

# THE PUNJAB DEVELOPMENT OF DAMAGED AREAS ACT, 1952

(XV of 1952)

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**TEXT**

**<sup>1</sup>THE PUNJAB DEVELOPMENT OF DAMAGED AREAS ACT, 1952**

**(XV of 1952)**

*[6 February 1952]*

An

Act

*to provide for the development of damaged areas in the Punjab.*

**WHEREAS** it is expedient to provide for the development of damaged areas in the Punjab:

It is hereby enacted as follows:—

**1. Title, extent and commencement.**— (1) This Act may be called the Punjab Development of Damaged Areas Act, 1952.

(2) It extends to the whole of the Punjab.

(3) It shall be deemed to have come into force immediately after the expiry<sup>2</sup> of the Punjab Development of Damaged Areas Ordinance, 1948<sup>3</sup>, in the areas in which the said Ordinance was operative at the time of its expiry, and shall come into force in any other area on such date as the Government of the Punjab may, by notification, specify.

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

(a) “Building” includes a house, out-house, stable, shed, hut and every other structure whether of masonry, bricks, wood, mud, metal or any other material whatever;

(b) “Building line” means a line (in rear of the street alignment) up to which the main wall of a building abutting on a projected street may lawfully extend;

(c) “Collector” means a Collector as defined in Land Acquisition Act, 1894<sup>4</sup>;

(d) “Cost of a scheme” includes all expenses of an Improvement Trust incurred in the making, supervision and execution of the scheme;

(e) “Damaged Area” means any area notified as such by the Government under section 3 of this Act;

(f) “Government” means the Government of the Punjab;

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<sup>1</sup>This Act was assented to by the Governor of the Punjab on January 31, 1952, published in the Punjab Gazette (Extraordinary), dated February 6, 1952, pp. 111-124.

<sup>2</sup>It ceased to operate on January 25, 1952, that is, six weeks after the first assembly of the new Legislature which took place on December 14, 1951.

<sup>3</sup>V of 1948.

<sup>4</sup>I of 1894.

- (g) “Improvement Trust” or “Trust” means an Improvement Trust constituted under the Punjab Town Improvement Act, 1922<sup>1</sup>;
- (h) “Land” includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (i) “Local Area” means the area to which the Punjab Town Improvement Act, 1922<sup>2</sup>, has been applied and the area within which a Trust has been created for the purposes of carrying out the provisions of that Act;
- (j) “Notify” means notify by means of a notification in the official Gazette;
- (k) “Person interested” includes all persons claiming an interest in compensation to be awarded on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting that land;
- (l) “Prescribed” means prescribed by rules made under this Act;
- (m) “Street alignments” means lines forming the boundaries of a street dividing the same from lands or buildings adjoining on either side; and
- (n) “Tribunal” means a Tribunal constituted under the Punjab Town Improvement Act, 1922<sup>3</sup>.

**3. Declaration of damaged areas.**– The Government may, by notification, declare any local area or any part of any local area to be a damaged area.

**4. Schemes for the development of a damaged area.**– An Improvement Trust may frame a scheme or schemes for the development of a damaged area, providing for all or any of the following matters:–

- (i) The acquisition under this Act of any land or any interest in land necessary for or affected by the execution of the scheme, or adjoining any street, thoroughfare, or open space to be improved or provided under the scheme.
- (ii) The acquisition by purchase, 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 Improvement Trust.
- (iv) The demolition of buildings or portions of buildings which are unfit for the purpose for which they are intended and which obstruct light or air or project beyond the building line laid out under the scheme.
- (v) The relaying out of any land comprised in the scheme, and the redistribution of sites belonging to owners or property comprised in the scheme.
- (vi) The laying out and alteration of streets.

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<sup>1</sup>IV of 1922.

<sup>2</sup>IV of 1922.

<sup>3</sup>IV of 1922.

- (vii) Open spaces in the interests of the residents of any locality comprised in the scheme or any adjoining locality and the enlargement or alteration of existing open spaces.
- (viii) The raising, lowering, or reclamation of any land vested in or to be acquired by the Improvement Trust for the purposes of the scheme, and the reclamation or reservation of land for the production of fruit, vegetables, fuel, fodder, or for any other purpose for the residents of the local area.
- (ix) The draining, water-supply and lighting of streets altered or reconstructed.
- (x) A system of drains and sewers for the improvement of ill-drained and insanitary localities.
- (xi) The doing of all acts intended to promote the health of the residents of the area comprised in the scheme, including the conservation and preservation from injury or pollution of rivers and other sources and means of water-supply.
- (xii) The demolition of existing buildings and the erection and re-erection of buildings by the Improvement Trust or by the owners or other persons authorised by the Improvement Trust or by the Improvement Trust in the event of default by the owners or such persons.
- (xiii) The advance of the whole or part of the capital requisite for the erection of buildings in accordance with the scheme to the owners of land comprised within the scheme, upon such terms and conditions as to interest and sinking fund and otherwise as may be prescribed under the scheme.
- (xiv) The provision of facilities for communications.
- (xv) All other matters which the Government may deem necessary for promoting the general efficiency of a scheme or for improving the locality comprised in such scheme.

<sup>1</sup>[Provided that while undertaking a scheme under this section a provision of plot for the construction of mosque will be made where necessary.]

**5. Publication of Schemes.**— (1) The Improvement Trust shall then publish a notice in the official Gazette and two newspapers, one at least having circulation in both Pakistan and India unless the entry in India of the newspapers published in Pakistan is banned, in which case both the newspapers shall be such as have circulation in Pakistan, stating—

- (a) the fact that the scheme has been framed;
- (b) the boundary of the locality comprised in the scheme; and

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<sup>1</sup>Added by the Punjab Development of Damaged Areas (Amendment) Ordinance, 1985 (Pb. O. No. XXX of 1985) published in the Punjab Gazette (Extraordinary), dated February 27, 1985, pp. 752-I-753-J, s. 2.

(c) the place where and the time when details of the scheme including a statement of land proposed to be acquired and a general map of the locality comprised in the scheme may be inspected.

(2) Such notice shall also prescribe the period during which objections will be received against the scheme.

**6. Sanction of scheme.**— (1) After consideration of the objections, if any, which may be received by the Improvement Trust during the period prescribed under section 5, subsection (2), the Improvement Trust may sanction the scheme with or without modifications as it may deem proper.

(2) Whenever a scheme is sanctioned by an Improvement Trust, it shall report the fact to the Government, together with a Statement of Objections.

(3) The Government may modify the scheme and shall cause the original or, as the case may be, the modified scheme to be published in the official Gazette. The scheme as published shall be deemed to be the sanctioned scheme.

(4) A publication under subsection (3) shall be conclusive evidence that a scheme has been duly framed and sanctioned.

**7. Acquisition of Damaged Area through Collector.**— (1) The Improvement Trust may apply to the Collector for the acquisition of any damaged area comprised in any scheme sanctioned under this Act and also for making an order for the immediate delivery of the possession of the whole or any part of such area to the Improvement Trust.

(2) Notwithstanding anything contained in any other law for the time being in force, the Collector may pass an order accepting an application made to him under the foregoing subsection and forthwith deliver, or cause the delivery of possession of any damaged area or part thereof comprised in any scheme sanctioned under this Act, and the same shall vest absolutely in the Improvement Trust free from all encumbrances subject, in due course, to the payment of compensation by the Trust in accordance with the provisions of this Act:

Provided that possession shall not be taken of any building or part of a building unless the occupier thereof is given at least 48 hours' notice or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

**8. Magistrate to enforce surrender of land.**— If the Collector or any person acting under his authority is opposed or obstructed in the delivery of possession of any land under this Act, he shall enforce the surrender of the land to the Improvement Trust, if he is a Magistrate, and, if he is not himself a Magistrate, apply to a Magistrate for this purpose, and such Magistrate shall enforce the surrender of the land to the Improvement Trust.

**9. Marking and measuring.**— After having delivered or caused the delivery of possession of the land, the Collector shall cause the land to be marked out and measured, and a plan thereof to be made, unless all this has already been done.

**10. Notice inviting claims to compensation and objections.**— (1) The Collector shall also cause public notice to be given at convenient places on or near the land

comprised in the scheme stating that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place mentioned therein (not being earlier than 15 days after the date of publication of the notice) and to state the nature of their respective interests in the land, and the objections, if any, to the measurements made under the foregoing section. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

(5) In case the whereabouts of any such person are not known, such notice may be given by publication in a newspaper of the description given in section 5, subsection (1), and if such notice has been published in such newspaper not less than 15 days before the date of hearing, proceedings may be taken *ex-parte* if the person does not appear on that date.

**11. Disclosure by interested persons.**— (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned in the requisition (such time being not earlier than 15 days after the date of the requisition) a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, the nature of such interest and the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required making or delivering a statement under this section or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the <sup>1</sup>[Pakistan Penal Code].

**12. Inquiry into claims and objections.**— On the date fixed under section 10, subsection (2) or on any other day to which the inquiry may be adjourned, the Collector shall proceed to enquire into the objections, if any, which any person interested has made pursuant to a notice given under the aforesaid section to the measurements made under section 9 and into the respective interests of the persons claiming compensation, and shall determine:

- (a) the true area of the land and the extent of the interest of each person interested in that land; and

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<sup>1</sup>Substituted for the words comma and figures "Pakistan Penal Code, 1860" by the Punjab Laws (Adaptation, Revision and Repeal) Act, 1954 (XV of 1955), published in the Punjab Gazette (Extraordinary), dated January 21, 1955, pp. 87-108, s. 2 read with First Schedule, Part III.

- (b) the value of the plots and the material and other sources of income remaining outstanding as notified by the Government under section 13 of this Act,

and make an award apportioning compensation in accordance with the provisions of section 14 of this Act, among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information whether or not they have appeared before him:

Provided that if no notification in the official Gazette under sub-section (2) of section 13 has been issued, the Collector shall merely decide the matter referred to in (a), and postpone the making of the award with respect to compensation till after the issuing of the said contemplated notification by the Government:

**Reference to the Tribunal on questions of title etc.**— Provided further that if there be any dispute as to the title to such land or any part thereof or as to the persons to whom compensation or any part thereof is payable, the Collector may refer such dispute to the decision of the Tribunal.

**13. Execution of scheme by the Trust.**— (1) After the possession of the land comprised in a scheme under this Act has been delivered to it, the Improvement Trust shall proceed forthwith to execute the said scheme.

(2) **Submission of cost of scheme by the Trust.**— The Improvement Trust shall, as soon after the completion of a scheme under this Act as may be, but not later than 3 years from the date of sanction thereof, submit to the Government an accurate statement of the actual cost of the scheme and the income derived therefrom as well as the particulars and the estimated value of the plots that remain unsold and any material or any other sources of income from the scheme which remain outstanding, and the Government shall, after such scrutiny as it may deem necessary, notify the details of the aforesaid statement.

**14. Total compensation how calculated.**— (1) Notwithstanding anything contained in any other law for the time being in force, the total compensation payable for any land acquired under this Act shall be the difference between the income from the scheme and the cost thereof as notified by the Government under section 13, sub-section (2), the value of the plots that remain unsold and any other source of income from the scheme which remains outstanding, as determined by the Collector under section 12, being reckoned as income or a part thereof as the case may be.

(2) Subject to the provisions of subsection (1) and of any other law, for the time being in force, relating to the administration of property abandoned by its owner as a result of the establishment of Pakistan, the amount realised from the disposal of material of any standing structure upon the land comprised in the scheme, after deducting the cost of demolition and disposal thereof, shall be payable to the person known or believed to be the person interested in that structure according to his interest at the time of the acquisition.

**15. Collector's award to be filed.**— (1) The award made by the Collector under section 12 shall be filed in the office of the Collector of the district and shall, except as hereinafter provided, be announced by him on a day fixed for the purpose. It shall

then be final and conclusive evidence as between the Improvement Trust and the persons interested, whether they have appeared before the Collector or not, of the true area and value of the land and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is announced.

**16. Trust may make reference to the Tribunal.**— As soon as the Collector has made his award, the same shall be placed before the Trust, which shall, within 30 days of the date of the announcement of the award, either notify its intention to make a reference to the Tribunal, in the manner stated in section 20, against the amount awarded by the Collector or place the amount awarded at his disposal.

**17. Payment of compensation by Collector.**— From the amount placed at his disposal under section 16 the Collector shall tender payments of the amounts assessed by him to the persons interested and make payments to any of them who agree to receive the same with or without protest.

**18. Disposal of compensation in cases of disputed title.**— (1) The amounts due to persons who may not be competent to alienate the land for which compensation has been awarded or the amounts due in respect of the land which is subject to a disputed title shall be deposited into local Treasury.

(2) In the case of persons incompetent to alienate the land acquired under this Act, the amount of compensation due may be invested by the Collector in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or if such purchase cannot be effected forthwith, in Government securities. The interest accruing on such money shall also be deposited and invested in the same way until the same be applied in the manner aforesaid.

(3) Nothing in this section shall preclude the Collector from making payment of any amount as compensation for land due to any person, incompetent to alienate the same, or from transferring the land or securities purchased therefor under subsection (2), to such person, after the cessation of his disability, or, during such disability, to any other person competent to receive the same under any law for the time being in force or any order of a competent Civil Court.

**19. Jurisdiction of other Courts barred.**— (1) No award under this Act shall be called in question in any Court or in any manner except as provided hereinafter.

(2) No person shall challenge in any court or before the Tribunal the amounts notified by the Government under section 13 as the cost of a scheme under this Act and the income therefrom.

**20. Person interested may require reference to Tribunal.**— (1) The Improvement Trust or any person interested who has received compensation with protest, may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Tribunal, whether its or his objection be to the measurement of the land, the amount of the compensation, the

person to whom it is payable or to the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is based, and the grounds shall not be other than those stated in subsection (1).

(3) Every such application shall be made—

(a) in the case of the Improvement Trust and of the person interested who was present or represented before the Collector at the time of the announcement of the award within 6 weeks from the date of the announcement of the award; and

(b) in other cases, within six weeks of the receipt of the notice under section 15(2), or within three months from the date of the Collector's award, whichever shall first expire.

**21. Statement of case by Collector on reference.**— (1) In making the reference the Collector shall state for the information of the Tribunal, in writing under his hand:

(a) the situation and extent of the land with particulars of any buildings and other structures standing thereon;

(b) the names of the persons whom he has reason to believe to be interested in such land;

(c) the amount of compensation, if any, awarded for the structures or buildings standing on the land and the value assessed for the unsold plots and the sources of income from the scheme still outstanding; and

(d) if the objection be to the amount of compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached schedule giving the particulars of the notices served upon and of the statements in writing made or delivered by the parties interested respectively.

**22. Notice by Tribunal to persons interested.**— The Tribunal shall thereupon cause a notice specifying the day on which it will proceed to determine the objection and directing their appearance before it on that day, to be served on the following persons, namely—

(a) the applicant;

(b) all persons interested in the objection, except (when the objection is not made by the Improvement Trust) such, if any, of them as have consented without protest to receive payment of the compensation awarded;

(c) if the objection is in regard to the area of the land or to the amount of compensation, the Collector.

**23. Scope of enquiry.**— The scope of the enquiry in such proceedings before the Tribunal shall be restricted to a consideration of the interests of the persons affected by the objection.

**24. Decision of Tribunal.**– (1) The tribunal may, on any reference made to it, make any order regarding the payment of any compensation to any person proved to be entitled to it and may either maintain or modify the award of the Collector:

Provided that the Tribunal shall not question the amounts notified by the Government under section 13 of this Act as the cost of a scheme and income therefrom.

(2) Every such award shall be in writing and signed by the President of the Tribunal, and shall be deemed to be a decree and the statement of the grounds thereof a judgment, within the meaning of subsections (2) and (9), respectively of section 2 of the Code of Civil Procedure, 1908<sup>1</sup>.

**25. Costs.**– Every award of the Tribunal shall also determine the amount of the costs incurred in the proceedings by the parties thereto and the person by whom and the proportions in which they shall be paid:

Provided that no order for the payment of costs shall be made against the Improvement Trust unless, in the opinion of the Tribunal, the value of the plots unsold and of the material and sources of income outstanding as notified under section 13 of this Act is found to have been assessed by the Collector at a rate not exceeding 50 per cent of their value as determined by the Tribunal.

**26. Interest not to be awarded.**– The Improvement Trust shall not be required to pay interest on any amount awarded as compensation and tendered in accordance with the order of the Collector.

**27. Collector to disburse amount awarded in excess by Tribunal.**– (1) The amounts, if any, awarded by the Tribunal in excess of the compensation awarded by the Collector, shall be placed at the disposal of the Collector by the Improvement Trust, and the Collector shall disburse, deposit, invest or dispose of the same in the manner stated in sections 17 and 18, as if it were the amount deposited on account of the award made by himself.

(2) The Collector shall also in like manner disburse, deposit, invest or dispose of the compensation due for the land, title to which is disputed before him, in accordance with the decision of the Tribunal.

**28. Tribunal's power to summon witnesses, etc.**– (1) For the purposes of enquiries under this Act the Collector and the Tribunal shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of Civil Courts under the Code of Civil Procedure, 1908<sup>2</sup>.

(2) **Proceedings of Tribunal.**– All proceedings of the Tribunal shall take place in open court and all persons entitled to practise as legal practitioners in any

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<sup>1</sup>V of 1908.

<sup>2</sup>V of 1908.

Civil Court in the <sup>1</sup>[Punjab] shall be entitled to appear, plead and act (as the case may be) in such proceedings.

**29. Meeting of Trust to sanction proceedings.**— (1) An Improvement Trust shall not exercise its powers under this Act, or act otherwise for the acquisition and possession of land or for the execution of any scheme under this Act, unless approval thereto is accorded in a meeting of the Improvement Trust held after a notice of at least seven days.

(2) The quorum for all such meetings shall be not less than three, and the decision of the majority shall prevail.

**30. Consequences of erection, etc, in contravention of sanctioned scheme.**—

(1) If any person without the permission of the Trust, erects, re-erects, adds to, or alters any building in contravention of any scheme sanctioned by the Trust under this Act for any damaged area, the Chairman of the Improvement Trust may—

- (a) by a written notice direct that the building, alteration, or addition be stopped; and
- (b) require such building, alteration, or addition to be altered or demolished as he may deem necessary.

(2) Notwithstanding anything contained in any other law for the time being in force, no person shall have a right to claim compensation for any damage done in the execution of the requisition of the Chairman under the foregoing subsection.

**31. Protection of Government, etc.**— No suit, prosecution, or other legal proceeding shall lie against the Government or an Improvement Trust or any person for anything done or purporting to have been done in pursuance of this Act or in the framing, supervision or execution of any scheme thereunder.

**32. Penalties.**— Any person who—

- (a) fails to deliver possession when required to do so by the Collector under this Act;
- (b) obstructs or molests any person in the service of an Improvement Trust, or any person acting under the authority or directions of such person, or any person with whom the Trust has entered into a contract, or any person acting under the authority or direction of such person, in the execution of his duty or of anything which he is empowered or required to do under this Act; or
- (c) removes any mark set up for the purpose of indicating the boundaries of any damaged area or any part thereof, or any level or direction necessary to the execution of any scheme under this Act;

shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to Rs. 1,000 or with both.

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<sup>1</sup>Substituted for the word "Province" by the West Pakistan Laws (Adaptation) Order, 1964, published in the Gazette of West Pakistan (Extraordinary), dated June 3, 1964, pp. 1805-1849, Article 2(1) read with Schedule, Part II, Sr. No. 24.

**33. Initiation of complaints.**— No prosecution for any offence punishable under this Act shall be instituted except on a complaint in writing made by the Chairman of the Improvement Trust within the local area of which the offence is committed.

**34. Rules.**— The Government may by notification make such rules as appear to it to be necessary or expedient for giving effect to the provisions of this Act.

**35. Savings.**— Everything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made and order issued under any of the provisions of the Punjab Damaged Areas (Development) Ordinance, 1948<sup>1</sup>, shall be continued, and so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Act and any document referring to any of the said provisions shall, so far as may be, be construed to refer to the corresponding provision of this Act.

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<sup>1</sup>It expired on February 16, 1948, that is, six weeks after the first assembly of the Legislature which took place on January 5, 1948.