and intended lines of works, make borings and excavations for the discovery of water or any minerals, construct channels and aqueducts 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 Authority, powers conferred by this clause shall be exercised in such manner as to cause the least interference with, and the least damage to the rights of the owner therein.

(2) When any person enters into or upon any land in pursuance of sub-section (1), he shall at the time of entering pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the [52][Collector] whose decision shall be final.

(3) 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 compensation shall be paid for the damage caused in such manner as the Authority may prescribe, and, in case of dispute as to its adequacy, the matter shall be referred to the [53] [Collector] whose decision shall be final:

[54][Provided further that such entry shall not be made without reasonable notice to the owner or occupier which may be served by affixing a copy of the notice on the outer door, gate or other barrier.]

#### CHAPTER 6

#### ACQUISITION, ABANDONMENT OF ACQUISITION AND LEVY OF DEVELOPMENT FEE

### **35. Modification Of Act I Of 1894 :-**

For the purpose of compulsory acquisition of land by the Authority, the Land Acquisition Act, 1894[55], shall be deemed to have been modified as indicated in the Schedule to this Act.

### **36. Acquisition Of Land In Urgent Cases :-**

(1) The Provincial Government may by notification in the official Gazette declare any locality comprised in a local area to be required immediately for resettlement of refugees, as defined in [56][any law for the time being in force or for development], or any other purpose, and direct the Authority to undertake in respect of such locality all or any such matters as may be included in a scheme under section 21.

(2) After a notification has been issued under sub-section (1) in respect of any locality the Authority 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 Authority and the land shall thereupon, notwithstanding anything contained in the Land Acquisition Act, 1894, vest absolutely in the Authority free from all encumbrances subject only to payment of compensation under the Land Acquisition Act, 1894, as modified by this Act.

[57][(3) When the possession of any land has been delivered to the Authority under sub-section (2), it shall do all acts in respect thereof in order to comply with the directions contained in the notification issued under sub-section (1).]

[58][(4) In respect of any land about which a notification under sub-section (1) of this section has been issued, the Authority may, before taking possession of the land, give an undertaking to the



Collector, by resolution, that possession shall be relinquished before the expiry of five years from the date on which possession is taken by it. If the possession of any land in respect of which an undertaking has been so given, is not relinquished by the Authority before the expiry of the said period of five years, its possession shall, on the expiry of that period automatically stand relinquished by the Authority.]

[59][(5) On the relinquishment of possession of any land under sub-section (4), the Collector shall restore the same to the person or persons from whom possession had been taken or their representatives in interest, who shall thereupon have the same rights and interests in the land as subsisted before its possession was delivered to the Authority.]

[60][(6) The limitations and conditions contained in sub-section (2) of section 21 shall apply to a locality in respect of which a notification is issued under sub-section (1) of this section as if the said locality were the land in respect of which provision is to be made in a scheme for its acquisition.

### **37. Tribunals :-**

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

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

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

Provided that no person shall be appointed as President or Member of the Tribunal if he is a Member or would, if were a Member, be liable to removal by the Provincial Government under section 9.

(4) The term of office of the President and members of the tribunal shall be two years and they shall be eligible for re-appointment.

(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, 1894.

(6) The President of the Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908[61], to summon and enforce the attendance of witnesses and to compel the production of documents by them.

(7) The Provincial Government may, on ground of inefficiency, misconduct, or for any other good and sufficient reasons, at its discretion remove a member of the Tribunal [62][after giving him an opportunity of being heard].

(8) The Provincial Government may, by notification, frame rules[63] providing for-

(a) the method of filling the vacancies, on a member becoming incapacitated to work on account of illness or for any other reason;

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

(c) the emoluments or allowances to be paid to the President and the Assessors of the Tribunal;

(d) the grant of leave, promotion, or taking of disciplinary action by the President in respect of the ministerial staff under him; and

(e) 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, 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 the majority shall prevail;

(b) the decision on questions of law and procedure shall rest solely with the President;

(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) Every award of the Tribunal shall be deemed to be the award of the court under the Land Acquisition Act, 1894, and shall be enforced by the Court of Senior [64][Civil Judge] of the district in which the land under acquisition is situated as if it were the decree of that Court.

### **38. Appeals :-**

(1) Subject to the provision of sub-section (2), an appeal shall lie to the High Court in any of the following cases, namely:-

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (c) of paragraph (9) of section 37;

- (b) where the decision is that of the Tribunal; and
- (i) the President of the Tribunal grants a certificate that the case is fit one for appeal; or
- (ii) the High Court grants special leave to appeal:
- Provided that the High Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is not less than rupees five thousand.
- (2) An appeal under clause (b) of sub-section (1) shall only lie on one or more of the following grounds, namely:-
- (i) the decision being contrary to law or to some usage having the force of law;
- (ii) the decision having failed to determine some material issue of law or usage having the force of law;
- (iii) a substantial error or defect in procedure which may possibly have produced error or defect in the decision of the case upon merits.
- (3) Subject to the foregoing provisions, the provisions of the Code of Civil Procedure, 1908[65], with respect to appeals from original decrees shall, so far as may be, apply to appeals under this section.
- (4) Every order passed by the High Court on appeal under this section shall be enforced by the court of the Senior [66][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.
- (5) An appeal under this section shall be deemed to be an appeal under the Code of Civil Procedure, 1908[67], within the meaning of Article 156 of the First Schedule to the [68][\* \* \*] Limitation Act, 1908[69].

### **39. Abandonment Of Acquisition :-**

- (1) An owner of land comprised in any scheme sanctioned by the Provincial Government, or any other person having an interest therein, may apply to the Authority that the acquisition of the land which is not required for the execution of the scheme be abandoned. The Authority 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, 1894. If the application is admitted, the Authority 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 Authority.

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

(3) If any application under sub-section (1) is rejected by the Authority or the fee imposed under sub-section (2) is not paid by the person concerned within the period specified in that behalf by the Authority, the Authority 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.

### **39A. Time Limit For Payment Of Compensation :-**

(1) If compensation in respect of the land, the acquisition whereof is provided in a scheme or which has been taken possession of under section 36 or in any other manner, is not paid or tendered to the person entitled thereto within twelve months-

(a) from the date of the notification under section 6 of the Land Acquisition Act, 1894; or

(b) from the date of the issue of the notification under sub-section (1) of section 36; or

(c) from the date of taking possession of the land where such possession was taken without any of the aforesaid notifications being issued, the Authority shall pay interest at the enhanced rate of twelve per cent, per annum, after the expiry of the aforesaid period of twelve months.

(2) In case any of the aforesaid notification was issued or possession of the land was taken without the issue of such notification before the coming into force of the [71]Thal Development Act (Amendment) Ordinance, 1955, and compensation is not paid or tendered within twelve months of the coming into force of that Ordinance, interest at the enhanced rate of twelve per cent, per annum, shall be paid by the Authority after the expiry of the aforesaid period of twelve months.

### **40. Development Fee :-**

(1)(a) When by the execution of any scheme under this Act, any land in the area comprised therein which is not required for the execution thereof, will in the opinion of the Authority be increased in value or will obtain benefit from the execution of the scheme the Authority may, while framing the scheme provide, that in lieu of acquisition of such land a development fee shall be paid by the owner or any person having interest therein.

(b) No development fee shall be charged under this Act on grounds on which a tax could be levied under the Thal (Increase in Value) Act, 1940[72].

(2) The Authority may at any time after the sanction of the scheme under section 25 by resolution declare that for the purpose of levy of development fee the scheme shall be deemed to have been executed and shall thereupon proceed to assess the demand in

accordance with the rules framed by Provincial Government under sub-section (4).

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

(4) The Provincial Government may frame rules providing for-

(a) the manner in which the demand for the development 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 Authority of a satisfactory and sufficient security in lieu of immediate payment of development fee by an owner of land or any person interested therein,

(c) the mode by which the development 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 Authority and the Authority to which the appeal shall lie.

[73][(5) Nothing contained in sub-section (2) of section 21 shall exempt any land from payment of the development fee under this section if such land would, except for the provisions of the said sub-section (2) of section 21, be liable for acquisition.

#### **41. Section 41 :-**

Fresh acquisition.] Deleted by the Thal Development (Amendment) Act, 1955 (XX of 1955), section 22.

#### **CHAPTER 7**

#### **FINANCE**

#### **42. Authority Fund :-**

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

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

#### **42A. The Budget :-**

The Authority shall prepare its annual budget estimates and submit the same to the Provincial Government by the end of the month of January preceding the commencement of the financial year to which it relates and the Provincial Government may modify the said estimates to such extent as it may consider necessary.

#### **43. Power To Levy Taxes :-**

(1) The Authority may, with the previous sanction of the Provincial Government, levy on any local area or part thereof any tax which the Provincial Legislature has power to impose in the Province [75] [under the constitution]:

[76][Provided that the Provincial Government may, on the recommendation of the Authority, exempt any person from the payment of the whole or any part of any such tax due from him, subject to such conditions as the Provincial Government may impose.

#### **44. Grants-In-Aid :-**

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

(2) Any local body may, and when so required by the Provincial Government shall, grant such amount of money to the Authority as may be prescribed.

#### **45. Power Of The Authority To Borrow Money :-**

The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914[77], for the purpose of borrowing money under that Act, and the making and execution of any scheme under this Act shall be deemed to be a work which such Authority is legally authorised to carry out [78][:]

[79][Provided that the Authority shall not borrow any money without the previous sanction of the Provincial Government.

#### **46. Custody And Investment Of Authority Funds :-**

(1) In places 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 Authority 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 banker, who has given such security for the safe custody and

repayment on demand of the sum so kept as the Provincial Government may in each case deem sufficient.

(3) [80][Nothing] in the foregoing provisions of this section shall be deemed to preclude the Authority from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the [81][Trusts] Act, 1882[82], or placing them in fixed deposit with a bank approved by the Provincial Government.

#### **47. Procedure If The Authority Fails To Make Any Payment In Respect Of Loans Of The Authority :-**

If any money borrowed under section 45 or any interest or costs due in respect thereof is or are not repaid according to the conditions of the loan, the Provincial Government shall itself make such payment and may attach the rents and other income of the Authority; and thereupon the provisions of section 5 of the Local Authorities Loans Act, 1914[83], shall, with all necessary modifications, be deemed to apply.

#### **48. Procedure If The Authority Fails To Make Any Payment Due To Provincial Government :-**

The Provincial 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 abiana within the local area to such extent as may be necessary for the purpose of recouping a payment made under section 47.

#### **49. Payment By Provincial Government To Be A Charge On The Property Of The Authority :-**

All moneys paid by the Provincial Government shall constitute a charge upon the property of the Authority.

CHAPTER VII-A AUDIT AND ACCOUNTS
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#### **49A. Maintenance Of Accounts And Their Audit :-**

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and balance sheet, in accordance with such general directions as may be issued, and in such form as may be specified, by Government in consultation with the Comptroller and Auditor-General of Pakistan, hereafter in this section referred to as the Auditor-General.

(2) The Auditor-General shall audit or cause to be audited the accounts of the Authority.

(3) The Authority shall produce all accounts, books and connected documents and furnish such explanations and information as the Auditor-General, or any officer authorised by him in this behalf, may require at the time of audit.

(4) A statement of its accounts audited by the Auditor-General together with his report thereon shall be furnished to Government by the Authority, as soon as possible after the end of every financial year.

#### **49B. Submission Of Annual Report To Government :-**

(1) The Authority shall, as soon as possible after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year.

(2) Government may require the Authority to furnish it with-

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

(b) a report on any such matter; or

(c) a copy of any document in the charge of the Authority, and the Authority shall comply with every such requisition.

#### **49C. Submission Of Accounts And Annual Report, Etc. To The Provincial Assembly :-**

(1) The statement of accounts of the Authority referred to in sub-section (4) of section 49-A, together with the report of the Comptroller and Auditor-General of Pakistan, and the Annual Report referred to in section 49-B, shall be placed by Government before the Provincial Assembly of West Pakistan[85] as soon as possible, after they are received, and the Provincial Assembly shall refer the same to its Committee on Public Accounts for scrutiny.

(2) The Committee on Public Accounts shall scrutinize and examine the reports referred to it under sub-section (1) in the same manner as, and shall in respect thereof perform the same functions and exercise the same powers as are required by it to be performed and exercised in respect of appropriation accounts of the Provincial Government and the report of the Comptroller and Auditor-General of Pakistan thereon.

(3) The Authority shall produce such documents and furnish such explanation and information to the Committee referred to in sub-section (1) as the Committee may require at the time of the examination of the accounts.

### **CHAPTER 8**

#### **RULES AND BYE-LAWS**

#### **50. Power Of Provincial Government To Make Rules :-**

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

(i) as to the authority on which money may be paid from the Authority Fund;

(ii) for fixing the fees payable for copies of, or extracts from, the records furnished by the Chairman;

(iii) as to the employment, payment, suspension and removal of



officers and servants of the Authority and the conduct of such officers and servants;

(iv) as to the intermediate office or offices (if any) through which correspondence between the Authority and the Provincial Government or servants of the Government shall pass;

(v) as to the accounts to be kept by the Authority, the manner in which such accounts shall be audited and published, and the powers of auditors in respect of 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 Authority;

(vii) as to the preparation of estimates of income and expenditure of the Authority and the authority by whom and the conditions subject to which such estimates may be sanctioned;

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

(ix) to prescribe and define the mutual relations to be observed between the Authority and other 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 Authority;

(xi) for establishing and maintaining a provident or annuity fund for compelling all or any of the officers in the service of the Authority or of the Tribunal (other than any servant of Government in respect of whom a contribution is paid under section 70) 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 Authority:

Provided that a Government servant, employed as an officer or servant of the Tribunal shall not be entitled to leave or leave allowances 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 the Authority 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:

Provided that it shall be at the discretion of the Authority 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 Authority and public officer

in all matters connected with the carrying out of the provisions of this Act;

(xiv) for regulating the grant of subsidies to the Authority by the Provincial Government, the conditions under which they may be earned or forfeited and the arrangements for their repayment [86] [;]

[87][(xv) to prescribe the manner in which the proceedings of the meetings of the Authority or the Committees shall be recorded and confirmed;

(xvi) to prescribe the manner in which the Authority shall prepare and submit its budget to the Provincial Government;

(xvii) to prescribe the qualifications for appointment to the posts requiring professional skill;

(xviii) as to the procedure to be followed for the employment, punishment including suspension, removal or dismissal of officers and servants of the Authority and appeals from orders of punishment;

[88][(xix) to prescribe the manner in which and the officers to whom appeals and revisions shall lie against the orders passed by the Chairman or any officer of the Authority or the Administrator or any other officer of Provincial Government in connection with the colonization of lands belonging to and vested in the Authority.]]

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

### **51. Power Of The Authority To Make Bye-Laws :-**

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

(i) for fixing the amount of security to be furnished by any officer or servant of the Authority from whom it may be deemed expedient to require security;

(ii) for associating persons with the Authority under sub-section (1) of section 12;

(iii) for regulating the delegation of powers or duties of the Authority to committees or to the Chairman;

(iv) for the 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 of the functions of the Authority

under this Act.

## **52. Printing And Sale Of Copies Of Bye-Laws :-**

(1) The Chairman shall cause the bye-laws made under section 46 to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of such fees as may be fixed.

(2) Notice of the fact of copies of 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 a newspaper or newspapers.

## **53. Power Of Provincial Government To Cancel Bye-Laws Made Under Section 51 :-**

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

### **CHAPTER 9**

#### **PROCEDURE AND PENALTIES**

## **54. Stamping Signature On Notices Or Bills :-**

Every notices or bill issued by the Authority under this Act shall be signed by the Chairman, or by any other Member or any officer or servant of the authority specially or generally authorized by the Authority, or so authorised by the Chairman under sub-section (1) of section 19, and every such notice 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.

## **55. Method Of Giving Public Notice :-**

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

## **56. Service Of Notice :-**

(1) Every notice other than a public notice, and every bill, issued under this Act shall, unless it is under this Act otherwise expressly

provided, be served or presented-

(a) by giving or tendering the notice or bill, or 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 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 a notice 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 either-

(a) by giving or tendering the notice, or sending it by post, to the owner, occupier or tenant, or if there be more owners, occupiers or tenants than one 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 to be affixed on some conspicuous part of the building or land to which it relates.

(3) Whenever the person on whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family ordinarily residing with him shall be deemed to be service upon the minor.

## **57. Disobedience To Act Or To Notice :-**

Where under this Act or a notice issued thereunder the public or any person is required to do or to refrain from doing any thing, a person who fails to comply with such requisition shall, if such failure is not an offence punishable under any other section, be liable on conviction by a Magistrate 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 last conviction during which the offender is proved to have persisted in the breach:

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

## **58. Powers Of The Authority To Execute Works On Failure**

## **To Comply With Notice :-**

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

## **59. Liability Of Occupier To Pay In Default Of Owner :-**

(1) If the person to whom the notice mentioned in section 53 has been given is the owner of the property in respect of which it is given, the Authority may (whether any action or other proceedings has 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 Authority 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 58; and any such payment made by the occupier or tenant to the Authority 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 Authority 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 whole of the expenses as if he were the owner.

## **60. Right Of Occupier To Execute Works In Default Of Owner :-**

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 the Authority, cause such work to be executed and the expense thereof shall be paid by the owner, or the amount may be deducted out of rent from time to time becoming due from him to such owner.

## **61. Procedure Upon 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 issued under this Act, the occupier or tenant refuses to allow such owner to take such action, the owner may apply to a Magistrate.

(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 works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he deems fit, order the occupier or tenant to pay to the owner the costs relating to such application or order.

(3) If, after the expiration of eight days from the date of the Magistrates order, 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 twenty-five rupees for every day during which he has so continued to refuse.

(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.

## **62. Recovery Of Cost Of Work By The Occupier :-**

When the occupier or tenant of a building or land has, in compliance with a notice 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.

## **63. 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 owner sufficient for the purpose.

(2) When an agent or trustee has claimed and established his right to relief under this section, the Authority 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.

#### **64. Penalty For Removing Fence, Etc :-**

If any person, without lawful authority-

(a) removes any fence, or any timber used 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 Authority for the purpose of carrying out any work; or

(b) infringes any order given, or removes any bar, chain or post fixed by the Authority for the purpose of closing any street to traffic,

he shall be punishable with fine which may extend to fifty rupees.

#### **65. Penalty For Obstructing Contractor Or Removing Mark :-**

If any person-

(a) obstructs, or molests any person with whom the Authority has entered into a contract under this Act in the performance or execution of the contract by such person, or

(b) 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.

#### **66. Power Of Authority In Case Of Squatters And Trespassers :-**

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 Authority, to which he has no right or title, the Chairman, or any person authorised by him in addition to any other powers he may possess, may forthwith, with the use of such force as may be necessary, re-enter upon the land, and resume possession of it and take possession of all crops, trees and

buildings thereon on behalf of the Authority without payment of any compensation whatsoever.

### **67. Penalty For Unauthorized Cultivation, Etc :-**

If any person, without permission of the Chairman of the Authority-

- (a) clears or breaks up for cultivation or cultivates any land which is owned by or in the possession of the Authority and is not included in any tenancy or allocated residential enclosures, 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 watercourse; or

- (b) erects any buildings on any such land; or

- (c) fells or otherwise destroys standing trees on such land; or

- (d) otherwise encroaches on any such land; or

- (e) makes an excavation or constructs a water channel on any such land,

he shall be punished on conviction by a Magistrate with a fine not exceeding two hundred rupees.

Explanation- The felling of trees planted by an owner or tenant on any village road or watercourse traversing his holding is not an offence under this section.

### **68. Additional Powers Of The Chairman Of The Authority In Regard To Offences :-**

When the Chairman of the Authority is satisfied that an act punishable under section 67 has been committed he may in lieu of proceedings against the offender under that section or after conviction of the offender under that section-

- (i) in the case of an offence under section 67, sub-section (a) confiscate the crops growing on any land cultivated in contravention of this Act or, if the crops have been cut, recover such sum as he may assess as the value thereof from the offender;

- (ii) in the case of an offence under section 67, sub-section (c), recover such sum as he may assess as the value of the trees or tree destroyed;

- (iii) in the case of an offence under section 67, sub-sections (b), (d) or (e) cause the building or other encroachment to be demolished or removed or the excavation or channels to be filled up and levy the cost of so doing from the person responsible for such act.



**69. Members, Etc., Deemed Public Servants :-**

Every member, and every officer and servant of the Authority, 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 [89][Pakistan] Penal Code.

CONTRIBUTIONS BY THE AUTHORITY TOWARDS LEAVE, ALLOWANCES AND PENSIONS OF GOVERNMENT SERVANTS

**70. Contributions By The Authority Towards Leave, Allowances And Pensions Of Government Servants :-**

The Authority 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 Authority, 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.

LEGAL PROCEEDINGS

**71. 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 Authority or by the Chairman by general or special order in this behalf.

**72. 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 by 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.

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

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

(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 it necessary or expedient to obtain, or as he may be desired by the Authority 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 Authority or any officer or servant of the Authority.

#### **74. Indemnity To The Authority :-**

No suit shall be maintainable against the Authority, or any Member, or any officer or servant of the Authority or any person acting under the direction of the Authority, or of the chairman or of any officer or servant of the Authority in respect of anything done lawfully and in good faith and with due care and attention under this Act.

#### **74A. Bar Of Jurisdiction Of Civil Courts :-**

A Civil Court shall have no jurisdiction in any matter, which the Collector is empowered by this Act to dispose of and shall not take cognizance of the manner in which the Provincial Government, Board of Revenue, Collector or any other Revenue Officer exercises any power vested in him by or under this Act.

#### **75. Notice Of Suit Against The Authority, Etc :-**

(1) No suit shall be instituted against the Authority or any Member, or any person associated with the Authority under section 12 or any member of a Committee appointed under section 13 or any officer or servant of the Authority or any person acting under the direction of the Authority or of the Chairman or of any officer or servant of the Authority, in respect of an act purporting to be done under this Act, until the expiration of two months next from notice in writing has been, in the case of the Authority, 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 Authority 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 declaration of the title thereto, be commenced otherwise than within six months next after the accrual of the cause of action:

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 the giving of the notice or the postponement of the commencement of the suit or proceedings.

[91][(4) Where any such suit is instituted without delivering or leaving such notice as aforesaid or before the expiration of the said period of two months or where the plaint does not contain a statement that such notice has been so delivered or left, the plaintiff shall not be entitled to any costs.]

EVIDENCE

#### **76. Mode Of Proof Of The Authoritys Records :-**

A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of the Authority, shall if duly certified by the legal-keeper thereof, or other person authorised by the Authority 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.

#### **77. Restriction On The Summoning Of The Authoritys Servants To Produce Documents :-**

No member or officer or servant of the Authority shall in any legal proceedings to which the Authority 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 made for special cause.

VALIDATION

#### **78. 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 Authority or, of any committee; or

(b) any person having ceased to be a Member; or

(c) any Member or any person associated with the Authority under section 12 or any other member of a committee appointed under this Act having voted or taken any part in any proceeding in contravention of section 15; or

(d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or

(e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Authority, the minutes of the proceedings of which have been duly signed as prescribed in clause (e), subsection (1) of section 11, shall be taken to have been duly convened and to be free from all defects and irregularities.

#### COMPENSATION

#### **79. General Power Of The Authority To Pay Compensation :-**

In any case not otherwise expressly provided for in this Act the Authority 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 Authority or the Chairman or any officer or servant of the Authority.

#### **80. Compensation For Damage To Authoritys 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 Authority, 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 Magistrate, as if it were a fine imposed by him on the person liable therefor.

## DISSOLUTION OF THE AUTHORITY

### **81. Ultimate Dissolution Of The Authority 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 Authority, in the opinion of the Provincial Government, unnecessary, or when in the opinion of the Provincial Government it is expedient that the Authority shall cease to exist, the Provincial Government may by notification declare that the Authority shall be dissolved from such date as may be specified in this behalf in such notification; and the Authority shall be deemed to be dissolved accordingly.

(2) From such date-

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

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

(c) for the purpose of completing the execution of any scheme, sanctioned under this Act which has not been fully executed by the Authority, and of realising properties, funds, and dues referred to in clause (a) the functions of the Authority and the Chairman under this Act shall be discharged by the Administrator; and

(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 re-paid, and until all other liabilities referred to in clause (b) have been duly met.

[92][(3) The Administrator may delegate any of his powers and functions under this section to any authority or officer subordinate to the Provincial Government, or any person employed by the Authority under section 16.]

[93][(4) The Administrator may dispose of the rights, properties and assets of the Authority, and discharge the liabilities of the Authority, subject to such directions as may be given by Government from time to time.

(5) The Administrator in the matter of writing off losses shall have the same powers as are conferred by the Government on its Administrative Department:

Provided that cases involving writing off losses for amounts larger

than those covered by the powers given by this sub-section shall be referred by the Administrator to and decided by the Government.

(6) Any properties and assets left over after all the liabilities have been discharged shall vest in the Government and all liabilities left undischarged after all the properties and assets have been disposed of shall become the liabilities of the Government.

(7) The Administrator shall be deemed to have always had the powers to make such provision as may appear to him to be necessary and expedient for such other matters, including the withholding of the payment of Authority's contribution towards the Provident Fund of a subscriber or the retrenchment, transfer, absorption or reinstatement of the servants of the Authority as may be incidental to or consequential upon the dissolution of the Authority.

## **82. Cessation Of Certain Provisions Of The Ordinance :-**

Clause (i) of sub-section (1) of section 21, sub-section (2) of section 21, section 35 and section 36 shall cease to operate after twelve months from the date of commencement of the [95]Thal Development Act (Amendment) Ordinance, 1955:

Provided that the cessation of the provisions hereinbefore mentioned shall not-

(a) affect any right, privilege, obligation or liability acquired, accrued or incurred, or

(b) affect any penalty, forfeiture or punishment in respect of anything done or suffered thereunder before the said provisions ceased to operate.]

[96][DELEGATION OF POWERS, DUTIES AND FUNCTIONS BY THE PROVINCIAL GOVERNMENT

## **83. Delegation Of Powers, Duties And Functions By The Provincial Government :-**

The Provincial Government may, by notification, delegate any of its powers, duties and functions under this Act to any authority subordinate to it.

### **SCHEDULE 1**

#### **SCHEDULE I**

(Referred to in section 35)

FURTHER MODIFICATIONS IN THE LAND ACQUISITION ACT, 1894 (HEREINAFTER CALLED "THE SAID ACT")

1. Amendment of section 3.- After clause (g) in section 3 of the said Act, the following shall be deemed to be added:-

"(h) "Authority" shall mean the Thal Development Authority appointed under the Thal Development Act, 1949.

[97][(i) "Net income" from land shall mean the net assets or the landlords share, as assumed by the Settlement Officer for the same class of land in the same Assessment Circle, during the last Settlement subject to deduction of 25 per cent on account of land revenue, cesses, collection, charges and other dues:

Provided that in the case of such land as has not borne at least four harvests during the four years immediately preceding the date of the publication of the first notice under section 22 of the Thal Development Act, 1949, or the date of notification under section 36 of that act, whichever is earlier, the "net income" shall mean one-third of the net assets or the landlords share as assumed at the last Settlement for barani land in the same Assessment circle during the last Settlement subject to a deduction of 25 per cent on account of land revenue, cesses, collection, charges and other dues.]

(j) "rates and cesses" have the same meaning as given in section 3(9) of the [98]Land Revenue Act, 1887."

2. Notification under section 4 and declaration under section 6 to be replaced by notification under sections 22 and 26 of this Act.- (1) The first publication of a notice of a development scheme under section 22 of the Thal Development Act, 1949, 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 23 and sub-section (1) of section 24 of the Thal Development Act, shall be substituted 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 this schedule, the publication of a notification under section 26 of the Thal Development Act shall be substituted 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.

[99][2-A. Amendment of section 9.- In sub-section (2) of section 9 of the said Act, after the first sentence ending with the word and figure "section 8" the following sentence shall be deemed to have been inserted:-

"The notice shall furthermore contain a direction to the effect that any person interested may, if he so chooses, while preferring his claim to compensation for his interest in the land, intimate to the Collector in writing his opinion that compensation be paid to him-

(a) on the basis of the average price derived from the sale transactions in respect of which mutations have been attested during the five years immediately preceding the 30th June, 1939, and which relate to the same class of land in the same revenue estate in which the land to be acquired is situated; or

(b) if no mutations of sale transactions of land in that revenue estate were attested during the five years preceding the 30th June, 1939, then on the basis of the average price derived from the sale transactions relating to the same class of land about which mutations have been attested during the said period in all the contiguous revenue estates in the same assessment circle".]

3. Amendment of section 11.- The fullstop at the end of section 11 of the said Act shall be deemed to be changed to a semi-colon, and the following shall be deemed to be added, namely:-

"and (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.

The Collector may disallow, wholly or in part, costs incurred by any person, if he considers that the claim made by such person for compensation is extravagant."

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. Amendment of section 17.- For section 17 of the said Act the following shall be deemed to be substituted-

"17. (1) In cases where the Authority considers it expedient to take possession of the land at any time before an award under section 11 of the Land Acquisition Act 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 interested, take possession of the land and transfer it to the Authority 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 crop or trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained".

6. Insertion of section 17-A.- After section 17 of the said Act the following shall be deemed to be inserted, namely:-

"17-A. Transfer of land to Authority. In every case referred to in section 16 the Collector shall, upon payment or [100][tender of compensation] for acquisition, make over charge of the land to the Authority and the land shall thereupon vest in the Authority subject to the liability of the Authority to pay any further compensation or costs which may be incurred on account of its acquisition."

[101][6-A. Insertion of section 17-B.- After section 17-A of the said Act as inserted by paragraph 6 of this schedule, the following section shall be deemed to have been inserted, namely:-

"17-B. Notwithstanding anything to the contrary contained in this Act, if the Authority has given an undertaking as contemplated by sub-section (4) of section 36 of the Thal Development Act, 1949, in respect of any land, the compensation payable in respect of such land shall be equivalent to the "Net income" from the land for the period that the land remains in the possession of the Authority."]

7. Amendment of section 18.- (1) The words "or the Authority" shall be deemed to be added between words "award" and "may under section 18 (1) of the said Act".

(2) The full-stop at the end of sub-section (1) of section 18 of the said Act shall be deemed to be changed to a comma, and the words "or the amount of costs allowed" shall be deemed to be added.

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

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

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

(3) The following shall be deemed to be added as clauses (2) and (3) to section 20



of the said Act:-

"(2) The Authority or any person to whom a notice is issued under clause (b) or (c) of this section may support the award and may also take any cross objections 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[102], relating to cross objections filed under that Code shall, so far as may be, apply to the cross objections filed under this Act."

10. Amendment of section 23.- (1) In clause first and clause sixthly of sub-section (1) of section 23 of the said Act, for the words "at the date of publication of the notification under section 4, sub-section (1)" and the words "the time of the publication of the declaration under section 6" shall be deemed to be substituted by the words "on 16th June 1949".

(2) The following shall be deemed to have been added under sub-section (1) of section 23 of the said Act:-

"Seventhly, any payment made under the Punjab Thal (Increase in Value) Act, 1940, as amended by West Punjab Thal (Increase in Value) (Amendment) Act, 1949".

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

"(2) For the purpose of clause "first" of sub-section (1), the market value of the land shall be deemed to be 20 times the annual net income from such land subject to the following provisos:-

Proviso 1- If any person interested exercises the option to claim compensation as provided in sub-section (2) of section 9 of this Act as amended by the Thal Development Act, 1949, the market value so far as his interest in the land is concerned, shall be assessed accordingly.

Proviso 2- In respect of the land which is situated within the limits of a Municipal Committee, Small town committee, Notified Area Committee, or recorded village abadi of a revenue estate, or which is attached to a house, manufactory or other building and is reasonably required for the enjoyment and use of such house, manufactory or building, the market value shall be the market value according to the use to which the land was put at the time of the publication of the first notice under section 22 of the Thal Development Act, 1949, or the issue of the notification under section 36 of that Act, whichever is earlier."]

11. Amendment of section 24.- For clause Seventhly of section 24 of the said Act, the following shall be deemed to be 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 shall be deemed to be inserted, namely-

"24-A. Further provision for determining compensation. In determining the amount of compensation to be awarded for any land acquired for the Authority under the Thal Development Act, 1949, 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 repair, 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 reasonable good state of repair, 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.- (1) In sub-section (1) of section 25 the words "or be less than the amount awarded by the Collector under section 11" shall be deemed to be deleted.

(2) The following [104][shall be deemed to] be added as sub-section (4) of section 25.

"(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 "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 costs (if any)" shall be deemed to be inserted.

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

"48-A. Compensation to be awarded when [105][award not made] within three years. (1) If within a period of three years from the date of the publication of the notification under section 26 of the Thal Development Act, 1949, 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 said 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 shall be deemed to be inserted, namely-

"(1a) For the purpose of sub-section (1), land which is held with and attached to house and is reasonably required for the enjoyment and use of 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 Thal Development Authority", shall be deemed to be added between the words "concerned" and "may" and the proviso to this sub-section shall be deemed to be deleted.

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