

**West Pakistan Establishment And Improvement Of Parks
And Historical Places (Lahore) (Repeal) Ordinance, 1968**

10 of 1968

[23 October 1968]

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An Ordinance to provide for the repeal of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, the relinquishment of land taken possession of by the Trust thereunder and all matters incidental or supplemental thereto Preamble.- WHEREAS it is expedient to provide for the repeal of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, the relinquishment of land taken possession of by the Trust thereunder and all matters incidental or supplemental thereto; AND WHEREAS the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that circumstances exist which render immediate legislation necessary; NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is pleased to make and promulgate the following

Ordinance:-

1. Short Title And Commencement :-

(1) This Ordinance may be called the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) (Repeal) Ordinance, 1968.

(2) It shall come into force at once.

2. Definitions :-

In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "Deputy Commissioner" means the Deputy Commissioner of Lahore District and shall include any other officer, who has been the Chief Officer-in-charge of the general administration of a District for a period of not less than three years, whether continuously or otherwise, appointed by Government as the Deputy Commissioner for the purposes of this Ordinance;

(b) "Government" means the Government of [2][the Punjab];

(c) "land" means the land in respect of which full compensation has not been paid in accordance with the provisions of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, or where paid, has not been accepted unconditionally by all persons having any right or interest therein;

(d) "Martial Law Order No. 126" means the Martial Law Order No. 126 issued by the Martial Law Administrator, Zone B, on the 6th May, 1962;

(e) "Trust" means the Lahore Improvement Trust constituted under the Town Improvement Act, 1922.

3. Repeal Of West Pakistan Ordinance Xxii Of 1963 :-

The West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, is hereby repealed.

4. Relinquishment Of Land Acquired Under West Pakistan Ordinance Xxii Of 1963 :-

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, or in any award assessing compensation, or in any decree, judgment or order of any Court,

the Trust shall, within ninety days of the coming into force of this Ordinance, remove from the land all materials of the Trust lying or stored on the land, including any installations, fixtures or structures put up or erected thereon by the Trust, and relinquish possession of the whole of the land.

Explanation- In computing the period of 90 days for the purposes of this sub-section, with reference to any land, the period during which the Trust is under any legal disability or is precluded by reason of any lawful order from relinquishing possession of such land, shall be excluded.

(2) As soon as may be, after the coming into force of this Ordinance, the Trust shall, after holding such enquiry, if any, as it considers necessary, specify, by order in writing, the person to whom possession of any land relinquished by it under sub-section (1), is to be given.

(3) The delivery of possession of land to the person specified in an order made under sub-section (2) shall be a full discharge of the Trust from all liability in respect of such land, but shall not prejudice any rights in respect of the land to which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is given.

(4) Where the person to whom possession of any land is to be given under the provisions of sub-section (2) cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Chairman of the Trust shall cause a notice, declaring that possession of the land is being restored to such person, to be affixed on some conspicuous part of such land and also publish the notice in the official Gazette.

(5) Where a notice referred to in sub-section (4) is published in the official Gazette, the land specified in such notice shall be deemed to have been delivered to the person entitled to possession thereof, and the Trust shall not be liable for any compensation or other claim in respect of such land for any period after the date of publication of the notice.

5. Compensation :-

(1) For the whole of the period during which the land was in possession of the Trust under the provisions of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, or Martial Law Order No.126, till the date of its delivery in accordance with the provisions of section 4,

compensation, to be determined in the manner and in accordance with the principles hereinafter set out, shall be payable by the Trust for the use and occupation of the land-

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) cases where no such agreement can be reached shall be referred by the Trust to the Deputy Commissioner;
- (c) the Deputy Commissioner, in determining the amount of compensation, shall take into consideration the rent at which the land was let out immediately before it was taken possession of by the Trust under the provisions of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, or Martial Law Order No.126, or where the land was not let out when possession thereof was taken by the Trust, the rent of similar land in similar circumstances prevailing in the locality during the twelve months prior to the taking over by the Trust of the possession of the land.

[3](1-A) The compensation payable under sub-section (1) shall include compensation for-

- (a) any trees or crops standing on the land, which were cut or removed during the period possession of the land was with the Trust.
- (b) any damage to nurseries on the land caused during the said period;
- (c) any damage to houses, shops or other structures on the land caused during the said period:

Provided that no compensation under this sub-section shall be payable unless claim therefor was made in writing to the Land Acquisition Collector of the Trust before the coming into force of this Ordinance.

(2) The compensation payable under sub-section (1), shall be apportioned among all persons known or believed to have any right or interest in the land, according to their respective rights and interest therein.

(3) Any party aggrieved by the decision of the Deputy Commissioner under clause (c) of sub-section (1) or sub-section (2) may appeal to the Commissioner within ninety days of the date of decision.

(4) The decision of the Deputy Commissioner, subject to the result of an appeal, if any, shall be conclusive and final between the parties and shall not be called into question in any Court by means of a suit or otherwise.

(5) The decision of the Deputy Commissioner may, on an application being filed in any Civil Court having jurisdiction, be executed as if it were a decree of such Court.

(6) The payment by the Trust of compensation under the provisions of this section in respect of any land shall be a full discharge of the liability of the Trust in respect of such land, and notwithstanding anything contained in any other law for the time being in force, or in any award assessing compensation, or in any decree, judgement or order of Court, the Trust shall not be liable to pay any other compensation for the acquisition of such land.

(7) Any amount payable under the provisions of this section by the Trust shall be adjusted against any compensation paid or payment made by the Trust in respect of such land under the provisions of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, or Martial Law Order No. 126, and if on such adjustment, any sum is found due to the Trust, such sum shall be recoverable as arrears of land revenue from the person to whom such compensation was paid or payment made by the Trust.

6. Collector To Have Powers Of A Civil Court :-

For the purposes of performance of his functions under this Ordinance, the Deputy Commissioner shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any witness or the production of document or other thing.

7. Trust To Prepare Scheme In Respect Of Land Not To Be Relinquished :-

The Trust shall, in respect of the land taken possession of by it under the provisions of the West Pakistan Establishment and Improvement of Parks and Historical Places (Lahore) Ordinance, 1963, or Martial Law Order No.126 and which is not to be relinquished under the provisions of section 4, frame a scheme under the Town Improvement Act, 1922.

8. Power To Make Rules :-

(1) Government may make rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the

foregoing power, such rules may prescribe-

- (a) the procedure to be followed by the Deputy Commissioner for determining the amount of compensation and its apportionment;
and
- (b) the principles to be followed in apportioning the cost of any proceedings before the Deputy Commissioner.