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SIND ORDINANCE NO.XVII OF 1974

THE SIND (AMENDMENT OF LAWS) ORDINANCE, 1974

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SIND ORDINANCE NO.XVII OF 1974

THE SIND (AMENDMENT OF LAWS) ORDINANCE, 1974

[22nd October, 1974]

An Ordinance to amend certain laws applicable to the Province of Sind, for conferring powers on Commissioners.

Preamble.

WHEREAS it is expedient to amend certain laws applicable to the Province of Sind, for conferring powers on Commissioners in the manner hereinafter appearing;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sind is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan. The Governor of Sindh is pleased to make and promulgate the following Ordinance: -

Short title and commencement.

1. (1) This Ordinance may be called the Sind (Amendment of Laws) Ordinance, 1974.

(2) It shall come into force at once.

Amendments.

2. Save as expressly provided the Acts and Ordinances specified in the Schedule shall stand amended in the manner indicated in the fourth column thereof and, rules, regulations, bye-laws, notifications and orders made or issued thereunder shall be construed, so far as applicable and with necessary adaptations until altered, repealed or amended.

Transfer of appeals, etc.

3. Any appeal, review or revision petition or any other case pending before the Revenue Commissioner immediately before the coming into force of this Ordinance shall stand transferred to and be disposed of by the Commissioner having jurisdiction.

Inspection of projects.

4. A Commissioner may—

(i) visit or inspect any project sponsored, under the Annual Development Programme or by any local authority;

(ii) call for any information, report or record relating to such project from the officer Incharge thereof within the Division.

Explanation.— The power under this section shall not entitle the Commissioner to give any direction or orders involving administrative or financial implications.

5. The Sind (Amendment of Laws) Ordinance, 1972, is hereby repealed. **Repeal of Sind Ordinance III of 1972.**

SCHEDULE

Year.	No.	Short title or subject.	Amendments
1	2	3	4
		FEDERAL ACTS AS APPLICABLE TO SIND	
1861	V	The Police Act, 1861.	In section 15-A, in sub-section (4), between the words "by" and "The Provincial Government" insert the words "the Commissioner or". In section 33-A, in sub-section (3), for "Provincial Government" substitute "Commissioner".
1894	I	The Land Acquisition Act, 1894.	In section 5, between the words "Where" and "the" insert "land is to be acquired for a public purpose, if the Commissioner, and where land is to be acquired for a Company". In section 5-A, 6 (3), 7, 17 (4), 31(3), 35 (1), 36 (2), 38 (1), 39, 40, 41, 49 (2) AND 49 (3), for "Provincial Government" substitute "Commissioner". In sections 17 (4), 41 and 49 (2), for "it" substitute "he".

			In section 6, in sub-section (1), for "the Provincial Government" substitute "the Commissioner" and for "a Secretary to such Government" substitute "the Commissioner". In section 17— (i) in sub-section (1), between the word and comma "urgency," and the word "the Collector" insert "whenever the Commissioner so directs,". (ii) for the proviso to sub-section (1), substitute the following: - "Provided that the Commissioner shall not issue any direction to the Collector under this sub-section unless the Department of Government, the local authority, or Company, as the case may be, for which the land is being acquired, has first deposited the estimated cost of acquisition of such land as determined by the Collector of the district, keeping in view the provisions of sections 23 and 24."; (iii) In sub-section (2), between the words "necessary" and "to acquire" insert "for the Commissioner" and between the words, brackets and figure "sub section (1)" and the words "enter upon" insert "and with the previous sanction of the Commissioner".
1896	XX	The Sind Imcumbered Estates Act, 1896	In section 31— (i) in sub-section (1), for "Board of Revenue" substitute "Commissioner";

			(ii) after sub-section (1), add the following: - "(2) There shall be no appeal against the decision of the Commissioner".
1897	X	The General Clauses Act, 1897	In section 3, after clause (12), add the following: - "(13) 'Commissioner' shall mean the Chief Officer in-charge of the Revenue Administration of a division and shall include an Additional Commissioner of such division.".
1952	XI	The Land Control (Karachi Division) Act, 1952.	In section 2— (a) in clause (ii), for "Provincial Government" substitute "Commissioner"; (b) after clause (iii), add the following:- "(iii-a) 'Commissioner' means the Commissioner of the Karachi Division,"; (c) in clause (vii), for "Deputy Commissioner" substitute "Commissioner". In section 17, for "Provincial Government", wherever occurring, substitute "Commissioner" and for "it" substitute "he". In section 19, between the words "lie" and "against" insert "against the Commissioner or".
1953	XXVII	The Karachi Essential Articles (Price Control and Hoarding) Act, 1953.	Throughout the Act, except section 11 for "Provincial Government" substitute "Commissioner".

			In section 2, before clause (b), add the following:- "(a) 'Commissioner' means the Commissioner of the Karachi Division;" In section 14, for "it" substitute "him".

SIND ACT AND ORDINANCES

1868	II	The Sind Ferries Act, 1868.	In section 17, between the words "any," and "Collector" insert "Commissioner".
1879	VII	The Sind Irrigation Act, 1879.	In sections 11 and 57, for "the Revenue Commissioner". In sections 67, 91 (2) (iii), 92 (6) and 92-A (3), for "Provincial Government" substitute "Commissioner". In section 92-A (3), omit "for Sind".
1905	I	The Sind Court of Wards Ac, 1905.	For section 3, substitute the following: - "3. Subject to the provisions of section 12, the Commissioner shall be the Court of Wards for the limits of his division: Provided that the Provincial Government may, if it thinks fit, by notification in the Official Gazette,— (a) appoint a special officer to be the Court of Wards for a division in lieu of the Commissioner; or

(b) constitute a Board consisting of the Commissioner and any other officer or officers to be the Court of Wards for a division; or

(c) appoint any other officer or officers to be a Court of Words for any part of the Province of Sind, and direct that such part shall thereupon be excluded from the jurisdiction of the Court of Words of any division in which it lies wholly or partly.

In section 43, for sub-section (1), substitute the following: -

"43. (1) An appeal shall lie from every order, other than an order of the District, Court, passed under this Act, whether original or on appeal,—

(a) where the order is that of a Commissioner or of any special or other officer appointed, or Board constituted, under the proviso to section 3, to the Board of Revenue;

(b) where the order is that of a Collector, to the Commissioner, or where any such officer or Board has jurisdiction, to such officer or Board; and

(c) in all other cases, to the Collector:

Provided that where any such officer or Board has been appointed to be Court of Wards and the order has been passed by any officer subordinate to such Court of Wards for the purposes of this Act, the Provincial Government may direct that appeals shall lie to such officer or Board.".

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1906	II	The Sind Mukhtiarkars' Courts Act, 1906.	In section 1, in sub-section (2), after the word "Sind" add" including Khairpur District".
1915	I	The Sind Town Planning Act, 1915.	In section 45-B, in sub-section (5) before the full stop, insert "and Commissioner".
1925	VII	The Co-operative Societies Act, 1925.	In section 59-P, in sub-section (2), for "Board of Revenue Sind" substitute "Commissioner".
1947	XLIX	The Sind Rural Credit and Land Transfer Act, 1947.	In section 26, for "Board of Revenue" substitute "Commissioner" For section 28, substitute the following: - "28. The Board of Revenue or the Commissioner may, pending decision of an appeal or a proceeding in revision, as the case may be, stay the execution of an order against which the appeal is made or in respect of which the revision proceeding arises."
1972	II	The Sind People's Local Government Ordinance, 1972.	In section 2, after clause (9), insert the following: - "(9-A) 'Commissioner' means the chief officer in charge of the revenue administration of the Division and includes any officer specially appointed by, the Government to perform all or any of the functions of a Commissioner under this Ordinance;". In section 10, in sub-section (2), omit "in the case of Corporation and the Collector in the case of a People's Municipality or a People's Town Committee".

In section 40, for sub-section (7), substitute the following: -

"(7) A Council shall furnish to the Controlling Authority——

(a) all decisions taken by Council including those relating to appointment, removal, discharge or suspension of its servants;

(b) copies of agenda and working paper of all meetings of a Council before they are held; and

(c) copies of minutes of all meetings of the Council.

(7-A) Where the Commissioner is not the Controlling Authority the information furnished under sub-section (7) shall also be furnished to the Commissioner."

In section 45——

(i) in sub-section (2), between the word and comma "time", and the word "specify" insert the words "on the recommendations of the Commissioner"; and

(iii) after sub-section (2), add the following: -

"(3) A proposal for creation of a post in a Council to be filled by persons belonging to the People's Local Council Service shall be routed through the Commissioner".

In section 48 replace the fullstop by a colon and thereafter add the following: -

"(i) "Provided that any proposal for a change in the schedule of

establishment shall be routed, in case of the Corporation through the Commissioner and in any other case through the Controlling Authority.".

In section 49, after sub-section (2) add the following: -

"(3) The Commissioner may call for any paper, document, register or record to see that the activities of a Council in his division are in conformity with the provisions of this Ordinance and if necessary may submit his report to Government."

In section 63, for sub-section (6) substitute the following: -

"(6) If an officer at whose disposal funds have been placed by a Council, considers it necessary to incur expenditure on sanctioned activities in excess of the amount duly sanctioned or provided in the budget by way of reappropriation, he shall submit such proposal for decision of the Controlling Authority and where the Controlling Authority is Government, the proposal shall be routed through the Commissioner.".

In section 88, in sub-section (1), omit "Collector acting as".

In section 93, in sub-section (1), for "Collector" substitute "Commissioner of the Division".

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WEST PAKISTAN
ACTS AND ORDINANCES

1956	VI	The West Pakistan General Clauses Act, 1956.	In section 2, after clause (16), insert the following: - "(17) 'Commissioner' shall mean the Chief Officer-in-charge of the revenue and general administration of a division and shall include and Additional Commissioner of such division.".
1958	XXVII	The West Pakistan Vaccination Ordinance, 1958.	In section 3— (i) In sub-section (4), for "Government" substitute "Commissioner.". (ii) after sub-section (4), insert the following: - "(5) The Commissioner shall forthwith submit to Government a report of every case occurring under this section, and Government may confirm, revise or modify the order, or make in respect thereof any other order which the Commissioner could have made.". (iii) for the proviso substitute the following: - "Provided that no order of the Deputy Commissioner or the Commissioner passed under this section shall be confirmed, revised or modified by Government without giving the local authority a reasonable opportunity of showing cause against such order.".
1959	XXXV	The West Pakistan Control of Goondas Ordinance, 1959.	In section 8, in the proviso to sub-section (2), for "Government" substitute "the Commissioner".

			In section 18—
			(i) in sub-section (1), for "Government" substitute "the Commissioner of the Division";
			(ii) in sub-section (3), for "Government" substitute "The Commissioner".
			In section 19, for "Government" substitute "the Commissioner."
			In section 27, in sub-section (2), for "Government" substitute "The Commissioner".
1960	VI	The West Pakistan Consolidation of Holdings Ordinance, 1960.	In section 2, after clause (C), insert the following:-
			"(d) "Commissioner" MEANS THE Chief Officer Incharge of the revenue administration of a division and includes an Additional Commissioner, and any other office specially empowered by the Board of Revenue to perform the functions of a Commissioner under this Ordinance.".
			In section 11, for "Board of Revenue" substitute "Commissioner".
			in section 13—
			(i) in sub-section (2), for "The" substitute "Commissioner";
			(ii) in sub-section (3), for "Board of Revenue" substitute "A Commissioner";
			(iii) for sub-section (4), Except the Proviso substitute the following: -

			"(4) The Board of Revenue may in any case called for under sub-section (1) and a Commissioner may in any case called for by him under sub-section (2) or reported to him under sub-section (3), pass such order as it or he thinks fit.
1960	VII	The West Pakistan Pure Food Ordinance, 1960.	In section 35— (i) in sub-section (3), for "Government" substitute "the Commissioner". (ii) after sub-section (3), insert the following: - "(4) The Commissioner shall forthwith submit to Government a report of every case occurring under this section, and Government may confirm, revise or modify the order, or make in respect thereof any other order which the Commissioner could have made."; (iii) for the proviso, substitute the following: - "Provided that no order of the Deputy Commissioner or the Commissioner passed under this section shall be confirmed, revised or modified by Government without giving the local authority a reasonable opportunity of showing cause against such order.".
1960	XIV	The West Pakistan Benevolent Fund Ordinance, 1960.	In section 6— (i) in sub-section (1), after clause (b), insert the following: - "(c) a Divisional Board of Management for each Division; and";

			(ii) in sub-section (2), after clause (b), insert the following: - "(c) a Divisional Board of Management shall, subject to such directions as may be issued by the Provincial Board of Management (Non-Gazetted), deal with all matters connected with part II of the Fund except in so far as it concerns non-Gazetted servants serving or employed in the Sind Secretariat and in particular shall have the power to sanction expenditure fro the allocations made to it by that Board; and".
1960	XXIV	The West Pakistan Money-lenders Ordinance, 1960.	In section 2, after clause (d), insert the following:- "(e) 'Commissioner' includes an Additional Commissioner or any other officer specially empowered by Government to perform the duties of the Commissioner under this Ordinance;". In section 8, for "District Judge" substitute "Commissioner".
1962	VIII	The West Pakistan Tolls on Roads and Bridges Ordinance, 1962.	In section 8, in sub-section (3), for "Government" substitute "the Commissioner".
1962	XXIX	The West Pakistan Primary Education Ordinance, 1962.	In section 8, for "Government" substitute "the Commissioner".
1964	XIX	The West Pakistan Redemption and Restitution of Mortgaged Lands Act, 1964.	In section 2, after clause (b) insert the following:- "(c) 'Commissioner' means the Commissioner of the Division in which the mortgaged land or any part thereof is situated, and shall include any Officer specially

empowered by the Board of Revenue to perform the duties of a Commissioner for the purposes of this Act";

For sections 14, 15 and 16, substitute the following: -

"14. (1) Save as otherwise provided by this Act, an appeal shall lie from an original order of the Collector to the Commissioner.

(2) Save as otherwise provided by this Act, an appeal shall lie to the Board of Revenue from every order passed in appeal by the Commissioner on any one of the following grounds, namely: -

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure provided by this Act or by any other law, for the time being in force, which possibly have produced an error or defect in the decision of the case.

15. (1) The Board of Revenue may at any time call for the record of any case pending before, or disposed of by, any revenue Officer subordinate to it.

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

			(3) The Board of Revenue may, in any case called for under sub-section (1), and a Commissioner may, in any case called for under sub-section (2), pass such order as it or he thinks fit: Provided that no order shall be passed under this section reversing or modifying any proceedings or order of a subordinate Revenue Officer and effecting any question of right between private persons without giving those persons an opportunity of being heard. 16. (1) The period of limitation for an appeal under section 14 shall run from the date of the order appealed against, and shall be— (i) sixty days, when the appeal lies to the Commissioner; (ii) ninety days, when the appeal lies to the Board of Revenue. (2) In computing the period of limitation for an appeal under this section the period requisite for obtaining copies of the order appealed against shall be excluded. (3) The provisions of section 5 of the Limitation Act, 1908, shall apply to appeals under this Chapter.".
1964	III	The West Pakistan Ghulam Muhammad Barrage Betterment Tax Ordinance, 1964.	In section 7, for "Government" substitute "The Commissioner" and for "it" substitute "he". In section 11, between the word and comma "Government," and

			the words "the Collector", twice occurring, insert the words "the Commissioner or".
1967	IX	The West Pakistan Pat Feeder Canal (Control and Prevention of Alienation of Land) Ordinance, 1967.	In section 4, in sub-section (3), between the words "Board of Revenue" and "may" insert "or the Commissioner". In section 5, in sub-section (4)— (i) for "Board of Revenue under section 6" substitute "Commissioner under section 6, or in revision by the Board of Revenue under section 7": (ii) in the Explanation— (a) for "section 6" substitute "sections 6 and 7"; (b) between the word and comma "Tribunal," and the word "or" insert "the Commissioner". In section 6, for "Board of Revenue" substitute "Commissioner" and for "it" substitute "he". After section 6, insert the following: - "7. The Board of Revenue may— (a) at any time of its own motion call for and examine the record relating to any order passed or proceedings taken under this Ordinance, by the Tribunal or the Commissioner, for the purpose of satisfying itself as to the legality, regularity or propriety of such order and proceedings; and

			(b) on application made to it in that behalf by a person aggrieved, within ninety days of the passing of an order in any proceedings under this Ordinance by the Commissioner, call for the record of such proceedings, and pass such order in reference thereto as it thinks fit.".
			In section 7-B, for "section 6" substitute "sections 6 and 7(b)".
			In section 8, between the word and comma "Tribunal," and the word "or" insert "the Commissioner".
			In section 9, between the word and comma "Board of Revenue," and the word "or" insert "the Commissioner".
1970	XIII	The West Pakistan Requisitioning of Stage Carriages (Temporary Powers) Ordinance, 1970.	Throughout the Ordinance, for "District Magistrate" substitute "Deputy Commissioner".
			In section 4, for "Board of Revenue" substitute "Commissioner".

KHAIRPUR ACTS

1905	III	The Khairpur Management of Minor's Property Act, 1905.	In section 2, for "Board of Revenue" substitute "Commissioner".
1954	VI	The Khairpur Livestock Control Act, 1954.	In section 8, for "Provincial Government" substitute "Commissioner".

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PUNJAB ACTS

1912	V	The Colonization of Government Lands (Punjab) Act, 1912.	In section 3, after the definition of 'Collector', insert the following: - "Commissioner" includes any officer appointed by the Board of Revenue to perform all or any of the functions and exercise all or any of the powers of a Commissioner under this Act.". In section 17 and 19, for "Board of Revenue" substitute Commissioner". In section 19, for "it", substitute "he".
1939	V	The Agricultural Produce Markets Act, 1939.	In section 6, in sub-section (3), for "Government" substitute "Commissioner". In section 21-A, in sub-section (2), for "Government" substitute "Commissioner". In section 32, for "any officer" substitute "a Commissioner".

N.W.F.P. ACTS

1950	XXII	The Sugar Factories Control Act, 1950.	In sections 10 and 14, for "Provincial Government" substitute "Commissioner of the Division".

PRESIDENT'S ORDER

1957	5	The Karachi Development Authority Order, 1957.	In Article 5, after clause (2), add the following: -

"(3) The Commissioner, Karachi Division, shall be the *ex-Officio* Chairman of the Governing Body."

In Article 6, in clause (1), omit "Chairman and the".

After Article 52, the following shall be inserted: -

"52-A.(1) The Authority shall, immediately after any housing scheme is sanctioned by, or altered with approval of, Government, submit to the Commissioner the details including the survey numbers, area and location of each plot reserved for roads, hospitals, schools, colleges, libraries, play grounds, gardens, parks, community centres, mosques, grave yards or such other purpose and the Commissioner shall notify such details in the Official Gazette.

(2) The Authority or the Housing Society may at any time prior to utilization of any plot reserved for the purpose mentioned in sub-section (1), apply to the Commissioner for conversion of such plot to any other purpose.

(3) The Commissioner shall, on receipt of an application under sub-section (2), invite objections from the general public through a notice published in one English and one vernacular leading local daily news paper and the objections, if any, shall be submitted to the Commissioner within 30 days from the date of the publication of the notice.

(4) The Commissioner shall, after considering the objections received under sub-section (3) and hearing such persons as he may consider necessary forward his recommendations along with the application and other connected papers to Government for orders.".