



# The Sindh Government Gazette

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KARACHI, TUESDAY, APRIL 8, 1975

## PART IV

### PROVINCIAL ASSEMBLY OF SIND

#### NOTIFICATION

Karachi, the 8th April, 1975

No. PAS/Legis/Bill-5/75.—The Sind Public Property (Removal of Encroachment) Bill, 1975 having been passed by the Provincial Assembly of Sind on the 18th March, 1975 and assented to by the Governor of Sind on 5th April, 1975 is hereby published as an Act of the Legislature of Sind:—

### THE SIND PUBLIC PROPERTY (REMOVAL) OF ENCROACHMENT) ACT, 1975.

SIND ACT NO. V OF 1975.

(First published after having received the assent of the Governor of Sind in the Gazette of Sind (Extra-Ordinary), dated the 8th April, 1975.

AN

ACT

*to provide measure for removal of encroachment from public property*

WHEREAS it is expedient to provide measures for removal of encroachment from public property and for matters ancillary thereto; Preamble.

It is hereby enacted as follows:—

1. (1) This Act may be called the Sind Public Property (Removal of Encroachment) Act, 1975. Short title and commencement.

(2) It shall come into force at once.

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context—

- (a) "autonomous body" means a board, corporation, institution, organisation, authority or body established, by Government or, by or under law, with the aid, wholly or partly, of the revenues of the Province;
- (b) "building" means a building or part thereof and includes plinth, wall, steps, platform, covered area of any kind, tent, Jhuggi, enclosure and the land appurtenant thereto;
- (c) "encroachment" means unauthorised occupation of or undue interference with public property;
- (d) "Government" means the Government of Sind;
- (e) "land" includes land under water, well, foot-path, road, tunnel, culvert, nala, bridge and street;
- (f) "local council" means a council under the Sind People's Local Government Ordinance, 1972 (Sind Ordinance II of 1972);
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "public property" means a building, land, place or premises vesting in, or under the management or control of, Government, local council, autonomous body, or such other authority;
- (i) "Tribunal" means a Tribunal established under section 12.

**Removal of structures.**

3. (1) Government or any authority or officer authorised by Government in this behalf may require the person directly or indirectly responsible for encroachment to remove such encroachment together with the structure, if any, raised by him on the public property, within the period not less than three days as may be specified in the order.

*Explanation.*—Lessee or licensee who after the expiry of the period of lease or licence or on determination of such lease or licence, continues to retain possession of any public property shall, for the purpose of this sub-section, be deemed to be responsible for encroachment.

(2) The order under sub-section (1) may be served by—

- (a) giving or tendering it to the person responsible for the encroachment or any adult male person residing with him; or
- (b) affixing it at a conspicuous place on or near the public property to which it relates.

4. (1) Any person dis-satisfied by the order passed under section 3 may, within seven days from the service thereof, prefer a review petition to Government or any authority or officer who has passed such order. Review

(2) Government or, as the case may be, the authority or officer as aforesaid may, after perusing the review petition filed under sub-section (1) and giving an opportunity to the petitioner or his duly authorised agent of being heard, confirm, modify or vacate the order.

5. (1) If any person refuses or fails to vacate the public property or remove the structure raised thereon after seven days from the order under section 3 is duly served on him, or if review petition is filed against such order, after such review petition is dismissed, he shall be evicted by force as may be necessary, by an officer authorised by Government in this behalf and the structure, if any, raised by such person on the public property shall vest in Government, Local Council or autonomous body, as the case may be; Eviction.

(2) If any officer authorised to take action under sub-section (1) requires police assistance he may send such requisition to the officer incharge of a police-station within the local limits of which the public property is situate and such police officer shall on such requisition render the required assistance.

6. Where any structure is demolished or removed on eviction under section 5 the cost of demolition or removal of such structure may be recovered as arrears of land revenue from the person responsible for the encroachment. Cost of Demolition and removal of structure.

7. If arrears of rent are payable in respect of any public property by the person evicted therefrom, the amount of such arrears with interest, if any, accrued thereon shall be recovered from such person as arrears of land revenue. Recovery of arrears of rent.

8. (1) Any person responsible for encroachment, may be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to three thousand rupees or with both. Punishment.

(2) The officer appointed for preventing encroachment in any area who directly or indirectly connives at, or assists in, the commission of the offence of encroachment or persistence of such offence or due to whose negligence of duty such offence is committed or persists shall be punished as an abettor.

(3) If the officer-in-charge of police station wilfully fails or avoids to provide the necessary police assistance under sub-section (2) of section 5 he shall be punished as an abettor of the offence of encroachment.

Cognizance  
of offence  
and mode  
of trial.

9. (1) No court shall take cognizance of an offence under this Act, except on a complaint made by an officer authorised by Government in this behalf.

(2) Government may by notification direct that an offence under this Act, shall be tried in summary way in accordance with the procedure prescribed by Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898).

Delegation  
of  
Powers.

10. Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act, may be exercised by any officer subordinate to it or any local council, autonomous body or such other authority.

Bar of  
Jurisdiction  
and abate-  
ment of  
suits.

11. (1) No Civil Court shall have jurisdiction to entertain any proceedings, grant any injunction or make any order in relation to a dispute that any property is not a public property, or that any lease or license in respect of such public property has not been determined, for the purpose of this Act, or anything done or intended to be done under this Act.

(2) All suits, appeals and applications relating to, encroachment and dispute that any property is not a public property or, that any lease or license in respect of such property has not been determined, for the purpose of this Act, shall abate on coming into force of this Act:

Provided that a party to such suit, appeal or application may, within thirty days of the coming into force of this Act, file a suit before a Tribunal in case of a dispute that any property is not a public property or that any lease or license in respect of such public property has not been determined.

Tribunal.

12. (1) Government may by notification in the official gazette, establish a Tribunal and specify the area in which such Tribunal shall exercise its jurisdiction.

(2) Government may appoint a District Judge, Additional District Judge or District Magistrate or Additional District Magistrate with experience of not less than three years as such Magistrate as a Tribunal.

Exclusion  
jurisdiction.

13. A Tribunal shall have exclusive jurisdiction to adjudicate upon a dispute that any property is not a public property or that any lease or license in respect of such public property has not been determined, for the purpose of this Act.

14. (1) A Tribunal shall decide any suit or application in such manner and in accordance with such procedure as may be prescribed. Procedur  
and Pow  
of the  
Tribunal

(2) Any order made by the Tribunal which conclusively determines the rights of the parties with regard to all or any of the matters in controversy shall be final and binding on the parties;

(3) The Tribunal shall have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), as to—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) receiving evidence on affidavits;
- (c) compelling the production of documents;
- (d) issuing commission for examination of witnesses or documents.

(4) The proceedings before the Tribunal shall be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

15. Government may transfer any case from one Tribunal to the other. Transfer

16. No suit or legal proceeding shall lie against Government or any authority or person in respect or anything which is intended to be, or has been, done under this Act. Indemni

17. Government may make rules for carrying out the purposes of this Act. Power to  
make ru

18. The West Pakistan Government Lands and Buildings (Recovery of Possession) Ordinance, 1966 and the West Pakistan Autonomous Bodies Immovable Property (Ejection of Un-authorized Occupants) Ordinance, 1965, are hereby repealed. Repeal

By order of the Speaker,  
Provincial Assembly of Sind.

JAMALUDDIN ABRO,

Secretary,  
Provincial Assembly of Sind.