



THE WASTE LANDS (CLAIMS) ACT, 1863



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¹[THE WASTE LANDS (CLAIMS) ACT, 1863]

²ACT No. XXIII OF 1863

[10th March, 1863]

An Act to provide for the adjudication of claims to waste lands

Preamble. WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of ³[the Provincial Government], and of objections taken to the sale or other disposition of such lands ; It is enacted as follows:—

1. Provision for enquiry in claims to land, or objections to sale of same. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of ³[the Provincial Government], or when any objection shall be taken to the sale or other disposition of such land, the Collector of the district in which such land is situate, or other officer performing the duties of a Collector of Land Revenue in such district by whatever name his office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objections.

2. Procedure in such cases. The Collector or other officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection ; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection ; and if the land is proposed to be sold, for the sale of the same subject to any condition or reservation which, to such Collector or other officer as aforesaid, shall appear to be proper.

Notification of conditions. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

¹Short title given by the Short Titles Act, 1897 (14 of 1897).

This Act has been repealed to the extent of Islamabad Capital Territory, see Ordinance No. 27 of 1981, s. 4 and 3rd Sch.

²For Proceedings relating to the Bill, see Calcutta Gazette, 1863, Supplement, p. 109.

This Act has been declared to be in force in all the Provinces and the Capital of the Federation, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared by notification under s. 3(a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :-

The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. [Portions of the District of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the N.W.F.P. See Gazette of India, 1901, Pt. I, p. 857 and ibid., 1902, Pt. I, p. 575 ; but its application to that part of the Hazara District known as upper Tanawal has been barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900)] see Gazette of India, 1886, Pt. I, p. 48.

³Subs. by A.O., 1937, for "Govt."

3. Postponement of sale pending enquiry, to allow claimant to contest rejection of claim. Pending an enquiry into any claim or objection under the last preceding section, the Collector or other officer as aforesaid shall postpone the sale or other disposition of the land ;

and, if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

4. Sale to be stopped if claim appear to be established, but may afterwards be proceeded with. If the Collector or other officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land ;

but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued ¹* * * to try the claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same.

5. Delivery to claimant of copy of order of rejection or of sale. If the Collector or other officer as aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector ;

Order when final. and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other officer as aforesaid, that he intends to contest such order, the order shall be final.

Report to Board. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other officer as aforesaid shall immediately make a report to the ²* * * superior revenue authority ³[to which he is immediately subordinate] and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection ;

Decision of Board. and such ⁴* * * authority, on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify or reverse the order of the Collector or other officer as aforesaid.

Certification to Court. If the ⁴* * * authority as aforesaid confirm the order of the Collector or other officer as aforesaid, or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the Collector or other officer as aforesaid shall certify such order to the court constituted or hereinafter provided ;

¹The words "by the L.G." were rep. by the Decentralization Act, 1914 (4 of 1914), Sch., Pt. I.

²The words "Board of Revenue or other" were rep., *ibid.*

³ *Ins. ibid.*

⁴The words "Board or other" were rep., *ibid.*

Notice to Claimant. and such Court shall forthwith give notice to the claimant or objector ;

Decision when final. and if such claimant or objector shall not ¹* * * institute a suit in such Court to establish his claim or objection, the order of the ²* * * authority aforesaid shall be final.

6. Power to order suit to try claim admitted by Collector. The ³[Provincial Government] may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

7. Special Court for trying claims. For the investigation and trial of claims under this Act, the ³[Provincial Government] shall constitute, in every district in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of ⁴[the Provincial Government], a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the district, or the officer presiding in the principal Civil Court of original jurisdiction in the district, by whatever name his office may be designated, shall be one.

Power of members. Any one or more of the members of which such Court shall consist shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit :

Exclusion of officer making original enquiry. Provided that, whenever the Collector, or other officer, by whom the original enquiry was held, is the officer presiding in the principal Civil Court of original jurisdiction in the district, such officer shall not be a member of such Court.

8. Notice of constitution of Special Courts. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates of the district :

Claims not cognizable in other Courts. and from the date of the issue of such proclamation no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

9. Special Court where held. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

¹The words "within thirty days from the delivery of such notice from the Court" were rep. by the Indian Limitation Act, 1871 (9 of 1871). For limitation, see now the Limitation Act, 1908 (9 of 1908).

²The words "Board or other" were rep. by the Decentralization Act, 1914 (4 of 1914), Sch., Pt. I.

³Subs. by A. O., 1937, for "L.G."

⁴Subs. *ibid.*, for "Govt."