

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR

Law, Justice, Parliamentary Affairs and Human Rights Department

“Muzaffarabad”

Dated: 25.06.2021

No. LD/Legis-Act/411-24/2021. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 28th day of May, 2021 and received the assent of the President on the 15th day of June, 2021, is hereby published for general information.

[Act XXI of 2021]

An

Act

further to amend the Azad Jammu and Kashmir Regularization of Nautor and Grant of Khalsa Land Ordinance, 1974

WHEREAS, the Criminal Law (Fifth Amendment) Act, 2020 (Act XXXV of 2020) has been issued on 24.12.2020, where by grabbing of private or public property has been made offence and penalties have been provided for different offences in this regard;

AND WHEREAS, it has been deemed appropriate to regularize the possessions of Khalsa Land under control of Board of Revenue;

AND WHEREAS it is expedient further to amend the Azad Jammu and Kashmir Regularization of Nautor and Grant of Khalsa Land Ordinance, 1974, (Ordinance VI of 1974) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title, extent and application.**- (1) This Act may be called the Azad Jammu and Kashmir Regularization of Nautor and Grant of Khalsa Land (Amendment) Act, 2021.
(2) It shall extend to the whole of Azad Jammu and Kashmir.
(3) It shall be applicable to all possessions of Khalsa Land before issuance of the Criminal Law (Fifth Amendment) Act, 2020.
2. **Substitution of Section 2, 3, 4, 5 and 6, Ordinance VI of 1974.**- In the Azad Jammu and Kashmir Regularization of Nautor and Grant of Khalsa Land Ordinance, 1974, (Ordinance VI of 1974), hereinafter

referred to as the said Ordinance, for Section 2, 3, 4, 5 and 6 following shall be substituted:

“2. Definition.- In the said Ordinance unless there is anything repugnant in the subject or context,-

- (i) “Average Market Price” means price of Khalsa land assessed by Collector of the district for a particular locality in a revenue village on the basis of transactions of sale and purchase of land in that particular locality taken place during a period of three years calculated on 31st December every year.
- (ii) “Commissioner, Collector and Revenue Officer” shall have the same meaning as defined in the Land Revenue Act, 1967 (Act XVII of 1967), as in force in Azad Jammu and Kashmir.
- (iii) “Commercial Land” means Khalsa land which has potential for being utilized for commercial purposes or lands under shops, commercial buildings or buildings used for industrial purposes including lands situated within bazaars or commercial areas in townships.
- (iv) “Residential Land” means Khalsa land which is for the time being under dwellings, houses, courtyards or backyards of such houses or under such buildings used for residential purposes and includes lands situated within residential areas of the townships.
- (v) “Khalsa Land” means the land recorded in the revenue record of an estate as ‘Khalsa Sarkar or Siri Sarkar Daulat-madar or Crown land’ or howsoever worded which denotes that such land vests in the Government but it shall not include any land acquired by the Government for the public purpose under a law relating to Land Acquisition for the time being in force.
- (vi) “Village Common Purposes” includes common grazing lands, public roads, village paths, graveyards, water

springs, cattle ponds, villagers common assembly places, or such other purposes as may, by general usage or customs, established to be common purposes of the villagers or such other purposes as may be prescribed by the Government.

(vii) "Government" means Azad Government of the State of Jammu and Kashmir.

(viii) "Government Land" means a land purchased or acquired by the Government to be utilized by the departments or autonomous bodies or authorities, as the case may be, and includes such Khalsa lands which are notified for the purposes of the Government as aforesaid.

(ix) "Prescribed" means for the purpose of this Ordinance as prescribed by the rules made thereunder.

3. **Conferment of proprietary rights of sanctioned Khalsa Lands.-**

Proprietary rights of residential or commercial lands, duly sanctioned on ground rent (teh-zamini) or lease under the Azad Jammu and Kashmir Grant of Khalsa Lands (Ground Rent and Lease) Rules, 1985, or any other Government Order or Standing Order or Notification duly promulgated or issued by the Government, may be granted by the Collector of the District on payment of average market price of the land after clearing all arrears of rent or lease, if any:

Provided that where shops or commercial buildings were constructed on Khalsa lands sanctioned for residential purposes, the grantee or lessee shall be liable to pay rent of the land at commercial rates, for the time being in force, from the date of approval till grant of proprietary rights.

4. **Grant of proprietary rights of illegal houses, shops and structures.-** (1) Proprietary rights of residential or commercial lands

under illegal occupation may be granted up to two kanals, by the Collector of the district, to the occupants who have constructed houses, shops, commercial buildings or other structures thereon, before commencement of the Criminal Law (Fifth Amendment) Act,

2020, on payment of average market price. Before making the grant an additional amount at a rate of five percent of the market price shall also be recovered on account of illegal and unauthorized use of the land.

Provided that any area in excess of two kanals may be transferred to the occupant on payment of market price and surcharge at a rate of ten percent of the market price for illegal occupation.

(2) Any house, shop or other structure constructed on forest land or in violation of laws relating to highways shall not be regularized.

(3) The Collector of the district shall ensure transparent process for grant of propriety rights to the occupants within a maximum period of one month from the date of application of the occupant. Where the Collector is satisfied that the occupant is not willing to acquire propriety rights of land under his possession, he shall eject the occupant and resume the land without any cost or compensation of any improvement.

5. **Ejectment and Recovery of Penal Rent from illegal occupants.-**

(1) Illegal occupant of khalsa land not under residential house or shop or other structure shall be liable to summary ejectment. Every such illegal occupant shall also be liable to pay penal rent to the Government at a rate of one thousand rupees per kanal per year for whole period of illegal occupation under the orders of Tehsildar of the area concerned.

(2) All cases of illegal occupation of Khalsa land shall be reported by the Field Staff to the Revenue Officer of the Circle who shall forward the same to the Tehsildar for further orders under this Section.

(3) Penal rent directed to be paid under this Section, if not paid within the period specified in the order, shall be recovered as an arrears of land revenue under the Land Revenue Act, 1967 (Act XVII of 1967), as in force in Azad Jammu and Kashmir.

6. **Cancellation of grants of lands obtained by illegal means.-**

(1) Notwithstanding anything contained in the Ordinance or in any other law for the time being in force, when it is proved that any grant of khalsa land on ground rent (teh-zamini), lease or proprietary rights was obtained on the basis of fraud, false information, misrepresentation of fact, cheating or through other illegal means, Commissioner of the Division, after giving an opportunity of being heard to the lessee or as the case may be the grantee, may cancel the grant or allotment and resume possession of the land alongwith all structures thereon free of cost, encumbrance or compensation.

(2) All cases of cancellation of allotments or revocation of grants of khalsa lands after final decision by the Commissioner shall be reported to the Board of Revenue.”

7. **Insertion of New Sections 8-B, Ordinance VI of 1974.-** In the said Ordinance, after Section 8-A, a new Section 8-B shall be inserted, namely:-

“8-B. Prevention of encroachment upon Khalsa Land.- (1) All Khalsa lands are hereby preserved safe for future public purposes and protected from illegal occupation and unauthorized use thereof.

(2) Where a person encroached upon any Khalsa land by illegal means, a Revenue Officer not below the rank of Tehsildar, shall immediately on receipt of information, summarily eject such person and resume possession of such land without any cost or compensation. The person so ejected shall also be liable to a fine which may extend to fifty thousand rupees.

(3) When a person, ejected under the preceding sub-section, reoccupies the said land or a part thereof or any other Khalsa land, a Revenue Officer not below the rank of Tehsildar, shall immediately on receipt of information, summarily eject such person from such land and may also impose a fine which may extend to two hundred thousand rupees.

(4) Fines imposed under this Section, if not paid within the period specified by the ejecting officer, shall be recovered as an arrears of land revenue under the Land Revenue Act, 1967 (Act XVII of 1967), as in force in Azad Jammu and Kashmir.”

8. **Substitution of Section 12, Ordinance VI of 1974.-** In the said Ordinance, existing Section 12, shall be substituted as under:

"12. Offences and Penalties.- (1) Any person who contravenes provisions of sub-section (1) of section 8-B, or disobeys any direction or order made under this Ordinance, or re-occupies any khalsa land, after being ejected under sub-section (3) of Section 8-B, or cuts down or removes trees from any such land or damages any such land by mischievous act, shall be liable to the imprisonment of either description for a term which may extend to three years or with fine which may extend to three hundred thousand rupees or with both.

(2) No action shall be taken under this Section where criminal proceeding has already been initiated or pending under the Criminal Law (Fifth Amendment) Act, 2020.

(3) All offenses under this Section shall be cognizable, non-bailable and triable by a Court of Magistrate of first Class under the provisions of Code of Criminal Procedure, 1898 (Act V of 1898), as in force in Azad Jammu and Kashmir.

(4) No Court shall take cognizance of any offence under this Section unless a written complaint is made by an officer not below the rank of Tehsildar.”

-sd-
(Gulfraz Ahmed Khan)
Section Officer (Legislation)