

(As introduced in the Assembly on 11/03/2014)

A
BILL

Session 11
Sitting 05
further to amend the Khyber Pakhtunkhwa
Tenancy Act, 1950.

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Tenancy Act, 1950 (Khyber Pakhtunkhwa Act No. XXV of 1950), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Tenancy (Amendment) Act, 2014.

(2) It shall come into force at once.

2. **Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXV of 1950.**---In the Khyber Pakhtunkhwa Tenancy Act, 1950 (Khyber Pakhtunkhwa Act No. XXV of 1950), hereinafter referred to as the said Act, in section 2,-

(i) in clause (v), the existing clause (a), shall be renumbered as clause (aa) and before clause (aa) as so renumbered, the following new clause shall be inserted, namely:

“(a) the predecessors and successors in interest of a tenant; or”;

(ii) in clause (vi), after the word “person”; the words “including his predecessors and successors in interest” shall be added; and

(iii) clause (vii) shall be deleted.

3. **Insertion of section 3A of the Khyber Pakhtunkhwa Act No. XXV of 1950.**---In the said Act, after section 3, the following new section shall be inserted, namely:

“3A. **Prohibition of succession to non-occupancy tenancies.**---(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, on commencement of the Khyber Pakhtunkhwa Tenancy (Amendment) Act, 2014, right to succession of tenancy to the predecessor or successor in interest of a tenant shall cease.

(2) The existing tenants, enjoying tenancy rights before the commencement of the Khyber Pakhtunkhwa Tenancy (Amendment) Act, 2014, shall continue their right of tenancy till their eviction through due process of law:

Provided that any improvement made by an existing tenant on the tenancy, in accordance with the provisions of this Act, shall be entitled to compensation by the landlord.

Asstt. Legal Drafter
Govt. of Khyber Pakhtunkhwa
Law Department

Explanation.---The words "existing tenant" for the purpose of this section means the tenant, his predecessor and successor in interest."

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Khyber Pakhtunkhwa Tenancy Act, 1950, as per direction of the Federal Shariat Court of Pakistan. Hence, this Bill.

Asstt. Legal Drafter
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Law Department
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MINISTER-IN-CHARGE

Code, provided the trial Magistrate thought it fit to do so. In other words, the Code of Criminal Procedure has invested a Magistrate with a discretion to proceed summarily in cases which can suitably be so tried. There may be complicated cases where the Magistrate may not be inclined to use his discretion in favour of a summary trial. Section 8 of the Ordinance uses the word "shall" and thereby deprives a court of law of discretion vested in it by the Code of Criminal Procedure.²

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

- (i) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pastures ; and includes the sites of buildings and other tenures on such land or to any right or interest in any such land ;
- (ii) "pay" with the grammatical and cognate expressions, includes when used with reference to rent "deliver" and "render" with their grammatical variations and cognate expressions ;
- (iii) "rent" means whatever is payable to a landlord in money or kind by a tenant on account of the use or occupation of land held by him ;
- (iv) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable ;
- (v) "tenant" means a person who holds land under another person and is or but for a special contract would be, liable to pay rent for that land to that other person, but it does not include :—
 - (a) an inferior land-owner, or
 - (b) a mortgagee of the right of a land-owner, or
 - (c) a person to whom a holding has been transferred, of an estate or holding has been let in farm under the *Punjab Land Revenue Act, 1887 for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or,
 - (d) a person who takes from the Government a lease of unoccupied land for the purpose of sub-letting it ;
- (vi) "landlord" means a person under whom a tenant holds and to whom the tenant is, or but for a special contract would be liable to pay rent for that land ;
- (vii) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord, respectively ;
- (viii) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions.
- (ix) "estate" means any area :—
 - (a) for which a separate record-of-right has been made ; or
 - (b) which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for, or redeemed ;

2. Faiz Alam v. Crown, PLD 1949 Pesh. 1, PLD 1949 Pesh. 12.

* Now West Pakistan Land Revenue Act, 1967.

