AGRARIAN REFORMS ACT, 1976
(Act XVII of 1976)

THE JAMMU AND KASHMIR AGRARIAN REFORMS ACT, 1976

Act No. XVII of 1976

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THE JAMMU AND KASHMIR AGRARIAN REFORMS ACT, 1976

Act No. XVII of 1976

[Received the assent of the Governor on 21st August, 1976 and published in Government Gazette dated 21st August, 1976 (Extra)].

An Act to provide for transfer of land to tillers thereof subject to certain conditions and for better utilisation of land in the State of Jammu and Kashmir.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-seventh Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Agrarian Reforms Act, 1976.

(2) It shall extend to the [1][whole of the Union territory of Jammu and Kashmir].

[2][(3) It shall come into force with effect from such date as the Government may, by notification in the Government Gazette, appoint].

CHAPTER I

PRELIMINARY

2. *Definitions.*—In this Act, unless the context otherwise requires ,—

"(1) "Board" means the Board of Revenue constituted under the Land Revenue Act, Samvat 1996.";

[4][(1a)]''ceiling area'' means the extent of land measuring twelve and a half standard acres ;

[5][x x x x]

1. Substituted for "whole of the State of Jammu and Kashmir" vide S.O. 3808 (E) of 2020 dated 26.10.2020.

2.Enforced by SRO 295 dated 1-6-1978 w. e. f. 13-7-1978.

3.Clause (1) inserted vide S.O. 3808 (E) of 2020 dated 26.10.2020. 4.Re-numbered *ibid*.

5. Omitted by Act No. V of 1978, s. 2

Category	II	One hundred and ten kanals ;
Category	III	One hundred and forty kanals ;
Category	IV	One hundred and seventy-one kanals ;

[1][(2)''Commissioner'' means any person appointed to be the Agrarian Reforms Commissioner under section 18 and includes any person appointed to be the Joint Agrarian Reforms Commissioner under that section] ;

(3) ''defence force'' means Army, Navy and Air Force of the Indian Union and includes Border Security Force [2][Central Reserve Police, Assam Rifles], Jammu and Kashmir Militia and Indo-Tibetan Border Force/ Police ;

(4) ''demarcated forest'' means a demarcated forest as defined in [3][the Indian Forest Act, 1927(16 of 1927)] ;

(5) ''evacuees' land'' means land which is evacuees' property as defined in the Jammu and Kashmir Evacuees' (Administration of Property) Act, Samvat 2006 ;

(6) ''family'' means husband, his wife and their children excluding—

(a)a married daughter ; and

(b)a major son separated from his father on or before the first day of September, 1971 and holding land separately in his name ;

(7) ''head of the family'' means the husband ; in case of his death, wife ; where both are dead, major son, if any, included in the family ; and in the absence of such major son, the guardian of the minor children.

1.Clause (2) substituted by Act No. IX of 1987, s. 2

2.Words inserted by Act No. VII of 1979, s. 2.

3.Substituted for "the Jammu and Kashmir Forest Act, Samvat 1987 vide S.O. 3808 (E) of 2020 dated 26.10.2020.

Explanation.— Where the deceased husband had more than one wife, each wife along with her children will constitute a subordinate unit of the family having a separate head in accordance with this definition ;

(8) ''intermediary'' means a tenant not cultivating land personally and includes a person claiming through him ;

(9) ''land'' means land which was occupied, or was let, for agricultural purposes or for purposes subservient to agriculture or for pasture in Kharif, 1971 and includes—

(a)structures on such land used for purposes connected with agriculture ;

(b)areas covered by, or fields floating over, water ;

(c)forest lands and wooded wastes ;

(d)trees standing on land ; and

(e) [1][x x x],

[2][but does not include an orchard or] site of a building or a structure within municipal area, town area, notified area or village abadi or any land appurtenant to such building or structure ;

(10)''orchard'' means a compact area of land having fruit trees grown thereon or devoted to cultivation of fruit trees in such number that the main use to which the land is put is growing of fruits or fruit trees ;

(11)''owner'' means a land-holder, as defined in the Jammu and Kashmir Land Revenue Act, Samvat 1996 and includes a person claiming through him ;

(12)''personal cultivation'' by a person shall mean cultivation—

(a) by the person himself ; or

1. 2. Sub-clause (e) to clause (9) omitted by Act No. V of 1978, s. 2. Substituted *ibid.*

(b) by any member of the family, if any, to which he belongs ; or

(c) by a *khana-nishin* daughter or *khana-demad* or a parent of the person ; or

(d) by a son, adopted son or pisarparwardah, not included in the family, if any, to which the said person belongs ; or

(e) by brother or sister of the person ; or

(f) in the case of such religious or charitable institutions of public nature as are notified by the Government, by a member of the management or, on behalf of the management, by a servant or hired labourer on payment of wages otherwise than as a share of crop ; or

(g) in the case of a person, who is minor, insane, physically disabled or incapacitated by old age or infirmity, widow or serving in defence force, or in detention or prison, by a servant of hired labourer under the personal supervision of the guardian or any agent of such person ; provided that such servant or hired labourer or guardian or agent does not bear the risk or cost of cultivation nor receives wages or remuneration as a share of crop ;

Explanations. —(i) Unauthorised cultivation shall not be deemed to be personal cultivation and, where land has been occupied unauthorisedly, the person who, but for such unauthorised occupation, would have been personally cultivating such land shall be deemed to be in personal cultivation :

Provided that in the case of land—

(a)which cannot thus be deemed to be in the personal cultivation of any person ; or

(b)covered by section 24 of the Jammu and Kashmir Big Landed Estates Abolition Act, Svt. 2007 ; or

(c)rights wherein have been transferred against the provisions of any law for the time being in force ;

personal cultivation shall be deemed to be that of the [1][Union territory of Jammu and Kashmir] :

Provided further that only by reason of his having been in unauthorised cultivation, such person shall not be ineligible for allotment of the land becoming surplus under this Act, including such land.

(ii)Where any land has been exchanged in lieu of any other land as a result of consolidation proceedings under the Jammu and Kashmir Consolidation of Holdings Act, 1962, any person who was personally cultivating land, so exchanged, in Kharif, 1971 shall be deemed to have been personally cultivating, in that harvest, the land acquired in lieu of that land.

(iii)Where any land has been left fallow during Kharif, 1971 in normal course of agricultural husbandry, personal cultivation of such land in Kharif, 1971 shall be deemed to be of the person who personally cultivated it for three consecutive harvests prior to Kharif, 1971.

(iv)Land under [1][x x x x] kah-krisham, pichi, bedzar or safedzar, land growing fuel or fodder, and unculturable or banjar land situated outside demarcated, undemarcated or berun-i-line forests, shall be deemed to be in personal cultivation of the owner.

(v)Patches of *gair-mumkin* and *zeri-sayah* (under the shade of trees) land existing in a survey number shall be deemed to have been in personal cultivation of the person cultivating the rest of the land in such survey number personally in Kharif, 1971.

(vi)Where land has been mortgaged with possession before or during Kharif, 1971 and the mortgage has not been redeemed before the commencement of this Act, the mortgagor shall, subject to the provisions of section 10, be deemed to have been personally cultivating such land in Kharif, 1971.

(vii)Where possession of land has been obtained temporarily on bilateral or trilateral basis or in lieu of payment of rent for purpose of transplanting saffron bulbs, in accordance with the custom known locally as *'kara-korh'* or *'kadawar'* in saffron growing areas of Kashmir Valley, personal cultivation of such land shall be deemed to be of that person who would, but for such custom, have been cultivating it personally.

1. Substituted for "State" vide S.O. 3808 of 2020 dated 26.10.2020. 2. The word 'orchard' omitted by Act No. V of 1978, s. 2.

(viii)Personal cultivation by a person shall not cease to be so merely because of engagement of hired labour :

Provided that the labour so engaged is supplemental to, and not in substitution of, the labour of such person ; and that such labour is paid wages in cash or kind but not in crop share.

(ix) For determining the person personally cultivating land during Kharif, 1971, entries in khasra girdawari shall be presumed to be true unless the contrary is proved.

(x)Where a person, after having been inducted as tenant by alienee of a limited owner, has been in continuous cultivating possession of such land for not less than twenty years prior to Kharif, 1971, such person shall be deemed to be in personal cultivation of such land, any judgment, decree or order of any court or authority notwithstanding.

Note :—For purposes of this clause, ''limited owner'' shall have the meaning as under the Mitakshara School of Hindu Law.

(13)''prescribed'' means prescribed by rules made under this Act ;

(14)''prospective owner'' means a person eligible, by or under this Act, to be vested with the rights of an owner ;

(15)''Schedule'' means a Schedule appended to this Act ;

(16)''standard acre'' means a measure of an area convertible into an ordinary acre of land in accordance with the provisions of Schedule I ;

(17)''tiller" means tenant cultivating land personally and shall mean and include a person who was tiller in Kharif, 1971 or his legal heirs or his transferee in the case of any valid transfer of land made between Ist September, 1971 and Ist May, 1973, subject to the competent Revenue Officer being satisfied about the existence of a *bona fide* transfer to this effect.

Explanation.—A person who migrated from his place of residence during 1965 due to unavoidable circumstances shall be deemed to be a tiller of the land thus abandoned by him if such land was in occupation of somebody else as *Supard-dar* under orders of a competent authority ;

[1][(18) Words and expressions not defined in this Act shall have the meaning as assigned to them in the [2][Majority Act, 1875 (9 of 1875)], the Jammu and Kashmir Tenancy Act, samvat 1980, the Jammu and Kashmir Land Revenue Act, Samvat 1996, [3][x x x].]

Explanation.—For purposes of clauses (8) and (11), where a person, governed by Mitakshara School of Hindu Law, is recorded as owner or intermediary of ancestral property, his male lineal descendents in the male line of decent shall not, where he was alive on the first day of September, 1971, be deemed to be owners or intermediaries, as the case may be, of such property.

3. *Exceptions*.—The provision of this Act, except those specified in column 2 of the sub-joined table, shall not apply to the categories of land specified in column I thereof :—

Column 1.	*Column 2.*
(a)Evacuees' land ;	Clause (c) of sub-section (2) of section 4 and sections 5, 7, 13 and 14 and sub-section (3) of section 26.
Provided that nothing herein shall–	
(i)confer any ownership rights upon a displaced or other person in any evacuees' land ; or	
(ii)affect or interfere with the rights of possession or legal obligation of a displaced or other person conferred or imposed by or under any law, rule or order, for the time being in force in respect of such land.	
(b)Land owned, held or acquired by the Government of Jammu and Kashmir or the Government of India, other than,__	Sections 26, [4][X X X] 38 and 39

1.Clause (18) substituted by Act No. V of 1978, s. 2.
2. Substituted by S.O. 3808 of 2020 dated 26.10.2020.
3.Certain words and figures omitted *ibid*.
4.Figure 31 omitted by Act No. XXXVIII of 1997, s. 2.

(i)land vested or deemed to have been vested in the [1][Union territory of Jammu and Kashmir] by or under this Act ; and	
(ii)land described in Schedule II	
(c) Land owned by any industrial or commercial undertaking or set apart or acquired by the Government for use for industrial or commercial or residential purposes :	[2][XXX]
Provided that exemption under this clause shall cease to apply, if after such enquiry as may be prescribed, the Government is of the opinion that such industrial or commercial undertaking has failed to utilise the land for that purpose within such time as may be prescribed.	
(d)Land owned, held or acquired by such educational and other public institutions as may be notified by the Government.	Nil
(e) Land owned, held or acquired by the Universities of the [1][Union territory of Jammu and Kashmir] established by law and Municipalities, Town Area Committees, Notified Area Committees, Cantonment Boards and other local bodies and Panchayats of the [1][Union territory of Jammu and Kashmir].	Nil

(f)Land [3][x x x], which is unculturable or in the form of arak, kap or kah-i-krisham or which grows fuel or fodder and belongs to such class as is notified by the Government, not exceeding four standard acres per family.

Explanation.—For purposes of clause (f) the area should be unculturable or used for growing fuel or fodder and also recorded as such in the revenue records.

[4](g)Omitted.

(h)Land—

Sections 13[2][XXX]

(i)requisitioned under any law for the time being in force ; or [2][XXX]

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

2.Omitted by Act No. XXXVIII of 1997, s. 2.

3.Words "outside the District of Ladakh" by S.O. 3808 (E) of 2020 dated 26.10.2020. 4.Clause (g) omitted *ibid*.

(ii)situate in depopulated villages of Poonch and Rajouri Districts and notified as such by the Government ; or [1][XXX]

(iii)lying in such border areas as are declared by the Government to be insecure for cultivation : [1][XXX]

Provided that such provisions of this Act, as are notified by the Government, shall apply to such lands as and when such lands are de-requisitioned or permitted to be reoccupied or become secure for cultivation, as the case may be,—

(i) Private springs, wells and village roads. Nil

(j) Residential buildings or structures along with sites thereunder and land appurtenant thereto : [1][X X X]

Provided that the area under and appurtenant to such residential building or structure does not, along with land exempted by clause (1) and the area under and appurtenant to a building in municipal area, notified area, town area or village *abadi,* exceed four kanals per family :

Provided further that such exemption may be utilised by a person for his personal use or for use by a co-perative sociey, of which such person is a member, or for both, subject to the condition that the aggregate area so utilised does not exceed the maximum of four kanals per family.

(k)Such land as is reserved by the Government grazing ground or for any public purpose. Section 38. for

(l)Land reserved or acquired for residential purposes subject to the provisos to clause (j). [1][X X X] Nil

(m)Cemeteries and Burning or burial grounds and land under places of worship or appurtenant thereto according to the revenue records of Kharif, 1971.

(n)Land vested in the [2][Union territory of Jammu and Kashmir] under the pr h-

1. Omitted by Act No. XXXVIII of 1997, s. 2.
2.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

mir Big Landed Estates Abolition Act, Samvat 2007 and retained under sub-section (2) of section 6 of the said Act ,—

(i) under personal cultivation ;	Section 15 and clause (a) of section 16.
(ii) through a tiller.	Sub-section (1) of section 4, sections 5 and 6, and sub-section (2) of section 8, sub-sections (1) and (8) of section 9, section 15 and clause (b) of section 16.
(o) Land held by a co-operative farming society : Provided that no sare-holder of the society shall, along with the other members of the family, if any, to which he belongs hold land, including his share of land in such society, in excess of the ceiling area.	Section 13 [1][X X X]

[2][3-A. Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, displaced persons cultivating evacuees' lands personally shall in respect thereof be deemed to be occupancy tenants and recorded as such. They shall be liable to pay rent equal to the amount of land revenue and cesses assessed thereon :

Provided that such displaced persons shall have right to transfer their right of occupancy/tenancy by sale, mortgage or gift subject to the provisions of the Alienation of Land Act, and the provisions of section 60 of the J&K Tenancy Act, Samvat, 1980 shall not apply to such transfer].

CHAPTER II

RESTRICTION ON RIGHTS IN LAND

4. *Vesting in the [3][Union territory of Jammu and Kashmir] of rights in land not held in personal cultivation*.—(1) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of this Chapter, all rights, title and interest in land of any persons, not

1. Omitted by Act No. XXXVIII of 1997, s. 2.
2. Section 3–A inserted by Act No. V of 1978, s. 3.
3.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

cultivating it personally in Kharif, 1971, shall be deemed to have extinguished and vested in the [1][Union territory of Jammu and Kashmir], free from all encumbrances, with effect from the first day of May, 1973.

(2) Nothing in sub-section (1) shall apply to—

[2][x x x x]

[3][(b)(i) unit of land not exceeding 182 kanals including residential sites Bedzars and Safedzars ; and

(ii) [4][Land]

held by such places of worship, waqafs or Dharmshallas, as are recorded in the revenue records or [5][notified by the Government from time to time or donated for purposes of wakaf by any d as a wakaf property] :

Provided that the rights of tenant thereof shall be heritable according to the law of succession applicable to occupancy tenants ;

[6][x x x x].

(c)land mentioned in Schedule II allotted to a displaced person :

Provided that :—

(i)such land and evacuees' land, if any, allotted to the same displaced person, is situated in more than one village ; and

(ii)such displaced person cultivated personally the land in at least one village in Kharif, 1971.

[7][4-A. *Cancellation of mutation.*— Notwithstanding anything contained in any law for the time being in force or judgment or decree of a civil court any mutation attested under sections 4, 8 or 12 of this Act after its commencement, for any land mentioned in section 3 or sub-section (2) of section 4 by any revenue officer either on his own or in pursuance of any

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

2.Clause (a) omitted *ibid*.

3. Clause (b) substituted by Act No. V of 1978, s. 4.

4. Substituted by Act No. VI of 2002, s. 2.

5.Substituted for "notified by the Government from time to time" *ibid*.

6.Words omitted by Act No. V of 1978, s. 4.

7. Section 4-A inserted by Act No. VI of 2002, s. 3.

order of higher authority or order or judgement of a civil court shall be *void, ab initio]*.

5. *Vesting of personally cultivated land in excess of ceiling area in the [1][Union territory of Jammu and Kashmir]*. —(1) Notwithstanding any-thing contained in any law for the time being in force but subject to the provisions of this Chapter—

(a) Where any land, held by an individual in personal cultivation whether as owner or as tenant or otherwise, was in excess of the ceiling area on the first day of September, 1971, the rights, title and interest of such individual in the excess land shall be deemed to have vested in the [1][Union territory of Jammu and Kashmir], free from all encumbrances, on the first day of May, 1973 ;

(b) Where aggregate land held in personal cultivation by the members of a family, whether jointly or severally, as owners or as tenants or otherwise, was in excess of the ceiling area on the first day of September, 1971, the rights, title and interest of such members in the excess land shall be deemed to have vested in the [1][Union territory of Jammu and Kashmir], free from all encumbrances, on the first day of May, 1973.

(2)Such individual or the head of such family, as the case may be, shall have the option of selecting, in such manner and subject to such conditions, as may be prescribed, the land such individual or family desires to retain with himself or itself, as the case may be, within the limits provided for by this Act, but no land in a demarcated forest shall be so selected :

Provided that the selection made from the holdings of different members of a family shall be proportionate to the area of land held by each member of the family, unless the wife and the husband agree otherwise.

6. *Vesting of dwelling house and of the site thereunder and land appurtenant thereto in the [1][Union territory of Jammu and Kashmir] in certain cases.* —(1) Notwithstanding anything contained in any other law for the time being in force or in any contract, instrument, custom or usage or in any judgment, decree or order of a Court, but subject to the provisions of this Chapter ; where—

1.Substituted for "State" by S.O.

(a) a dwelling house was, on the first day of September, 1971, occupied by a person who is a tiller or is a member of a scheduled caste or is a landless agricultural labourer or is a gujjar or a bakarwal or gaddi or is a landless labourer engaged in occupation ancillary to agriculture ; and

(b) the site of such dwelling house and the land appurtenant thereto is not owned by such person ;

the rights, title and interest in such dwelling house and the site thereunder and land appurtenant thereto shall be deemed to have extinguished and vested in the [1][Union territory of Jammu and Kashmir] on the first day of May, 1973 :

Provided that rights, title and interest in such dwelling house shall not vest in the [1][Union territory of Jammu and Kashmir] where it has been built at the expense of such person or any of his predecessors-in-interest :

Provided further that where such person has been in occupation of such dwelling house for a continuous period of ten years on the date of commencement of this Act, he shall be deemed to have acquired ownership of such dwelling house in lieu of service rendered by him to the owner of land under and appurtenant to such dwelling house.

(2)The area under and appurtenant to such dwelling house as is mentioned in sub-section (1) shall not, along with the area under and appurtenant to a building in municipal area or town area or notified area or village abadi and such land as is exempted by clauses (j) and (1) of section 3, exceed in the aggregate four kanals for such person and all the members of the family, if any, to which he belongs.

7. *Resumption for bona fide personal cultivation by ex-landlord.*– (1) Subject to the provisions of this section—

(a) an individual, whose rights in land have been extinguished by section 4 and who was entitled to recover rent in Kharif, 1971 directly from the tiller, may resume land out side demarcated forests for purposes of *bona fide* personal cultivation ;

(b) where rights in land of one or more than one member of a family have been extinguished by section 4 and such member or members were entitled to recover rent in Kharif, 1971

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

directly from the tiller, such member or members may resume land for *bona fide* personal cultivation ;

(c) a displaced person allotted evacuees' land or land included in Schedule II, who is not cultivating such land personally, may resume such land for *bona fide* personal cultivation.

(2)Resumption of land permitted by sub-section (1) shall be subject to the following conditions, namely :—

(a) the application for resumption shall be made in the prescribed manner within [1][one year] of the commencement of this Act ;

(b) the applicant for resumption, shall [2][within six months from the date of resumption of land] take up normal residence for the purpose of cultivating such land personally in the village in which the land sought to be resumed is situated or in an adjoining village [3][except in the case of —

(i) a person serving in defence force, who shall take up such normal residence for personal cultivation within six months of the date on efence force ; or

(ii) a widow or a person who is physically disabled or incapacitated by old age or infirmity] :

Provided that in the case of land situated in an un-inhabited village on or near the border, such residence shall be taken up within the period indicated above in the nearest inhabited village or in the adjoining village :

Provided further that a displaced person who has been allotted land in more than one village, shall take up such residence in any one of such villages or in the adjoining village :

[4][Provided also that a person who is minor or insane shall take up such residence within six months of the date on which he attains the age of majority or attains sanity.]

(c) land held by a tiller paying rent at village rates *(hasab-partadeh)* with or without malikana or by a tiller, who is an occupancy tenant, shall not be resumed ;

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1. Substituted by Act No.V of 1979, s. 2.
2. Substituted by Act No.VII of 1979, s. 3.
3. Substituted by Act No. IV of 1989, s. 2
4. Proviso inserted *ibid.*

(d) no person, who or any member of whose family, if any, is an income-tax payer, shall be eligible to resume any land ;

(e) the person who has transferred land by sale or gift or bequest on or after first day of September, 1971 shall not be eligible to resume land if the land so transferred was personally cultivated by him prior to such transfer ;

(f) the extent of land that may be resumed shall, subject to the provisions of sub-section (3), be determined in the following manner, namely : —

(i) where a person was entitled, as according to records, to rent in kind from the tiller during Kharif, 1971, the extent of the land resumable by such person shall bear the same proportion to the total land comprising the tenancy as the rent in kind bears to the total produce ;

(ii) where a person was entitled, as according to records, to rent in cash during Kharif, 1971, the extent of land resumable by such person shall be regulated by the extent of rent in kind to which such rent in cash can be commuted in accordance with the provisions of sub- sections (3) and (8) of section 9 ;

(iii) a person serving in defence force on or after the 1st day of April, 1965, [1][an ex-serviceman of the defence force] or a widow or an orphan who is minor or a lunatic or an imbecile, or an insane person or a person who is crippled or incapacitated by old age or infirmity, shall be permitted to resume land twenty per centum in excess of the land otherwise resumable under sub-clauses (i) or (ii) ;

[2][(g)no person, who or any member of whose family holds an orchard exceeding one hundred kanals, shall be eligible to resume land].

(3)The aggregate land that a person resuming land shall hold in personal cultivation, after resumption, along with other members of the family, if any, to which he belongs, shall not exceed 6.50 standard acres where such person belongs to the category of persons mentioned in sub-clause (iii) of clause (f) of sub-section(2) and five standard acres in other cases [3][:

1. Inserted by Act No. V of 1978, s. 5.
2. Clause 'g'added *ibid*.
3. Fullstop substituted by colon and provisos added thereafter by Act No. V of 1978, s. 5.

Provided that an ex-servicemen of the defence force or a persons service in defence force shall be allowed to hold one additional standard acre over and above ceiling fixed in this sub-section :

Provided further that in the case of a person eligible to resume land under clause (g) of sub-section (2), the aggregate land including the orchard held by him shall not exceed one hundred kanals].

(4) The person resuming land under this section shall be vested with ownership rights in such land, other than evacuees' land, and he shall be placed in possession thereof, after the tiller removes the crop, if any, standing on such land and, where no crop is standing but the land has been prepared for sowing, after such tiller is paid therefor in the prescribed manner.

(5) Where any person resuming land under this section fails to cultivate the land personally with in one year of entering into possession, such land shall vest in the [1][Union territory of Jammu and Kashmir], except where such failure is due to circumstances beyond his control.

(6) The identity of the land to be resumed shall be determined by a Revenue Officer, in the prescribed manner, having regard to the reasonable convenience of both the parties :

Provided that land under and appurtenant to a dwelling house mentioned in section 6 shall not be resumed.

Explanation.—For purposes of this sub-section, the land under and appurtenant to the dwelling house shall not, along with the land exempted by clauses (j) and (1) of section 3 and land under and appurtenant to a building or structure in a municipal area, town area, notified area or village abadi, exceed four kanals for a family.

(7)No resumption by consent shall be permissible if, as a result of such consent, the ex-landlord is able to resume more land than he is entitled to according to the provisions of this section.

[2][(8) On and from such date as may be notified by the Government, no application for resumption of land shall be entertained under this section.]

8. *Vesting of ownership rights in land in prospective owner.*—(1) Notwithstanding anything contained in any law, for the time being in force, but

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020. 2.Sub-section (8) inserted *ibid.*

subject to the provisions of sections 5 and 14, where an ex-landlord resumes land under section 7, the tiller, from whom land is so resumed, or his legal heirs shall be vested with ownership rights in land left with him or his heirs, as the case may be, after resumption in the following manner, namely :—

(a) Where the ex-landlord resumes the entire land permissible under clause (f) of sub-section (2) of section 7, without payment of any levy and has soon as the ex-landlord is given possession of resumed land ; and

(b) Where the ex-landlord does not resume the entire land permitted by clause (f) of sub-section (2) of section 7 because of the provisions of sub-section (3) of section 7,—

(i) after payment of such levy in such manner as is provided for in Schedule III for the portion of such land which, though resumable by such ex-landlord under clause (f) of sub-section (2)

of section 7, is not resumed because of the provisions of sub-section (3) of section 7 ; and

(ii) without payment of any levy and after the ex-landlord is given possession of the resumed land, for the portion of such land left with such tiller other than that mentioned in sub-clause (i).

(2)Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of sections 5 and 14, where an ex-owner/ex-intermediary does not or cannot resume any land, the tiller of Kharif, 1971 holding land under him shall be vested with ownership rights in such land after payment in full of such levy in such manner as is provided for in Schedule III.

(3)A person mentioned in sub-section (1) of section 6, occupying a dwelling house vested in the [1][Union territory of Jammu and Kashmir] under section 6, shall, subject to the conditions mentioned in sub-section (2) of the said section 6, be vested with ownership rights in such dwelling house and the land under and appurtenant to it, on payment of such levy in such manner as is provided for in Schedule III, notwithstanding anything contained in any other law for the time being in force.

(4)Where such land as is mentioned in sub-section (1) has been

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

or is declared for acquisition by the Government under any law for the time being in force and the prospective owner thereof has not acquired ownership rights until the date of such declaration, vesting of ownership rights until the date of such declaration, vesting of ownership rights in such land in such person shall not be effective and the instalments of levy, if any, paid shall be refunded to such person in lump sum with interest at five per centum per annum.

9. *Payment of rent by the tiller*. —(1) A tiller shall, in respect of land vested in the [1][Union territory of Jammu and Kashmir] by section 4, pay to the [1][Union territory of Jammu and Kashmir] rent, which was payable by him to the ex-landlord prior to the first day, 1973 in such form and in such manner as may be prescribed, until such land is resumed under section 7 or until such tiller acquires ownership rights therein under section 8.

(2)The Government shall arrange to pay such rent in such form and such manner as may be prescribed, after deducting therefrom ten per centum of the cash equivalent thereof as collection charges to the ex-landlord, or to the person claiming through him, until such time as is specified in sub-section (1).

(3)The Government shall notify from time to time the cash equivalent of different types of agricultural produce for purposes of this section.

(4)Where the ex-landlord mentioned in sub-section (1) was an inter-mediary holding land, prior to the first day of May, 1973, under an owner, nothing herein shall be deemed to affect the liability of such intermediary to pay rent (after deducting therefrom the share of collection charges calculated on pro-rata basis) to such ex-owner for such land, and such rent shall, after such deduction be payable by such ex-intermediary to such ex-owner as if their rights had not been extinguished by section 4, and provisions of the Jammu and Kashmir Tenancy Act, Samvat 1980 relating to recovery of rent shall apply thereto.

(5)The right of ex-intermediary or ex-owner to recover rent for land from the [1][Union territory of Jammu and Kashmir] or from such ex-intermediary, as the case may be, shall be heritable according to the law of succession that was applicable to him before the extinguishment of rights in such land and shall also be transferable subject to provisions of section 31.*

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

* Section 31 has been omitted by Act No. XXXVIII of 1997, s. 3. So the words "subject to provisions of section 3 be deleted ..... (Editor).

(6)The liability for payment of land revenue together with cesses and dues payable under any law or rule, for the time being in force of an ex-owner of land shall continue during the period he is entitled to recover from the Government or from the ex-intermediary, as the case maybe, rent under this section, and for purposes of the Jammu and Kashmir Land Revenue Act, 1996 such ex-owner shall be deemed to be a land-holder.

(7) Arrears of rent accrued due from the first day of May, 1973 up to the date of commencement of this Act shall also be recoverable by the Government from the tillers in such form as may be notified and paid to the ex-landlord after deducting ten per centum as collection charges.

(8)Where rent was recoverable in kind prior to the first day of May, 1973, the following rates of produce shall be assumed for purposes of calculating rent recoverable from the prospective owner under this section, namely :—

(i) where the prospective owner and the ex-owner agree, the rates of produce so agreed upon by them ;

(ii) where there is no agreement between the prospective owner and the ex-owner, chakla rates ;

(iii) where complaint is made to a revenue Officer that chakla rates are higher than actual rates of produce, the rates of produce that shall be determined by the Collector after summary enquiry ; and

(iv) where chakla rates are not available, the rates that shall be notified by the Government after necessary enquiry.

10.*Mortgages of land*.—(1) Where land, which has vested or vests in the [1][Union territory of Jammu and Kashmir] by section 4 or section 5 or section 6, is subject to mortgage without possession and mortgage subsists on the date when, in lieu of extinguishment of rights in such land payment is to be made in accordance with the provisions of Schedule III, the mortgagee shall be paid such amount, in such manner and in accordance with such procedure, as is provided in the aforementioned Schedule, anything to the contrary contained in any law, decree or order of a Court or any contract notwithstanding.

1.Substituted for “State” by S.O. 3808 (E) of 2020 dated 26.10.2020.

be put in possession thereof subject, however, to the payment of amount, if any, due to the mortgagee :

Provided that, in calculating the amount due, interest shall be charged only on the principal money, at a rate not higher than 5% per annum :

Provided further that in no case shall the principal sum plus interest thereon exceed one and a half times the principal money :

Provided also that where the mortgagee has been in possession of the mortgaged land for a period of ten years or the period during which the mortgage was to subsist according to the terms of the mortgage deed, whichever is less, it shall be conclusive proof of the fact that the mortgagee has received one and a half times the amount of principal money as well as the cost of improvements, if any.

(c) Where the Collector finds that any sum is due to the mortgagee under clause (b), he may order the deposit of the amount found due from the mortgagor in such annual instalments, not exceeding ten, as the Collector may, with due regard to the paying capacity of the mortgagor, deem fit.

(d) In determining the amount due, the Collector shall give credit to the mortgagor for the value of the benefits to be enjoyed by the mortgagee during alments.

(e) The Collector may order that, in lieu of the deposit of the amount found due, the mortgagee shall enjoy the profits of the mortgaged land for a period to be determined by the Collector with due regard to the amount found due and the profits accruing from the land :

Provided that such period shall not exceed ten years or the period during which the mortgage was to subsist, according to the terms of mortgage deed, whichever is less, reckoned from the date the mortgagee came into possession of the land under the mortgage.

(f) The mortgagor shall be deemed to have complied with the order of deposit if the whole of the amount found due is deposited within the period covered by instalments.

11. *Payment in lieu of extinguishment of rights in land*.— Subject to the other provisions of this Chapter, land and rights therein taken away or

abridged by section 4 or section 5 or section 6 shall be deemed to have been acquired by the [1][Union territory of Jammu and Kashmir] with effect from the date such land or rights are vested in it and payment in lieu thereof shall be determined and made in accordance with the provisions of Schedule III :

Provided that where an ex-landlord resumes land, he shall not be entitled to any payment in lieu of extinguishment of his rights in the land, remaining after resumption with the tiller, except for the area of land, if any, by which the area actually allowed to be resumed under sub-section (3) of section 7 falls short of the area that was resumable under clause (f) of sub-section (2) of section 7 and the right of such ex-landlord to recover rent under section 9 shall cease, except to the extent indicated above, as soon as he is given possession of resumed land :

Provided further that where any land is held by a person in personal cultvatiuon he shall be entitled to compensation for his rights in any portion of such land, as is within the ceiling area applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, at the market value thereof.

12. *Private agreement.*—Where an ex-owner of land, or, if such ex-owner had an intermediary under him prior to the first day of May, 1973, such ex-owner and such ex-intermediary jointly, and the prospective owner of such land by an agreement in writing, duly registered under the Jammu and Kashmir Registration Act, 1977 or authenticated by a Revenue Officer of a class not lower than a Tehsildar—

(a) respectively acknowledge receipt and payment of an agreed amount ; and/or

(b) admit having apportioned such land as between themselves in an agreed manner and having entered into possession of their respective shares in accordance therewith ;

such payment or such apportionment of land or both, as the case may be, shall be given due effect and shall relieve the [1][Union territory of Jammu and Kashmir] of its liability to make payment to such person and also relieve the prospective owner of his liability to pay levy to the [1][Union territory of Jammu and Kashmir] :

1.Substituted for “State” by S.O. 3808 (E) of 2020 dated 26.10.2020.

Provided that in case of apportionment of land the ex-landlord shall not have in his share more land than could be resumed by him under clause (f) of sub-section (2) of section 7, if he were otherwise eligible to resume land.

13. *Restriction on utilization of land.* —[1][x x x]

(2)Except as otherwise provided in this Act, no tenancy created or continued after the first day of May, 1973 in respect of any land shall be valid.

[1][x x x x]

14. *Optimum retainable area of land*. —[2][(1) Save as provided in clause (a) of sub-section (2) of section 4 of this Act, aggregate land held in ownership or as tenant or otherwise by, or vested under this Act in, an individual or all members of a family shall not exceed the ceiling area.]

(2)Where, after the first day of September, 1971, any land has been or is acquired by any such place of worship or waqf or dharamshala or public trust or institution or individual or member as is mentioned in sub-section (1) by purchase gift, bequest, inheritance, mortgage, family settlement, degree or order of a court or by any other mode whatsoever and in consequence thereof, the total extent of land owned by such place of worship or waqf or dharamshala or public trust or institution or individual or family, exceed the limit provided for in sub-section (1), the retention or possession of such land, as may be in excess shall, be invalid and all rights, title and interest in such excess land shall extinguish and vest in the [3][Union territory of Jammu and Kashmir].

15. *Disposal of surplus land.* —(1)The Government shall be competent, subject to the provisions of sub-sections (2) and (3), to dispose of land, vested or which may vest in the [3][Union territory of Jammu and Kashmir] under this Act and become surplus and land, which is available under sub-section (2) of section 6 of the Jammu and Kashmir Big Landed Estates Abolition Act, Samvat 2007, in consideration of such levy as is provided for in Schedule III and subject to such terms and conditions (including those relating to reservation of adequate land for kahcarai) and in such manner, as may be prescribed, anything contained in any law for the time being in force notwithstanding :

1.Sub-sections (1) and (3) omitted by S.O. 3808 (E) of 2020 dated 26.10.2020. 2.Sub-section (1) substituted by Act No. V of 1978, s. 6.

3.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

Provided that [1][x x x x] arak, kap, kah-i-krisham and such areas growing fuel or fodder as are notified under clause (f) of section 3 shall continue to be used as such [1][x x x x] arak, kap, kah-i-krisham or for growing fuel or fodder, as the case may be :

Provided further that where the Government is satisfied that any land under use as an orchard has ceased to be fit for such continued use, Government may permit alternative use of such land subject to the condition that any excess area allowed beyond the normal ceiling of 12.5 standard acres on the consideration of the land being used as an orchard, shall vest in the [2][Union territory of Jammu and Kashmir] and be subject to disposal by the [2][Union territory of Jammu and Kashmir] in the manner provided under this Act.

(2)The land becoming surplus under this Act shall be allotted according to the priorities given below, namely :—

(a) first priority shall be given to tillers having less than the basic area of 2.5 standard acres ;

(b) second priority shall be given to ex-owners having less than the basic area of 2.5 standard acres ;

(c) third priority shall given to refugees of 1947 having less than 2.5 standard acres and having no other source of income ;

(d) fourth priority shall be given to landless agricultural labourers :

Provided that the landless persons of the same locality shall have priority of claim over those residing outside such locality ;

(e) fifth priority shall be given to the refugees of 1947 having more than 2.5 standard acres, but less than five standard acres; provided that all the members of the family of such refugee are actually engaged in agriculture and reside in the village in which the land is situate.

(3)In each category of eligible allottees mentioned in sub-section (2), everything else being equal :—

1.The word 'orchard' omitted by Act No. V of 1978, s. 6.

2.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

(a) first preference shall be given to person serving in defence force ;

(b) second preference shall be given to persons who were serving in defence force on or after the first day of April, 1965 ;

(c) third preference shall be given to gujjars and bakarwals ; and

(d) last preference shall be given to other applicants.

(4)Only so much of surplus land shall be allotted to any eligible allottee which along with the basic area already held by such allottee, adds up to 2.5 standard acres in the case of allottees falling under clauses (a), (b), (c) and (d) of sub-section (2) and five standard acres in the case of allottees falling under clause (e) of the aforementioned sub-section.

1[(4-a) Notwithstanding anything contained in the foregoing provisions of this section, the Government shall be competent to give first priority to the refugees of 1947 in the allotment of surplus land for making up the deficiencies in the unit of land prescribed under any of the orders issued by it in this behalf :

Provided that the aggregate land shall not exceed the ceiling area.

(5)The person allotted land under this section shall be entitled to acquire ownership rights of such land on payment of such levy in such manner as is mentioned in part C of Schedule III.

Explanation.—For purpose of this section, ''basic area'', in ref-erence to a person, shall mean the aggregate area of land, held as owner or as tenant or otherwise, by a person and other members of his family, if any, as it existed, in respect of refugees of 1947, in the year of allotment in each individual case subject to such date being not later than the first day of September, 1950, and in case of others, on the first day of May, 1973.

16. *Liability during interim period.*— Where land is held by a person—

(a) under sub-section (2) of section 6 of the Jammu and Kashmir Big Landed Estates Abolition Act, Samvat 2007 ; or

1. Sub-section (4-a) along with proviso inserted by Act No. VII of 1979, s. 4.

(b) in personal cultivation as owner or as tenant or allottee directly under the 1[Union territory of Jammu and Kashmir] whose rights, title and interest therein have been extinguished by section 5 ;

such person shall be liable, in respect of such land from the date of commencement of this Act until the entry into possession of the allottee of such land in pursuance of its disposal under this Act, to payment of rent to the Government at the rate of forty times the sum of the land revenue assessed on, and cesses and other charges and dues payable for, such land under any law for the time being in force.

2[17. Omitted.

CHAPTER III

JURISDICTION AND PROCEDURE

18. *Appointment, superintendence and control of Revenue Officer.*—

[1][(1) here shall be the following class of officers for the purposes of this Act who shall be appointed by the Government, by notification in the

(a) Commissioner Agrarian Reforms and Joint Commissioner Agrarian Reforms ;

(b) Collector ;

(c) Assistant Commissioner ;

(d) Tehsildar ; and

(e) Nab-Tehsildar.

Every officer appointed by the Government under this sub-section shall be deemed to be a Revenue Officer within the meaning of section 6 of the Jammu and Kashmir Land Revenue Act, Samvat 1996 and shall exercise such powers within such jurisdiction as the Government may, by notification in the

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

2.Section 17 omitted by Act No. 34 of 2019, Table-2, S. No. 5.

3.Substituted by Act No. IV of 1989, s. 4.

(2)The general superintendence and control over such Revenue Officers shall vest with the Government.

(3)Subject to the control of the Government, the Collectors, Assistant Commissioners, Tehsildars and Naib-Tehsildars shall be subordinate to and under the control of the Commissioner.

(4)Subject as aforesaid and to the control of the Commissioner, the Assistant Commissioner, the Tehsildar and Naib-Tehsildar shall be subordinate to and under control of the Collector.

(5)Subject as aforesaid and to the control of the Collector, the Tehsildars and Naib-Tehsildars shall be subordinate to and under the control of the Assistant Commissioner.

(6)Subject as aforesaid and to the control of the Assistant Commissioner, the Naib-Tehsildar shall be subordinate to and under the control of the Tehsildar.

19. *Powers of Revenue Officers.* —(1) Unless the class of Revenue Officers, by whom any function is to be discharged or any power is to be exercised, is specified by or under this Act, the Government may, by notification, determine the functions to be discharged or the powers to be exercised under this Act by any class of Revenue Officers.

(2)The manner and procedure for the performance of duties, the exercise and conferment of powers, distribution of business and withdrawl and transfer of cases under this Act shall, save as otherwise provided by or under this Act, be regulated by the Jammu and Kashmir Land Revenue Act, samvat 1996 and the rules made thereunder.

[1][x x x x]

(4) Any application, suit or proceeding of the kind mentioned in sub-section (3), pending at the commencement of this Act before a Revenue Officer subordinate to a Collector or any Civil or Revenue Court, shall be transferred to the Collector having jurisdiction in the place in which the land in dispute is situate.

[2][(5)Any application, suit or proceeding relating to cases specified in clause (e) of sub-section (3) which, immediately before the commencement

1. Sub-section (3) omitted by S.O. 3808 (E) of 2020 dated 26.10.2020. 2. Sub-section (5) substituted by Act No. IV of 1989, s. 4.

of the Jammu and Kashmir Agrarian Reforms (Amendment) Act, 1988 were pending before any civil court, shall, on such commencement, stand transferred to the Collector having jurisdiction over the area in which the land in dispute is situate, and the Collector shall in his capacity as the appellate or revisional authority, as the case may be, dispose of the same in accordance with the provisions of this Act].

20. *Special powers of officers.*— The Revenue Officers and the appellate and the revisional authorities, appointed by or under this Act, shall have all the powers of a Civil Court while trying a suit under the *[Code of Civil Procedure, Samvat 1977] in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath or on solemn affirmation ;

(b) production and discovery of documents ;

(c) proof of facts by affidavits ; and

(d) any other matter which may be prescribed ;

and every such officer or authority shall be deemed to be a Civil Court within the meaning of **[sections 480 and 482 of the Code of Criminal Procedure, Samvat 1989].

21. *Appeals and revisions.* —(1) Any person aggrieved by a final order of a Collector or a Revenue Officer of a class lower than that of a Collector may prefer an appeal to the Commissioner having jurisdiction in the area to which the appeal relates.

1[x x x x].

(3)No application for review shall lie against any order passed under Act or the rules made thereunder, but clerical or arithmetical mistakes in orders or errors arising therein from any accidental slip or omission may, at any time, be corrected by the authority which has made such order.

(4) First appeal against a final order passed under the Jammu and Kashmir Agrarian Reforms Act, 1972 or the rules framed thereunder pending

* Now Code of Civil Procedure, 1908 (5 of 1908).

**Now sections 345 and 346 of Code of Criminal Procedure, 1973. 1. Sub-section (2) omitted by S.O. 3808 (E) of 2020 dated 26.10.2020.

at the commencement of this Act, shall be transferred to the Commissioner having, jurisdiction in the area to which such appeal relates and the Commissioner shall thereupon dispose of such appeal in accordance with the provisions of this Act.

(5) Second appeal against a final order pending before the Financial Commissioner or any revision against a final order pending before the Revenue Minister under the Jammu and Kashmir Agrarian Reforms Act, 1972 or rules framed thereunder shall be disposed of in accordance with the provisions of this Act by the Revenue Minister, the second appeal before the Financial Commissioner being treated as an application for revision under this Act.

(6) Any appeal or revision against any other order passed under the Jammu and Kashmir Agrarian Reforms Act, 1972 or the rules framed thereunder, pending at the commencement of this Act, shall abate, but nothing herein shall deprive an aggrieved party from contesting such order in an appeal or a revision against a final order that may be passed in the proceedings from which such appeal or revision had arisen.

(7)(a) Where in an appeal or revision, an application for stay is made, the appellate or the revisional e, shall in all cases, except

where it appears that the object of granting stay would be defeated by the delay, before granting the stay, direct notice of the application for the same to be given to the opposite party.

(b)Where the appellate or revisional authority grants a stay, such stay shall be granted on such terms as to the duration thereof, keeping an account, giving security or otherwise as the authority thinks fit.

(8) A stay, granted by an appellate or a revisional authority in an appeal or revision shall, in cases where such appeal or revision stands transferred by sub-section (4) to the Commissioner or by sub-section (5) to the Revenue Minister, stand vacated after a period of twenty days from the date of such transfer unless such stay is in the meanwhile re-affirmed in accordance with the provisions of sub-section (7).

22. *Limitation for appeals.* —(1) The period of limitation shall be sixty days in the case of an appeal from the date of the order appealed from :

Provided that the period of limitation relating to cases in the district of Ladakh, in the Sub-Division of Gurez, in Machhil Illaqa of Tehsil Kupwara

1. Substituted by Act No. IX of 1987, s. 3.

and Tehsil Karnah in the district of Baramulla, in Tehsil Gool Gulabgarh, in Niabat Panchari of Tehsil Udhampur, in the territorial jurisdiction of Police Station, Dudoo Basantgarh and Bermen and Gobin Illaqas of Tehsil Ramnagar and in the Thakra Kote and Nagote Illaqas of Tehsil Reasi in the district of Udhampur; in Tehsil Budhal in the district of Rajouri ; in Niabat Banni in the district of Kathua ; and in Marew, Warwan and Paddar Illaqas of Kishtwar in the district of Doda ; and such other areas as may be notified by the Government shall be one hundred and twenty days.

(2) Save as otherwise provided in sub-section (1), the provisions of [1][the Limitation Act, 1963(36 of 1963)] shall apply to appeals under this Act.

[2][x x x x].

23. *Inquiries and proceedings to be judicial proceedings*.—All inquiries and proceedings before a Revenue Officer or authority appointed by or under this Act, or the rules made thereunder, shall be deemed to be judicial proceedings within the meaning of [3][sections 193, 219 and 228 of the Indian Penal Code, 1860 (45 of 1860).

24.*Persons by whom appearances and applications may be made before a Revenue Officer.* —(1) Appearances and applications may be made and acts done before a Revenue Officer by a person either personally or through an authorised agent :

Provided that no legal practitioner shall appear as such as an authorised agent in any proceedings under this Act, or rules made thereunder, except before a Collector or an appellate or a revisional authority.

(2)Appearances may be put, applications made and acts done before a Revenue Officer, or any authority, acting under this Act, on behalf of a family by the head of such family.

[4][(3) When the appellate or the revisional authority, as the case may be, is holding office in a province other than the one to which the appeal or revision pertains, the appeal may be preferred or the application for revision may be presented, before a local Revenue Officer not below the rank of a Tehsildar for transmission to such appellate or revisional authority :

1.Substituted for "Jammu and Kashmir Limitation Act, Samvat 1995" by S.O. 3808 (E) of 2020 dated 26.10.2020.

2.Proviso omitted *ibid*.

3.Substituted *ibid*.

4.Substituted by Act No. IV of 1979, s. 3.

Provided that an appeal or application relating to the district of Ladakh may always be presented before a local Revenue Officer not below the rank of a Tehsildar for transmission to the appellate or revisional authority, as the case may be].

25. *Bar of jurisdiction of Civil Court.*— Notwithstanding anything contained in any law for the time being in force—

(a) no Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter arising under this Act or the rules made thereunder ; and

(b) no order of any officer or authority passed under this Act or the rules made thereunder shall be called in question in any Civil Court [1][x x x].

CHAPTER IV

SUPPLEMENTAL PROVISIONS

[2]26. Omitted.

27. *Implementation of the provisions of the Act.* —(1) A Revenue Officer may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be necessary to implement the transfer of, eviction from or delivery of possession of, land under this Act, notwithstanding anything contained in any other law for the time being in force.

(2) Any person unauthorisedly occupying, or wrongfully in possession of any land—

(a) the transfer or acquisition of which, either by the act of parties or by the operation of law, is invalid under the provisions of this Act ; or

(b)to the use and occupation of which he is not entitled under any provision of this Act ;

may be summarily evicted by a Revenue Officer.

1.Deleted by Act No. VIII of 1981, s. 3.

2. Section 26 omitted by S.O. 3808 (E) of 2020 dated 26.10.2020.

(3) At any time after the commencement of this Act it shall be lawful for a Revenue Officer or authority to enter upon any land and make or cause to be made any survey including measurements and do any other act which he considers necessary for carrying out the purposes of this Act.

28. *Rights and liabilities of prospective owner.* —(1) Notwithstanding anything contained in any law—

(a) a prospective owner of land eligible by or under this Act to acquire ownership rights in land under his personal cultivation shall continue to have all rights and be subject to all liabilities (including the payment to the [1][Union territory of Jammu and Kashmir] of the rent which was payable by him to the ex-landlord before the commencement of the Jammu and Kashmir Agrarian Reforms Act, 1972) as a tenant under the Jammu and Kashmir Tenancy Act. 1980, until he is vested with ownership rights in such land :

Provided that he shall be governed by the rules of succession applicable to occupancy tenants until he becomes owner of such land ;

(b) no prospective owner of land shall, [2][save as otherwise provided in the proviso to clause (a) or in this clause] transfer his rights in such land by sale, gift, exchange, mortgage, will or by any other means whatsoever, and any transfer of such rights made after the first day of May, 1973 shall be null and void and such rights shall vest

in the [1][Union territory of Jammu and Kashmir] and such prospective owner and his transferee shall, after being given an opportunity of being heard be dispossessed of such land by a Revenue Officer [3][x x x x] :

[4][Provided that a prospective owner shall have the right to transfer land in the form of simple mortgage subject to the provisions of the Alienation of Land Act, for securing loan to liquidate the amount of levy payable by him under this Act ; and]

(c) no document purporting to effect transfer by a prospective owner of his rights in land shall be admitted to registration,

1. Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020. 2. Substituted by Act No. IX of 1981, s. 2.
3. Omitted *ibid.*
4. Proviso inserted *ibid.*

[1][except in respect of transfers effected under the proviso to clause (b) of this section.]

[2][28-A. *Prohibition on transfer of certain lands.* —(1) Save as otherwise provided in this section, no person who is vested with ownership rights in land under this Act shall transfer such land or rights therein in any manner whatsoever to any person other than Government or its agencies and instrumentalities :

Provided that nothing in this sub-section shall prohibit:—

(a) transfer of such land ownership whereof has been vested in a prospective owner under section 8 after the expiry of fifteen years from the date such land has been vested in the State under section 4 of the Act subject to the provisions of sections 133-H, 133-I, 133-J, 133-K and 133-L of the Jammu and Kashmir Land Revenue Act, Samvat, 1996 (Act No. XII of Samvat 1996 ;

(b) grant of lease of land under the provisions of the Jammu and Kashmir Land Revenue Act, Samvat, 1996 (Act No. XII of Samvat 1996) ;

(c) entering into Contract Farming under the provisions of Land Revenue Act, Samvat, 1996 (Act No. XII of Samvat 1996) ;

(d) transfer of land in the form of simple mortgage for securing loan for purposes of improvement of the land.

(2) Any transfer of land or rights therein made in contravention of sub-section (1) shall be null and void. The person who has contravened the provisions of sub-section (1) shall after being given an opportunity of being heard, be dispossessed of such land by a Revenue Officer not below the rank of Tehsildar and the land shall vest in the State and shall be disposed of in the manner as may be prescribed.]

29.*Indemnity.*— No suit or other legal proceeding shall lie against any officer or authority in respect of anything which is in good faith done or intended to be done under this Act.

30. *Wrong or excess payment recoverable as arrears of land revenue*.—If for any reason any amount not due to him or in excess of the amount

1. Added by Act No. IX of 1981, s. 2.
2. Section 28-A substituted by S.O. 3808 (E) of 2020 dated 26.10.2020. (For earlier amendment see Act No. IV of 1989, s. 6).

due to him has been paid under this Act or the rules made thereunder to any person, such amount or, as the case may be, the amount in excess shall be recoverable from such person as arrears of land revenue under the provisions of the Jammu and Kashmir Land Revenue Act, Samvat 1996.

[1]31. Omitted.

32. *Act to over-ride other laws*.— The provisions of this Act and the rules made and instructions issued thereunder shall have effect notwithstand-ing anything contained in any other law or any custom or usage or in any contract, express or implied, or in any instrument inconsistent with the provisions of this Act.

33. *Power to issue instructions*.— The Revenue Minister may, from time to time issue such instructions not inconsistent with this Act, or the rules made thereunder, as he may consider necessary for purpose of implementing the provisions of this Act or the rules made thereunder.

34. *Recoveries*.— All costs incurred in attachment and auction proceed-ings under section 26, all fines imposed on a person and all arrears of rent due to the [2][Union territory of Jammu and Kashmir] by or under this Act shall be recoverable as arrears of land revenue.

35. *Transfer to defeat provisions of this law*.— Where, on or after the first day of September, 1971, any land has been transferred by act of parties or in compliance with a decree or order of a Court or a Revenue Officer or by the operation of any other Act, and the transfer [3][x x x x] has the effect of defeating the provisions of this Act, the land so transferred shall be deemed to have been retained by the person who held such land immediately before such transfer for purposes of calculating the area retainable under this Act by him, anything to the contrary contained in this Act notwithstanding.

36. *Declaration of restrictions imposed to be reasonable*.— For the removal of doubts, it is hereby declared that restrictions imposed by section 28 [4][x x x x] on the rights conferred by clause (1) of Article 19 of the Constitution of India as applicable to the [2][Union territory of Jammu and Kashmir] shall be deemed to be reasonable restrictions.

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1. Section 31 omitted by Act No. XXXVIII of 1997, s. 3.
2. Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020. 3. Deleted by Act No. XXXVIII of 1997, s. 4.
2. Deleted *ibid*, s. 5.

CHAPTER V

PENALTIES

37. *Penalty for failure to furnish or for furnishing false return*. —(1) If any person, who is under an obligation to furnish any return or information by or under this Act refuses or, except for reasons beyond his control, fails to furnish the return or information within the prescribed time, or furnishes any return or information which he knows or has reason to believe to be false, he shall be punished by a Revenue Officer with fine which may extend to five thousand rupees.

(2) Without prejudice to the provisions of sub-section (1), where any such person fails to furnish the return or furnishes a false return, the Revenue Officer may, after giving him an opportunity of being heard by an order, giving reasons therefor, himself prepare the return for such person and such return shall, for all purposes, be deemed to be the return furnished by such person.

38. *Penalty for contravention of any lawful order*. —(1) If any person contravenes any provision of, or any lawful order passed under, this Act or the rules made thereunder, or obstructs any person from lawfully taking possession of any land under any provision of this Act, or the rules made thereunder, he shall be punished by a Reveune Officer with fine which shall not be less than one thousand rupees :

Provided that in case of felling or removal of trees, in contravention of the provisions of this Act, the amount of fine for each tree so felled or removed shall be an amount which may extend to rupees five hundred.

(2) If any person, having lawfully entered into or upon land under the provisions of this Act, is d y person, otherwise than in

due course of law the person so dispossessing shall be punished by a Reveune Officer with fine which any extend to five thousand rupees but which shall not be less than two thousand rupees.

(3) Any punishment imposed under sub-section (1) or sub-section (2) upon any person shall not protect such person from any other criminal or civil liability under any other law for the time being in force.

39. *Penalty for damaging land.*—If any person wilfully does or causes to be done any act likely to damage any land, the land so damaged shall

be included within the ceiling area to which such person, along with other members of his family, if any, is entitled.

CHAPTER VI

MISCELLANEOUS

40. *Power to make rules*. —(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) procedure for ascertainment of the person holding, or deemed by this Act to have held, land in personal cultivation ;

(b) procedure for making records in respect of lands held in excess of the ceiling area and the extent, the identity and the nature of rights held in such land ;

(c) ascertainment, determination and disposal of the excess land or interest therein acquired under this Act ;

(d) the procedure for the disposal of surplus land, or interest therein, under section 15 ;

(e) the matter in which option of selecting land under this Act is exercised ;

(f) the classification, distribution, withdrawal and transfer of cases or classes of cases among various officers and authorities under this Act ;

(g) the manner in which extinguishment and acquisition of rights in land by or under this Act are to be effected ;

(h) the preparation of the forms of any notice, return, or other document whatsoever ;

(i) procedure regarding appeals and revisions and matters connected therewith ;

(j) procedure for resumption and other proceedings and enquiries under this Act ; and

(k) matters other than those referred to in the foregoing clauses which are expressly required by this Act to be prescribed.

(3) Any rule made under this Act may provide that contravention thereof shall be punished by a Revenue Officer with fine which may extend to five thousand rupees.

41. *Succession.*— Save as otherwise expressly provided, nothing in this Act shall be construed to affect the personal or statutory law of succession in respect of ownership rights applicable to a person.

42. *Inapplicability.* —(1) With effect from the commencement of this Act, the provisions of —

(a) The Jammu and Kashmir Tenancy Act, Samvat 1980 ;

(b) The Jammu and Kashmir Alienation of Land Act, Samvat, 1995 ;

(c) The Jammu and Kashmir Land Revenue Act, Samvat, 1996 ;

(d) The Jammu and Kashmir Big Landed Estates Abolition Act, Samvat, 2007 ;

(e) The Jammu and Kashmir Consolidation of Holdings Act, Samvat, 1962 ; and

(f) The Jammu and Kashmir Tenancy (Stay of Ejectment Proceedings) Act, 1996 ;

and the rules, standing orders, and instructions issued thereunder shall, so far as they are inconsistent with the provisions of this Act and the rules framed and instructions issued thereunder, cease to apply to the land to which this Act applies.

(2) All applications, suits and proceedings, pending before any Revenue Officer, Civil or Revenue Court, any authority acting under the Jammu and Kashmir Consolidation of Holdings Act, Samvat, 1962 or the Government on the date of the commencement of this Act under any of the provisions of the Acts mentioned in sub-section (1) shall, so far as these are inconsistent with the provisions of this Act, abate.

(3) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall be deemed to effect the previous operation of the Acts mentioned in sub-section (1) or any thing done or any action or proceeding taken thereunder which thing, action or proceeding has finally concluded under any of said Acts prior to the commencement of this Act.

43. *Repeal.* —(1) With effect from the date this Acts comes into force, the Jammu and Kashmir Agrarian Reforms Act, 1972 and the Jammu and Kashmir Agrarian Reforms (Suspension of Operation) Act, 1975 shall stand repealed and any right accrued, liability incurred or action taken under the Acts so repealed, as is inconsistent with the provisions of this Act, shall be deemed never to have accrued, incurred or taken, as the case may be.

(2) Subject to the provisions of sub-section (1), nothing contained in this Act shall be deemed to effect anything duly done or suffered under the Acts so repealed.

[1][44. *Validation.* —(1) Notwithstanding anything contained in any judgement, decree or order of any Court—

(a) any officer who has functioned as Joint Agrarian Reforms Commissioner prior to the commencement of the Jammu and Kashmir Agrarian Reforms (Amendment and Validation) Act, 1987 shall be and shall be deemed always to have been duly appointed under the provisions of section 18 of this Act as if an order appointing him as such officer under the provisions of section 18 of this Acts as if an order appointing him as such officer had duly been issued under said section 18 and as amended by the aforesaid Amendment and validation Act ; and

(b) all acts, proceedings or things done or taken or orders made by any such officer in his capacity as Joint Agrarian Reforms Commissioner shall, for all purposes, be deemed to be and to have always been done, taken, or made in accordance with the law.

(2) No suit or other legal proceedings shall lie, or, if instituted shall be proceeded within any Court against the Government or any authority sub-ordinate to it on account of or in respect of any such order validated by or under the provisions of this section].

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1. Section 44 added by Act No. IX of 1987, s. 4.

SCHEDULE I

Table showing

(i) Value in rupees and paise o f one ordinary acre for acre to be equivalent to o ne sp aring rupee.

(ii) Equation between one standard acre and ordinary

I Region	Category I	Value	Category II	Value	Category III
1	2	3	4	5	6
Kashmir Division excluding Ladakh district Machhil Illaqa and Gurez Niabat and Tehsils Karnah and Uri (including villages which were part of Tehsil Uri) before 1947 and now form part of Tehsil Baramulla.	All irrigated lands of all classes, other than those mentioned under categories V and VI, in the assessment circles other than those mentioned under Category II.	1.40	All irrigated lands of all classes, other than those mentioned under categories V and VI, in the assessment circles given below, namely ; sailab, Nambal, Sailab and Kandi,	1.00	All un-irrigated lands of all classes, other than those mentioned under categories V and VI, in the assessment circles other than those mentioned under Category IV.
Niabat and Illaqa Machhil.					Abi Soem Abi Soem Labru Wari.
Tehsils Uri and Karnah, including villages of Tehsil Uri, now forming a part of Tehsil Baramulla			Hotar Awal. Lapara Abi. Sagzar Abi.		Hotar Doem Maira Abi Bagh Abi Lapara-Khushki Sagzar Khushki.
District Ladakh.					Maljing.Barjing or Barsad, Bagh, Sagzar.

different categories of land as in Kharif, 1971 assuming one standard kanals and marlas.

Value	Category IV	Value	Category V	Value	Category VI	Value
7	8	9	10	11	12	13
0.85	All un-irrigated lands of all classes other than those mentioned under categories V & VI, in the assessment circles given	0.70	Kap, kah-i-krisham, Bedzar, Safedzar, Pichi, all banjar in all assessment circle.	0.55	All un-culturable land in all assessment circles.	0.10

below, namely:- Sailab, Nambal, Sailab and Kandi.			
Maldani.	Labru	Gair-mumkin	
Maira Khushki Bagh Khushki.	Takki, Banjar Kap	Gair-mumkin.	
Thajing or Das, Ul or Ulthang Chhas, Sasik.	Banjar	Gair-mumkin.	

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1	2	3	4	5	6
District Jammu	Gora Hail Abi, Hail Nehri, Hail Abi, Gora Abi, Gora Nehri, Abi Nehri, Bagh Abi, Bagh Nehri.		Gora Sailab Gora Hail Barani, Hail, Bagh Khushki Gora Chahi, Chahi		Pail Asmani, Warhal Awal, Maira Awal, Rohi
District Kathua	Hail Abi, Gora Abi Awal, Hail Nehri,Hail Abi Awal, Bagh Abi.		Hail Pail Asmani Hail Abi, Awal, Hail Abl Awal, Chahi Abi, Gora Warhhai Awal, Gora, Abi Doem Hail Pail Abi, Hail Chahi Abi, Nehri, Hail Chahi Gora Chahi.		Pail-Abi-Doem Abi Doem Warhal Awal Ghhal, Abi Bagh Khushki.
District Poonch			Abi Awal Hotar Awal Haili Abi Bagh Abi Sagzar Abi.		Abi Doem Hotar Doem Haili Miani Abi Bagh Khushki Sagzar Khushki.
District Rajouri	Hail Mang Nehri,		HailAbi,		Abi, Mang

		Hail Mang Hail Nehri, Nehri Mang Abi.	Gora Hall Hail Barani Hail Asmani Bagh Abi Hail pail Asmani Hail Pail Barani Gora barani Hail Mang Asmani.	Asmani, Warhal Awal Rohi Hail Bagh Khushki	

7	8	9	10	11	12
	Sailab, Warhal Doem, Maira Doem Kheri		Banjar, Arak, Kap, Thangar.		Gair-mumkin.
	Pail Asmani, Warhal Doem, Khar khana Sailab.		Arak, Banjar, Thangar, Rakkar. Hail Pail Abi		Gair-mumkin.
	Miani Khushki.		Kap, Banjar, Thangar, Rakkar, Kalsi.		Gair-mumkin.
	Warhal Doem Sailab Jabbar Rohi Jabbar Sailab Nambal.		Kap Banjar Arak Thangar, Rakkar,		Gair-mumkin.

1	2	3	4	5	6
District Udhampur	Hail Nehri Abi Dowami Hail Paniali Hailwali. Bagh Abi		Hail Abi Behail Lokhari Ghal Nehri Kuthal Hail Bundhal Abi Doami behail Warhal Awal Lokhari Paniali Abi Aarzi Hailwali, Lokhari Odari Lokhari Abi, Bagh Khushki Chahi Hail Pail Asmani, Abi and Hail Barani.		Abi Aarazi- Hail Owdari Warhal Changi
District Doda	Hail Nehri Abi Doami Nehri Chhatar Hail-Chhath Abi Paniali Hail Chath Abi Chhath Hail and Hail Hail Abi. Sogra and Hail Owdari.		Abi Harqism Sograh and Hail-Lokhari, Paniali Abi.		Abi Aarzi
	Abi Doami- Hail, Hail- Abi-Har- qism		Sogra Abi Bila Hail- Abi Doami and Abi Abi Doami		Nehri, Sakal Owdri Hail

	Dudgara. Raqbah	Hail Warhal Shaliwala Hail Chhath Abi, owdar Sakal Hail Abi and Sograh, Abi Ghar Sair Owdari, and Ghar Sair Abi Ghar Sair Khushki, Mustiqil Abi Doami, Hail Ondali Kuthal Abi, Lokhari Setar, Nehri Abi Gora Hail Abi Aarzi Bagh Abi	Changi,Goral Sakal, Gora Hail Sogra and Hail, Owdari Abi and sograh Abi			
One 5 Kanals standard acre.		8 Kanals. and14 marlas appxt.				

7	8	9	10	11	12	13
	Warhal Doem Warhal Mandi Lokhari Peri Oundli		Banjar Kap, Arak, Thangar, Rakkar.		Gair-mnmkin.	
	Owdari Bila Hail Warhal Doem Kap Sakal and Sakal Temper Labru and Labru. Hail Dadru Warhal Mandhi, Owdari Lokhari Behari, Owdar Chhan.		Banjar Thangar Rakkar.		Gair-mnmkin.	
9 kanals and 8 marlas appxt.		11 kanals and 9 marlas appxt.		14 kanals and 11 marlas appxt.		80 kanals

Note :–1. All water—logged areas to be classed as category V.

2. The class of soil shall be determined on the basis of the position at site as in Kharif, 1971.

3. Any class of soil not indicated herein shall be added to such category as may be specified by the Revenue Minister by a Notification in this behalf.

4. Alkaline land in the following villages of Tehsil R. S. Pura and such other villages as may be notified by the Revenue Minister shall be valued at Re. 0.55 per ordinary acre :—

1.Shibu Chak
2.Dewan Garh
3.Barly
4.Chak Mulo
5.Kannal
6.Kathar
7.Majua Uttam
8.Majua Lakhmi
9.Mangal
10.Ailah
11.Kitchpur
12.Pindi Charkan Kalan
13.Salerh
14.Rakh Mangal
15.Changla
16.Badhur pur
17.Trewa
18.Tohana
19.Dablerh
20.Dalah
21.Seer
22.Dhokri
23.Chakrohi
24.Kangrey
25.Bidipur Jattan
26.Samka
27.Kaloyon
28.Fateh Pur Salaria
29.Raipur Saidan
30.Saidhre
31.Satowali
32.Kot Kuba
33.Pindi Salochan
34.Sahi
35.Tip Toana
36.Khoe
37.Sidar ; and
38.Kotha Salerh

SCHEDULE II

State land (including that allotted to a displaced person and subsequently transferred to him in ownership under Government Order No. 254 of 1965) held under any of the following orders, namely :—

(a) Ailan No.14 dated 23rd Bhadun, 1971 regarding the then Tehsil Basohli as reiterated by Ailan No. 34 dated 24th Chet, 1962 read with ailan No. 10 dated 24th Magh, 1934 (Prohibiting Nautors in Dhar-Danger of the then Tehsil Basohli) ;

(b) Ailan No.15 dated 12th Bhadun, Samvat 1960, permitting Nautor in illaqa Gurez ;

(c) Council Order No. 21-C of 1936 (regarding Ladakh and Gilgit Districts) ;

(d) Council Order No. 38C of 1944 dated 4-1-1944 (regarding Jammu province and the then Muzaffarabad district) ;

(e) Government Order No. 578/C of 1954 ;

(f) Government Order No. LB-6/C of 1958 ;

(g) Government Order No. LB-7/C of 1958 ;

(h) Government Order No. REH-371 of 1971 dated 9-9-1971 ;

(i) Council Order 1234-C of 1939 dated Ist December, 1939 read with Council Order No. 872-C of 1940 ;

(j) Council Order 454-C of 1941 ; and

(k) Any other Government Order that may be notified by the Government.

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SCHEDULE III

For purposes of this Schedule and unless otherwise indicated by the context :—

(i) ''compensation'' means the sum of money payable for land at market value ;

(ii) ''amount'' means the sum of money payable in lieu of extinguishment of rights in land at rates other than market rates.

———

PART A

Amount

1. *Procedure.*—The amount payable in lieu of extinguishment of the rights, title and interest in land and its apportionment shall be determined by the Collector in the manner herein provided.

2. *Determination of amount and payment thereof.*—(1) In determining amount payable for land in lieu of extinguishment of rights therein the following principles shall be observed, namely :—

(a)Where the rent payable or recoverable in Kharif, 1971 was in kind as according to records, the following value of land shall be assumed, namely :—

Value assigned to one ordinary acre by Schedule I	*Value assumed for one kanal*
Rs. 1.40	Rs. 1000
Re. 1.00	Rs. 650
Re. 0.85	Rs. 585
Re. 0.70	Rs. 250
Re. 0.55	Rs. 175
Re. 0.10	Rs. 30

(b)The amount payable for one kanal of each class of land to an ex-landlord shall be such part of the assumed value shown in clause (a) as is proportional to the quantum of net rent in kind which was recoverable by such landlord in Kharif, 1971.

Illustration.—(i) A, an owner of 20 kanals of land, received rent in kind at half produce from the tiller. The land is valued according to Schedule I at the rate of eighty-five paise per ordinary acre. He shall be entitled to an amount of Rs. 585x20x ½=Rs. 5,850.

Illustration.—(ii) A, an owner of 20 kanals of land valued, according to Schedule I, at Rs. 1.40 per ordinary acre, has an occupancy tenant B under him. B recovers rent at half produce from the tiller and pays rent at ¼ produce to the owner. A shall be entitled to an amount of Rs. 1000x20x¼=Rs. 5000.

(c)Where an intermediary received rent in kind and himself paid it in cash, the amount payable to him shall be equivalent to the amount calculated according to clauses (a) and (b) reduced by twenty times the rent in cash payable by him to the owner.

Illustration.—A, an owner of 15 kanals of land valued, according to Schedule I, at 70 Paise per ordinary acre, was receiving rent at the rate of Re.1 per kanal plus an amount equivalent to land revenue @ Re. 0.50 per kanal from B, an occupancy tenant, who was receiving rent at half produce from the tiller. B is entiled to an amount of Rs. 250x15x½–20x 15x 1.50=Rs.1425.

(d)Where the rent received by an ex-owner/ex-intermediary was in cash the amount payable to such ex-owner/ex-intermediary shall be twenty times the difference between the rent received and the land revenue or the rent payable, as the case may be.

Illustration.—(i) A, an owner of land measuring 10 kanals, was getting rent in cash equivalent to Rs. 10 (ten) plus land revenue from the tiller for the entire land. A, shall get an amount of Rs. 20x10=Rs. 200 in lieu of extinguishment of his rights in such land.

(ii)A, an owner of 16 kanals of land was receiving rent in cash equivalent to Re.1 per kanal plus land revenue from B an occupancy tenant, who also was receiving rent in cash at Rs. 10 per kanal. The land revenue assessed on the land is Re. 1 per kanal. The amount to which A is entitled is Rs. 20 x 16 x 1= Rs. 320 and the amount to which B is Rs. 20 x 8x 16= Rs. 2,560.

(2)The amount payable to a superior owner in lieu of extinguishment of his rights in land shall be twenty times the land revenue and, where the rights of an inferior owner also are extinguished by section 4, he shall be paid the amount calculated according to sub-para (1) reduced by twenty times the land revenue.

(3)A tiller holding land in personal cultivation in excess of the ceiling area, in which his rights have extinguished, shall be paid the difference between the assumed value of such land, according to the table given in clause (a) of sub-para (1) and the amount payable therefor to the ex-owner and the ex-intermediary, if any, according to this paragraph.

3. The amount payable for treees shall be determined in the manner given below, namely :—

(a) For trees standing in privately owned forests the amount shall be half of the standard rates, as approved by the Forest Department, subject to maximum of rupees one hunderd per trees, to be determined by the Collector in consultation with the senior-most officer of the Forest Department stationed in the district and after hearing the ex-owner.

(b) For other trees the amount shall be half of the market value subject to a maximum of rupees one hundred per tree, to be determined by the Collector after hearing the ex-owner/ex-intermediary and the tiller and consulting the senior-most officer of the Horticulture or Forest Department stationed in the district according as the tree is or is not a fruit tree.

4. *State land*.—Forthe extinguishment of rights in land mentioned in Schedule II and trees standing thereon one-third of the amount that should have been payable under paras 2 and 3 shall be payable as amount :

Provided that amount for land, in which a displaced person has been given ownership rights by Government Order 254 of 1965 shall be calculated according to paras 2 and 3.

5. *Structure or dwelling house on land.*—Where a structure or a dwelling house mentioned in section 6 exists on land, the owner thereof shall, in addition to the amount payable in respect of land, be entitled to be paid by the *[State Government] an amount equivalent to twenty per centum of the market value of such structure or dwelling house, as the case may be. The amount shall be determined by the Collector in consutation with the concerned Executive Engineer of the Roads and Buildings Department :

Provided in respect of a structure only that its owner may in lieu of such payment and with the permission of the Collector, remove such structure from such land within the period specified by the

* Now Government of Union territory of Jammu and Kashmir.

Collector and he shall, for such removal, be entitled to enjoy all necessary easements.

6. *Private agreement.*—Where an owner enters into an agreement duly registered under the Jammu and Kashmir Registration Act, 1977 with the prospective owner, whereby the latter owns having paid and the former acknowledges the receipt of the amount payable in respect of a dwelling house mentioned in section 6 such agreement shall be given due effect and shall relieve the prospective owner of his liability to pay the levy for such dwelling house.

7. *Apportionment of amount as between mortgagor and mortgagee.*—(1) Where the land, that has vested in the [1][Union territory of Jammu and Kashmir] and for which amount is payable is subject to mortgage without possession the following principles shall apply for apportionment of the amount calculated according to the provisions of paras 2 and 3 as between the mortgagor and the mortgagee namely :—

(a) Where the Collector finds that the aggregate sum repaid to the mortgagee equals or exceeds one and a half times the principal money or the amount payable for the land whichever is less, he shall declare the mortgagee to have been redeemed and shall make payment of the amount calculated in accordance with the foregoing provisions to the mortgagor.

(b) Where the Collector finds that the aggregate sum repaid to the mortgagee is less than one and a half times the principal money or the amount payable for the land, whichever is less he shall direct payment of such sum of money to the mortgagee as is necessary to bring up the total to one and a half times the principal money or the amount payable for the land whichever is less.

(2)Where the mortgagor and mortgagee enter into an agreement duly registered under the J&K Registration Act, 1977, whereby the latter acknowl-edges the receipt of the amount due to him under the mortgage, such agreement shall be given due effect and shall entitle the mortgagor to receive the full payment of the amount which he would have been entitled to if the land had not been mortgaged.

1.Substituted for “State” by S.O. 3808 (E) of 2020 dated 26.10.2020.

8. *Payment of amount.*—Subject to the provisions of sub-para (2) the amount payable to a person in lieu of land, including trees and structures and for a dwelling house mentioned in section 6, comprising a tenancy holding (known in revenue parlance as Khata), whether held by one tenant or jointly by several tenants, shall be paid by the Government in full and in one instalment.

(2)The amount for trees situate in a forest as also the amount for trees and land held by a tiller/tiller-owner in excess of the celling area shall be paid in equal annual instalments not exceeding thirty :

Provided that no instalments shall be less than rupees five hundred :

Provided further that where the total amount so payable for trees is rupees five thousand or less it shall be paid in one instalment :

Provided also that the Revenue Minister, or an officer nominated by him in this behalf may permit felling and removal of a tree for genuine personal and domestic use of the ex-owner in the National Extension Service Block in which the forest is situate.

PART B

COMPENSATION

1. Compensation payable for land under the Act shall be assessed by the Collector and shall be the market value thereof prevailing on the first day of May, 1973 or the date of comemncement of this Act, whichever is less.

(2)The Collector shall cause such land as is mentioned in para 1 to be measured and a plan prepared of the same. He shall then cause public notice to be given at convenient places on or near the land and shall require all persons, including mortagagees, if any, entitled to receive compensation therefor to appear personally or by an authorised agent before him at a time and place therein mentioned and state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interest. Such notice shall be served also on all persons having interest in such land.

3. On the date so fixed, or on the date to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections, if any, made, and shall, after giving an opportunity of being heard to every interested

person and after examining any person whom he may think necessary to examine, determine the amount of compensation which, in his opinion, should be paid for the land in which the rights and interests have extinguished and vested in the [1][Union territory of Jammu and Kashmir].

4. (a)If the compensation so assessed does not exceed rupees twenty-five thousand, the Collector shall pass an order indicating—

(i)the area of the land ;

(ii)the compensation payable for the land ;

(iii)the apportionment of such compensation among all the persons entitled thereto ; and

(iv)reasons for the order including reasons why compensation is payable at market rates.

(b) (i)If the compensation so assessed exceeds rupees twenty-five thousand, the Collector shall submit the case to the Commissioner with a report containing all the particulars and reasons as are mentioned in clause (a).

(ii)Whereas the Commissioner finds that the amount of compensa-tion does not exceed rupees fifty thousand, he shall pass an order accordingly indicating reasons therefor.

(c) (i)The Commissioner shall submit the case to the Revenue Minister if more than rupees fifty thousand, are payable as compensation.

(ii)The Revenue Minister on receiving a case submitted to him under sub-clause (i) shall pass an order thereon giving reasons therefor.

(d)The Collector, the Commissioner and the Revenue Minister shall give an opportunity of being heard to the interested persons before passing an order under clause (a), sub-clause (ii) of clause (b) and sub-clause (ii) of clause (c), as the case may be.

5. (i)The compensation shall be payable in such equal annual instalments, not exceeding twenty, as may be notified by the Government.

1.Substituted for “State” by S.O. 3808 (E) of 2020 dated 26.10.2020.

(ii)First instalment of compensation shall be paid within six months of the date on which possession of the land, for which such compensation is payable, is given to the allottee thereof under the Act.

PART C

1. (a)Levy recoverable from a prospective owner, who was a tiller of land in Kharif, 1971, for land, trees, structure or a dwelling house standing thereon shall be

the amount payable for such land, trees, dwelling house and structures and calculated according to the provisions of PART A, increased by 10% thereof.

(b)Levy recoverable from allottees of land vested in the [1][Union territory of Jammu and Kashmir] under the provisions of the Jammu and Kashmir Big Landed Estates Abolition Act, 1950 and held as a temporary measure under sub-section (2) of section 6 thereof shall be the value for such land assumed by clause (a) of sub-para (1) of para 2 and the value of trees, structures and dwelling house calculated in accordance with the provisions of PART A, both increased by 10% thereof.

2. Levy recoverable for land, becoming surplus under section 5 and held on the first day of September, 1971 in personal cultivation by the owner thereof in excess of the ceiling area and subsequently allotted under the Act, shal be the value of such land ascertained in accordance with the provisions of PART B.

3. The amount of levy mentioned in para I shall be payable by the prospective owner or, where more than one prospective owner share the same tenency holding (Khata), all such prospective owners either in lum sum or in instalments :

Provided that where payment is made in instalments the Government may invest such instalments of levy in a manner it deems fit, giving credit of the interest accruing thereon to such prospective owner after deducting therefrom the administration charges :

1.Substituted for "State" by S.O. 3808 (E) of 2020 dated 26.10.2020.

Provided further that where payment is made in instalments, payment to the ex-owner/ex-intermediary shall be made after the full amount payable to him accrues to the credit of such prospective owner or prospective owners, as the case may be.

4. The amount of levy mentioned in para 2 shall be recoverable in annual instalments not exceeding twenty.

5. Mere payment of levy by a person shall not by itself confer on him any right of acquiring ownership of land.

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