The State Acquisition and Tenancy Act, 1950 (East Bengal Act)

(ACT NO. XXVIII OF 1951)

An Act to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in Bangladesh and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith.♣♠

WHEREAS it is expedient to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in Bangladesh and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith;

It is hereby enacted as follows:-

PART I

CHAPTER I

PRELIMINARY

Short title and extent

1. (1) This Act may be called the [1][* * *] State Acquisition and Tenancy Act, 1950.

(2) It extends to the whole of Bangladesh.

Definitions

2. In this Act, unless there is anything repugnant to the subject or context,-

(1) “cesses” include local rates levied under the Assam Local Rates Regulation, 1879;

(2) “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility;

(3) “Collector” means the Collector of a district and includes a Deputy Commissioner and such other officers as may be appointed by the Government to perform all or any of the functions of a Collector under this Act;

(4) “Commissioner” means the Commissioner of State Purchase appointed under sub-section (1) of section 48;

(5) “company” has the same meaning as in the Companies Act, 1913;

(6) “complete usufructuary mortgage” means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interests thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage;

(7) “consolidation”, used with respect to holdings means the re-distribution of all or any of the areas of land comprised in the holdings for the purpose of rendering separate holdings more compact by reducing the total number of separate plots;

(8) “co-operative society” means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or the Bengal Co-operative Societies Act, 1940;

(9) “cultivating raiyat” or “cultivating under-raiyat” means a raiyat or an under-raiyat, as the case may be, who holds land by cultivating it either by himself or by members of his family or by servants or by bargadars or by or with the aid of hired labourers or with the aid of partners;

[2][(9a) “derelict tea garden” means any parcel or group of parcels of land held under single management which was held, settled or leased for the purpose of cultivation or manufacture of tea, or which has contained or contains tea bushes, and which has been notified by the Government to be a derelict tea garden and includes all buildings on such land:

Provided that in notifying a parcel or parcels of land as a derelict tea garden, the Government may have regard to-

(i) whether such land is planted to the extent of less than 15 per cent of its area with tea of which no substantial proportion has been planted in the previous 5 years; and

(ii) the opinion of the Tea Board as to whether the area planted with tea more than 7 years previously has produced per acre in the last 3 years less than 25 per cent of the average production per acre of the whole area planted with tea in the Province for that period;]

[3][(9b)] “Director of Land Records and Surveys” includes Additional Director of Land Records and Surveys;

(10) “encumbrance”, in relation to any estate, tenure, holding, tenancy or land, means any mortgage, charge, lien, sub-tenancy, easement or other right or interest created by the holder thereof on such estate, tenure, holding, tenancy or land or in limitation of his own interest therein;

(11) “estate” means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khas mahals and revenue-free lands not entered in any register; and also includes the following in the district of Sylhet-

(i) any land subject either immediately or prospectively to the payment of land-revenue for the discharge of which a separate engagement has been entered into;

(ii) any land subject to the payment of, or assessed with, a separate amount as land-revenue although no engagement has been entered into with the Government for that amount;

(iii) any land which is, for the time being, included under one entry in the Deputy Commissioner's register of revenue-free estates as well as revenue-

free lands which are not so included in such register;

(iv) any land, being the exclusive property of Government, of which a separate entry has been made in the general register of revenue-paying and revenue free estate mentioned in Chapter IV of the Assam Land and Revenue Regulation, 1886;

(12) “hat” or “bazar” means any place where persons assemble daily or on particular days in a week primarily for the purposes of buying or selling agricultural or horticultural produce livestock, poultry, hides, skins, meat, fish, eggs, milk, milk products or any other articles of food or drink or other necessaries of life, and includes all shops of such articles or manufactured articles within such place;

(13) “holding” means a parcel or parcels of land or an undivided share thereof, held by a raiyat or an under-raiyat and forming the subject of a separate tenancy;

(14) “homestead” means a dwelling house with the land under it, together with any courtyard, garden, tank, place of worship and private burial or cremation ground attached and appertaining to such dwelling house, and includes any out-buildings used for the purpose of enjoying the dwelling house or for purpose connected with agriculture or horticulture and such lands within well defined limits, whether vacant or not, as are treated to be appertaining thereto;

(15) “khas land” or “land in khas possession”, in relation to any person, includes any land let out together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(16) “land” means land which is cultivated, uncultivated or covered with water at any time of the year, and includes benefits to arise of land, houses or buildings and also things attached to the earth, or permanently fastened to anything attached to the earth;

[4][(16a) notwithstanding anything contained in any other law for the time being in force or in any instrument or in any judgment or decree or order of any Court, the definition of “land” in clause (16) includes and shall be deemed always to have included all fisheries, several or territorial;]

(17) “non-agricultural tenant” means a tenant who holds land for purposes not connected with agriculture or horticulture, but does not include a person holding land together with any building standing thereon any necessary adjuncts thereto under a lease other than a lease in perpetuity;

(18) “notification” means a notification published in the official Gazette ;

[5][(18a) “orchard” means a garden of fruit-trees grown by human efforts and includes coconut, betel nut and pineapple gardens;]

(19) “prescribed” means prescribed by rules made under this Act;

(20) “proprietor” means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(21) “registered” means registered under any Act for the time being in force for the registration of documents;

(22) “rent” means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

(23) “rent-receiver” means a proprietor or a tenure holder, and includes a raiyat, an under-raiyat or a non-agricultural tenant whose land has been let out and also the immediate landlord of a person who holds any land free of rent in consideration of some service to be rendered, but does not include a person in respect of such of this lands, as has been let out, together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(24) “Revenue-officer” includes any officer whom the Government may appoint to discharge all or any of the functions of a Revenue-officer under

this Act or any rules made thereunder;

(25) “signed” includes “marked”, when the person making the mark is unable to write his name; it also includes “stamped” with the name of the person referred to;

(26) “succession” includes both intestate and testamentary succession;

(27) “tenant” means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person:

Provided that a person who, under the system generally known as “adhi”, “barga”, or “bhag”, cultivates the land of another person on condition of delivering a share of the produce to that person, is not a tenant, unless-

(i) such person has been expressly admitted to be a tenant by his landlord in any document executed by him or executed in his favour and accepted by him, or

(ii) he has been or is held by a Civil Court to be a tenant;

(28) “tenure” means the interest of a tenure-holder or an under-tenure holder;

(29) “village” means the area defined, surveyed and recorded as a district and separate village in any survey made by, or under the authority of, the Government, and, where no such survey has been made, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village;

(30) “year” or “agricultural year” means the Bengali year commencing on the first day of Baishakh; and

(31) all words and expressions used in Parts I, II, III and IV of this Act, but not defined in this Act, and used in the Bengal Tenancy Act, 1885, or in the Sylhet Tenancy Act, 1936, have the same meanings as in those Acts in the respective areas to which those Acts apply.

Exemption

[6][2A. The Government may, in public interest, exempt, by general or special order, the interests of any local authority in any land or class of lands from acquisition under the provision of this Act.]

PART II

CHAPTER II

SPECIAL PROVISIONS FOR THE ACQUISITION OF THE INTERESTS OF CERTAIN RENT-RECEIVERS

Acquisition of the interest of certain rent-receivers and consequences thereof

3. (1) At any time after the commencement of this Act, it shall be lawful for the Government to acquire, by notification in the official Gazette, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date),-

(i) all interests of such of the rent-receivers as may be specified in the notification, in their respective estates, taluks, tenures, holdings or tenancies, as the case may be, in any district, part of a district or local area, and

(ii) all interests of all rent-receivers whose properties are, for the time being, under the management of the Court of Wards under the Court of Wards Act, 1879, in their respective estates, taluks, tenures, holdings or tenancies, as the case may be,

including all their interests in all sub-soil and rights to minerals in such estates, taluks, tenures, holdings or tenancies.

(2) Subject to the provisions of sub-sections (2), (3), (4), (5) and (6) of section 20, the Government may also, simultaneously with or at any time after the publication of a notification under sub-section (1) in respect of the interests of any rent-receiver in any estate, taluk, tenure, holding or tenancy, acquire, by notification in the official Gazette , with effect from such date as may be specified in the notification (hereinafter referred to as the notified date), all or any of the lands in his khas possession of which he shall not be entitled to retain possession under the said section and so much of the lands in his khas possession as has been acquired under this sub-section and has

not vested in the Government under clause (a) of sub-section (4), shall vest absolutely in the Government free from all encumbrances.

[7][(2a) In a notification issued under this section, rent-receivers may be specified or described by name, or by reference to areas wherein they have interests, or in such other manner as the Government may determine.]

(3) The notification referred to in sub-section (1) or sub-section (2) shall be in such form and shall contain such particulars as may be prescribed.

(4) On and from the date specified in a notification under sub-section (1),-

(a) all interests of the rent-receivers in the estates, taluks, tenures, holdings or tenancies specified in the notification, including their interests in all lands in their khas possession, and interests in all sub-soil and rights to minerals, in such estates, taluks, tenures, holdings or

tenancies and also including the interests of any such rent-receiver in any building or part of a building standing on any such land and used primarily as office or cutchery for the collection of rent of any estate, taluk, tenure, holding or tenancy, shall vest absolutely in the Government free from all encumbrances:

Provided that nothing in this clause shall apply to any building within the homestead of the rent-receiver concerned;

(b) all arrears of revenue or rent and all cesses, together with interest, if any, payable thereon, remaining lawfully due to the Collector on the notified date in respect of any interest acquired under sub-section (1) shall, after the said date, continue to be recoverable from the person by whom they were payable and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears, cesses and interest from the compensation money payable to such person under section 58, when so ordered by the Collector;

(c) all arrears of rent and all cesses, together with interest if any, due thereon, in respect of any period previous to the notified date payable to a

rent-receiver in respect of any interest acquired under sub-section (1) which have not been barred by limitation shall, on and from the said date, vest in, and be recoverable by, the Government and shall, without prejudice to any other mode of recovery, be recoverable, from the persons by whom they were payable, by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;

(d) all amounts recoverable by the Government from a rent-receiver under the Bengal Embankment Act, 1882, or the East Bengal Embankment and Drainage Act, 1952 which remain outstanding on the notified date, whether on account of arrear dues or dues under future instalments under the said Acts, in respect of any interest acquired under sub-section (1), shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrear and future instalments from the compensation money payable to such rent-receiver under section 58 in respect of such interest, when so ordered by the Collector;

[8][(dd) all arrears of agricultural income-tax recoverable by the Government from a rent-receiver under the Bengal Agricultural Income-tax Act, 1944, which remain outstanding on the notified date, in respect of any interest acquired under sub-section (1), shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrears from the compensation money payable to such rent-receiver under section 58 in respect of such interest, when so ordered by the Collector;]

(e) all tenants holding lands in such estates, taluks, tenures, holdings or tenancies directly under the rent-receiver specified in the notification under sub-section (1), shall become tenants directly under the Government and shall pay rent at the existing rate, in respect of the rent-paying lands so held by them, to the Government and not to anybody else:

Provided that in cases where no notification was issued under sub-section (2) of section 43 before the commencement of the East Bengal State

Acquisition and Tenancy (Amendment) Ordinance, 1957, declaring that the Compensation Assessment-roll in respect of the interest of any such rent-receiver in any such estate, taluk, tenure, holding or tenancy had been finally published, all tenants holding lands in such estate, taluk, tenure, holding or tenancy directly under such rent-receiver shall, as tenants under the Government, be liable to pay rents in respect of the lands so held by them, except rent-free lands, at the rates determined in the record-of-rights finally published under sub-section (3) of section 19 subject to modification under section 53;

(f) all such rent-receivers shall be entitled to hold as tenants directly under the Government such of their khas lands as has not been acquired under sub-section (2) and shall be liable to pay to the Government, the rent determined for such lands under section 5;

[9][(ff) pending the final publication of the record-of-rights under sub-section (3) of section 19 or determination of rents under section 5, as the case may be, the tenants referred to in the proviso to clause (e) and in clause (f) shall pay rents to the Government at the rates shown in the preliminary rent-rolls prepared under the rules made [10][under Chapter IV in the district other than the district of Sylhet; and, in the district of Sylhet, the tenants referred to in the proviso to clause (e) shall pay rents to the Government at the rates shown in the provisional rent-rolls, prepared on the basis of draft record-of-rights attested under the provisions of the Sylhet Tenancy Act, 1936, the Assam Land and Revenue Regulation, 1886, or the East Bengal State Acquisition and Tenancy Act, 1950, as the case may be, and the tenants referred to in clause (f) shall pay rent to the Government at the rates determined under section 5 and the rules made thereunder:

Provided that when any such rent is shown either at an enhanced or at a reduced rate in the record-of-rights finally published under sub-section (3) of section 19, or determined either at an enhanced or at a reduced rate under section 5, as the case may be, or when any such rent is enhanced or

reduced under section 53, the tenant shall be liable to pay the balance or entitled to the adjustment of excess payment against future rent payable by him, as the case may be, with retrospective effect from the notified date;]

(g) an arrear of rent payable under [11][clauses (e), (f) and (ff)] [12][may, without prejudice to any other mode of recovery,] be recoverable under the Bengal Public Demands Recovery Act, 1913;

(h) a transferable tenure coming in whole directly under the Government under clause (e) shall be deemed to be a tenure as defined in section 1 of the Bengal Land Revenue Sales Act, 1868.

[13][(4a) Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery of any arrear of rent-payable under clauses (e), (f) and (ff) of sub-section (4) in the district of Sylhet, a period of twenty-four months on and from the date of acquisition under this Act of the rent-receiving interests to which such arrears relate shall be excluded.]

(5) The outgoing rent-receivers, whose interests have been acquired under this section, shall be entitled to compensation as provided in this Act.

Service of notice for furnishing return before notification

[14][3A. For the purpose of acquisition, under section 3, of the interest of any rent-receiver in any estate, taluk, tenure, holding or tenancy or of the lands in his khas possession the Revenue-officer may, at any time before the publication of a notification under sub-section (1) or sub-section (2) of that section in respect of such interest or lands, cause a notice to be served on such rent-receiver in the prescribed manner, directing him to furnish, within such time, not being less than sixty days from the date of service of the notice, as may be specified therein, a return in the prescribed form showing all or any of the following particulars, as may be required by such notice:-

(i) the total area and description of all estates, taluks, tenures, holdings and tenancies held by him and the annual revenue or rent and cesses payable by

him in respect thereof to the Government or to his immediate superior landlord, as the case may be;

(ii) the names of the villages, thanas and districts in which the lands of the estates, taluks, tenures, holdings and tenancies are situated, together with a list of collection papers relating thereto, for a period not exceeding five years immediately preceding;

(iii) the area, description and classification of all lands in his khas possession with the names of villages and thanas in which they are situated;

(iv) the names of all co-sharers having joint collection with him, with their respective shares in such estates, taluks, tenures, holdings and tenancies; and

(v) such other information as the Revenue-officer may deem necessary.]

Service of notice to furnish returns, etc. and penalty for non-compliance

4. (1) As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue-officer may cause a notice to be served in the prescribed manner on every rent-receiver specified in such notification other than a rent-receiver whose properties are under the management of the Court of Wards under the Court of Wards Act, 1879, directing him to furnish,-

(a) a return in the prescribed form showing-

(i) the total area and description of the estate, taluk, tenure, holding or tenancy in respect of which his interests are acquired by the said notification and the annual revenue or rent and cesses payable by him in respect thereof to the Government or to his immediate superior landlord, as the case may be,

(ii) the names of the villages with thanas and districts in which the lands of the estate, taluk, tenure, holding or tenancy are situated and the total annual demand of rent and cesses of each village with a list of collection papers in support of the demand,

(iii) the area and description of the lands in his khas possession, and

(iv) the names of all co-sharers having joint collection with him, with their respective shares in such estate, taluk, tenure, holding or tenancy, and

(b) such other information, papers or documents as the Revenue-Officer may deem necessary,

and to hand over all papers of his sherista relating to the estate, taluk, tenure, holding or tenancy, to such officer and within such time, not being less than sixty days from the date of service of the notice, as may be specified in such notice:

Provided that it shall not be necessary for a rent-receiver to furnish such of the particulars as, in the opinion of the Revenue-officer, have already been correctly furnished by him pursuant to a notice under section 3A.

(2) The officer taking delivery of the papers mentioned in sub-section (1) shall grant a receipt for the papers handed over to him.

(3) All co-sharers having joint collection shall be jointly and severally liable to comply with the directions given in a notice under sub-section (1) of this section or section 3A so far as they relate to any estate, taluk, tenure, holding or tenancy held by them jointly.

(4) If any person, on whom a notice has been served under sub-section (1) of this section or section 3A, wilfully fails to comply with all or any of the directions contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, or wilfully furnishes any incorrect information or suppresses any information, paper or document, in respect of any estate, taluk, tenure, holding or tenancy,-

(a) he shall be liable to a fine, to be imposed by the Revenue-officer after giving the defaulting person an opportunity of being heard, which may,-

(i) in the case of a revenue-paying estate or a rent-paying taluk, tenure, holding or tenancy, extend to five times the annual revenue of the estate or the annual rent of the taluk, tenure, holding or tenancy, as the case may be, and

(ii) in the case of a revenue-free estate or a rent-free taluk, tenure, holding or tenancy, extend to such amount not exceeding two thousand five hundred rupees as the Revenue-officer may fix in his discretion; and

(b) in addition, he may be deprived of the benefit of the ad interim payment as provided in section 6 if so ordered by the Revenue-officer.

(5) (i) If any rent-receiver, on whom a notice has been served under sub-section (1) fails to hand over the papers of his sherista relating to any estate, taluk, tenure, holding or tenancy in accordance with the direction contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, the Revenue-officer or any other person authorised by him, may, with such assistance, if any, as he thinks necessary, enter upon any land or building, where the Revenue-officer has reason to believe that such papers may be found, and seize and take possession of such papers as he may consider essential for the management of such estate, taluk, tenure, holding or tenancy:

Provided that the Revenue-officer or such other person shall not enter upon any enclosed courtyard or garden attached to a building except with the consent of the inmate or occupier thereof or if such consent is refused, except after giving such inmate or occupier at least two hours' notice in writing of his intention to do so:

Provided further that an inventory of the papers taken possession of by the Revenue-officer or such other person under this sub-section shall be furnished to the rent-receiver concerned by the Revenue-officer.

(ii) The provisions of this sub-section shall apply without prejudice to the provisions of sub-section (4).

(6) Any rent-receiver, who has handed over the papers of his sherista relating to any estate, taluk, tenure, holding or tenancy to an officer of the Government under sub-section (1), or any person interested in such an estate, taluk, tenure, holding or tenancy, shall be entitled to inspect such papers in the prescribed manner and to get copies of any such paper on payment of the prescribed fees.

Determination of rent khas lands of rent-receivers

5. As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue-officer shall determine, according to the principles laid down in sections 23, 24, 25, 25A, 26, 27 and 28, the rent of every parcel of lands in the khas possession of all rent-receivers specified in such notification and comprised in the estates, taluks, tenures, holdings or tenancies to which such notification relates.

***Ad interim* payment**

6. (1) A rent-receiver, whose interests in any estate, taluk, tenure, holding or tenancy are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such interests, at such time and in such manner as may be prescribed, an ad interim payment at the rate of one-third of the net income on account of the demands of rent and cesses for any period after the notified date collected from such estate, taluk, tenure, holding or tenancy, as the case may be, in respect of such interests in the year to which such a payment relates.

(2) A rent-receiver, whose khas land is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an ad interim payment at the rate of five per centum of the amount of compensation payable for such land under sub-section (1) of section 39 and the provisions of sub-sections (2), (3) and (4) of that section shall apply mutatis mutandis in the matter of determination of such amount.

(3) For the purposes of sub-section (1) the net income from any estate, taluk, tenure, holding or tenancy for any year shall be computed by deducting from

the gross collections, made by the Government in such year from such estate, taluk, tenure, holding or tenancy on account of the demands of rents and cesses for any period after the notified date due to the interests acquired under sub-section (1) of section 3, the following:-

(i) an amount equivalent to the sums which were or are determined to have been payable annually for such interests immediately before the notified date on account of revenue or rent and cesses to the Government or to the immediate superior landlord, as the case may be;

(ii) an amount equivalent to the amount of the taxes on such collections that would have been assessable, at the average rates under the Bengal Agricultural Income-tax Act, 1944 or the Income-tax Act, 1922 had not the provisions of section 3 been applied;

(iii) the expenditure, if any, incurred for the maintenance of any irrigation or protective works in such estate, taluk, tenure, holding or tenancy if the outgoing rent-receiver was legally bound to maintain them; and

(iv) collection charges not exceeding twenty per centum of the gross collections.

Explanation.- In this sub-section, “average rates” means the average rates of taxes at which assessment was made for the last time, before the notified date, under the provisions of the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922.

(4) In determining the amounts of deductions under sub-section (3), the Revenue-officer shall be guided by such rules as may be made in this behalf by the Government.

[15][(4a) Notwithstanding anything contained in sub-sections (1), (3) and (4), the Government may pay to any such rent-receiver in cash, at such time and in such manner as may be prescribed, a sum, in lieu of ad interim payment, provided for in sub-section (1), calculated at the rate of one-sixth of the net income of such interest determined under section 35 or section 36 as the

case may be, in the Compensation Assessment-roll finally published under section 42, subject to modification if any under section 54, for each year of which ad interim payment is due to him under sub-section (1) but not paid under that sub-section.]

(5) Nothing in this section shall apply to any estate, taluk, tenure, holding, tenancy or land held under wakf, wakf-al-al-aulad, debutter or any other trust.

***Ad interim* payment of respect of trust properties**

[16][6A. (1) A rent-receiver, whose interest in any estate, taluk, tenure, holding or tenancy held under wakf, wakf-al-al-aulad, debutter or any other trust, are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such interest at such time and in such manner as may be prescribed, an ad interim payment, as follows :-

(i) an annuity equivalent to so much of the net income of the estate, taluk, tenure, holding or tenancy as has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual;

(ii) for the portion of the net income, if any, of the estate, taluk, tenure, holding or tenancy, remaining after deduction of the annuity under clause (i), a sum calculated at the rate of three per centum of the amount of compensation payable of such portion of the net income under sub-section (1) of section 37.

(2) The amount of annuity referred to in clause (i) of sub-section (1) shall be determined in the same manner as is prescribed for the assessment of perpetual annuity under sub-section (3) of section 37 and the provisions of sub-section (4) of section 58 and sub-section (4) of section 59 shall apply in the matter of payment of such amount.

(3) For the purpose of clause (ii) of sub-section (1), the net income shall be determined in the manner provided in sub-sections (3) and (4) of section 6.

(4) A rent-receiver, whose khas land, held under wakf, wakf-al-al-aulad, debutter or any other trust, is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an ad interim payment as follows:-

(i) an annuity equivalent to so much of the net income of the land as has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual; and

(ii) for the remaining net income, if any, of the land, at the rate of three per centum of the amount of compensation payable for such land under sub-section (1) of section 39, and the provisions of sub-sections (2), (3) and (4) of that section shall apply mutatis mutandis in the matter of determination of such amount.

(5) The amount of annuity referred to in clause (i) of sub-section (4) shall be determined in the same manner as is prescribed for the determination of perpetual annuity under sub-section (1a) of section 39 and the provisions of sub-section (4) of section 58 and sub-section (4) of section 59 shall apply in the matter of payment of such amount.

Appeal

7. Any person aggrieved by an order of the Revenue-officer under sub-section (4) of section 4 or section 5 or by an order of the Revenue-officer determining the amount of any ad interim payment under section 6 or section 6A may, within a prescribed period and in the prescribed manner present an appeal in writing to a prescribed superior Revenue Authority; and the decision of such Authority and also, subject only to such decision, an order of the Revenue-officer passed under the said section and sub-sections shall be final.

Payment and recovery of fines

8. The fine imposed under this Chapter shall be paid, by the person fined, in the prescribed manner within sixty days from the date of the order of the Revenue-officer imposing the fine or, when an appeal is presented against

imposed under this Chapter

such order under section 7 within sixty days from the date of the disposal of such appeal; and in default of such payment the amount of such fine shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

[Omitted.]

[Sections 9, 9A, 9B, 9C and 9D were omitted by section 3 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1964 (East Pakistan Act No. XVII of 1964).]

Exemption of ad interim payments from attachments

10. Notwithstanding anything contained in the Code of Civil Procedure, 1908, and the Bengal Public Demands Recovery Act, 1913, any amount payable to an outgoing rent-receiver under sub-section (1) or (2) of section 6 or sub-section (1) or of section 6A shall not be liable to attachment in execution of any decree or order of a Civil Court or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, other than a decree or certificate for the recovery of arrears of revenue, rent or cesses due in respect of the estate, taluk, tenure, holding, tenancy or land to which such payment relates.

Special provisions regarding certain rent receiving interests held under *wakf, wakf-al-al-aulad, debutter* or other religious trust

[17][10A. (1) Notwithstanding anything contained in clauses (e) and (ff) of sub-section (4) of section 3 or in section 6A, the provisions of this section shall apply to the cases where the interest of a rent-receiver held under any wakf, wakf-al-al aulad, debutter or other religious trust have been acquired under sub-section (1) or sub-section (2) of section 3, but the Government have not exercised the right of possession over such interest till the date of commencement of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1960, by starting collection of rent and cesses from the tenants holding lands immediately under such interests, or by any other means.

(2) On and from the date of acquisition of such interests, the Mutwalli, Shebait or trustee as the case may be, holding such interest immediately

before such date shall continue, and be deemed to have continued, to manage such interests as the agent of the Government till the last day of the agricultural year in which the publication of the notification under sub-section (2) of section 43, declaring that a Compensation Assessment-roll in respect of such interests has been finally published, is made, or till the time the Government exercise the right of possession over such interests whichever is later.

(3) Such Mutwalli, Shebait or trustee shall, as the agent of the Government, be entitled to collect, at the rates provided in, and subject to the provisions of, sub-section (4), all rents and cesses payable by the tenants to the Government in respect of such interests, and to collect the usufract of such interest in khas land, for the period from the date of acquisition of such interests till the last day of the agricultural year or till the exercise of the right of possession, as referred to in sub-section (2), whichever is later and to retain the proceeds of such collection or other income in lieu of ad interim payments under section 6A in respect of such interests and his remuneration, subject to payment to the Government annually, in the prescribed manner, of a sum equivalent to the total of the following amounts, namely:-

(a) the amounts which were, or are determined by the Collector to have been, payable annually for such interests immediately before acquisition on account of revenue or rent and cesses to the Government or to the immediate superior landlord, as the case may be, and

(b) the amount that would have been assessable as tax under the Bengal Agricultural Income-tax Act, 1944, in respect of the income from such interests, had not the interests been acquired:

Provided that-

(i) no such Mutwalli, Shebait or trustee shall be entitled to transfer, or to create any encumbrance or charge on, any such interest in any khas land in

any manner otherwise than by a temporary lease, but no such temporary lease shall be given for a period exceeding one year at a time expiring on the last day of the agricultural year in which it is created, nor shall any tree be cut down or building demolished, except with the previous permission of the Collector and on such terms as the Collector may prescribe in that behalf; and any transfer or any encumbrance or charge created or any lease given in contravention of the provision thereof shall be null and void and the full value of any tree cut down or building demolished in such contravention shall be recoverable from the Mutwalli, Shebait or trustee as an arrear of rent or land revenue;

(ii) with effect from the 1st Baisakh, 1367 B. S., the amount payable under clause (a) shall be reduced by an amount equivalent to the amount which was, or is determined by the Collector to have been, payable annually by the tenants, directly under such Mutwalli, Shebait or trustee, in respect of such interests immediately before acquisition on account of the road and public works cesses under the Bengal Cess Act, 1880, or on account of the local rates under the Assam Local Rates Regulation, 1879, as the case may be; and

(iii) in the cases where any such Mutwalli, Shebait or trustee was entitled to receive, in respect of any interest referred to in sub-section (1), immediately before at the acquisition of such interest, any rent or cesses on account of any tenure, holding or tenancy either from the Government or from another rent receiver whose interests in such tenure, holding or tenancy have been acquired and taken possession of by the Government under the provisions of this Act, such Mutwalli, Shebait or trustee shall be entitled to the adjustment, against his annual liability to the Government under this section, of a sum equivalent to the amount that was, or is determined by the Collector to have been, payable to him annually on account of rent and cesses in respect of such tenure, holding or tenancy immediately before such acquisition, but no such adjustment shall be admissible with effect from the 1st Baisakh, 1367

B.S., on account of the road and public works cesses under the Bengal Cess Act, 1880, or on account of the local rates under the Assam Local Rates Regulation, 1879; and if the total amount available annually for such adjustment exceeds the amount of his total annual liability under this section, he shall be entitled to get the balance from the Government, after deduction, at the discretion of the Government, of any other sum due from him to the Government under any law or contract.

Explanation.- For the purposes of clause (b), the amount may be calculated at the average rate of tax at which the assessment was made for the last time, before the date of acquisition, under the provisions of the Bengal Agricultural Income-tax Act, 1944.

(4) The tenants referred to in sub-section (3) shall, in respect of the lands held by them subject to the payment of rents immediately before acquisition, be liable to pay rents in respect of such lands at the rates determined in the record-of-rights finally published under sub-section (3) of section 19, subject to modification under section 53:

Provided that pending such final publication of the record-of-rights, the tenants shall pay rents for such lands at the rates shown in the preliminary rent-rolls prepared under the rules made under Chapter IV and in cases where such preliminary rent-rolls also have not been prepared, the tenants shall pay rents at the rate existing immediately before acquisition till such preliminary rent-rolls are prepared:

Provided further that when any such rent is shown either at an enhanced or at reduced rate in the record-of-rights finally published under sub-section (3) of section 19 or when any such rent is enhanced or reduced under section 53, the tenant shall be liable to pay the balance or entitled to the adjustment of excess payment against future rent payable by him, as the case may be, with retrospective effect.

(5) The arrears of rent and cesses realisable by a Mutwalli, Shebait or trustee from a tenant under the provision of this section shall be recoverable as a public demand and the Mutwalli, shebait or trustee may apply to the Certificate Officer in the prescribed manner for the recovery of any such arrears under the provisions of the Bengal Public Demands Recovery Act, 1913.

(6) The Mutwalli, Shebait or trustee shall pay to the Government any amount on account of excess payment of rent made by a tenant under sub-section (4) remaining outstanding after adjustment under that sub-section against the rent subsequently payable by him during the period of management by such Mutwalli, Shebait or trustee.

(7) All sums payable by a Mutwalli, Shebait or trustee to the Government under sub-section (3) or sub-section (6) shall be recoverable as a public demand.

(8) The arrears of rent and cesses recovered by the Certificate Officer under sub-section (5) shall be paid to the Mutwalli, Shebait or trustee concerned after deducting therefrom all sums due from him to the Government under sub-section (3) and sub-section (6).

(9) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, in computing the period of limitation for the recovery of any arrears of rent and cesses payable by a tenant under sub-section (4), a period of twenty-four months on and from the date of the acquisition of the rent-receiving interest to which such arrears relate shall be excluded.

(10) Every such Mutwalli, Shebait or trustee shall furnish to the Collector, in such form and at such time as may be prescribed, a statement of accounts of collection of rent and cesses made by him under this section during the preceding year and of expenditure incurred by him out of such collection.

(11) No Court shall entertain any suit or application by any person claiming the benefits of this section in respect of any property or for a declaration that he is entitled to any such benefit, unless such person has applied to the Collector and the Collector has passed a final order declaring that he is not entitled to such benefits:

Provided that, if no such final order is passed by the Collector within a period of 3 months from the date of such application, the Mutwalli, Shebait or trustee, shall be entitled to bring a suit in the Civil Court after the expiry of the said period.

PART III

CHAPTER III

SPECIAL PROVISIONS REGARDING LANDS HELD IN LIEU OF SERVICE.

Acquisition of occupancy rights

11. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, any person who holds under another person any land, for agricultural or horticultural purposes or for the purposes of his homestead, free of rent in consideration of some service to be rendered under the system locally known as Nankar, Chakran or the like shall, on and from the date of commencement of this Act, acquire a right of occupancy in all such lands so held by him subject to the payment of a fair and equitable rent to the person under whom he holds such lands and the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, as the case may be, so far as they apply to occupancy raiyats, shall apply to him.

(2) The fair and equitable rent, referred to in sub-section (1), shall mean such rent not exceeding the prevailing rate of rent paid by the occupancy raiyats for lands of a similar description and with similar advantages in the same village or in the neighbouring villages as may be agreed upon between such tenant and his landlord or, in the absence of such agreement, as may be determined by the Collector on the application of such tenant or the landlord.

Removal of the homestead of a tenant in certain cases

12. (1) Notwithstanding anything contained in section 11, where such tenant has his homestead within the homestead of his landlord, either he or the landlord may, within six months from the date of commencement of this Act, apply to the Civil Court having jurisdiction to entertain a suit for the possession of such land, for an order directing the removal of the homestead of such tenant.

(2) When an application is made under sub-section (1), the Court, after giving the parties an opportunity of being heard and after taking such evidence and making such enquiries as it thinks fit, if satisfied that the homestead of the tenant is situated within the homestead of the landlord, shall make the order applied for:

Provided that the Court, if it finds that the total quantity of cultivable land held by such tenant as an occupancy raiyat, whether by virtue of section 11 or otherwise, besides the homestead to which the application relates, is less than five standard bighas, shall assess such reasonable compensation to be paid to such tenant by the landlord as would, in the opinion of the Court, cover the cost of removal of the homestead of the tenant to a new site, the cost of reconstruction of a similar homestead, the cost of the land required for such construction and such other incidental expenses as the Court thinks fit; and it shall not make an order for such removal until the landlord deposits in the Court the amount of compensation so assessed for payment to the tenant, or the tenant admits before the Court in writing that he has received the amount from the landlord out of Court.

(3) An order under sub-section (2) shall be deemed to be a decree for ejectment against such tenant; and no appeal shall lie against such order.

Restoration of agricultural land in

13. (1) If a person has been ejected after the 7th day of April, 1948, otherwise than by a decree or order of a Civil Court or an order of the Collector or of any Revenue-officer empowered by the Collector, from any agricultural or horticultural land held by him free of rent in consideration of

certain cases

some service to be rendered under any system referred to in sub-section (1) of section 11, such person may, within six months from the date of commencement of this Act, apply to the Collector for the restoration of such land to him.

(2) When an application has been made under sub-section (1), the Collector, after giving the parties an opportunity of being heard and taking such evidence and making such enquiries as he thinks fit, if satisfied that the applicant was so ejected after the said date from such land so held by him shall pass an order restoring such land to the applicant with effect from such date not being later than the first day of the agricultural year next following the date of the order as the Collector thinks fit.

(3) If the person in possession of such land does not give up its possession to the applicant with effect from such date, the Collector shall, on the application of such applicant, eject such person and place such applicant in possession of such land:

Provided if such person be a person other than the landlord, he shall get reasonable compensation, as determined by the Collector, from the landlord.

(4) When any agricultural or horticultural land is restored to a person under this section, the provisions of section 11 shall apply to such land.

Appeal

14. Any person who is aggrieved by an order of the Collector under sub-section (2) of section 11 or under sub-section (2) of section 13, may prefer an appeal to the District Judge having jurisdiction over the area within thirty days from the date of such order; and the decision of the District Judge having jurisdiction over the area, on such appeal, shall be final.

Miscellaneous

15. An application under sub-section (2) of section 11, sub-section (1) of section 12 or sub-section (1) of section 13 shall be in such form and contain such particulars as may be prescribed, and shall be accompanied by process fee of the prescribed amount.

Saving as to certain lands

16. Nothing in this Chapter shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

PART IV

CHAPTER IV

PREPARATION OF RECORD-OF-RIGHTS

Preparation of record-of-rights

17. (1) The Government may, with a view to acquisition under the provisions of this Act of the interests of all rent-receivers within any district, part of a district or local area and of such other interests in land therein as are liable to be acquired under the provisions of this Act, and with a view to the assessment of compensation payable for all such interests including the interests which have already been acquired under Chapter II, make an order directing-

(a) that a record-of-rights be prepared in respect of such district, part of a district or local area, or

(b) that the record-of-rights, last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, in respect of such district, part of a district or local area, be revised,

by a Revenue-officer in accordance with the provisions of this Chapter and with such rules as may be made in this behalf by the Government.

(2) If any order has been made under section 101 of the Bengal Tenancy Act, 1885, or under section 117 of the Sylhet Tenancy Act, 1936, for the preparation of a record-of-rights in respect of any district, part of a district or local area, but the preparation of such record-of-rights has not been completed or such record-of-rights has not been finally published at the time when an order is made under sub-section (1) for the preparation or revision of a record-of-rights in respect of such district, part or area, then on the making of an order under the said sub-section, all further proceedings relating to the preparation of the record-of-rights under the said Act shall be stayed; and such record-of-rights shall be prepared in accordance with the

provisions of this Chapter and with such rules as may be made in this behalf by the Government:

Provided that any proceedings in respect of the preparation of such record-of-rights commenced under Chapter X of the Bengal Tenancy Act, 1885, or under Chapter IX of the Sylhet Tenancy Act, 1936, and undertaken prior to the publication of the draft of such record-of-rights under section 103A of the Bengal Tenancy Act, 1885, or under section 119 of the Sylhet Tenancy Act, 1936, as the case may be, shall, for the purposes of the preparation of such record-of-rights under this Chapter, be deemed to have been commenced and undertaken under this Chapter.

(3) A notification in the official Gazette of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

Particulars to be recorded in the record-of-rights

18. When an order is made under section 17, the Revenue-officer shall record in the record-of-rights, to be prepared or revised in pursuance of such order, such particulars as may be prescribed.

Draft and final publication of the record-of-rights

19. (1) When a record-of-rights has been prepared or revised so as to contain or include therein the particulars referred to in section 18, the Revenue-officer shall publish a draft of the record-of-rights so prepared or revised in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of such publication.

(2) Any person aggrieved by an order passed by Revenue-officer on any objection made under sub-section (1) may appeal to the prescribed Revenue Authority not below the rank of an Assistant Settlement Officer in such manner and within such period as may be prescribed.

(3) When all such objections and appeals have been considered and disposed of according to such rules as the Government may make in this behalf, the Revenue-officer shall finally frame the record and shall cause

such record to be finally published in the prescribed manner and the publication shall be conclusive evidence that the record has been duly prepared or revised under this Chapter.

(4) When a record-of-rights has been finally published under sub-section (3), the Revenue-officer shall, within such time as the Board of Revenue may fix in this behalf, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.

Lands to be retained in the possession of rent-receivers, cultivating raiyats, cultivating under-raiyats and non-agricultural tenants

20. (1) On the acquisition of the interests of rent-receivers in any area under Chapter V, no rent-receiver, cultivating raiyat, cultivating under-raiyat or non-agricultural tenant shall be entitled to retain possession of any of his khas lands in such area except as provided in sub-section (2).

(2) A rent-receiver, a cultivating raiyat, a cultivating under-raiyat, or a non-agricultural tenant shall be entitled to retain, as a tenant under the Government, possession of-

(a) lands covered by his homestead or any other building belonging to him with necessary adjuncts thereto, other than such building or part of a building outside his homestead as is used primarily as office or cutchery for the collection of rents of any estate, taluk or tenure and may be decided to be acquired by the Government;

(b) lands in his khas possession of the following classes, other than derelict tea gardens, namely:-

(i) lands used for agricultural or horticultural purposes including tanks,

(ii) lands which are cultivable or which are capable of cultivation on reclamation, and

(iii) vacant non-agricultural lands:

Provided that the aggregate quantity of all lands of the classes referred to in clauses (a) and (b) in the whole of province so retained in possession by a

rent-receiver, a cultivating raiyat, a cultivating under-raiyat or a non-agricultural tenant shall not exceed three hundred and seventy-five standard bighas or an area determined by calculating at the rate of ten standard bighas for each member of his family, whichever is greater.

[18][(2a) Notwithstanding anything contained in any other law for the time being in force or in any instrument or in any judgment or decree or order of any Court lands of the classes referred to in the clauses (a) and (b) of sub-section (2) do not include and shall be deemed never to have included-

(i) any land or building in a hat or bazar, or,

(ii) any fishery other than a tank constructed solely by process of excavation, or,

(iii) any land consisting of forest, or,

(iv) any land actually in use for a ferry.]

(3) Allotments of lands, of which a rent-receiver, a cultivating raiyat, a cultivating under-raiyat or a non-agricultural tenant is entitled to retain possession under clause (b) of sub-section (2), shall be made by the Revenue-officer according to the choice of such rent-receiver, cultivating raiyat, cultivating under-raiyat or non-agricultural tenant or, where no such choice is exercised within a prescribed period, according to the rules to be made in this behalf by the Government:

Provided that in exercising such choice such rent-receiver, cultivating raiyat, cultivating under-raiyat or non-agricultural tenant shall retain the entire area of land held by each of the

other members of his family if it is ten standard bighas or less and to the extent of at least ten standard bighas if it exceeds that quantity and that in allotting land to a family, the Revenue-officer shall record them in the names of the persons who actually hold them:

Provided further that when a rent-receiver, a cultivating raiyat, a cultivating under-raiyat or a non-agricultural tenant or any member of his family has mortgaged any land to the Agricultural Development Finance Corporation established under the Agricultural Development Finance Corporation Act, 1952, or to the House Building Finance Corporation established under the House Building Finance Corporation Act, 1952, or to the Agricultural Bank of Pakistan established under the Agricultural Bank Act, 1957, he shall, when exercising choice under this section, be bound to include in his choice all lands, so mortgaged, of the classes and up to the limit he is entitled to retain under sub-section (2) and when such a rent-receiver, a cultivating raiyat, a cultivating under-raiyat or a non-agricultural tenant has already exercised his choice under this section, but no Compensation Assessment-roll in respect of his excess khas land has been finally published, he shall be required to revise his choice in accordance with the provisions of this proviso.

(4) Notwithstanding anything contained in sub-section (2), a rent-receiver, a cultivating raiyat or a cultivating under-raiyat or a group of rent-receivers, cultivating raiyat or cultivating under-raiyats who has or have undertaken large scale farming on a co-operative basis or otherwise by the use of power driven mechanical appliances, or large scale dairy farming may, if he is or they are certified in that behalf by the prescribed Revenue Authority, retain possession of and hold such quantity of lands in excess of the limit specified in the said sub-section as may be specified in the certificate granted by such Revenue Authority:

Provided that such a certificate shall be subject to revisions by the said Revenue Authority at such intervals as may be fixed in this behalf by the Government.

[19][(4A) Notwithstanding anything contained in sub-section (2), a person or persons holding land for the purposes of the cultivation and manufacture of tea or coffee or the cultivation of rubber or a company holding land for the cultivation of sugarcane for the purpose of manufacture of sugar by that

company may, if he or it is or they are certified in that behalf by the prescribed Revenue Authority, retain possession of and hold such quantity of land in excess of the limit specified in the said sub-section as may be specified in the certificate granted by such Revenue Authority:

Provided that such a certificate shall be subject to revisions by the said Revenue Authority at such intervals as may be fixed in this behalf by the Government:

Provided further that for the purpose of this sub-section, a derelict tea garden shall not be deemed to be land held for the purpose of the cultivation and manufacture of tea.]

[20][(4B) Notwithstanding anything contained in sub-sections (4) and (4A) or in sections 39, 43 and 44 or in any other law for the time being in force, the land held under a certificate granted under sub-section (4) or (4A) by the prescribed Revenue Authority shall absolutely vest in the Government on the date when the Government shall take a decision in favour of the certificate-holder on an application submitted by him for granting a lease on a long term basis in respect of such land, wherein the certificate holder gave up the claim of compensation that would have been assessed under section 39 for the purpose of formal acquisition of such land, and such land may be leased out under the second proviso to sub-section (1) of section 81 to the certificate-holder without charging any premium thereof, on such terms and conditions as may be set forth in the lease by the Government, by terminating the certificate].

(5) (i) Noting in sub-sections (1), (2) and (3) of this section shall apply-

(a) Omitted by section 4 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (E. P. Ord. XV of 1961).

(b) to any land covered by buildings or structures and necessary adjuncts thereto as are used for the purpose of any large scale industry with such other lands as are used for growing raw materials therefor, or

(c) to so much of the lands held under debutter, wakf, wakf-al-al-aulad or any other trust as is exclusively dedicated and the income from which is exclusively applied to religious or charitable purposes without reservation of pecuniary benefit for any individual.

(ii) Where, under any debutter, wakf, wakf-al-al-aulad or any other trust, the income from the lands covered by such trust is partly dedicated for religious or charitable purposes and partly reserved for the pecuniary benefit of any individual, only such portion of the lands, as may be selected in accordance with the rules to be made in this behalf by the Government, shall come within the purview of sub-clause (c) of clause (i).

Explanation- For the purposes of sub-section (2) of this section-

(a) a rent-receiver, cultivating raiyat, cultivating under-raiyat or non-agricultural tenant shall be deemed to include a group of them who are members of the same family; and

(b) a family shall, when used in relation to a rent-receiver, cultivating raiyat, cultivating under-raiyat, or non-agricultural tenant, be deemed to consist of such rent-receiver cultivating raiyat, cultivating under-raiyat or non-agricultural tenant and all persons living in the same mess with and dependant upon such rent-receiver, cultivating raiyat, cultivating under-raiyat or non-agricultural tenant, but does not include any servant or hired labourer living in the same mess.

(6) The provision of sub-section (c) of clause (i) of sub-section (5) and clause (ii) of that sub-section shall not apply and be deemed never to have applied to any land on which hats or bazars are held or which consists of forests or fisheries or ferries.

Payment of rent for land retained in possession

21. All lands, of which a rent-receiver, a cultivating raiyat, a cultivating under-raiyat or a non-agricultural tenant retains possession under section 20, shall be held on payment of such fair and equitable rent as may be determined under the provisions of this Act.

All lands to be liable to fair and equitable rent determined under this Chapter

22. (1) Notwithstanding anything contained in any other law for the time being in force or in any entry made in the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, all lands in any district or part of a district or local area in respect of which a record-of-rights is prepared or revised under this Chapter shall be subject to the payment of fair and equitable rent determined in accordance with the provisions of this Chapter and the rent so determined shall be entered in the record-of-rights so prepared or revised:

Provided that it shall not be necessary to determine under this Chapter, the rent of any land, the rent of which has already been determined under section 5 and the rent so determined shall be deemed to be fair and equitable rent determined in accordance with the provision of this Chapter.

(2) Where the fair and equitable rent determined or deemed to be determined for any land under the provisions of this Chapter has not taken effect earlier under any other provision of this Act, it shall take effect from the first day of the Agricultural year next following the date of publication of the notification under sub-section (2) of section 43 declaring that a Compensation Assessment-roll in respect of the area in which the land is situated bas been finally published.

Determination of fair and equitable rents of khas lands

23. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the rent of every parcel of land in the khas possession of a proprietor or tenure-holder, including a proprietor or tenure-holder whose interests have been acquired under Chapter II, within the area to which such record relates-

(i) if such land be agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to the rates of rent generally paid by occupancy raiyats for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, and

(ii) if such land be non-agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to-

(a) the rent generally paid to the Government, or to any other landlord for non-agricultural lands with similar advantages or of a similar description in the vicinity,

(b) the market value of the land immediately before the publication of the notification under section 17, and

(c) the rent which would be payable if the rate were fixed at not more than one per centum of such market value,

whether or not such proprietor or tenure-holder is entitled to retain possession of such parcel of land under section 20:

Provided that in any estate, taluk or tenure, where a land revenue settlement was made within the last fifteen years, the rate of rent adopted as fair and equitable in such settlement may be taken to be the fair and equitable rent within the meaning of this section.

Explanation.- For the purposes of this section “land” does not include any building or structure standing thereon.

Determination of fair and equitable rents of raiyats and under-raiyats

24. (1) In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall, subject to the provisions of sub-sections (2), (3) and (4), presume the rent, payable in respect of any land held by a raiyat or an under-raiyat in the area to which such record relates at the time of preparation or revision of such record, to be fair and equitable.

(2) Where the rent so payable in respect of any such land by a raiyat is in the opinion of the Revenue-officer unfair or inequitable, he may reduce such rent to what is considered by him as fair and equitable, having regard to the rates of rent generally paid by the occupancy raiyats for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

(3) Where the rent payable for any land by an under-raiyat is, in the opinion of the Revenue-officer, unfair or inequitable, he may reduce such rent to an amount not exceeding the fair and equitable rent payable by an occupancy raiyat for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, increased by fifty per centum.

(4) In any raiyat or under-raiyat pays in respect of any land referred to in sub-section (1), rent either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways, the Revenue-officer shall commute such rent to a fair and equitable money-rent at an amount not exceeding one-tenth of the total value of the annual gross produce of such land obtained by multiplying the normal annual yield of that land, determined in the manner prescribed, by the average price of each kind of produce prevailing in the preceding twenty years, excluding the years in which such prices were abnormal:

Provided that the Revenue-officer shall, at the time of commuting such rent to a fair equitable money-rent allow for the superior landlord of such raiyat or under-raiyat a margin of profit of not less than twenty-five per centum and not more than fifty per centum of the rents payable by the superior landlord of such raiyat or under-raiyat when such superior landlord pays rents either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways.

Determination of fair and equitable rents of non-agricultural tenants

25. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the fair and equitable rent of all non-agricultural lands held by non-agricultural tenants other than a tenure-holder in accordance with the provisions of section 23 so far as they apply to non-agricultural lands:

Provided that when any such tenant holds any such land immediately under any person other than a proprietor or a tenure-holder, the Revenue-officer shall presume the existing rent payable by such tenant for such land to be

fair and equitable unless it exceeds by more than fifty per centum the fair and equitable rent payable in respect of such land by such person; and if it so exceeds, the Revenue-officer shall fix the rent of such land so held by such tenant at a rate not exceeding the rate of the fair and equitable rent payable for such land by such person by more than fifty per centum.

Enhancement and assessment of rent in certain cases

[21][25A. (1) When the rent of a taluk, tenure, holding or tenancy is less than the rent or revenue payable by the landlord of such taluk, tenure, holding or tenancy to his superior landlord or the Government, as the case may be, the rent of such taluk, tenure, holding or tenancy may be enhanced by the Revenue-officer to an amount not less than the rent or revenue payable by such landlord in respect of such taluk, tenure, holding or tenancy:

Provided that when any such taluk, tenure, holding or tenancy comprises a portion of the land of the parent estate, taluk, tenure, holding or tenancy, the Revenue-officer shall, in determining the amount of enhancement of the rent under this section, take into consideration the rents payable to such landlord for any lands and the rental value of any lands in the khas possession of such landlord included in the remaining portion of the land of the parent estate, taluk, tenure, holding or tenancy.]

(2) Where any land held by a tenure holder, a raiyat, an under-raiyat or a non-agricultural tenant is liable to be assessed to rent, but no rent has been assessed in respect thereof, the Revenue-officer shall determine the rent payable by such tenure holder according to the principle of section 7 of the Bengal Tenancy Act, 1885, and by such raiyat or under-raiyat or non-agricultural tenant according to the principle of section 26.

Assessment of rent for rent-free land

26. (1) Where any land is held by a raiyat or an under-raiyat free of rent the rent for such land shall be determined at a rate which the Revenue-officer may deem fair and equitable having regard to the rates of rent generally paid by the occupancy raiyats for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

(2) Where any non-agricultural land is held by a tenant free of rent, the rent for such land shall be determined in accordance with the provisions of section 23 so far as they apply to non-agricultural lands.

Creation of separate holdings or tenancies in certain cases

27. Where a rent-receiver other than a proprietor or tenure-holder holds only a portion of a holding or tenancy in his khas possession, such portion shall be constituted into a separate holding or tenancy and assessed to rent separately, and in making such assessment, the Revenue-officer shall have regard to the rent of the original holding or tenancy, the proportionate area and value of the new holding or tenancy and the provisions of this Chapter for the determination of fair and equitable rent of a holding or tenancy of that class.

Assessment of rents of service tenancies

28. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall fix, in respect of every land held within any area to which such record relates by a person who has been found on evidence produced before him to be entitled to hold such land free of rent in consideration of some service to be rendered, a rent at a rate which the Revenue-officer may deem fair and equitable having regard to the rates of rent generally paid by occupancy raiyats for lands of a similar description and with similar advantages in the same village or in the neighbouring villages and shall record such person in the record-of-rights as a raiyat:

Provided that nothing in this section shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

Effect of rents settled under this Chapter

29. (1) All rents determined under this Chapter and entered in the record-of-rights finally published under section 19, shall, subject to the provisions of section 53, be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act.

(2) No suit shall be brought in any Civil Court in respect of the determination of any rent to the determination of which the provisions of this Chapter apply

or in respect of the omission to determine any such rent.

Bar to jurisdiction of Civil Court

30. (1) After an order has been made under section 17 directing the preparation or revision of a record-of-rights in respect of any area, no Civil Court shall entertain any suit or application for the alteration of rent or determination of the status of any tenant or the incidents of any holding or tenancy in such area; and if any such suit or application relating to such area is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Explanation.- Suit in this sub-section includes an appeal.

(2) No suit shall be brought in any Civil Court in respect of any order directing the preparation or revision of record-of-rights under this Chapter or in respect of framing, publication, signing or attestation of such record or any part of it.

(3) No suit, appeal or proceeding in a Civil Court or High Court in respect of any land, nor any order passed in such suit, appeal or proceeding, shall operate as a bar in any way to the preparation or revision of record-of-rights or of Compensation Assessment-rolls in accordance with the provisions of this Act.

Preparation of Compensation Assessment roll on the basis of the existing-record-of-rights

31. (1) The Government may, instead of proceeding under section 17, by notification in the official Gazette , order that a Compensation Assessment-roll be prepared under Chapter V in respect of any particular district, part of a district or local area, on the basis of the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, or Chapter IX of the Sylhet Tenancy Act, 1936, without any revision or after revising or recording only such particulars in such record as may be specified in such notification.

(2) When an order is made under sub-section (1), the Revenue-officer shall revise or record such particulars, if any, in accordance with such rules as may be made in this behalf by the Government and settle fair and equitable

rents according to the principles laid down in sections 23, 24, 25, 25A, 26, 27 and 28, and shall then correct such record-of-rights so as to incorporate therein the particulars, if any, so revised or recorded and the fair and equitable rents so settled.

(3) A record-of-rights corrected under sub-section (2) shall be deemed to have been duly revised and finally published under this Chapter.

(4) When an order is made under sub-section (1) in respect of any area, sections 105, 105A and 106 of the Bengal Tenancy Act, 1885, or sections 121, 122 and 123 of the Sylhet Tenancy Act, 1936, as the case may be, shall cease to apply to such area, and applications, suits or proceedings under those sections, pending on the date of such order, shall not be further proceeded with and shall abate.

CHAPTER V

ASSESSMENT OF COMPENSATION AND ACQUISITION OF INTERESTS OF RENT-RECEIVERS AND OF CERTAIN OTHER INTERESTS

Interpretation

32. In this Chapter, a rent-receiver, proprietor or tenure-holder includes a rent-receiver, proprietor or tenure-holder, as the case may be, whose interests have been acquired under Chapter II.

Order for the preparation of a compensation Assessment-roll

33. As soon as may be after a record-of-rights in respect of any district, part of a district or local area has been prepared or revised and finally published under Chapter IV, the Revenue-officer shall prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of all rent-receivers within such district, part or area and the compensation to be paid in accordance with the provisions of this Act to all persons whose interests are acquired under this Chapter or under Chapter II, together with such other particulars as may be prescribed, shall be specified:

Provided that it shall not be necessary to prepare, under this Chapter, a Compensation Assessment-roll in respect of any property acquired under

Chapter II, in respect of which a Compensation Assessment-roll has been prepared under Chapter VA.

Separate treatment of proprietors, tenure-holders and other rent-receivers in assessment and payment of compensation

34. In preparing such Compensation Assessment-roll every proprietor, tenure-holder or other rent-receiver collecting rents in respect of any estate, tenure, holding or tenancy or part of any estate, tenure, holding or tenancy comprised within the area to which such roll relates shall, irrespective of whether he collects such rents separately or jointly with others, be treated separately for the purpose of assessment and payment of compensation under this Chapter:

Provided that in the case of a Hindu undivided family governed by the Mitakshara law, all rent-receivers included in such family shall be treated jointly for such purpose:

Provided further that when more than one proprietor, tenure-holder or other rent-receiver jointly hold rent-receiving interests and the total net income of such interests does not exceed five hundred rupees, such proprietors, tenure-holders or other rent-receivers may be treated jointly for the purpose of assessment of compensation under this Chapter.

Calculation of gross assets and net income of rent-receivers

35. (1) For the purpose of preparation of the Compensation Assessment-roll under this Chapter-

(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants-

(i) in the case of the interests acquired under Chapter II for the agricultural year immediately preceding the notified date, and

(ii) in other cases, for the agricultural year immediately preceding that in which the record-of-rights is finally published under Chapter IV,

and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under

Chapter IV for such of his khas lands as he retains possession of under section 20:

Provided that in the case of a tenure-holder or a raiyat or an under-raiyat or a non-agricultural tenant referred to in section 24, 25, 25A, 27 and 28, the rent fixed or determined for any land under the provisions of the said sections and entered in the record-of-rights finally published under Chapter IV shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such tenure-holder or raiyat or under-raiyat or non-agricultural tenant to his immediately superior landlord;

(b) the net income of a rent-receiver shall be computed by deducting from his gross assets the following :-

(i) the sums which were or are calculated as payable by such rent-receiver for such year as land revenue or rent and cesses to the Government or to his immediate landlord, as the case may be, in respect of the lands to which the gross assets relate;

(ii) the sum which was or is calculated as payable by such rent-receiver in respect of such assets for such year as tax under the Bengal Agricultural Income Tax Act, 1944;

(iii) the sum which was or is calculated as payable by such rent-receiver in respect of his income from non-agricultural lands included in such assets for such year as tax under the Income Tax Act, 1922;

(iv) the average annual expenditure, if any, incurred by such rent-receiver on account of maintenance of any irrigation or protective works in such lands; and

(v) collection charges not exceeding twenty per centum of the gross assets.

(2) In calculating the sums referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) or determining the expenditure and charges referred to

in sub-clauses (iv) and (v) of the said clause, the Revenue-officer shall be guided by such rules as may be made in this behalf by the Government.

Net income of a recusant proprietor

36. Notwithstanding anything contained in section 35, in the case of a recusant proprietor of a temporarily settled private estate, the malikana payable to such proprietor in the agricultural year referred to in sub-clause (i) or sub-clause (ii) of clause (a) of sub-section (1) of section 35, as the case may be, shall be deemed to be the net income of such proprietor computed under section 35.

Net income of a recipient of Sair Compensation allowance

[22][36A. Notwithstanding anything contained in section 35, in the case of a recipient of Sair Compensation allowance, which was granted to holders of land as compensation on account of abolition of duties and taxes levied by them on land in the markets, the amount of Sair Compensation allowance payable annually to such recipient shall be deemed to be the net income of such recipient computed under section 35.]

Rates of compensation for rent-receiving interests

37. After the net income has been computed under sections 35 and 36, the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers shall be determined as follows:-

(1) In the case where the rent-receiver is a proprietor of an estate, a holder of a permanent tenure or tenancy or a raiyat or an under-raiyat, the compensation payable in respect of the acquisition of the interests of such rent-receiver shall be determined on the basis of his total net income from rent-receiving interests in the Province in accordance with the following table, namely:-

Amount of the total net income in the Province	**Rate of compensation payable**

(a) Where the net income so computed does not exceed Rs. 500.	Ten times such net income.
(b) Where the net income so computed exceeds Rs. 500 but does not exceed Rs. 2,000.	Eight times such net income or the maximum amount under item (a) above increased by the excess of the net income over the maximum net income under item (a) above, whichever is greater.
(c) Where the net income exceeds Rs. 2,000 but does not exceed Rs. 5,000.	Seven times such net income or the maximum amount under item (b) above increased by the excess of the net income over the maximum net income under item (b) above whichever is greater.
(d) Where the net income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Six times such net income or the maximum amount under item (c) above increased by the excess of the net income over the maximum net income under item (c) above, whichever is greater.
(e) Where the net income exceeds Rs.10,000 but does not exceed Rs. 25,000.	Five times such net income or the maximum amount under item (d) above increased by the excess of the net income over the maximum net income under item (d) above, whichever is greater.
(f) Where the net income exceeds Rs. 25,000 but does not exceed Rs. 50,000.	Four times such net income or the maximum amount under item (e) above increased by the excess of the net income over the maximum net income under item (e) above, whichever is greater.

(g) Where the net income exceeds Rs. 50,000 but does not exceed Rs.1,00,000.	Three times such net income or the maximum amount under item (f) above increased by the excess of the net income over the maximum net income under item (f) above, whichever is greater.
(h) Where the net income exceeds Rs. 1,00,000.	Two times such net income or the maximum amount under item (g) above increased by the excess of the net income over the maximum net income under item (g) above, whichever is greater.
(2) In the case where the rent-receiver is the holder of a temporary tenure or of any other tenancy of a temporary duration, the compensation payable to such rent-receiver in respect of the acquisition of the interest of such rent-receiver shall be paid out of the compensation payable under this Chapter to the immediately superior landlord of such rent-receiver for the acquisition of the interests of such superior	
landlord; and the Revenue-officer shall apportion the compensation between the holder of such temporary tenure or tenancy and his immediately superior landlord subject to rules made under this Act; and in making the apportionment the Revenue-officer shall take into consideration the unexpired period of the temporary tenure or tenancy; and	
(3) In the case where the net income or any portion of the net income in respect of any estate, tenure, holding or tenancy wholly or partly held under *wakf, wakf-al-al-aulad, debutter* or any other trust or legal obligation has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual, the compensation payable for the acquisition of the interests of any rent-receiver in respect of the net income or the portion of the net income so dedicated and applied shall, instead of being assessed under clause (1) be assessed in the prescribed manner as a perpetual annuity equal to such net income or portion of the net income, as the case may be.	

Preparation of Compensation Assessment-roll in respect of a rent-

38. If a rent-receiver holds rent-receiving interests in more than one area, the amount of compensation payable for the acquisition of such interests shall be calculated and the Compensation Assessment-rolls in respect of such

receiver having interests in more than one area

interests shall be prepared in accordance with such rules as may be made in this behalf by the Government.

Rates of compensation for khas lands

39. (1) Compensation to be payable to a rent-receiver, a cultivating raiyat, a cultivating under-raiyat or a non-agricultural tenant, in respect of the acquisition of lands in his khas possession which he is not entitled to retain under section 20, shall be determined in accordance with the following table:-

Class of lands	**Rate of compensation payable**
(a) For lands used for agricultural or horticultural purposes including tanks.	Five times the net annual profit from such lands.
(b) For lands on which *hats* or *bazars* are held.	Five times the net annual profit from such *hats* or *bazars*.
(c) For lands which are cultivable or which are capable of cultivation on reclamation-	
(i) Lands bearing any profit.	Five times the net annual profit from such lands or ten times the annual *raiyati,* rent for an equal area of cultivated land in the neighbourhood which the Revenue-officer may select as appropriate for the purpose, whichever is greater.
(ii) Lands not bearing any profit.	Rs. ten per acre.
[23][(d) For lands consisting of fisheries or forests or lands used for a ferry.	Five times the net annual profit from such lands.

(d1) For lands which consist of jungles or water courses or marshy tracts not being fisheries and sandy *chars* or other uncultivable lands other than lands, such as roads, pathways, common burial or cremation ground, rivers, *khals* and water courses, which the public may use by natural or customary right or right of easement.	Five times the net annual profit from such lands.]
(e) For vacant non-agricultural lands.	Five times the annual letting value of the lands to be determined in the prescribed manner.
(f) For lands with buildings-	
(i) lands	Five times the annual letting value of the land to be determined in the prescribed manner.
(ii) buildings	The actual cost of construction less depreciation both to be determined in the prescribed manner.

[24][(1a) Notwithstanding anything contained in sub-section (1), the compensation payable for the acquisition of any *khas* land held under *wakf, wakf-al-al-aulad, debutter* or any other trust on which any *hat* or *bazar* is held or which consists of any forest or fishery or which is used for a ferry and which is exclusively dedicated, and the income from which is exclusively applied to religious or charitable purposes without reservation of pecuniary benefit for any individual, shall, instead of being determined in accordance with the table in that sub-section, be assessed as a perpetual annuity equal to such annual average of the income so applied as may be determined in the prescribed manner but not exceeding the net annual profit from such land as may be determined in accordance with the provisions of this section :

Provided that where, under any *wakf,wakf-al-al-aulad*, *debutter* or any other trust, the income from any such land is partly dedicated for religious or charitable purposes and partly reserved for the pecuniary benefit of any individual, only such portion of the land, as may be selected in accordance with the rules to be made in this behalf by the Government, shall come within the purview of this sub-section.]

(2) Any dispute regarding classification of lands for the purposes of sub-sections (1) and (1a) shall be referred to the prescribed Revenue Authority whose decision thereon shall be final.

(3) For the purpose of items (a) and (c) and of sub-section (1), the net annual profit from land shall be determined in the following manner:-

(a) the gross value of the annual produce of the land shall be calculated first by multiplying the normal annual produce of the land, determined in the prescribed manner, by the average price of each kind of produce during the 10 years immediately preceding the year in which the assessment-roll is prepared;

(b) the net annual profit shall be computed by deducting from the gross value of the annual produce of the land, the following:-

(i) the sum determined in the prescribed manner as the cost of cultivation which shall not exceed fifty *per centum* of the gross value of the annual produce of the land;

(ii) the sum which is calculated as payable by the rent-receiver or cultivating *raiyat* or cultivating under-*raiyat* or non-agricultural tenant annually as land revenue or rent and cesses in respect to the land;

(iii) the sum which was or is calculated as payable by such rent-receiver or cultivating *raiyat* or cultivating under-*raiyat* in respect of the income from such lands as taxes under the Bengal Agricultural Income-tax Act, 1944; and

(iv) the sum which was or is calculated as payable by such a rent-receiver or non-agricultural tenant in respect of the income from the lands as taxes under the Income-tax Act, 1922.

(4) For the purposes of items (b), (d) and (d1) of sub-section (1), the net annual profit shall mean the net annual profit as determined by the Revenue-officer in accordance with the rules made in this behalf by the Government.

(5) Where the land, held by a cultivating *raiyat* or a cultivating under-*raiyat* or a non-agricultural tenant, for which compensation is payable under sub-section (1), is subject to a mortgage, the compensation payable under the said sub-section to such cultivating *raiyat* or cultivating under-*raiyat* or non-agricultural tenant shall be apportioned between such *raiyat* or under-*raiyat* or tenant and his mortgagee; and the Revenue-officer shall apportion such compensation in accordance with rules made in this behalf under this Act; and in making the apportionment the Revenue-officer shall, in the case where the mortgage is an usufructuary mortgage, take into consideration the unexpired period of such mortgage.

Preliminary publication of Compensation Assessment-roll

40. (1) After the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers and of the acquisition of the khas lands of rent-receivers, cultivating raiyats, cultivating under-raiyats and non-agricultural tenants, which are to be acquired under this Chapter or have been acquired under Chapter II, has been determined in accordance with the provisions of sections 37, 38 and 39, the Revenue-officer shall prepare the Compensation Assessment-roll under section 33; and when such roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period which shall not be less than thirty days and shall receive and consider any objection which may be made to any entry therein or to any omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Government may make in this behalf:

Provided that no objection shall be made under this section-

(i) by any person who does not claim any title to any compensation entered in the draft Compensation Assessment-roll, or

(ii) to the amount of any rent entered in such roll which has been determined under section 5 or under Chapter IV or under sub-section (2) or section 46A.

(2) Separate draft Compensation Assessment-rolls may be prepared and published under sub-section (1) for different villages or groups of villages in the district, part of a district or local area or for one or more persons having interests in different areas in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV.

Appeal to superior Revenue Authority

41. An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer under sub-section (1) of section 40 to the prescribed superior Revenue Authority; and such superior Revenue Authority shall consider and dispose of

such appeals in accordance with rules made in this behalf by the Government.

Final publication of the Compensation Assessment-roll

42. When all such objections and appeals have been disposed of, the Revenue-officer shall make such alterations in the draft Compensation Assessment-roll as may be necessary to give effect to any orders passed on objections made under sub-section (1) of section 40 or on appeals preferred under section 41 and shall cause the said roll as so altered to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the Compensation Assessment-roll has been duly made under this Chapter, and every entry in the Compensation Assessment-roll so finally published shall, except as hereinafter provided, be final and conclusive evidence of the matter referred to in such entry and also of the nature of the interests of the rent-receivers, the true area of the land and the apportionment of the compensation among the persons claiming interest therein.

Certificate and presumption as to final publication of Compensation Assessment-roll

43. (1) When a Compensation Assessment-roll has been finally published under section 42, the Revenue-officer shall, within such time as the Commissioner may, by general or special order require, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.

(2) After the final publication under section 42 of the Compensation Assessment-roll in respect of any village or group of villages or local area, the Government shall also by notification declare that a Compensation Assessment-roll has been finally published for such village or group of villages or local area, as the case may be, specifying in such notification the date of such final publication; and such notification shall be conclusive proof of such publication and of the date thereof.

Acquisition and vetting

of the interest of proprietors, tenure-holders and other rent-receivers and of certain khas lands in the Government and the consequences thereof

44. Notwithstanding anything contained in any other law for the time being in force or in Chapter II of this Act or in any contract, but subject to the provisions of clauses (a), (b), (c) and (d) of sub-section (4) of section 3 and sub-section (3) of section 46E, on the publication of a notification in the official Gazette under sub-section (2) of section 43, declaring that a Compensation Assessment-roll has been finally published, the following consequences shall ensue, namely:-

(1) all the interests of all the proprietors in their respective estates, of all the tenure-holders in their respective tenures and of all other rent-receivers in the holdings or tenancies respectively let out by such rent-receivers within the area to which such roll relates or in such parts of such estates, tenures or holdings, or tenancies, as the case may be, as are within such area including the interests of all such proprietors, tenure-holders and other rent-receivers in all lands comprised in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area which are in the khas possession of such proprietors, tenure-holders and other rent-receivers and the interests of all such rent-receivers in all sub-soil including any rights to minerals in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area other than the interests which have already been acquired under Chapter II or sub-section (3) of section 46E shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the official Gazette , be deemed to have been acquired by the Government and vest absolutely in the Government free from all encumbrances but subject to the right of such proprietors, tenure-holders and other rent-receivers specified in clause (2);

(2) each proprietor, tenure-holder and other rent-receiver, whose interests in any estate, tenure or holding or tenancy or in any part of any estate, tenure or holding or tenancy, as the case may be, within the area to which such roll relates, are acquired under this Act, shall, with effect from the first day of the

agricultural year next following the date of publication of such notification in the official Gazette , be entitled to retain possession of an hold, subject to the provisions of this Act, as a tenant directly under the Government all lands of which he is entitled to retain possession under Chapter IV and, be liable to pay rent for such lands to the Government ;

(3) the interests of all cultivating raiyats, cultivating under-raiyats and non-agricultural tenants in all lands held by such raiyats, under-raiyats and non-agricultural tenants within the area to which such roll relates in excess of the lands of which such raiyats, under-raiyats or non-agricultural tenants are entitled to retain possession under Chapter IV, including the interests in the sub-soil of all lands so held in excess and all rights to minerals therein other than the interests which have already been acquired under any other provision of this Act shall, with effect from the first day of the agricultural year next following the date of publication of such notification on the official Gazette , be deemed to have been acquired by the Government and vest absolutely in the Government free from all encumbrances;

(4) all cultivating raiyats, cultivating under-raiyats and other tenants holding lands, within the area to which such roll relates, immediately before the first day of the agricultural year next following the date of such publication of such notification, shall, with effect from the first day of the said agricultural year, if they have not already become tenants directly under the Government under any other provision of this Act, become tenants directly under the Government and shall have the right to continue to hold, subject to the provisions of this Act, as tenants under the Government such of those lands as have not vested in the Government under item (3) or under any other provision of this Act and shall be liable to pay rent to the Government in respect of the lands so continued to be held;

(5) all arrears of revenue and all cesses together with interest, if any, payable therein other than the arrears, cesses and interest referred to in clause (b) of sub-section (4) of section 3, remaining lawfully due on the first day of the

agricultural year next following the date of such publication of such notification in respect of any estate within the area to which such roll relates shall, after the first day of the said agricultural year, continue to be recoverable from the outgoing proprietor by whom they were payable, and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears and cesses and interest from the compensation money payable to such proprietor under this Act, when so ordered by the Collector;

(6) all amounts, recoverable by the Government from a rent-receiver under the Bengal Embankment Act, 1882 or the East Bengal Embankment and Drainage Act, 1952, which remain outstanding on the first day of the agricultural year next following the date of such publication of such notification and are not already covered by clause (d) of sub-section (4) of section 3, whether on account of arrear dues or dues under future instalments under the Bengal Embankment Act, 1882 or the East Bengal Embankment and Drainage Act, 1952, shall, without prejudice to any other mode of recovery, be recoverable by deduction of the amount of such arrear and future instalments from the compensation money payable to such rent-receiver in respect of the interests of lands to which such outstanding amounts relate, when so ordered by the Collector;

[25][(6a) all arrears of agricultural income-tax recoverable by the Government from a person under the Bengal Agricultural Income-tax Act, 1944, which remain outstanding on the first day of the agricultural year next following the date of such publication of such notification and are not already covered by clause (dd) of sub-section (4) of section 3, shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrears from the compensation money payable to such person under section 58 in respect of the interests or lands to which such outstanding amounts relate, when so ordered by the Collector;]

(7) all arrears of rent and all cesses, together with interest, if any, due thereon, in respect of any period previous to the first day of the agricultural year next following the date of such publication of such notification, which have accrued due in respect of any tenure, holding or land to which such roll relates, and which have not been barred by limitation or have not already vested in the Government under clause (c) of sub-section (4) of section 3, shall, on and from the first day of the said agricultural year, vest in and be recoverable by the Government and shall, without prejudice to any other mode of recovery, be recoverable from the persons by whom they were payable by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;

(8) with effect from the first day of the agricultural year next following the date of such publication of such notification, the ad interim payments under section 6, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of ad interim payments made under sub-section (1) or (2) or (4a) of the said section in respect of any such interests or lands, less an amount calculated at the rate of three per centum per annum on the amount of compensation assessed for such interests or lands in such roll from the date from which ad interim payments for such interests or lands became payable under that section till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation.

Proclamation by the Revenue-officer

45. As soon as may be after the publication of a notification in the official Gazette under sub-section (2) of section 43, the Revenue-officer shall cause to be published, in the prescribed manner, in the area to which the Compensation Assessment-roll in respect of which such notification is published relates, a proclamation in the local vernacular-

(a) explaining the consequences which as provided in section 44 have ensued on such publication of such notification, and

(b) directing all persons in such area, who will become tenants under the Government with effect from the first day of the agricultural year next following the date of such publication of such notification, to pay rent to the Government and not to any body else.

Printing and distribution of record-of-rights

46. (1) After the Compensation Assessment-roll or Compensation Assessment-rolls in respect of all estates, tenures, and interest of rent-receivers in holdings or tenancies comprised within a district, part of a district or local area, in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV, has or have been published, such record-of-rights shall be modified by eliminating therefrom the entire chain of interests of rent-receivers and showing therein only the tenant who will come directly under the Government as a result of the acquisition of such interests; and one or more numbers to be borne on the Revenue-roll of the district shall be assigned by the Collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the Government may make in this behalf; and the record-of-rights so modified shall be reprinted.

(2) Copies of the record-of-rights so reprinted shall be distributed free of cost to the tenants of the areas to which such record-of-rights relates in such manner as may be prescribed.

CHAPTER VA

SPECIAL PROVISIONS FOR PREPARATION OF COMPENSATION ASSESSMENT-ROLLS IN RESPECT OF PROPERTIES ACQUIRED UNDER CHAPTER II

Preparation of Compensation Assessment-roll in

46A. (1) The Government may, instead of proceeding under section 17 or section 31, by notification in the official Gazette, order that a Compensation Assessment-roll be prepared in respect of the properties

special cases

of any rent-receiver acquired under section 3 on the basis of the returns, papers and documents furnished or taken possession of under sections 3A and 4.

(2) When an order is made under sub-section (1), the Revenue-officer shall verify such returns, papers and documents in the prescribed manner and make such corrections therein as may be necessary, and settle fair and equitable rents of all tenants immediately subordinate to such rent-receiver according to the principles laid down in sections 24, 25, 25A, 26 and 28.

(3) The Revenue-officer shall, after taking action under sub-section (2) prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of such rent-receiver and the Compensation to be paid to him in accordance with the provisions of this Act, together with such other particulars as may be prescribed, shall be specified.

Bar to jurisdiction of Civil Court

46B. After an order has been made under section 46A, no Civil Court shall entertain any suit or application for the alteration or determination of rent of any land for which fair and equitable rent is required to be settled under sub-section (2) of that section; and if any such suit or application is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Application of the provisions of sections 34 to 43 in the preparation of Compensation

46C. In the matter of preparation and publication of a Compensation Assessment-roll under this Chapter,-

(a) the provisions of sections 34, 38 and 40 to 43 shall apply so far as they are applicable;

(b) the provisions of sections 37 and 39 shall apply in whole; and

Assessment-roll under Chapter VA

(c) the provisions of section 35 shall apply subject to the following amendment, namely:-

for clause (a) of sub-section (1) of section 35, the following clause shall be deemed to have been substituted, namely:-

"(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rent and cesses which were payable to such rent-receiver by his immediately subordinate tenants for the agricultural year immediately preceding the notified date, and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under section 5 for such of his khas lands in that estate or tenure as he chooses to retain possession of under section 20:

Provided that in the case of a tenure holder or a raiyat or an under-raiyat or a non-agricultural tenant, the rent determined for any land, under sub-section (2) of section 46A, according to the principles of sections 24, 25, 25A and 28, shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such raiyat, under-raiyat or non-agricultural tenant to his immediately superior landlord;".

Net income of a recusant proprietor under Chapter VA

46D. Notwithstanding anything contained in clause (c) of section 46C, in the case of a recusant proprietor of a temporarily settled private estate, the malikana payable to such proprietor in the agricultural year immediately preceding the notified date shall be deemed to be the net income of such proprietor computed under the said clause.

Consequences of final publication of Compensation Assessment-

46E. Notwithstanding anything contained in Chapter II, on the publication of a notification under sub-section (2) of section 43, declaring that a Compensation Assessment-roll prepared under this Chapter, has been finally published,-

roll under Chapter VA

(1) all tenants who became tenants directly under the Government under clause (e) of sub-section (4) of section 3 shall, with effect from the first day of the agricultural year next following the date of publication of such notification, pay to the Government rent for the lands held by them at the rates determined under this Chapter;

(2) with effect from the first day of the agricultural year next following the date of such publication of such notification, the ad interim payments under section 6 or section 6A, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of ad interim payments made under sub-section (1) or (2) or 4a of section 6 in respect of any such interests or lands, less an amount calculated at the rate of three per centum per annum on the amount of compensation assessed for such interests or lands in such roll from the date from which such ad interim payments for such interests or lands became payable under section 6 till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation;

(3) with effect from the first day of the Agricultural year next following the date of such publication of such notification, the interest of a rent-receiver in all lands in his khas possession of which he is not entitled to retain possession under section 20 and for which compensation has been assessed in such Compensation Assessment-roll shall, if not already acquired under sub-section (2) of section 3, be deemed to have been acquired by the Government and vest absolutely in the Government free from all encumbrances.]

[26]CHAPTER VI

AUTHORITIES FOR THE PREPARATION OF COMPENSATION ASSESSMENT-ROLL

Revenue and Judicial authorities

47. There shall be the following authorities for the purposes of this part of this Act :-

(a) the Commissioner of State Purchase;

(b) the Director of Land Records and Surveys;

(c) Settlement Officers and Assistant Settlement Officers;

(d) Other Revenue Officers;

(e) Special Judges.

Appointments and powers

48. (1) The Commissioner of State Purchase shall be appointed by the Government.

(2) The Commissioner of State Purchase shall, in respect of the whole of Bangladesh, exercise the powers conferred and perform the duties imposed on him by this Act and by such rules as may be made under this Act. He shall also exercise general powers of superintendents and control over the Director of Land Records and Surveys and through him over all other officers subordinate to him.

(3) The Director of Land Records and Surveys shall exercise such powers and perform such duties of a Revenue-officer under this Act or any rules made thereunder as may be conferred or imposed on him.

(4) The Government may appoint one or more persons who has or have exercised the powers of a District Judge or a Subordinate Judge to be a Special Judge or Special Judges for the purposes of hearing appeals which may be preferred to him or them under the provisions of this Act and of inquiring into disputes as to the title to receive any compensation under a Compensation Assessment-roll finally published under section 42 or as to the apportionment of any compensation referred to him under section 60.

CHAPTER VII

REVISION OF THE COMPENSATION ASSESSMENT-ROLL AND THE DECISION OF DISPUTES WITH REGARD TO COMPENSATION

Revision of Compensation Assessment-roll

49. The Commissioner, or any officer not inferior in rank to that of a Joint Deputy Commissioner of a district empowered in this behalf by the Commissioner, or a Settlement Officer so empowered, may, on application, direct the revision of any Compensation Assessment-roll or any portion of such roll and any record-of-rights or any portion of record-of-rights on the basis of which such roll has been prepared, at any time during the preparation of such roll and may direct such revision on an application made within three months from the date of final publication of such roll and may also, of his own motion, direct such revision at any time before payment of compensation, but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under sub-section (4) of section 52 or under section 53:

Provided that no such direction shall be issued unless not less than fifteen days' notice has been given to the parties concerned to appear and be heard in the matter.

Correction by Revenue-Officers of bona fide mistakes

50. A Revenue-officer may, on application or of his own motion at any time before payment of compensation in accordance with a Compensation Assessment-roll under section 58, correct any entry in the record-of-rights prepared or revised and finally published under Chapter IV in respect of any area to which such Compensation Assessment-roll relates, or any entry in such Compensation Assessment-roll, if he is satisfied that such entry has been made owing to a bona fide mistake or correction such entry is necessary as a result of succession to or transfer of the interest of a rent-receiver, cultivating raiyat, cultivating under-raiyat or non-agricultural tenant:

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 51 or section 53 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Appeal to the Special Judge

51. (1) Any person, aggrieved by an order of the superior Revenue Authority under section 41 or of the Commissioner or other officer under section 49 may present an appeal against such order within sixty days from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates or of the order appealed against, whichever is later, to the Special Judge appointed under sub-section (4) of section 48.

(2) When a Revenue-officer refers under section 60 to any Special Judge any dispute which has arisen as to the title of any person to receive any compensation payable under the Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, such Special Judge shall inquire into such dispute and decide the same; and such decision shall, subject to the provisions of section 52, be final.

Statement of case by Special Judge to the High Court

52. (1) Any party aggrieved by an order of the Special Judge may, within sixty days from the date of such order by application in the prescribed form accompanied, when the application is made by any party other than the Government, by a fee of fifty rupees, require the Special Judge to refer to the High Court any question of law arising out of such order; and the Special Judge shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that, if in the exercise of the powers under sub-section (2) the Special Judge refuses to state a case which he has been required by any party other than the Government to state, such party may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw the application; and if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Special Judge refuses to state the case on the ground that no question of law arises, the party who made such application may, within sixty days from the date on which such party is served with notice of the refusal, apply to the High Court; and the High Court may, if it is not satisfied of the correctness of the decision

of the Special Judge, require the Special Judge to state the case and to refer it; and on receipt of any such requisition the Special Judge shall state the case and refer it accordingly.

(3) If the High Court is not satisfied that the statement in a case referred under this section are sufficient to enable it to determine the question raised thereby, the High Court may refer the case back to the Special Judge to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(4) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its Judgement thereon containing the grounds on which such decision is founded, and shall send a copy of such judgement under the seal of the Court and the signature of the Registrar to the Special Judge who shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(5) When a reference is made to the High Court, the cost shall be in the discretion of the Court.

Appeal to the Special Judge

53. Any person aggrieved by an order of the Revenue Authority under sub-section (2) of section 19 passed on appeal filed in respect of the determination of rent or recording of possession of any land, or by entry made in a record-of-rights under sub-section (2) of section 31 relating to the determination of rent or recording of possession of any land or by an order settling fair and equitable rent of any land under sub-section (2) of section 46A, may present an appeal against such order or entry, within three months from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates, to the Special Judge appointed under sub-section (4) of section 48. The decision of the Special Judge on such an appeal shall, notwithstanding anything contained in section 52, be final.

Correction of the Compensation Assessment-roll

54. The Revenue-officer shall make such alterations in the records-of-rights or the Compensation Assessment-roll as may be necessary to give effect to any directions issued by the Commissioner or other officer under section 49 or an order made by a Special Judge under section 51 or section 53 or under sub-section (4) of section 52 or to any final order or decree of a Civil Court or High Court passed in any suit, appeal or proceeding declaring title to and, or possession of any land.

Application of the Civil Procedure Code to appeals before and inquiries by a Special Judge

55. The provisions of the Code of Civil Procedure, 1908, shall as far as may be, apply to all appeals presented to a Special Judge under sub-section (1) of section 51 or under section 53 and to all inquiries held by him under sub-section (2) of section 51.

Bar to raising of certain issues

56. No party to a suit, appeal or proceeding in a Civil Court or High Court in respect of any land shall, notwithstanding anything elsewhere contained in this Act, be entitled to raise before a Revenue-officer, Revenue Authority, Special Judge or the Commissioner or any other officer under section 19, 40, 41, 49, 51, 53 or 60 any issue in respect of such land, which is substantially in issue in such suit, appeal or proceeding.

CHAPTER VIII

PAYMENT OF COMPENSATION

Limits of and amount payable as compensation

57. (1) Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment-roll as finally modified under section 54, no rent-receiver shall be entitled to receive on account of compensation for the acquisition of his rent-receiving interests any amount in excess of the amount calculated on his total net income from all his rent-receiving interests in all estates, tenures, holdings and tenancies held by him within the Province at the rate applicable to such net income under section 37.

(2) When a rent-receiver holds rent-receiving interests in different areas, the Revenue-officer shall, before making payment under section 58 of the compensation payable to him under a Compensation Assessment-roll as finally modified under section 54 for the acquisition of his rent-receiving interests in any such area, ascertain in the prescribed manner if any amount has been paid to such rent-receiver on account of compensation for the acquisition of his rent-receiving interests in any other area or areas in excess of the amount admissible under sub-section (1) and, if any such excess payment is found to have been made, deduct the amount of such excess from the amount of the compensation payable to him under such roll for the acquisition of such interests:

Provided that no such deduction shall be made until a reasonable notice has been given to the rent-receiver to appear and be heard in the matter:

Provided further that an appeal, if presented within thirty days from the date of the order making such deduction shall lie against such order to the prescribed superior Revenue Authority whose order thereon shall be final.

(3) When any amount is deducted under sub-section (2) from the amount of any compensation payable to a rent-receiver under a Compensation Assessment-roll for the acquisition of his rent-receiving interests, the balance, if any, remaining after such deduction shall, for the purpose of section 58, be deemed to be the compensation payable to such rent-receiver in respect of such interests in the terms of the said roll.

Manner of payment of compensation

58. (1) When the time within which appeals under section 51 or under section 53 may be made in respect of any entry in or omission from a Compensation Assessment-roll has expired and, where any such appeal has been made under section 51, the time within which a reference may be made to the High Court under section 52 with regard to any order made by the Special Judge in relation to such appeal has also expired and all references made under section 52 in relation to all such appeals have been disposed of

and all orders under sub-section (4) of that section arising out of such references have been passed and, where any appeal has been made under section 53, such appeal has been disposed of, the Revenue-officer shall proceed to make payment to the proprietors, tenure-holders and other rent-receivers, and to any groups of proprietors, tenure-holders or other rent-receivers and to the cultivating raiyats, cultivating under-raiyats and other persons, who are shown in such Compensation Assessment-roll as finally modified under section 54 to be entitled to compensation, of the compensation payable to them in the terms of the said roll after deducting from the amount of any compensation so payable any amount which has been ordered by the Collector to be so deducted under clause (b), (c), (d) or (dd) of sub-section (4) of section 3 or clause (5), (6), (6a) or (7) of section 44 and also any amount to be deducted from such compensation under clause (8) of section 44 or clause (2) of section 46E or section 76B and any amount recoverable from such compensation under Chapter X:

Provided that if a rent-receiver applied for scaling down his debts under Chapter X of this Act, only half of the total amount of compensation payable to him under a Compensation Assessment-roll, less any amount to be deducted under clause (b), (c), (d) or (dd) of sub-section (4) of section 3 or clause (5), (6), (6a), (7) or (8) of section 44 or clause (2) of section 46E or section 76B, shall be paid to him and the payment of the other half shall be withheld until such application is disposed of and all debts recoverable from compensation money under that Chapter are recovered in accordance with the provisions of sub-section (7) of section 71:

Provided further that no compensation payable to any person under a Compensation Assessment-roll for any land with building shall be paid till the Government takes khas possession of such land and building.

(2) The amount of compensation so payable shall be paid in cash or in bonds or partly in cash and partly in bonds. The bonds shall be non-negotiable and payable in not more than forty annual instalments to the person named

therein or his successor-in-interest and shall carry interest at three per centum per annum with effect from the date of issue.

(3) If any person, entitled to receive such compensation in respect of any estate, tenure or holding or part thereof or any land, had no power to alienate such estate, tenure, holding, part or land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Revenue-officer shall keep the amount of compensation, or the bonds in which it is to be paid, in deposit with the Collector of the district:

Provided that nothing herein contained shall effect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

(4) Notwithstanding anything contained in sub-sections (2) and (3), an annuity referred to in clause (3) of section 37 or sub-section (1a) of section 39 shall be paid to the Commissioner of Wakfs in the case of a wakf or wakf-al-al-aulad and to a trustee to be appointed in this behalf by the Government in any other case.

(5) If any compensation is paid to a person in excess of the amount admissible to him under sub-section (1) or if a person receives any compensation to which he is not legally entitled, the Collector may require such person to refund the amount within a period fixed. On the failure of such person to do so, the amount shall be treated as a “public demand” and shall be recovered from such person as a public demand under Article 4(i) of Schedule I of the Bengal Public Demands Recovery Act, 1913:

Provided that nothing herein contained shall affect the criminal liability of the person concerned.

Money or bonds deposited in respect of estates, tenures,

59. (1) If the amount of any compensation paid in bonds or in cash is deposited with the Collector of the district under sub-section (3) of section 58 and it appears to the Collector that the estate, tenure or holding or part thereof or any land in respect of which such amount has been awarded as

holdings or lands belonging to persons incompetent to alienate

compensation was held by any person who had no power to alienate the same, the Collector shall, where the amount is deposited in cash, order such amount to be invested in the purchase of such Government or other approved securities as the Collector thinks fit and shall direct the payment of the interest of such bonds or interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the interest in such estate, tenure, holding or part thereof or other land, as the case may be, if such interest had not vested in the Government under section 3 or section 44, and such bonds or securities shall remain so deposited until-

(a) they are made over to any person or persons becoming absolutely entitled thereto; or

(b) they are mature.

(2) If, when such bonds or securities are mature, there is no person or persons absolutely entitled thereto, the Collector shall direct the investment of the proceeds of such bonds or securities in the purchase of such Government or other approved securities as the Collector thinks fit; and the provisions of sub-section (1) shall apply to such investment and to the interest and other proceeds arising from such investment as they apply to the investment made under sub-section (1) of the amount of compensation deposited in cash with the Collector under sub-section (3) of section 58 and the interest and other proceeds arising out of such investment.

(3) In all cases of moneys, bonds and other securities deposited to which this section applies, the Collector of the district shall order the costs of the following matters including therein all reasonable charges and expenses incidental thereto, to be paid by the Government, namely:-

(a) the cost of such investments as aforesaid;

(b) the cost of the orders for the payment of the interest or other proceeds of securities upon which such moneys are for the time being invested or of such

bonds or other securities, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

(4) When any annuity is paid as compensation under sub-section (4) of section 58 to the Commissioner of Wakfs, the Commissioner of Wakfs shall pay the same to the Mutawalli or other person or persons who would for the time being have been entitled to the possession of the wakf property in respect of which such compensation has been awarded; and when any amount is paid as compensation under the said sub-section to a trustee appointed in this behalf by the Government, such trustee shall pay the same to the sebait or other person or persons who would for the time being have been entitled to the possession of the trust property in respect of which such Compensation has been awarded; and all costs for the payment of every such annuity under this sub-section shall be paid by the Government:

Provided that the Commissioner of Wakfs or the Trustee may withhold the payment of the whole or any portion of such annuity until he is satisfied that amount of annuity paid in the preceding year under sub-section (4) of this section has been spent for the purpose for which such amount was paid.

Dispute as to title or apportionment

60. If any dispute arises as to the title of any person to receive any compensation payable under a Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, the Revenue-officer may refer such dispute to the Special Judge appointment under sub-section (4) of section 48 to enquire into such disputes for decision.

Certain sections not applicable to future acquisition

[27][60A. The provisions of clause (c) of sub-section (4) of section 3, clause (7) of section 44 and sections 61 to 68 shall not apply in the case of acquisition of rent-receiving interests on or after the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.]

CHAPTER IX

PROVISIONS RELATING TO ARREARS OF REVENUE, RENT AND CESSES

Definition of arrears

61. For the purpose of clause (c) of sub-section (4) of section 3 or clause (7) of section 44, the expression “arrears” shall include the arrears in respect of which suits were pending on the date or day, as the case may be, referred to in the said clauses or in respect of which decrees, whether having the effect of a rent-decree or money-decree, were obtained before the said date or day and have not been satisfied and are not barred by limitation and shall also include the costs allowed by such decrees.

Payment and realisation of arrears

62. (1) All arrears of rent and all cesses and interest, which have vested in the Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44, shall be payable to the Government and not to anybody else; and no payment made in contravention of this sub-section shall be valid.

(2) Subject to the provisions of sections 63, 64 and 65, all such arrears of rent and cesses and interest and all arrears of revenue and all cesses and interest referred to in clause (b) of sub-section (4) of section 3 or in clause (5) of section 44 may, without prejudice to any other mode of recovery, be recoverable by the Revenue-officer under the provisions of the Bengal Public Demands Recovery Act, 1913.

Provision regarding Pending suits and proceedings

63. If any suit by a rent-receiver or rent-receivers for the recovery of any arrears which have vested in the Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 or any proceeding in execution of a decree for the recovery of any such arrears is pending before any Civil Court on the date or day, as the case may be, referred to in the said clauses, such suit or proceeding, where such rent-receiver was the sole landlord or such rent-receivers constituted the entire body of co-sharer landlords, shall not be further proceeded with and shall be deemed to have been withdrawn and any such decree may be executed as if it were a certificate filed under the Bengal Public Demands Recovery Act, 1913.

Realisation of arrears in respect of lands held by tenants under Government

64. (1) A certificate or decree for the recovery of any arrears of rent to the recovery of which the provisions of this Chapter apply shall not, in the case where the certificate or judgement-debtor is a tenant under the Government and where the arrears covered by such certificate or decree relate to any holding or land held by such tenant, be executed by arresting the certificate or judgment-debtor and detaining him in the Civil prison or by the attachment and sale of any movable or immovable property other than the holding or land to which such arrears relate.

(2) If the holding or land to which such arrears relate has, before the execution of such certificate or decree, been sold in execution of any other decree or certificate, such arrears shall, notwithstanding anything contained in any other law for the time being in force, be a charge on such holding or land.

Sale of lands held by tenants under Government for arrears

65. Where any certificate or decree is executed under this Chapter by the attachment and sale of any land which is held by the certificate or judgmet-debtor as a tenant under the Government, such sale shall, in areas where Part V applies, be subject to the provisions of section 90.

Power to grant instalments and stay execution

66. It shall be competent for the Certificate Officer in executing any certificate or decree under this Chapter to order the payment of the amount of such certificate or decree to be made by the certificate or judgment-debtor by instalments within a period not exceeding three years from the date of such order and to stay the execution of the certificate or decree for such period:

Provided that in default of payment of any instalment, the certificate or decree may be executed for the whole of the outstanding balance thereof.

Payment to outgoing rent-receivers

67. (1) The Government shall pay to an outgoing rent-receiver to whom any arrears of rent and cesses and interest which have vested in the Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 were due immediately before the date or day, as the case may be,

referred to in the said clauses a sum equivalent to fifty per centum of such arrears excluding interest, as computed in the manner prescribed, by way of compensation within a period not exceeding four years from the said date or day in such manner and in such instalments as may be prescribed:

Provided that before making such payment, the Government may, after giving the outgoing rent-receiver an opportunity of being heard, deduct from such sum any debts and dues payable to Government by such rent-receiver.

(2) Instead of proceeding under sub-section (1), the Government may pay, at such time and in such manner as may be prescribed to an outgoing rent-receiver, in lieu of the compensation payable under the sub-section, a sum equivalent to seventy per centum of the total amount actually collected by the Government out of such arrears and the provision of the proviso to sub-section (1) shall apply also to such payment.

(3) The amount payable under sub-section (2) shall be deposited by the Collector in the prescribed manner with the [28][Assistant Judge] having jurisdiction and the [29][Assistant Judge] shall thereupon publish the particulars of the person to whom the amount is stated by the Collector to be due and invite claims from the co-sharers and superior landlords of such person, if any, against such amount and shall then make an award and disburse the amount amongst the persons who are found by him to have a valid claim.

Computation of the period of limitation

68. Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery under this Chapter of any arrears which have vested in the Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44, a period of ten years on and from the date or day, as the case may be, on which such arrears have so vested under the said clauses and, where a suit or proceeding referred to in section 63 filed for the recovery of any such arrears was pending before any Civil Court, also the period for which such suit or proceeding was so pending, shall be excluded.

[30]CHAPTER IXA

SPECIAL PROVISIONS RELATING TO ARREARS OF RENT

Application of this Chapter

68A. The provisions of this Chapter shall apply in the cases of acquisition of rent-receiving interest on or after the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.

Transitory Provisions in respect of pending cases before the Certificate Officer

68B. (1) All requisitions for recovery of arrears of rent and applications for execution of decrees for arrears of rent made by a rent-receiver under the provisions of Chapter IXA for which this Chapter is being substituted and pending before any Certificate Officer on the date of coming into force of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance 1957, shall, on such coming into force, stand transferred to the Civil Court which has jurisdiction to entertain a suit for the recovery of the arrears of rent to which such requisition or application relates.

(2) On such transfer, the requisition or the application shall be deemed to be a plaint or application for execution of a decree, as the case may be, within the meaning of the Code of Civil Procedure, 1908, and the suit or application shall proceed in accordance with the provisions of law for the time being in force applicable for the recovery of such arrears or for the execution of such decree:

Provided that the Civil Court to which such requisition or application stands transferred shall, before proceeding with the suit or execution case, realise the difference between the court-fees already paid before the Certificate Officer on such requisition or application and the court-fees payable on such plaint or application in the Civil Court.

Arrears of rent and cesses due to a rent-

68C. All arrears of rent and cesses together with interest thereon, which remained due to any rent-receiver in respect of any interest on the date of acquisition of such interest under the provisions of this Act and which

receiver and decrees for such arrears

have not been barred by limitation, and all sums due to him in respect of any decree for such arrears whether having the effect of a rent decree or money decree and whether obtained before or after the date of acquisition, the execution of which is not barred by limitation, shall continue to be recoverable by such rent-receiver amicably or through Civil Court from the persons liable to pay them.

Option to have arrears collected Government on certain conditions

68D. (1) Any such rent-receiver may apply to the Collector that he desires to have such arrears and interest, which are not barred by limitation, to be recovered by the Government in consideration of half the amount actually collected being paid to the Government.

(2) The Collector may refuse such application for reasons to be recorded in writing.

(3) If the Collector grants the application, it shall be competent for the Government to recover such arrears and interest as if they were public demands or in any other manner as if the Government were the rent-receiver.

(4) The Collector shall, from time to time, in accordance with such rules as may be prescribed, send to the rent-receiver accounts of the amounts of arrears and interest aforementioned actually collected and shall pay to the rent-receiver half of the amount so collected and retain the other half for the Government. Such accounts shall be treated as conclusive and shall not be questioned in any manner.

(5) The Government shall not be liable if it fails to recover the whole or any portion of such arrears and interest.

Computation of the

period of limitation

68E. Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery of any such arrears or for the execution of any decree in respect of such arrears, a period of forty-eight months on and from the date of acquisition under this Act of the rent-receiving interests to which such arrears relate shall be excluded.]

CHAPTER X

PROVISIONS RELATING TO INDEBTED RENT-RECEIVERS

Bar to execution of certain decrees and orders for the recovery of certain debts of rent-receivers

69. (1) After the commencement of this Act, no Civil Court shall entertain any suit or execute any decree or order against any property of any rent-receiver, for the recovery of any debt which is liable to be scaled down under section 70, until all the interests of such rent-receiver which are liable to be acquired under this Act have been so acquired and compensation in respect of the acquisition of all such interests have been paid or deposited under section 58:

Provided that if any rent-receiver fails to apply for the scaling down of his debts within the period mentioned in sub-section (1) of section 70, the provision of this sub-section shall cease to apply to his debts on the expiry of the said period.

(2) Notwithstanding anything contained in any other law for the time being in force, in calculating the period of limitation applicable to a suit or an application for the execution of a decree or order, the time during which the institution of such suit or the execution of such decree or order is barred under sub-section (1) shall be excluded.

(3) The amount of any debt recoverable under any decree or order the execution of which is barred under sub-section (1) shall be deemed to be reduced, if any such debt has been scaled down under section 70, by the amount by which such debt has been so scaled down.

Scaling down of debts and recovery thereof

70. (1) After the interests of a rent-receiver in a district, part of a district or local area have been acquired under this Act, the debts incurred by such rent-receiver before the 7th day of April, 1948, other than arrears of revenue, rent or cesses and other than debts and dues payable to the Government or to a Co-operative Society and also other than loans advanced for financing tea industry, shall, notwithstanding anything contained in any other law for the time being in force, be scaled down in the following manner if the rent-receiver has applied in the prescribed manner for scaling down his debts to the Revenue-officer authorised under sub-section (1) of section 71 within 3 months of the publication under section 42 of the Compensation Assessment-roll in respect to his interests or lands which have been acquired first under section 3 or section 44:-

(a) in the case of debt secured by a mortgage or charge on the interests of a rent-receiver which have been acquired under the provisions of this Act, the debt shall be scaled down proportionately to the reduction in the net income suffered by such a rent-receiver as a result of the acquisition of the interests concerned;

(b) in the case of a debt secured by a mortgage or charge partly on the interests of a rent-receiver which have been acquired under this Act and partly on other properties which have not been so acquired under this Act, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, as calculated in the manner prescribed, from the interests mortgaged or charged which have been acquired bears to the net annual income from the properties mortgaged or charged which have not been so acquired; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction of the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned;

(c) in the case of a debt not secured by any mortgage or charge on any interest or property, whether immovable or movable, of the rent-receiver, the

debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, calculated in the manner prescribed, from the interests, which have been acquired under this Act, bears to the net annual income of the rent-receiver from the properties which have not been so acquired and from other sources; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction in the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned:

Provided that no portion of the debt of any rent-receiver shall be scaled down if the total of the debts apportioned under clauses (a), (b) and (c) on the interests or lands of the rent-receiver acquired under this Act be less than one-fourth of the total amount of the compensation money payable under this Act to such rent-receiver:

Provided further that the debts liable to be scaled down under this section shall not be scaled down to an amount less than one-fourth of the total amount of such compensation money.

[31][(1a) Notwithstanding anything contained in sub-section (1), a rent-receiver, in respect of whose interest the Compensation Assessment-roll has been published under section 42 on or before the 15th day of March, 1955, may apply in the manner and to the officer laid down in that sub-section for scaling down his debts referred to therein within three months from the coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.]

[32][(1b) Notwithstanding anything contained in sub-section (1) or (1a), a rent-receiver whose properties were under the management of the Court of Wards under the Court of Wards Act, 1879 and in respect of whose interest the Compensation Assessment-roll has been published under section 42 before the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1959, may apply in the manner and to the

officer as laid down in sub-section (1) for scaling down his debts referred to therein within 3 months from the said date.]

(2) If any rent-receiver holds lands and other immovable properties, including those which will not be acquired under this Act, in different areas, then, notwithstanding anything contained in this section, action shall not be taken for the scaling down of the debts under this section until a Compensation Assessment-roll or Compensation Assessment-rolls in respect of all such areas has or have been prepared under this Act and finally modified under section 54.

(3) The extent of reduction in the net income of a rent-receiver referred to in clauses (a), (b) and (c) of sub-section (1) shall be determined in accordance with the rules made in this behalf by the Government.

(4) The net annual income referred to in clauses (b) and (c) of sub-section (1) from the properties which have not been acquired under this Act and the income from other sources shall be calculated in accordance with the rules made in this behalf by the Government.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract,-

(a) no creditor shall be entitled to recover in respect of any debt referred to in clause (a) of sub-section (1) any sum in excess of the debt as scaled down under that sub-section; and the liability of the rent-receiver for the balance of the debt shall be extinguished;

(b) no creditor shall be entitled to recover from the rent-receiver, in respect of the part of any debt which has been apportioned under clauses (b) and (c) of sub-section (1) to the interests of the rent-receiver which have been acquired under this Act, any sum in excess of the amount to which such part of the debt has been scaled down under clauses (b) and (c) of sub-section (1); and the liability of the rent-receiver for the balance of such part of the debt shall be extinguished:

Provided that the aggregate of all debts of a rent-receiver so reduced under clauses (a), (b) and (c) of sub-section (1) shall be recoverable only from the compensation money payable for the acquisition of all his interests under this Act, and shall be limited to and shall not exceed half of the total compensation money so payable:

Provided further that no portion of the debt of a rent-receiver apportioned under clause (b) or (c) of sub-section (1) on his properties which have not been acquired, and no portion of his debt secured entirely by a mortgage or charge on such properties, shall be recoverable from any compensation money payable to such rent-receiver under this Act; and

(c) subject to the first proviso to clause (b), in the matter of recovery of debts from compensation money, the debts secured by the mortgage or charge on the interests of the rent-receiver in any land or other immovable property shall have preference in the sequence in which such mortgage or charge was created over the debts not so secured; and any amount available after payment of the debts so secured shall be rateably distributed for payment of the debts not so secured.

Explanation.- For the purpose of this section, the lands retained by a rent-receiver under the provisions of section 20 shall be deemed as not acquired under the Act.

Government to authorise Revenue-officer to take action under section 70

71. (1) It shall be competent to the Government to authorise any Revenue-officer to scale down the debts of rent-receivers in any area under section 70 and to take other actions required or permitted by that section.

(2) A Revenue-officer, authorised under sub-section (1), shall publish in the prescribed manner a notice calling upon every creditor to submit to him within a prescribed period and in a prescribed form a statement showing all debts of the nature referred to in sub-section (1) of section 70 owed to him by the rent-receivers in such area whose interests have been acquired under section 3 or section 44 and who have applied under sub-section (1) of

section 70 for scaling down their debts and such other particulars as may be prescribed.

(3) A creditor who has failed to submit under sub-section (2), within the period referred to therein, the statement of any debt of the nature referred to in sub-section (1) of section 70, the liability of the debtor to pay such debt shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be extinguished.

(4) After the expiry of the period referred to in sub-section (2), the Revenue-officer shall examine the statements of debts and other particulars submitted under that sub-section and shall, after giving the creditors and the debtors an opportunity of being heard and making such enquiries as he deems fit, make necessary modification in such statements.

(5) After a statement of debts has been examined and necessary modifications made therein under sub-section (4), the Revenue-officer shall proceed to scale down all debts shown in such statement as so modified in accordance with the provisions of section 70 and to take other actions in respect of such debts required or permitted by that section and in doing so and taking all other actions required or permitted by this Chapter the Revenue-officer shall follow such rules relating to procedure and other matters as may be made in this behalf by the Government.

(6) An appeal, if presented within a prescribed period, shall lie against an order passed by a Revenue-officer under this section to a Special Judge appointed under sub-section (4) of section 48; and the decision of the Special Judge and subject only to such decision and order of the Revenue-officer shall be final.

(7) A debt recoverable under this Chapter from the total compensation money payable to the debtor under a Compensation Assessment-roll or Compensation Assessment-rolls shall be so recoverable in the manner prescribed.

CHAPTER XI

MISCELLANEOUS

Bar to jurisdiction of Civil Courts in certain matters

72. Save as expressly provided in this Part, no suit shall be brought in any Civil Court in respect of the preparation, signing and publication of a Compensation Assessment-roll or any part thereof under Chapter V or Chapter VA or in respect of any entry in or omission from such roll or in respect of any order passed under Chapters V to X concerning any matter which is or has already been the subject of any application made or proceedings taken under those Chapters.

Power to enter upon land, to make survey, etc.

73. A Revenue-officer, subject to any rules made under this Act, may at any time between the hours of sunrise and sunset enter upon any land with such officers or servants as he considers necessary, and make a survey or take measurements thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act.

Power to compel production of statements and documents

74. (1) Subject to rules made under this Act, a Revenue-officer may, for the purposes of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any estate, tenure, holding or land at a time or place specified in the notice.

(2) Every person required to make or deliver a statement or to produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the [33][* * *] Penal Code.

Power to enforce attendance of witnesses and production of documents

75. For the purposes of any enquiry under this Act, a Revenue-officer shall have power to summon and enforce the attendance of witnesses or of any person having an interest in any estate, tenure, holding or land and to compel the production of documents by the same means and so far as may be, in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure, 1908.

Prohibition of subletting

[34][75A. (1) On and from the date of publication of a notification under sub-section (3) of section 17 or under sub-section (1) of section 31, no person shall sublet any land in his khas possession in the area to which such notification relates.

(2) Any subletting made in contravention of sub-section (1) shall be null and void and the land so sublet shall be forfeited to the Government.

(3) Any person may, at any time, apply to the Government for the acquisition of any of his khas lands under sub-section (2) of section 3 on payment of compensation at the rate prescribed for such land in section 39.]

Fees for application for enquiry

[35][75B. An application for fresh enquiry during the preparation or revision of record-of-rights or preparation of Compensation Assessment-rolls under this Act shall be accompanied by such fee as may be prescribed.]

Settlement and use of land vested in the Government

76. (1) Except as otherwise expressly provided in this Act, any land which vests in the Government under any of the provisions of this Act shall be absolutely at the disposal of the Government; and the Government shall be competent to make settlement of such land in accordance with such rules as it may make in this behalf or to use or otherwise deal with such land in such manner as it thinks fit:

Provided that no land shall be settled with a person unless he is a person to whom transfer of land can be made under section 90:

Provided further that in making settlement of any cultivable land preference shall be given to an applicant for settlement who cultivates land by himself or by the members of his family and holds a quantity of cultivable land which, added to the quantity of cultivable land, if any, held by the other members of his family, is less than three acres.

(2) No Civil Court shall entertain any application or suit concerning any matter relating to the settlement, by any officer of the Government, of any land under sub-section (1).

Explanation.- For the purposes of this section, the definition of “family” as given in the explanation under section 20 shall apply mutatis mutandis.

Creation of separate estate and apportionment of revenue

[36][76A. Notwithstanding anything contained in any other law for the time being in force or in any contract,-

(1) when the interests of a rent-receiver or rent-receivers in a share or part of any estate have been acquired by the Government under sub-section (1) of section 3 or clause (1) of section 44, nothing in the Bengal Land Revenue Sales Act, 1859 or in Chapter V of the Assam Land and Revenue Regulation, 1886, shall apply to such share or part, and the remaining share or part of such estate shall be deemed to constitute a separate for the purpose of the aforesaid Act or Regulation, as the case may be; and

(2) the land-revenue and cesses payable for the parent estate shall be apportioned, between the acquired share or part and the separate estate constituted under clause (1), according to the following principles, namely:-

(a) when an acquired share consists of a separate account or separate accounts, the land-revenue and cesses of such separate estate shall be equivalent to the difference between the land-revenue and cesses payable for the parent estate and the land-revenue and cesses fixed for the acquired separate account or accounts;

(b) when an acquired share does not consist of a separate account, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the share comprised in the separate estate bears to the parent estate;

(c) when an acquired share consists of a specific portion of the land of an estate having no separate account or when a part of an estate is acquired, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the area of

the land comprised in the separate estate bears to the area of the entire land comprised in the parent estate;

(3) when the interests in a portion of a tenure, holding or other tenancy have been acquired under this Act and such portion consists of a definite share, the rent of such tenure, holding or tenancy shall be apportioned between the acquired and unacquired portions according to such share, but when it does not consist of a definite share, the Revenue-officer may apportion the rent of such tenure, holding or tenancy between the acquired and unacquired portions on the basis of the area or value as may appear to him fair and equitable.]

Recovery of advance rent or bid money realised by outgoing rent-receivers

[37][76B. When the Revenue-officer is satisfied that a rent-receiver, whose interests have been acquired under this Act, has realised any amount on account of the rent or bid money or consideration money in respect of any such interests for any period subsequent to such acquisition he may recover such amount or any part thereof from such rent-receiver as a public demand.]

Protection of action taken under this Act

77. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Delegation of the powers of the Government

[38][77A. The Government may, by notification, direct that any power conferred or duty imposed by this Act upon the Government shall, in such circumstances and under such conditions, if any, as may be specified in the

notification, be exercised or performed also by any officer or authority subordinate to it.]

Power to make rules

78. (1) The Government may, after previous publication, make rules for carrying out the purposes of Parts II, III and IV 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) the forms of the notifications referred to in sub-section (3) of section 3 and the particulars which such notifications shall contain;

(b) the manner of service of the notice and the form of the return referred to in sub-section (1) of section 4;

(c) the time and manner of receiving an ad interim payment referred to in sub-section (1) and (2) of section 6;

(d) the determination of the amounts of deductions referred to in sub-section (4) of section 6;

(e) the manner of and the period for filling appeals referred to in section 7;

(f) the manner of recovery of fines referred to in section 8;

[39][* * *]

(h) the form of the applications referred to in section 15, the particulars which such applications shall contain and the amounts of process fees which shall accompany such applications;

(i) the manner of preparing or revising a record-of-rights under section 17 and the procedure to be followed and the powers to be exercised by Revenue-officers in preparing or revising such record-of-rights;

(j) the particulars to be recorded in the record-of-rights to be prepared or revised under section 17;

(k) the manner and period of publication of the draft record-of-rights under sub-section (1) of section 19;

(l) the Revenue Authority to whom, the manner in which and the period within which an appeal under sub-section (2) of section 19 may be preferred;

(m) the disposal of objections and appeals under section 19;

(n) the manner of publication of the record-of-rights under sub-section (3) of section 19;

(o) the period for exercise of choice under sub-section (3) of section 20 and the manner of allotment of lands under the said sub-section when no choice is exercised;

(p) the manner of selection of lands under clause (ii) of sub-section (5) of section 20 which shall come within the purview of sub-clause (c) of clause (i) of the said sub-section;

(q) the manner of and the procedure for revising the particulars referred to in sub-section (2) of section 31 and the powers to be exercised by Revenue-officer for the purpose;

(r) the form of a Compensation Assessment-roll under section 33, the manner of preparing it and the particulars to be specified therein;

(s) the manner of calculation of the sums and determination of the expenditure and charges referred to in sub-section (2) of sections 35;

(t) the procedure to be followed in the apportionment of the compensation between the holder of a temporary tenure or tenancy and his immediately superior landlord under clause (2) of section 37;

(u) the manner of and the procedure for the calculation of compensation and preparation of Compensation Assessment-rolls in cases referred to in section 38;

(v) the manner of determination of the annual letting value of lands referred to in items (e) and (f) and the manner of determination of the actual cost of

construction and the amount on account of depreciation referred to in item (f) of the table in sub-section (1) of section 39;

(w) the manner of determination of the normal annual produce of land under clause (a) of sub-section (3) of section 39;

(x) the manner of determination of the cost of cultivation referred to in sub-clause (i) of clause (b) of sub-section (3) of section 39;

(y) the manner of determination of net annual profit from fisheries referred to in sub-section (4) of section 39;

(z) the procedure to be followed in making the apportionment of compensation referred to in sub-section (5) of section 39;

(za) the manner and period of publication of a draft Compensation Assessment-roll under sub-section (1) of section 40 and disposal of objections under that sub-section;

(zb) the Revenue Authority to whom appeals under section 41 are to be preferred and disposal of appeals under that section;

(zc) the manner of publication of a Compensation Assessment-roll under section 42;

(zd) the manner of publication of a proclamation under section 45;

(ze) the assignment under sub-section (1) of section 46 of numbers to be borne on the revenue-roll of a district in respect of areas to which a record-of-rights referred to in that sub-section relates and the manner in which copies of record-of-rights shall be distributed under sub-section (2) of that section;

(zf) the powers and duties of the Commissioner of State Purchase referred to in sub-section (2) of section 48;

(zg) the powers and duties of the Director of Land Records and Surveys referred to in sub-section (3) of section 48;

(zh) the form of application referred to in sub-section (1) of section 52 or in section 53;

(zi) the manner of ascertaining excess payment under sub-section (2) of section 57 and the superior Revenue Authority referred to in the second proviso to that sub-section;

(zj) the manner of computing the sum referred to in section 67 and the manner and instalments for its payment to an outgoing rent-receiver under the said section;

(zk) the manner of application under sub-section (1) of section 70;

(zl) the manner of and the procedure for the determination of the extent of reduction in the net income referred to in sub-section (3) of section 70;

(zm) the manner of and the procedure for the calculation of the net annual income and the income referred to in sub-section (4) of section 70;

(zn) the manner of publication of a notice under sub-section (2) of section 71 and the form in which and the period within which a statement referred to in that sub-section is to be submitted and the particulars which such statement shall contain;

(zo) the rules referred to in sub-section (5) of section 71;

(zp) the period for presenting an appeal under sub-section (6) of section 71;

(zq) the manner of recovery of debts under sub-section (7) of section 71;

(zr) the procedure and conduct of the Revenue-officers and of officers and servants referred to in section 73;

(zs) the exercise of powers under sub-section (1) of section 74 to enforce the making and delivery of statements and production of records or documents;

(zt) the rules for settlement of lands referred to in section 76.

PART V

CHAPTER XII

APPLICATION OF THIS PART AND CLASS OF AGRICULTURAL TENANTS

Commencement of this Part

79. This Part or any portion thereof shall come into force in such areas, on such dates and to such extent as the Government may, by notification, direct and when any portion of this Part comes into force in any area, the provisions of such portion shall have effect in such area notwithstanding anything contained in any other law for the time being in force.

Repeal

80. On and from the date of coming into force of the whole of this Part in any area, the enactments specified in the Schedule shall be repealed in that area to the extent mentioned in the fourth column of the Schedule.

Class of agricultural tenants and regulation of their rights and liabilities

81. (1) On and from the date of coming into force of the whole of this Part in any area, there shall, within that area, be only one class of holders of agricultural land, namely, maliks, and the rights and liabilities of every such land-holder shall be regulated by the provisions of this Part:

Provided that nothing in this section shall confer on any such malik any right to any interests in the sub-soil including rights to minerals in his holding:

Provided further that when the Government lease out any land for any particular period, the rights and liabilities of such a lessee shall be governed by such terms and conditions as may be set forth in the lease.

Rights and liabilities of non-agricultural tenants

[40][81A. (1) Except as otherwise provided in this Part, the rights and liabilities of a holder of non-agricultural land, who has become a tenant under the Government in respect of such land by virtue of the acquisition of the superior right in such land under the provisions of this Act, shall, where the provisions of the East Bengal Non-Agricultural Tenancy Act, 1949, applied to such land, at the time of such acquisition, be regulated by provisions of that Act.

(2) The rights and liabilities of other non-agricultural tenants shall, except in the matter of determination, enhancement or reduction of rent, be governed

by the terms of the lease and the provisions of the Transfer of Property Act, 1882:

Provided that notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract, no non-agricultural tenant shall sublet the whole or any part of his tenancy on any terms and conditions whatsoever and, if any tenancy or any part of a tenancy is sublet in contravention of this provision, the interest of the non-agricultural tenant in the tenancy or in that part of the tenancy, as the case may be, shall be extinguished, and the tenancy or the part of the tenancy shall vest in the Government from the date of such subletting free from all encumbrances.]

Registration of lease deed

[41][81B. Notwithstanding anything contained in sections 81 and 81A or any other law for the time being in force, no agricultural or non-agricultural tenancy shall in law be created or deemed to have been created, even after acceptance of salami and/or rent from the lessee, till a deed of lease has been executed in favour of the lessee by an authority competent to grant lease of Government khas land or any other gazetted officer duly authorised in this behalf and the said lease has been duly registered under the provision of clause (d) of sub-section (1) of section 17 of the Registration Act, 1908.]

Interpretation

82. In this Part,-

(1) “bona fide cultivator” means a person who cultivates lands by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or bargadars, and also includes an agricultural labourer;

(2) “raiyat” means a person who, by virtue of section 44 or otherwise, has acquired a right to hold land directly under the Government mainly for the purpose of cultivating it by himself or by members of his family or

by, or with the aid of, servants or labourers or with the aid of partners or bargadars, and includes also the successors-in-interest of persons who have acquired such a right;

(3) the family of a raiyat includes all persons living in the same mess with him and dependent upon him but does not include any servant or labourer ;

[42][* * *]

(7) except when expressly provided otherwise, 'transfer' includes a transfer by private sale, mortgage, gift or any contract or agreement; and

(8) on and from the date of coming into force of the whole of this Part in any area, the word 'malik' shall be deemed to have been substituted for the word raiyat or 'tenant' and the word 'land revenue' shall be deemed to have been substituted for the word 'rent' wherever they occur in this Part in relation to agricultural land, for the purpose of application of the provisions of this Part to such area and where by the terms of any lease, kabuliyat, contract or other agreement, rent is payable to the Government, it shall be realisable as if it were land revenue.

Explanation.- Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

CHAPTER XIII

INCIDENTS OF HOLDINGS OF RAIYATS, AND TRANSFER, PURCHASE AND ACQUISITION OF LANDS

Rights of raiyat in respect of use of land

83. A raiyat shall have the right to occupy and use the land comprised in his holding in any manner he likes.

Devolution of holding on the death of a raiyat

84. If a raiyat dies intestate his holding shall subject to, and in a manner not inconsistent with, the provisions of this Act, descend in the same manner as his other immovable property:

Provided that in any case in which under the law of inheritance, to which the raiyat is subject his other property goes to the State, his interest in the holding shall be extinguished.

Ground for eviction of raiyats

85. A raiyat shall not be ejected from his holding or from any part of his holding, except in execution of a decree for ejectment from the whole holding or from any part of the holding, as the case may be, passed by a Civil Court, on the ground that he has done any act in contravention of the provisions of this Act with respect to the whole holding or the Part concerned.

Abatement of rent on account of diluvion and determination of right in land re-appeared on account of alluvion

[43][86. (1) If the lands of a holding or a portion of such lands are lost by diluvion, the rent or the land development tax of holding shall, on application or intimation made by the tenant in the prescribed form to the Revenue-officer, be abated by such amount as may be considered by the Revenue-officer to be fair and equitable in accordance with the rules made in this behalf by the Government and the act of such loss by diluvion shall be recorded in accordance with such rules, which shall be treated as proof of title to the lands when the same re-appear in situ.

(2) Notwithstanding anything contained in any other law for the time being in force, the right, title and interest of the original tenant or his successor-in-interest shall subsist in the lands of a holding or portion thereof during the period of loss by diluvion if such lands re-appear in situ within thirty years of their loss.

(3) Notwithstanding the right, title and interest under sub-section (2), the right to immediate possession of the lands re-appeared shall first be exercised by the Collector, either on his own motion or on an intimation made in writing by

the tenant or his successors-in-interest whose land was so lost or by any other person.

(4) Notwithstanding anything contained elsewhere in this Act, the Collector or the Revenue-officer shall, on taking possession of such lands give public notice of the fact of his taking possession in accordance with the rules made in this behalf by the Government and cause a survey to be made of the lands so re-appeared and prepare maps thereof.

(5) The Collector shall, within 45 days of the completion of survey and preparation of map under sub-section (4), allot to the tenant whose land was so lost by diluvion or, as the case may be, to his successors-in-interest such quantity of land which, together with the land already held by him or his successors-in-interest, shall not exceed sixty standard bighas and the excess land of the tenant or his successors-in-interest, if any, after the allotment shall vest in and be at the disposal of the Government.

(6) The lands allotted under sub-section (5) shall be free of salami but shall be subject to the condition that the tenant or his successors-in-interest shall be liable to pay such fair and equitable rent and land development tax as may be determined by the Revenue-officer.

(7) The provision of this section shall not apply to cases of re-appearance of land caused or accelerated by any artificial or mechanical process as a result of development works undertaken by the Government or any authority empowered or authorised by or under any law to undertake such development works.

Bar on suits, etc, for certain period

86A. No suit, prosecution or other legal proceeding shall lie in any court in respect of any land covered under section 86 during a period of twelve months commencing on the date of first giving public notice under sub-section (4) of section 86 in order to enable the Collector to complete the processes under that section.]

Rights in land gained by accession from recess of river or sea

[44][87. [45][(1)] Notwithstanding anything contained in any other law for the time being in force, when any land has been gained by accession, whether from the recess of a river or of the sea, it shall not be considered as an increment to the holding or tenancy to which it may be thus annexed, but shall vest absolutely in the Government of the People's Republic of Bangladesh and shall be at their disposal.

[46][(2) The provision of sub-section (1) shall apply to all lands so gained whether before or after the 28th June, 1972, but shall not apply to any land so gained before the said date if the right of a Malik to hold such land as an increment to his holding was finally recognised or declared by a competent authority or court before the date of commencement of the State Acquisition and Tenancy (Sixth Amendment) Order, 1972 (P.O. No. 137 of 1972) under the law then in force.

(3) All suits, applications, appeals or other proceedings for the assertion of any claim to hold, as an increment to any holding, any land gained or alleged to have been gained from the recess of a river or of the sea, pending before any court or authority on the date of commencement of the said Order shall not be further proceeded with and shall abate and no court shall entertain any suit, application or other legal proceedings in respect of any such claim.]]

Transferability of holding of raiyats

88. The holding of a raiyat or a share or portion thereof shall, subject to the provisions of this Act, be capable of being transferred by him in the same manners and to the same extent as his other immovable property [47][:

Provided that the khas lands of a tea garden retained under sub-section (2) of section 20, or any portion thereof, shall not be transferred without the prior sanction in writing of the Deputy Commissioner and that the proposed transfer shall not in any way disrupt the entity of the tea garden as a whole or in any way affect the cultivation of tea for which the land is held.]

Manner of transfer

89. (1) Every such transfer shall be made by registered instrument, except in the case of a bequest or a sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913; and a Registering officer shall not accept for registration any such instrument unless the sale price, or where there is no sale price, the value of the holding or portion or share thereof transferred is stated therein and unless it is accompanied by-

(a) a notice giving the particulars of the transfer in the prescribed form together with the process fee prescribed for the transmission thereof to the Revenue-officer; and

(b) such notices and process fees as may be required by sub-section (4).

(2) In the case of a bequest of such a holding or portion or share thereof, no Court shall grant probate or letters of administration until the applicant files a notice similar to, and deposits a process fee of the same amount as, that referred to in clause (a) of sub-section (1).

(3) No Court or Revenue Authority shall confirm the sale of such a holding or portion or share thereof put to sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913 and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice or notices similar to, and deposits process fees of the same amount as, that referred to in sub-section (1).

(4) If the transfer of a portion or share of such a holding be one to which the provisions of section 96 apply, there shall be filed notices giving particulars of the transfer in the prescribed form together with process fees prescribed for the service thereof on all the co-sharer tenants of the said holding who are not parties to the transfer and for affixing a copy thereof in the office of the Registering officer or the Court house or the Office of the Revenue Authority, as the case may be.

(5) The Court, Revenue Authority or Registering officer, as the case may be, shall transmit the notice referred to in clause (a) of sub-section (1) to the Revenue-officer and shall serve the notices on the co-sharer tenants referred to in sub-section (4) by registered post and shall cause a copy of the notice to be affixed in the Court house or in the Office of the Revenue Authority or of the Registering Officer, as the case may be:

Provided that the service of such a notice shall not operate as an admission of the amount of rent or the area of such holding by the Government or by any co-sharer tenant of such holding on whom such notice is served or be deemed to constitute an express consent of the Government or such co-sharer tenant to the division of the holding or to the distribution of the rent payable in respect thereof:

Provided further that if a transfer is subsequently set aside or modified by a competent authority in any suit, appeal or other proceedings to which the Revenue-officer was not a party,

the authority before whom the appropriate suit or proceedings was first initiated shall transmit a copy of such order to the Revenue-officer.

(6) In this section-

(a) “transferee”, “purchaser” and “mortgagee” include their successors-in-interest, and

(b) “transfer” dose not include partition or, until a decree or order absolute for foreclosure is made, simple or usufructuary mortgage or mortgage by conditional sale.

Limitation of transfer of holding

90. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, after the commencement of this Part, be entitled to purchase or otherwise acquire, except in accordance with the provisions of this Part, any quantity of land which added to the total quantity of land already held by him for himself and his family exceeds three hundred and seventy-five standard bighas.

(2) Notwithstanding anything contained in any other law for the time being in force, the holding of a raiyat or a share or portion thereof shall not be transferred whether by sale or gift or bequest or otherwise or by sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, except to a bona fide cultivator, and any other tenancy or a share or portion thereof shall not be transferred by any such means except to a person, who holds for the time being lands for himself and his family of a total area of less than three hundred and seventy-five standard bighas; and no such transfer shall be valid if, on such transfer, the area of the land so transferred added to the area of land held by the transferee at the time of such transfer exceeds three hundred and seventy five standard bighas:

Provided that nothing in sub-sections (1) and (2) shall render a transfer to any person or co-operative society invalid where the total area of the land held by such person or co-operative society on such transfer exceeds three hundred and seventy-five standard bighas, if-

(i) such person has been certified by the prescribed Revenue Authority to be a person who has undertaken large scale farming by the use of power driven mechanical appliances, and

(ii) in the case of a co-operative society, the prescribed Revenue Authority has certified that such society has been formed by a group of cultivating land owners for better farming, irrespective of whether it uses power driven mechanical appliances or not, and that the ownership of the land has been transferred unconditionally to the society by the individual members,

and, in either case, such transfer is limited to the extent specified in the certificate granted by such Revenue Authority:

Provided further that nothing in sub-section (1) or (2) shall apply to the transfer of lands to a person who is bona fide carrying on the cultivation of tea or to a co-operative society or company which is bona fide carrying on

the cultivation of sugarcane for the purpose of manufacture of sugar by that society or company or to any other company the object of which is to develop industries by the manufacture of commodities.

(3) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a bona fide cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire such quantity of land as may be specified in such permission, for occupation and use for commercial or industrial purposes or for charitable or religious purposes.

(4) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a bona fide cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire, such quantity of land as may be specified in the permission, for the purpose of constructing a dwelling house for himself and his family or for the purpose of cultivating such land by himself or by the members of his family or by, or with the aid of, servants or labourers or with the aid of partners or bargadars; and such person shall hold the land so acquired as a tenant under the Government:

Provided that no such person shall be allowed to hold any area of land in excess of the limit imposed in sub-section (1):

Provided further that, in case of land acquired by such person for the purpose of constructing a dwelling house for himself or his family, if no dwelling house is constructed on the land within five years from the date of such acquisition, the right of such person in such land shall be extinguished and the land shall vest on the Government.

(5) Any transfer of a holding or tenancy or of a share or portion thereof made in contravention of the provisions of this section shall be void, and the lands comprised in the holding or tenancy or share or portion thereof so transferred shall vest absolutely in the Government free from all encumbrances.

Power of acquiring excess land devolved by inheritance

91. Notwithstanding anything contained in any other law for the time being in force, when any area of land which has devolved on a person by inheritance added to the total area of land already in his possession exceeds the limit laid down in section 90, it shall be lawful for the Government to acquire an area of such land, equivalent to such excess, to be selected according to the choice of such person, on payment of compensation at the rates laid down in sub-section (1) of section 39.

Extinguishment of interest of raiyats in certain cases

92. (1) The interest of a raiyat in a holding shall be extinguished-

(a) when he dies intestate leaving no heir entitled to inherit under the law of inheritance to which he is subject;

(b) when he surrenders his holding at the end of any agricultural year by giving notice in the prescribed form and in the prescribed manner and within the prescribed period to the Revenue-officer;

(c) when he voluntarily abandons his residence without making any arrangement for payment of the rent as it falls due and cesses to cultivate his holding either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or bargadars for a period of three successive years; or-

(d) when such interest has devolved by inheritance, under the law of inheritance to which such raiyat is subject, on a person who is not a bona fide cultivator and such person has not cultivated the land comprised in the holding either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or bargadars during the period of five years from the date on which such interest has so devolved on him and there is no sufficient cause why he has not so cultivated the land.

(2) When the interest of a raiyat in a holding is extinguished under sub-section (1), the Revenue-officer may enter on the holding; and the holding shall, with effect from the date on which the Revenue-officer so enters on it, vest absolutely in the Government free from all encumbrances except the

encumbrances on the holding which is extinguished under clause (a) of the said sub-section, but the persons whose interests in the holdings are extinguished under clauses (b), (c) and (d) of that sub-section shall continue to be personally liable for the money secured by the encumbrances on such holdings.

(3) Before entering on a holding under sub-section (2), the Revenue-officer shall cause a notice to be published in the prescribed manner declaring his intention to so enter on the holding and specifying the reasons thereof and also inviting objections from all persons interested in the holding and shall consider any objections that may be submitted to him within the period specified in that behalf in the notice and shall record a decision.

(4) Any person aggrieved by an order passed by the Revenue-officer under sub-section (3) on any objection shown against the extinguishment of the interest of any raiyat in his holding under clause (d) of sub-section (1) may, instead of filing an appeal under section 147, institute a suit in the Civil Court against such order. Notwithstanding anything contained in any other law for the time being in force, such suit shall be filed within ninety days from the date of the order of the Revenue-officer under sub-section (3).

(5) All arrears of rent in respect of a holding remaining due from a raiyat whose interest in such holding has been extinguished under sub-section (1) shall be deemed to be irrecoverable.

Restrictions on subletting

93. (1) No raiyat shall sublet the whole or any part of his holding on any terms or conditions whatsoever.

(2) If any holding or any part of holding is sublet in contravention of the provisions of this section, the interest of the raiyat in the holding or in that part of the holding shall be extinguished, and the holding or the part of the holding, as the case may be, shall vest in the Government from the date of such subleting free from all encumbrances.

Transfer of encumbrances in certain cases

94. Notwithstanding anything contained in any other law for the time being in force, the encumbrances referred to in sub-section (5) of section 90 or sub-section (2) of section 93 shall, with effect from the date of transfer or sub-lease of the lands concerned, be deemed to be transferred and attached to such other lands of the transferor or the lessor as may be selected by the Revenue-officer in accordance with the rules prescribed, and thereupon the encumbrancer shall continue to have the same rights in or against those lands as he had in the original lands before the transfer or sub-lease thereof. The transferor or the lessor, as the case may be, shall also be personally liable for the money secured by such encumbrances.

Limitation on mortgage of raiyat holdings

95. (1) Notwithstanding anything contained in any other law for the time being in force, a raiyat shall not enter into any form of usufructuary mortgage other than a complete usufructuary mortgage in respect of his holding or of a portion or share thereof, and every such complete usufructuary mortgage shall be subject to the same limitations as are imposed by section 90 on a transfer of the holding of a raiyat or of any share or portion thereof; and the period for which such complete usufructuary mortgage may be entered into by any raiyat shall not exceed, by any agreement express or implied, seven years:

Provided that any such usufructuary mortgage may be redeemed at any time before the expiry of the said period, on payment of an amount which shall bear the same proportion to the total consideration money received by the mortgagor, as the unexpired period bears to the total period for which the mortgage had been entered into.

(2) Every such complete usufructuary mortgage shall be registered under the Registration Act, 1908.

(3) If any usufructuary mortgage entered into by a raiyat does not fulfil any of the conditions specified in sub-section (1) or is not registered as required under sub-section (2) it shall be void.

[48][[49][(4) Notwithstanding anything contained in any other law for the time being in force, if any mortgagee prevents the redemption of a usufructuary mortgage under the proviso to sub-section (1) or refuses to restore any land covered by a usufructuary mortgage after the expiry of the period of such mortgage, the mortgagor may apply to the Subdivisional Magistrate or to any officer authorised in this behalf by the Government, for such redemption or restoration and, on such application and, in the case of redemption, also on payment by the applicant of the amount due to the mortgagee under the said proviso, the Subdivisional Magistrate or the officer so authorised shall pass an order directing the mortgagee to restore possession of the mortgaged land to the applicant and to deliver up to the applicant all documents in his possession or power relating to the mortgaged land by such date as may be fixed in the order.]

(5) If the mortgagee does not restore possession of the mortgaged land to the mortgagor by the date fixed under sub-section (4), the Subdivisional Magistrate [50][or any Officer authorised in this behalf by the Government shall, on application made by the mortgagor, put the applicant in possession of such land by evicting the mortgagee therefrom and may, for such eviction, use or cause to be used such force as may be necessary.]]

Treatment of certain transaction as usufructuary mortgage

[51][95A. Notwithstanding anything contained in any other law for the time being in force, any transfer of a holding or of portion or share thereof, [52][either by way of an out and out sale

with an agreement to reconvey,] [53][or] where the transferor receives from the transferee any consideration and the transferee acquires the right to possess, and to enjoy the usufruct of, such holding or portion or share thereof for a specified period in lieu of such consideration, shall notwithstanding anything contained in the document relating to the transfer, be deemed to be a complete usufructuary mortgage for a period not exceeding seven years and the provisions of section 95 shall apply to such transfer whether made before or after the date of commencement of the

State Acquisition and Tenancy (Second Amendment) Order, 1972 (P.O. No. 88 of 1972.]

Right of pre-emption

[54][96. (1) If a portion or share of a holding of a raiyat is sold to a person who is not a co-sharer tenant in the holding, one or more co-sharer tenants of the holding may, within two months of the service of the notice given under section 89, or, if no notice has been served under section 89, within two months of the date of the knowledge of the sale, apply to the Court for the said portion or share to be sold to himself or themselves:

Provided that no application under this section shall lie unless the applicant is-

(a) a co-sharer tenant in the holding by inheritance; and

(b) a person to whom sale of the holding or the portion or share thereof, as the case may be, can be made under section 90:

Provided further that no application under this section shall lie after expiry of three years from the date of registration of the sale deed.

(2) In an application under sub-section (1), all other co-sharer tenants by inheritance of the holding and the purchaser shall be made parties.

(3) An application under sub-section (1) shall be dismissed unless the applicant or applicants, at the time of making it, deposit in the Court-

(a) the amount of the consideration money of the sold holding or portion or share of the holding as stated in the notice under section 89 or in the deed of sale, as the case may be;

(b) compensation at the rate of twenty five per centum of the amount referred to in clause (a); and

(c) an amount calculated at the rate of eight per centum simple annual interest upon the amount referred to in clause (a) for the period from the date of the execution of the deed of sale to the date of filing of the application for preemption.

(4) On receipt of such application accompanied by such deposits, the Court shall give notice to the purchaser and to the other persons made parties thereto under sub-section (2) to appear within such period as it may fix and shall require the purchaser to state what other sums he has paid in respect of rent since the date of sale and what expenses he has incurred in annulling encumbrances on, or for making any improvement in respect of the holding, portion or share sold.

(5) The Court shall, after giving all the parties an opportunity of being heard after holding an enquiry as to rent paid and the expenses incurred by the purchaser as referred to in sub-section (4), direct the applicant or applicants to deposit a further sum, if necessary, within such period as the Court thinks reasonable.

(6) When an application has been made under sub-section (1), any of the remaining co-sharer tenants may, within the period referred to in sub-section (1) or within two months of the date of the service of the notice of the application under sub-section (4), whichever be earlier, apply to join in the said application; any co-sharer tenant who has not applied either under sub-section (1) or under this sub-section, shall not have any further right to purchase under this section.

(7) On the expiry of the period within which an application may be made under sub-section (6), the Court shall determine, in accordance with the provisions of this section, which of the applications filed under sub-section (6) shall be allowed.

(8) If the Court finds that an order allowing the applications made under sub-section (7) is to be made in favour of more than one applicant, the Court shall determine the amount to be paid by each of such applicants and, after apportioning the amount, shall order the applicant or applicants who have joined in the original application under sub-section (6) to deposit in the Court the amounts payable by him or them within such period as it thinks

reasonable; and if the deposit is not made by any such applicant within such period, his application shall be dismissed.

(9) On the expiry of the period within which a deposit, if any, is to be made under sub-section (8), the Court shall pass orders-

(a) allowing the application or applications made by the applicant or applicants who are entitled to purchase under, and have complied with the provisions of, this section;

(b) apportioning the holding or the portion or share of the holding among them in such manner as it deems equitable when such orders are passed in favour of more than one applicant under sub-section (8);

(c) refunding money to any one if entitled to such refund of any money from the amount deposited by the applicant or applicants under sub-sections (3) and (5);

(d) directing that the purchaser be paid out of the deposits made under sub-sections (3) and (5);

(e) directing the purchaser to execute and register deed or deeds of sale within sixty days in favour of the person or persons whose application or applications have been allowed; and no tax, duty or fee shall be payable for such registration.

(10) If the purchaser fails to execute and register deed or deeds of sale in pursuance of the directions under clause (e) of sub-section (9), within sixty days in favour of the person or persons whose application or applications have been allowed, the court shall execute and present deed or deeds of sale for registration within sixty days thereafter in favour of such person or persons whose application or applications have been allowed.

(11) From the date of the registration of sale deed or deeds under clause (e) of sub-section (9) or under sub-section (10), the right, title and interest in the holding or portion or share thereof accruing to the purchaser from the sale shall, subject to any orders passed under sub-section (9), be deemed to

have vested, free from all encumbrances which have been created after the date of sale, in the co-sharer tenant or tenants whose application or applications to purchase have been allowed under sub-section (9).

(12) The Court on further application of such applicant or applicants may place him or them, as the case may be, in possession of the property vested in him or them.

(13) No apportionment ordered under clause (b) of sub-section (9) shall operate as division of the holding.

(14) An application under this section shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the land in connection with which the application is brought.

(15) An Appeal shall lie to the ordinary Civil Appellate Court from any order of the Court under this section.

(16) Nothing in this section shall be deemed to apply to homestead land.

(17) Nothing in this section shall take away the right of pre-emption conferred on any person by the Mohammadan Law.

(18) Nothing in this section shall apply to any transfer of any portion or share of a holding of a raiyat or any application under section 96 of this Act, made prior to coming into force of the State Acquisition and Tenancy (Amendment) Act, 2006.]

Restriction on alienation of land by aboriginals

97. (1) The Government may from time to time, by notification, declare that the provisions of this section shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this section, and the publication of such notification shall be conclusive evidence that the provisions of this section have been duly applied to such castes or tribes, namely:-

Sonthals, [55][Banais] Bhuiyas,Bhumijes, Dalus, Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dhaka Division), Koras, Maghs (Bakerganj District), Mal and Sauria Paharias, Maches, Mundas, Mundais, Oraons and Turis.

(2) Except as provided in this section, no transfer by an aboriginal raiyat of his right in his holding or in any portion thereof shall be valid unless it is made to another aboriginal domiciled or permanently residing in Bangladesh who is a person to whom the transfer of such holding or portion thereof can be made under section 90.

(3) If in any case an aboriginal raiyat desires to transfer holding or any portion thereof by private sale, gift or will to any person who is not such an aboriginal, he may apply to the Revenue-officer for permission in that behalf, and the Revenue-officer may pass such order on the application as he thinks fit having regard to the provisions of sections 88 and 90.

(4) Every transfer referred to in sub-section (3) shall be made by registered deed; and before the deed is registered and the holding or any portion thereof is transferred, the written consent of the Revenue-officer shall be obtained to the terms of the deed and to the transfer.

(5) An aboriginal raiyat's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage:

Provided that nothing in this sub-section shall apply to a mortgage to Government or to the Agricultural Development Bank of Pakistan or to the [56][***] Agricultural Development Corporation or to a Co-operation Society for obtaining loans for Agricultural purposes.

(6) An aboriginal raiyat may enter with another aboriginal, domiciled or permanently residing in Bangladesh, who is a person with whom a complete usufructuary mortgage can be entered into under sub-section (1) of section 95, into a complete usufructuary mortgage in respect of any land comprised

within his holding for any period which does not and cannot, in any possible event, by any agreement express or implied, exceed seven years:

Provided that every mortgage so entered into shall be registered under the Registration Act, 1908.

(7) Any transfer made by an aboriginal raiyat in contravention of the provisions of this section shall be void.

(8) (a) If a transfer of a holding or any portion thereof is made by an aboriginal raiyat in contravention of the provisions of this section, the Revenue-officer may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such holding or portion:

Provided that the transferee shall be given an opportunity of showing cause against such ejectment before the order is passed.

(b) When the Revenue-officer has passed any order under clause (a), he shall either (i) restore the transferred land to the aboriginal or his heir or legal representative or, (ii) failing the transferor or his heir or legal representative, declare that the land has vested in the Government and the Revenue-officer may settle the land with another aboriginal.

(9) Notwithstanding anything contained in any other law for the time being in force, no decree or order shall be passed by any Court for the sale of the right of any aboriginal raiyat in his holding or any portion thereof, nor shall any such right be sold in execution of any decree or order:

Provided that any holding belonging to an aboriginal may be sold, according to the provisions of this Act, in execution of a certificate for the recovery of the arrears of rent of the holding or for recovery of any loan advanced for agricultural purposes by Government or the Agricultural Development Bank of Pakistan or the [57][* * *] Agricultural Development Corporation or a Co-operative Society to an aboriginal on the security of his holding.

(10) The Government may, by notification, declare that this section shall, in any district or local area, cease to apply to any caste or tribe to which it may have been applied under sub-section (1).

CHAPTER XIV

[58]PROVISIONS AS TO ASSESSMENT, ENHANCEMENT AND REDUCTION OF RENT

Revision of rents or raiyats and non-agricultural tenants

98. The rent of a raiyat or non-agricultural tenant shall not be enhanced, reduced or altered except as provided in this Chapter.

Assessment or re-assessment of rent in certain cases

[59][98A. (1) Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the Deputy Commissioner to assess or re-assess rent on land in the following cases, namely:-

(a) where any land held by a raiyat or non-agricultural tenant has not been assessed to any rent under Chapter IV or section 144, nor has any rent been settled in respect of such land under section 107; or

(b) where any land assessed to rent as agricultural land under any of the provisions mentioned in clause (a), is subsequently used for a non-agricultural purpose or vice versa.

(2) In assessing or re-assessing any rent under sub-section (1), the Deputy Commissioner shall have regard to the principles laid down in section 26:

Provided that the Deputy Commissioner shall not take action under this section in any area where preparation or revision of record-of-rights has been undertaken under section 144:

Provided further that no assessment or re-assessment of rent shall be made under this section unless not less than fifteen days' notice has been given to the raiyat or tenant concerned to appear and be heard in the matter.

(3) Where only a part of a holding is used for a non-agricultural purpose, such portion shall be constituted into a separate tenancy on the principles

laid down in sub-section (3) of section 107 as far as applicable and assessment or re-assessment of rent thereof made under this section]

Order for determination of rent-rates and preparation of settlement rent-roll

99. (1) The Government may make an order directing the Revenue-officer-

(a) to determine the rent-rates for any district or part of a district or local area in accordance with the provisions of this Chapter and of such rules as may be made in this behalf by the Government and to prepare in the prescribed form and manner a table of rent-rates in which the rent-rates so determined, together with such other particulars as may be prescribed, shall be specified; and

(b) after the table of rent-rates in respect of any district, part of a district or local areas has been prepared and confirmed under this Chapter to, settle fair and equitable rents for all tenants in such district or part or area and to prepare in the prescribed form and manner a settlement rent-roll in which the rent so settled, together with such other particulars as may be prescribed, shall be specified.

(2) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Procedure in determining rent-rates

100. (1) When an order is made under clause (a) of sub-section (1) of section 99, the Revenue-officer shall, for the purpose of determining the rent-rates for the area specified in such order, divide such area into as many suitable units of area as he considers necessary having regard to the conditions of the land and, if such area be agricultural area, the crops grown in such area, and the Revenue-officer shall then determine the rent-rates for different classes of lands in each such unit.

(2) In determining the rent-rates for different classes of agricultural land under sub-section (1), the Revenue-officer shall take into consideration-

(a) the nature of the soil and the general productivity of the class of land for which the rent-rate is being determined;

(b) the normal yield per acre of the land to be determined in the prescribed manner;

(c) the average prices of the crops grown on such land calculated on the basis of the average prices of such crops prevailing during the preceding twenty years excluding the years in which such prices were abnormal;

(d) any means of irrigation or drainage or any other special facilities for cultivation of such land;

(e) the result of any work of agricultural improvement effected within any particular unit at the expense of Government.

(3) The rate of rent per acre for any class of agricultural land determined under sub-section (1) shall not exceed one- tenth of the total value of the produce per acre of such land obtained by multiplying the normal yield per acre of such land, determined in the manner prescribed, by the average price of crops grown in such land referred to in clause (c) of sub-section (2).

(4) In determining the rate of rent for different classes of non-agricultural land under sub-section (1), the Revenue-officer shall take into consideration-

(a) the rent generally paid to the Government for non-agricultural land with similar advantages or of a similar description in the vicinity,

(b) the market value of the land or of similar land in the vicinity immediately before the publication of the notification under section 99, to be determined in the prescribed manner,

(c) special conditions and incidents, if any, of the tenancy, and

(d) the result of any work of improvement effected within any particular unit at the expense of Government:

Provided that the rate of rent per acre for any class of non-agricultural land determined under sub-section (1) shall not exceed one-fourth per centum of such market value in the case of a residential area and half per centum of such market value in the case of any other area.

(5) The rent generally paid for similar land in the vicinity, as referred to in clause (a) of sub-section (4), shall be calculated by adding up the existing rents of such land in the unit and dividing the sum total by the total area of such unit.

Explanation.- For the purpose of this section, “land” does not include any building or structure standing thereon.

Preliminary and final publication of table of rent-rates and its confirmation by the prescribed superior Revenue Authority

101. (1) When the Revenue-officer has prepared a table of rent-rates, he shall cause a draft of it to be published in the prescribed manner and for the prescribed period in the area or village to which it relates.

(2) Any person objecting to any entry in the table of rent-rates may present a petition to the Revenue-officer within thirty days from the first date of publication under sub-section (1), and the Revenue-officer shall consider any such objection and may alter or amend the table.

(3) If no objection is made within the said period or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the prescribed Revenue Authority with a full statement of the grounds for his proposals together with all the necessary particulars and the existing rent-rates for each class of land and a summary of the objections (if any) which he has received.

(4) Such superior Revenue Authority may confirm a table submitted under sub-section (3), with or without modification, or may return it for revision.

(5) When a table of rent-rates has been confirmed by such superior Revenue Authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the table have been duly conducted in accordance with this Act, and it may be presumed that the rates shown in the table for each class of land are fair and equitable rates payable for land of that class within the area to which the table applies.

Rate shown in the table

to be the maximum rate

102. The rate of rent for any class of land shown in a table of rent-rates confirmed under section 101 shall be the maximum rate at which the rent of a raiyat or non-agricultural tenant for such class of land can be settled.

Particulars to form parts of record-of-rights

103. The particulars referred to in sub-sections (2) and (4) of section 100 in respect of a unit and the rates of rent determined for different classes of land within such unit under this chapter shall form part of the record-of-rights of such unit maintained under this Part.

Duration of rent-rates

104. When the rent-rates for any district, part of a district or unit of area have been determined under this Chapter and shown in a table of rent-rates confirmed under section 101, they shall not be changed until after a period of twenty years has elapsed from the date of such confirmation.

Grounds of and limits to enhancement of rent

105. (1) The rent payable by a raiyat or non-agricultural tenant in respect of any land shall be liable to enhancement on the ground that the rent payable by him is substantially lower than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land is situated and entered in the table of rent rates, confirmed under section 101, applicable to such unit.

(2) In all cases where the increase of rent exceeds fifty per centum of the rent payable during the immediately preceding year, the Revenue-officer shall, and in any other cases were he considers that an immediate increase of rent will cause hardship, he may direct that the enhancement shall take effect by yearly increments over a number of years as he may fix in this behalf:

Provided that the increase of rent in a particular year shall not exceed fifty per centum of the rent payable during the year immediately preceding the year from which the new assessment takes effect under section 113.

Grounds for reduction of

rent

106. The rent payable by a raiyat in respect of a holding may be reduced on one or more of the following grounds, namely:-

(a) that the rent payable by the raiyat is substantially higher than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land comprised in the holding is situated and entered in the table of rent-rates, confirmed under section 101, applicable to such unit;

(b) that the soil of the holding has deteriorated as a result of the deposit of sand or through the operation of other natural causes, sudden or gradual; and

(c) that there has been any breakdown of the existing arrangements for irrigation or drainage or for the maintenance of any embankments or bunds which were in existence at the time when the rent was last settled, and the soil of the holding has thereby deteriorated.

Grounds for reduction of rent

[60][106A. The rent payable by a non-agricultural tenant in respect of any tenancy may be reduced on the ground that the rent payable by him is substantially higher than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land comprised in the tenancy is situated and entered in the table of rent-rates, confirmed under section 101, application to such unit.]

Settlement of fair and equitable rents

107. (1) After a table of rent-rates has been prepared and confirmed under this Chapter, the Revenue-officer shall proceed to settle, according to the provisions of the preceding sections, the fair and equitable rents of all tenants in the area to which the table of rent-rates applies and to prepare the settlement rent-roll as directed under clause (b) of sub-section (1) of section 99.

(2) For the purpose of settling such fair and equitable rents and preparing the settlement rent-roll, the Revenue-officer shall be guided by the rent-rates entered in the table of rent-rates so prepared and confirmed:

Provided that a Revenue-officer shall not be bound to apply the said rates to any particular case or area if he considers, for reasons to be recorded in writing, that the application of such rates to such case or area would be unfair or inequitable.

(3) Where any non-agricultural land is comprised in a tenancy which includes land other than non-agricultural land, or when the classification of land has partly changed from agricultural to non-agricultural, the Revenue-officer shall,-

(i) divide the tenancy so as to constitute separate tenancies for the non-agricultural land and the agricultural land,

(ii) apportion the existing rent between the tenancies so constituted,

(iii) estimate fair and equitable rents for the agricultural and non-agricultural land in accordance with the provisions of this Chapter, and

(iv) make such consequential changes in the record-of-rights as may be necessary.

Preliminary publication and amendment of settlement rent-roll

108. (1) When a settlement rent-roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period and shall receive and consider any objection made to an entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Government may make.

(2) The Revenue-officer may, of his own motion or on application of any party aggrieved, at any time before a settlement rent-roll is submitted to the confirming authority under section 109, revise any rent entered therein:

Provided that no such entries shall be revised until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

Sanctioning final public of the settlement rent-roll and in corporation of the same in the record-of-rights

109. (1) When all objections have been disposed of under section 108, the Revenue-officer shall submit the settlement rent-roll to the prescribed confirming authority with a full statement of the grounds for his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the settlement rent-roll with or without amendment or may return it for revision:

Provided that no entry shall be amended or omission supplied until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority the Revenue-office shall finally frame the settlement rent-roll and publish it in such manner as may be prescribed and shall incorporate it in the record-of-rights for the area, to which such settlement rent-roll relates, maintained under this Part; and such publication shall be conclusive evidence that the settlement rent-roll has been duly made under this Chapter.

Appeal to and revision by superior Revenue Authority

110. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer on any objection made under section 108, or from an order passed by the confirming authority under section 109 to the prescribed superior Revenue Authority.

(2) The [61][Board of Land Administration] may in any case under this Chapter, on application or of its own motion, direct the revision of any settlement rent-roll or any portion of it at any time within six months of the date of the order sanctioning the settlement rent-roll under sub-section (2) of section 109 or any order passed by the superior Revenue Authority under sub-section (1),

whichever is later, but not so as to affect any order passed by the Special Judge under section 111:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Appeal to the Special Judge

111. (1) Any person aggrieved by an order passed by the Revenue-officer on any objection made under section 108 or an order passed by the confirming authority under section 109, may present an appeal in the prescribed manner against such order, within three months of the final publication under sub-section (3) of section 109 of the settlement rent-roll to which such appeal relates, to the Special Judge appointed by the Government in this behalf provided that no appeal has been presented regarding the matter to the prescribed superior Revenue Authority under sub-section (1) of section 110.

(2) Subject to such orders as may be passed by the High Court in its revisional jurisdiction, the order of the Special Judge, on the Appeal, shall be final; and no appeal shall lie to the High Court against the order of the Special Judge under this section.

(3) The provisions of the Code of Civil Procedure, 1908, shall, so far as it may be, apply to all appeals presented to the special Judge under this section.

Correction of Mistakes and making alteration in rent-roll

[62][111A. The Revenue-officer, may, at any time before final publication under sub-section (3) of section 109, correct any clerical mistake in the settlement rent-roll, and shall make such alteration in the same as may be necessary to give effect to any order passed under sections 110 and 111.]

Presumption to rents settled under this Chapter

112. All rents settled under this Chapter shall be deemed to have been correctly settled and to be fair and equitable rents.

Date from which settlement takes effect

113. When a rent is settled by a Revenue-officer under this Chapter in respect of any area, it shall, subject to sections 110 and 111, take effect from the beginning of the agricultural year next after the date of the final publication under sub-section (3) of section 109 of the settlement rent-roll in which such rent is specified.

Period for which rent as settled is to remain unaltered

114. When the rent of a tenant has been settled under this Chapter, it shall not be enhanced for a period of twenty years; and no such rent shall be reduced within the said period save on the ground specified in clause (b) or clause (c) of section 106.

Bar to jurisdiction of Civil Court

115. No suit or other legal proceeding shall be instituted in any Civil Court in respect of the determination of rent-rates or the settlement of any rent or the omission to determine any rent-rate or to settle any rent under this Chapter, except as provided in section 111.

CHAPTER XV

AMALGAMATION, SUBDIVISION AND CONSOLIDATION OF HOLDINGS

Amalgamation of holdings of a tenant in the same village

116. Where various parcels of land are held by one tenant within one village, and such parcels of land or some of them are the subject of separate tenancies, such parcels of land shall, under the orders of the Revenue-officer, be amalgamated into one tenancy.

Subdivision of holding and restrictions thereon

117. (1) Notwithstanding anything contained elsewhere in this part, the Revenue-officer may,-

(a) for the purpose of amalgamation of tenancies under section 116, either on his own motion or on an application made to him by one or more co-sharer tenants, in that behalf, or

(b) for the purpose of consolidation of holdings of a malik, under section 119, either on his own motion or on an application made to him, in that behalf, or

(c) for the purpose of subdivision of a joint tenancy for distribution of rent thereof, on an application made to him by one or more co-sharer tenants,

direct, by order in writing, such subdivision of a joint tenancy amongst the co-sharer tenants and distribution of rent thereof, including arrears of rent, if any, as he may consider fair and equitable:

Provided that no such order shall be passed unless reasonable notice is given to the parties concerned to appear and be heard in the matter:

Provided further that where an order under clause (c) is passed, and distribution of rent, by reason thereof, results in bringing the rent of a portion of the tenancy below rupee one, a fraction of rupee one shall be rounded off into rupee one.

(2) Omitted by section 19 of the State Acquisition and Tenancy (Amendment) Ordinance, 1967 (East Pakistan Ordinance No. VIII of 1967).

(3) When an order under sub-section (1) has been passed subdividing a joint holding, such subdivision may be demarcated on the ground and also shown on the cadastral survey map.

[Omitted.]

118. [Transfer of the interest of a co-sharer tenant in a holding on payment of compensation.- Omitted by section 6 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1964 (East Pakistan Act No. XVII of 1964).]

Persons entitled to apply for consolidation of holding

119. (1) Any two or more raiyats having lands in the same or contiguous villages may apply in the prescribed form to the Revenue-officer for consolidation of their holdings and submit along with such application a scheme for such consolidation.

(2) If not less than two-thirds of the raiyats in a village or a block of villages, which form one contiguous area, holding not less than three-fourths of the total cultivable area in such village or block of villages, make an application under sub-section (1) for consolidation of their holdings, such application

shall be deemed to be an application on behalf of all the raiyats of such villages or block of villages.

Admission of application

120. (1) On receipt of any application for consolidation under section 119, the Revenue-officer shall enquire into such application in the prescribed manner and shall, if he considers after such enquiry that there are good and sufficient reasons for rejecting such application or excluding any of such land from consolidation, submit the application to the prescribed superior Revenue Authority with a recommendation that the application be rejected, or disallowed in a part, specifying his reason therefor; and on receipt of such recommendation, such superior Revenue Authority shall pass such orders thereon as he thinks proper.

(2) If the Revenue-officer does not make any recommendation under sub-section (1), or if such superior Revenue Authority, on receipt of the recommendation of the Revenue-officer, makes an order directing the Revenue-officer to admit the application in whole or in part, the Revenue-officer shall admit such application either in whole or in part, as the case may be, and shall deal with it in accordance with the provisions of this Chapter and of any rules made by the Government under this Act.

Confirmation of agreed schemes for consolidation

121. When a scheme for the consolidation of holding is submitted along with an application under sub-section (1) of section 119, and such scheme, including any stipulation for payment of any compensation by one party to another contained in such scheme, has been agreed to by all the raiyats affected by it, the Revenue-officer shall, after admitting the application either in whole or in part under section 120, examine such scheme and may, after such examination, either confirm the scheme with or without modification or may return it for revision and may confirm it after such revision:

Provided that the Revenue-officer shall not confirm the scheme if the sum total of the rent of all holdings under the scheme has been reduced by the distribution of the rent consequent on redistribution of lands.

Preparation of a scheme for consolidation and appointment of Advisory Committee

122. (1) In the following cases, namely,-

(i) where no scheme for the consolidation of holdings is submitted along with the application under sub-section (1) of section 119, or where any such scheme has been submitted with such application but has not been agreed to by all the raiyats affected by it, or

(ii) where an application has been made under sub-section (2) of that section, or

(iii) where the Government by notification make an order directing that consolidation of holdings be affected in any area and the raiyats of such area fail to produce an agreed scheme under sub-section (1a),

the Revenue-officer shall prepare a scheme for the consolidation of holdings of such applications or of each raiyat at in such villages or area, as the case may be; and every such scheme shall be prepared in accordance with the provisions of the Act and of such rules as may be made by the Government in this behalf.

[63][(1a) Upon the publication of a notification under clause (iii) of sub-section (1), the Revenue-officer shall call upon the raiyats of the area, to which such notification relates, to produce, within a time to be fixed by him which may be extended by him, if necessary, an agreed scheme of consolidation of holding.]

(2) For the purpose of assisting him in the preparation of a scheme for consolidation of holdings under sub-section (1) in any local area or for the purpose of securing an agreed scheme for consolidation of holdings in respect of any area under sub-section (1a), the Revenue-officer may, subject to such rules as may be made by the Government in this behalf, appoint an Advisory Committee in respect of such area and may provide such Advisory Committee with such technical assistance as he may consider necessary.

[64][(2a) When an agreed scheme is produced under sub-section (1a), the Revenue-officer shall deal with such scheme in the same manner as

provided in section 121.]

(3) In preparing a scheme for the consolidation of holdings under sub-section (1), the Revenue-officer shall have due regard to any proposal with regard to the consolidation which has the largest measure of agreement amongst the parties, affected by it, and in making the redistribution of lands for the purpose of the consolidation, he shall see that the total area of a holding or the profit to be derived therefrom is affected as little as possible.

(4) If in preparing a scheme for the consolidation of holdings under sub-section (1), it appears to the Revenue-officer that the redistribution of lands will result in allotment to any raiyat of any parcel of land of market value lower than the market value of his original parcel of land, the Revenue-officer shall in the scheme provide for the payment of compensation to such raiyat by the raiyat or raiyats who, in the opinion of the Revenue-officer, will be benefited by the allotment of the more valuable land of the first-named raiyat.

(5) In preparing a scheme for the consolidation of holdings under sub-section (1), the Revenue-officer shall, in any case where the land is of such a kind that the productivity of different areas may vary from year to year, give due consideration to this fact and shall attempt to preserve the balanced character of the holdings, as far as possible, and where the plots of land exist at different levels, he may consolidate the holdings in two or more blocks each at a different level.

(6) Before confirming a scheme for the consolidation of holdings in any area under section 121 or section 123, the Revenue-officer shall ascertain, as far as possible, all encumbrances, including mortgages, attached to the land situated within such area and shall issue a notice in the prescribed manner calling upon all beneficiaries of encumbrances to declare their interests within a date to be fixed in that behalf and it shall then be incumbent on the persons, in whose favour such encumbrances have been created, to declare the encumbrances before the Revenue-officer within the period fixed in such notice and if any such person fails to declare such encumbrances within the

said period, the encumbrances shall cease to be attached to any part of the land originally encumbered that has not remained with its owner after consolidation.

(7) In preparing a scheme for the consolidation of holdings under sub-section (1), the Revenue-officer shall see that the sum total of the rent of all holdings under the scheme is not reduced by the distribution of the rent consequent on redistribution of the lands.

(8) In conducting any proceedings for the consolidation of holdings in any case where the value of a holding is materially changed, the Revenue-officer shall simultaneously apportion the rent in such a way that the incidence upon the owners of holdings bears the same proportion to the value of each holding as it did before.

(9) Each consolidated holding shall bear one single rent.

Draft publication of the scheme and hearing of objections

123. (1) When a scheme for consolidation of holdings has been prepared, the Revenue-officer shall cause a draft of the scheme to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made in regard to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Government may make in this behalf.

(2) If no objection is made within the said period or, where objections are made, such objections are disposed of, the Revenue-officer shall pass an order confirming the scheme with or without modification.

(3) Omitted by section 22 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (E. P. Ord. XV of 1961).

Appeals

124. (1) Any person aggrieved by an order of the Revenue-officer confirming a scheme under section 121 or under sub-section (2) of section 123 may, within the period prescribed in this behalf, prefer an appeal in the prescribed

manner to the prescribed superior Revenue Authority and the decision of the said superior Authority on such appeal shall, subject to the provisions of sub-section (2), be final.

(2) A second appeal, if presented in the prescribed manner and within the period prescribed in this behalf, shall lie from every order passed on appeal under sub-section (1) by such superior Revenue Authority to the [65][Board of Land Administration].

Final confirmation of the scheme

125. When the time within which appeals may be made under sub-section (1) of section 124 has expired and, if any such appeal has been made, when the time within which the second appeal may be made under sub-section (2) of that section has also expired, and all appeals made under sub-sections (1) and (2) of that section have been disposed of, and no order rejecting the scheme has been finally passed on such appeal, the Revenue-officer shall, if necessary, modify the scheme to give effect to any orders passed on appeal under the said section, if any, and shall thereafter record an order finally confirming the scheme.

Modification of the village record-of-rights on confirmation of the scheme and the date from which the scheme takes effect

126. (1) Upon the final confirmation of a scheme for consolidation of holdings under section 125, the Revenue-officer shall cause the record-of-rights, maintained under this part, to the village or villages to which such scheme relates, to be modified in accordance with the scheme as finally confirmed; and every tenant affected by such scheme shall be entitled to obtain free of cost from the Revenue-officer a copy of the record-of-rights, so modified, containing the entries as relating to him.

(2) When a scheme for the consolidation of holdings has been finally confirmed under section 125, it shall take effect from the beginning of the agricultural year next after the date of the final confirmation of such scheme.

Demarcation of the

127. As soon as may be after a scheme for the consolidation of holdings takes effect, the Revenue-officer shall depute a surveyor or amin to

boundaries of holdings

demarcate the boundaries of the holdings affected by the scheme or to take such other steps for the identification on the spot of the land included in the holdings so affected as the Revenue-officer may approve.

Effect of final confirmation of scheme for consolidation and the rights of raiyats thereunder

128. (1) On the final confirmation of a scheme under section 125, it shall be binding on all the raiyats to which such scheme relates.

(2) [Omitted by section 24 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (East Pakistan Ord. XV of 1961).]

(3) Every raiyat affected by any scheme for the consolidation of holdings finally confirmed under section 125 shall be entitled to the possession of the holdings allotted to him under the scheme with effect from the date on which the scheme takes effect; and the Revenue-officer may, on application made in this behalf by such raiyat, cause such steps to be taken as he may consider necessary for putting such raiyat in possession of the holding so allotted to him.

(4) A raiyat shall have the same right in the holding allotted to him under a scheme for the consolidation of holdings finally confirmed under section 125 as he had in his original holding before such consolidation.

Encumbrances on land included in the scheme for consolidation

129. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if the holding of a raiyat comprised within a scheme for the consolidation of holdings finally confirmed under section 125 is, immediately before the date on which such scheme takes effect, subject to any mortgage or other encumbrance, such mortgage or other encumbrance shall, with effect from such date, be deemed to be transferred and attached to the holding created and allotted to such raiyat under the said scheme or to such part of such holding as may be specified in the scheme by the Revenue-officer; and thereupon the mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the mortgage or other encumbrance has been transferred and shall continue to have the same rights in or against the holding so allotted or to

such part thereof as he had in or against the original land from which the mortgage or other encumbrance had been transferred.

(2) Notwithstanding anything contained in sub-section (3) of section 128 the Revenue-officer may, on application made in this behalf by any mortgagee or other encumbrancer entitled to possession of any holding or part thereof to which his mortgage or other encumbrance has been transferred under sub-section (1), cause such steps to be taken as he may consider necessary for putting such mortgagee or other encumbrancer in possession of such holding or part thereof.

No instrument necessary to effect transfer

130. Notwithstanding anything contained in any other law for the time being in force, no instrument in writing shall be necessary in order to give effect to transfer involved in carrying out any scheme for consolidation of holdings.

Transfer of holding during the pendency of the proceedings for consolidation

131. (1) During the pendency of any proceedings under this Chapter, no person shall transfer any land to which such proceedings relate, without the previous permission of the Revenue-officer and where any such land is transferred with such permission, the transferee shall be deemed to be a party to such proceedings and shall be substituted in place of the transferor of the land.

(2) On and from the date of final confirmation of a scheme for consolidation of holdings under section 125, no co-sharer shall acquire by continued possession any title in a part of the holding to the exclusion of the other co-sharers.

Recovery of the cost of consolidation proceedings

132. (1) The costs of proceedings of the consolidation of holdings under this Chapter shall, on the final confirmation under section 125 of the scheme for such consolidation, be assessed in the prescribed manner and be, subject to such rules as may be made by the Government in this behalf, recovered from the raiyats whose holdings are affected by such scheme:

Provided that no costs shall be recoverable in respect of any proceedings arising out of an application under sub-section (1) of section 119 where the applicants have submitted an agreed scheme for consolidation of their holdings or in respect of any proceedings arising out of an agreed scheme produced under sub-section (1a) of section 122.

(2) The portion of the aforesaid costs which any raiyats is liable to pay shall be recoverable by the Government as an arrear of rent due in respect of the holding of the raiyats affected by the said scheme.

Recovery of compensation as arrears of public demand

133. Any amount specified in any scheme finally confirmed under section 125 as payable as compensation shall be recoverable as an arrear of public demand.

Bar to jurisdiction of Civil Courts

134. No Civil Court shall entertain any application of suit concerning any matter relating to consolidation of holdings of raiyats dealt with in this Chapter.

Special provision for the district of Dinajpur

[66][134A. Notwithstanding anything contained in the foregoing sections of this Chapter, the scheme for consolidation of holdings executed in the areas under the police stations of Debiganj and Boda in the district of Dinajpur under the provisions of this Chapter shall be deemed to be void ab-initio and the rights and interests of the tenants existing in the lands comprised in that scheme immediately before such consolidation shall remain unaffected, as if such consolidation were never made.]

CHAPTER XVI

PROVISIONS AS TO RENT AND REALISATION OF RENT

Instalment of rent

135. (1) Subject to agreement or establishment usage, the rent payable by a raiyat shall be paid in two equal instalments falling due on such dates as may be prescribed.

(2) Subject to agreement, the rent payable by a non-agricultural tenant shall be paid in one annual instalment falling due on the last day of the agricultural year.

Time and place for payment of rent

136. (1) Every raiyat shall pay or tender each instalment of rent and every non-agricultural tenant shall pay or tender the rent before sunset of the day on which it falls due:

Provided that the raiyat or the non-agricultural tenant may pay or tender the rent payable for the year at any time during the year before it falls due.

(2) The payment or tender of rent may be made-

(a) at the village tahsil office or at such other convenient place as may by appointed in that behalf by the Collector; or

(b) by postal money-order in the manner prescribed.

(3) When rent is sent by postal money-order in the prescribed manner it shall be presumed, until the contrary is proved, that a tender has been made.

(4) When rent sent by postal money-order is accepted, the fact of this acceptance shall not be used in any way as evidence of the correctness of any of the particulars set forth in the postal money-order form.

(5) Any rent or any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed to be an arrear.

Appropriation of payments

137. (1) When a raiyat or a non-agricultural tenant makes a payment on account of rent, he may declare the year or years and the instalment or instalments in respect of which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment shall be credited towards the arrears, if any, and the balance, if any, after the arrears have been satisfied, and where there is no arrear, the whole amount, shall be credited as the rent of the current year.

Raiyat making payment of his rent entitled to a receipt

138. Every raiyat or non-agricultural tenant who makes a payment on account of rent shall be entitled to obtain forthwith, from the person authorised in writing by the Collector to receive such rent, a written receipt in the prescribed form for the amount paid by him signed by the person so authorised.

Liability of holding to sale for arrears

139. The holding of a raiyat or the tenancy of a non-agricultural tenant shall be liable to sale in execution of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for the rent thereof, and the rent shall be a first charge thereon.

Interest on arrears

140. An arrear of rent shall bear simple interest at the rate of six and a quarter per centum per annum from the expiry of the year in which the rent or instalments of rent, as the case may be, fall due to the date of payment or of the filing of the certificate under the Bengal Public Demands Recovery Act, 1913, whichever date is earlier.

Realisation of arrears of rent under the Bengal Public Demands Recovery Act, 1913

141. All arrears of rent shall be recoverable under the Bengal Public Demands Recovery Act, 1913, subject to such rules as may be made in this behalf by the Government and not otherwise:

Provided that a certificate signed under the said Act for arrears of rent shall not be executed by arresting the certificate-debtor and detaining him in the civil prison.

Amounts paid into court to prevent Sale to be a mortgage demand in certain cases

[67][141A. (1) When a co-sharer tenant, whose interests are affected by the sale of a holding or tenancy advertised for sale in execution of a certificate for arrears of rent due in respect thereof signed under the Bengal Public Demands Recovery Act, 1913, pays into the court, the amount requisite to prevent the sale-

(a) the amount so paid by him shall be deemed to be a debt bearing interest at six and a quarter per centum per annum and secured by a mortgage of

such holding or tenancy to him; and

(b) his mortgage shall take priority over every other charge on such holding or tenancy other than a charge for arrears of rent.

(2) Nothing in this section shall affect any other remedy to which such co-sharer tenant would be entitled.]

Limitation

142. The period of limitation for the recovery of an arrear of rent shall be three years running from the last day of the year in which the arrear fell due.

CHAPTER XVII

MAINTENANCE AND REVISION OF THE RECORD-OF-RIGHTS

Maintenance of the record-of-rights

143. The Collector shall maintain up-to-date, in the prescribed manner, the record-of-rights prepared or revised under Part IV or under this Part by correcting clerical mistakes and by incorporating therein the changes on account of-

(a) the mutation of names as a result of transfer or inheritance;

(b) the subdivision, amalgamation or consolidation of holdings;

(c) the new settlement of lands or of holdings purchased by the Government; and

(d) the abatement of rent on account of abandonment or diluvion or acquisition of land.

[Omitted.]

143A. [Omitted by section 2 of the State Acquisition and Tenancy (Amendment) Ordinance, 1975 (Ordinance No. XLIV of 1975).]

Correction of the Record-of Rights upon inheritance

[68][143B. (1) Person acquiring immovable property by inheritance according to their respective personal laws shall amicably effect partition of the property among them after the death propositus. After such

partition, an instrument of partition shall be prepared and signed by all the concerned parties and shall be registered under the Registration Act, 1908.

(2) Upon presentation of the instrument of partition prepared, signed and registered under sub-section (1), the Revenue-officer shall revise the Khatian in accordance therewith.

Procedure for Correction of the Record-of-Rights

143C. (1) The Revenue-officer on receipt of the notice under section 89 shall open a file for mutation of record-of rights and shall issue notice to the co-sharers of the holding for mutation.

(2) For this purpose the Revenue-officer shall fix a date for objection if any. If no objection is raised within the stipulated period, the Revenue-officer shall correct the record-of-rights accordingly.

(3) If any objection is filed by any co-sharer of the holding, then the Revenue-officer shall fix a date for hearing both the parties, and after hearing, the Revenue-officer shall pass an order stating the reasons thereof, and the record-of-rights shall be corrected accordingly.]

Revision of the record-of-rights

144. (1) The Government may in any case if it thinks fit make an order directing that a record-of-rights in respect of any district, part of a district or local area be prepared or revised by a Revenue-officer in accordance with such rules as may be made by the Government in this behalf.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make such order in any of the following cases, namely:-

(a) where not less than one-half of the total number of tenants applies for such an order;

(b) where the preparation or revision of such a record is calculated to settle or avert a serious dispute existing or likely to arise amongst the tenants; and

(c) where a settlement of rent is being or about to be made in respect of any district, part of a district or local area.

(3) A notification in the official Gazette of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

(4) When an order is made under sub-section (1), the Revenue-officer shall record in the record-of-rights to be prepared or revised in pursuance of such order such particulars as may be prescribed.

[69][(4A) (i) Notwithstanding anything contained elsewhere in this Act, the Revenue-officer shall also assess or re-assess rent on land in the following cases, namely:-

(a) where any land held by a raiyat or non-agricultural tenant has not been assessed to any rent under Chapter IV or section 98A, nor has any rent been settled in respect of such land under section 107; or

(b) where any land assessed to rent as agricultural land under any of the provisions mentioned in clause (a), is subsequently used for a non-agricultural purpose or vice versa.

In assessing or re-assessing any rent under this sub-section, the Revenue-officer shall have regard to the principles laid down in section 26.

(ii) Where only a part of a holding is used for non-agricultural purpose, the Revenue-officer shall take action on the principles laid down in sub-section (3) of section 98A.]

(5) When a record-of-rights has been prepared or revised so as to contain or include therein the particulars referred to in sub-section (4) [70][and the rents assessed or re-assessed under sub-section (4A)], the Revenue-officer shall publish a draft of the record-of-rights so prepared or revised in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of such publication.

(6) Any person aggrieved by an order passed by the Revenue-officer on any objection made under sub-section (5) may prefer an appeal to the prescribed Revenue Authority not below the rank of an Assistant Settlement Officer in such manner and within such period as may be prescribed.

(7) When all such objections and appeals have been considered and disposed of according to such rules as the Government may make in this behalf, the Revenue-officer shall finally frame the record and shall cause such record to be finally published in the prescribed manner and the publication shall be conclusive evidence that the record has been duly prepared or revised under this section.

(8) When a record-of-rights has been finally published under sub-section (7), the Revenue-officer shall, within such time as the [71][Director of Land Records and Surveys] may fix in this behalf, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.

Presumption as to correctness of record of rights

[72][144A. Every entry in a record-of-rights prepared or revised under section 144 shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be

incorrect.

Bar to jurisdiction of civil court

144B. (1) When an order has been made under sub-section (1) of section 144 directing the preparation or revision of record-of-rights in respect of any area, then, subject to the provisions of section 111, a civil court shall not entertain any suit or application for the alteration of any rent or determination of the status of any tenant of the incidents of any tenancy in such area and if any such suit or application relating to such area is pending before a civil court on or after the date of such order, it shall not be further proceeded with and shall abate and if any judgement, decree or order has been passed in any such suit or any order has been passed on any such application, after the said date, it shall be inoperative and of no legal effect.

(2) No suit or application shall be brought in a civil court in respect of any order directing the preparation or revision of record-of-rights under this Chapter or in respect of framing, publication, signing or attestation of such a record or a ny part of it, and if any such suit or application is pending before a civil court, it shall not be further proceeded with and shall abate and if any judgment, decree or order has been passed in any such suit or any order has been passed on any such application, it shall be inoperative and of no legal effect.]

Recovery of the cost of revision of record-of-rights

145. (1) Where the preparation or revision of a record-of-rights has been directed under this Chapter in respect of any district, part of a district or local area, the expenses incurred in respect of such preparation of revision shall be recoverable from the raiyat and other occupants of land in such proportions and in such instalments, if any, as the Government, having regard to all the circumstances, may determine:

Provided that no part of these expenses shall be recoverable from the raiyats and other occupants in the case where the preparation or revision of the

record-of-rights has been undertaken under clause (c) of sub-section (2) of section 144 with a view to settlement of fair and equitable rents of such raiyats under the provisions of Chapter XIV.

(2) The portion of the aforesaid expenses which any person is liable to pay under sub-section (1) shall be recoverable by the Government as if it were an arrear of rent due in respect of the holding or other interest, as the case may be, of such person, situated within the said district, part of a district or local area.

[73]CHAPTER XVIIA

LAND SURVEY TRIBUNAL AND LAND SURVEY APPELLATE TRIBUNAL

Land Survey Tribunal

145A. (1) The Government may, by notification in the official Gazette, establish as many Land Survey Tribunals as may be required to dispose of the suits arising out of the final publication of the last revised record-of-rights prepared under section 144.

(2) The Government may, by notification in the official Gazette, fix and alter the territorial limits of the jurisdiction of any Land Survey Tribunal.

(3) The Government shall, in consultation with the Supreme Court, appoint the judge of the Land Survey Tribunal from among persons who are Joint District Judges.

[74][(3A) Until such judge is appointed under sub-section (3), the Government may empower a Joint District Judge in each district as the judge of the Land Survey Tribunal of the district.

(3B) The Joint District Judge empowered under sub-section (3A) shall be deemed to be the judge of the Land Survey Tribunal appointed under sub-section (3).

(3C) The Government may, if necessary, appoint one or more Senior Assistant judge or Assistant Judge as a judge of the Land Survey Tribunal to dispose of the suits transferred by the judge of the Land Survey Tribunal appointed or empowered under this section.]

(4) No suit other than the suits arising out of the final publication of the last revised record of rights prepared under section 144 shall lie in the Land Survey Tribunal.

(5) If any suit arising out of the final publication of the last revised record-of-rights prepared under section 144 is instituted in any civil court before the establishment of the Land Survey Tribunal under this section, such suit shall stand transferred to the Tribunal as soon as it is established.

(6) Subject to the provision of sub-section (7), any person aggrieved by the final publication of the last revised record-of-rights prepared under section 144 may, within one year from the date of such publication or from the date of the establishment of the Land Survey Tribunal, whichever is later, file a suit in such Tribunal.

(7) A suit may be admitted within next one year after the expiry of the period specified in sub-section (6), if the Land Survey Tribunal is satisfied with the reasons for delay shown by the plaintiff.

[75][(7A) The Land Survey Tribunal shall conclude the trail of a suit within 180 (one hundred and eighty) days from the date fixed for its final hearing.]

(8) The Tribunal shall be competent to declare the impugned record-of-rights to be incorrect and further direct the concerned office to correct the record-of-rights in accordance with its decision, and may also pass such other order as may be necessary.

Land Survey Appellate Tribunal

145B. (1) The Government may, by notification in the official Gazette, establish as many Land Survey Appellate Tribunals as may be required to hear the appeals arising out of the judgment, decree or order of the Land Survey Tribunals.

(2) The Government may, by notification in the official Gazette, fix and alter the territorial limits of the jurisdiction of any Land Survey Appellate Tribunal.

[76][(3) The Government shall appoint the judge of the Land Survey Appellate Tribunal from among the persons who are District judges.]

[77][(3A) Until such judge is appointed under sub-section (3), the Government may empower the District Judge as the judge of the Land Survey Appellate Tribunal of the district.

(3B) The District Judge, empowered under sub-section (3A), shall be deemed to be the judge of the Land Survey Appellate Tribunal appointed under sub-section (3).

(3C) The Government may, if necessary, appoint one or more Additional District Judges as a judge of the Land Survey Appellate Tribunal to hear appeals transferred by the judge of the Land Survey Appellate Tribunal appointed or empowered under this section.]

(4) No appeal other than the appeals arising out of the judgment, decree or order of the Land Survey Tribunal shall lie in the Land Survey Appellate Tribunal.

(5) Subject to the provision of sub-section (6), any person aggrieved by any judgment, decree or order of the Land Survey Tribunal may, within three months from the date of such judgment, decree or order, prefer an appeal to the Land Survey Appellate Tribunal.

(6) An appeal may be admitted within next three months even after the expiry of the period specified in sub-section (5), if the Land Survey Appellate Tribunal is satisfied with the reasons for delay shown by the appellant.

[Omitted]

[78][***]

Powers and procedure of Tribunals

145D. (1) For the purposes of disposal of suits or appeals, a Land Survey Tribunal or a Land Survey Appellate Tribunal, as the case may be, shall exercise the powers and follow the procedure under the Code of Civil Procedure, 1908 (V of 1908), so far as not inconsistent with the provisions of this Act or the rules made thereunder, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him;

(b) requiring the discovery and production of any document;

(c) requiring evidence on affidavit;

(d) requisitioning any public record or a copy thereof from any office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) such other matters as may be prescribed by rules.

(2) Any proceeding before a Land Survey Tribunal or a Land Survey Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Penal Code (XLV of 1860).

(3) A Land Survey Tribunal or a Land Survey Appellate Tribunal shall sit at such place or places as the Government may fix.

(4) The Judge of the Land Survey Tribunal or Land Survey Appellate Tribunal may make such administrative arrangements as he considers necessary for the performance of the functions of the Land Survey Tribunal or Land Survey Appellate Tribunal, as the case may be.

(5) The Land Survey Appellate Tribunal may, of its own motion or upon an application made to it, by order in writing, transfer, at any stage of the proceedings, any suit from one Land Survey Tribunal to another Land Survey Tribunal within the territorial limits of its jurisdiction.

Finality of Tribunals decisions and orders

[79][145E. Subject to the decisions and orders of the Land Survey Appellate Tribunal, the decisions and orders of the Land Survey Tribunal shall be final.]

Bar to jurisdiction of Civil Courts

145F. No suit arising out of the final publication of the last revised record-of-rights prepared under section 144 shall lie in any civil court within the territorial limits of the jurisdiction for which a Land Survey Tribunal is established under section 145A.

Power to abolish Tribunals, etc.

145G. The Government may, by notification in the official Gazette, at any time, abolish any Land Survey Tribunal established under section 145A and any Land Survey Appellate Tribunal established under section 145B, and while so abolishing, the Government shall, in the same notification, specify the courts where the suits, appeals and other proceedings pending in such Tribunals at the time of such abolition shall be transferred to and be disposed of.

Overriding effect

145H. Notwithstanding anything contained to the contrary, in this Act or any other law for the time being in force, the provisions of this Chapter, shall prevail.

Rule making power

145I. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Chapter.]

CHAPTER XVIII

JURISDICTION, APPEAL, REVISION AND REVIEW

Superintendence and control over Revenue-officers

[80][146. (1) The general superintendence and control over all Revenue-officers shall be vested in and all such officers shall be subordinate to, the [81][Board of Land Administration].

[82][(2) Subject to the provisions of sub-section (1), a Commissioner of a division shall exercise control over all other Revenue-officer in his Division.

(3) Subject as aforesaid and to the control of the Commissioner of the division, a Collector shall exercise control over all other Revenue-officers in his district.]

Appeals

147. Subject to any special provisions for appeal made in this Part or in any rules made under this Act, an appeal shall lie from every original or appellate order made under any of the provisions of this Part by a Revenue-officer as follows, namely:-

(a) to the Collector, when the order is made by a Revenue-officer subordinate to the Collector;

[83][(aa) to the Commissioner of the division, when the order is made by the Collector of a district within the division; and]

[84][* * *]

[85][(c) to the [86][Board of Land Administration], when the order is made by the [87][Commissioner of a division].

Limitation for appeals

148. The period of limitation for an appeal under section 147 shall run from the date of the order appealed against and shall be as follows, that is to say-

(a) when the appeal lies to the Collector ..... thirty days.

[88][(b) when the appeal lies to the Commissioner of a division ..... sixty days.

(bb) when the appeal lies to the [89][Board of Land Administration] ..... ninety days].

[90][* * *]

Revision

149. (1) Subject to any special provision for revision made in this Part, the Collector may of his own motion within one month of the date of any order passed under this Part by a Revenue-officer subordinate to him or on application made in that behalf within one month of the date of such order, revise such order.

[91][(1a) The Commissioner of a division may, of his own motion, within three months of the date of any order passed under this Part by the Collector of a district within the division or on an application made in that behalf within three months of the date of such order, revise such order.]

[92][* * *]

[93][(3) The [94][Board of Land Administration] may, of its own motion, within six months of the date of any order passed under this Part by the Commissioner of a division or on an application made in that behalf within six months of the date of such order, revise such order.]

[95][(4) The [96][Board of Land Administration] may at any time order the correction of any entry in a record-of-rights maintained under this Part or in a settlement rent-roll prepared and finally published under this Part which, it is satisfied, has been made owing to a bona fide mistake:

Provided that an order shall not be revised under this section if an appeal has been preferred against such order:

Provided further that no order for correction shall be made under sub-section (4) until reasonable notice has been given to the parties concerned to appeal and be heard in the matter.]

Review by Revenue-officer

150. (1) A Revenue-officer may, on application made in that behalf by any party interested or of his own motion review any order passed by himself or by any of his predecessors in office under this Part, and in so reviewing any order, may modify, reverse or confirm any such order:

Provided that-

(a) an application for review of an order shall not be entertained unless it is made within thirty days from the date of such order or, when such application is presented after the expiry of the said period of thirty days, unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within the said period;

(b) an order shall not be reviewed if an appeal has been preferred against such order or an application for revision of such order has been made to the superior Revenue Authority; and

(c) an order shall not be modified or reversed on a review unit reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(2) No appeal shall lie from an order rejecting an application for review or confirming on a review any previous order.

Computation of the period of limitation for appeals, applications for revision and review under this Act

151. (1) Sections 6, 7, 8 and 9 and sub-section (2) of section 29 of the Limitation Act, 1908, shall not and, subject to the provisions of Part V of this Act, the remaining provisions of the former Act, shall, so far as applicable, apply to all suits, appeals and applications arising under the said Part.

(2) All suits, appeals and applications referred to in Part V shall be instituted and made within the time prescribed therefore; and every such suit instituted, appeal preferred, and application made, after the prescribed period of limitation shall be dismissed, although limitation has not been pleaded.

[97]CHAPTER XVIIIA

SPECIAL PROVISIONS FOR EXEMPTION OF RENT

Exemption of rent in respect of certain land

151A. (1) Notwithstanding anything contained elsewhere in this Act, where a malik or non-agricultural tenant holds any land which is used primarily as a place of public prayer or religious worship or a public graveyard or a public cremation ground, he may apply in the prescribed form, to the Deputy Commissioner for exempting such land from payment of rent.

(2) Within three months from the date of receipt of such application, the Deputy Commissioner shall, after such enquiry as he deems fit, ascertain whether any land specified in the application is used as mentioned therein.

(3) If the Deputy Commissioner is satisfied that any land specified in the application is used as mentioned therein, he shall determine, in the prescribed manner, the area of the land so used and pass an order exempting such area from payment of rent, and, if the Deputy Commissioner is not so satisfied, he shall pass an order rejecting the application.

(4) If the area determined under sub-section (3) forms a part of a holding or tenancy, the Deputy Commissioner shall separate such area from the rest of the holding or tenancy and create a separate rent-free tenancy for such area.

(5) Where a separate rent-free tenancy is created under sub-section (4), the Deputy Commissioner shall reduce the rent payable in respect of the holding or tenancy out of which such rent-free tenancy is created in proportion to the area of such rent-free tenancy.

(6) Any person aggrieved by an order of the Deputy Commissioner under sub-section (3) may, within thirty days from the date of such order, prefer an appeal to the [98][Commissioner of the Division].

[99][(6a) Any person aggrieved by an order of the Commissioner of the Division under sub-section (6) may, within sixty days from the date of such order, make an application to the [100][Board of Land Administration] for the revision of such order.]

[101][* * *]

(8) The [102][Board of Land Administration] may, at any time, of its own motion, revise any order passed under this section by [103][the Commissioner of the Division or] the Deputy Commissioner.

(9) An order for exemption from payment of rent under this section shall take effect from the beginning of the agricultural year next after the date of such order.

Explanation- In this section-

(a) 'a place of public prayer or religious worship' means a public place specifically ear-marked, permanently preserved and regularly used exclusively for the purpose of offering prayers or worship by the followers of any particular religion or faith, such as Mosque, Jamatkhana, Eidgah, Temple, Church, Math, Synagogue, Pagoda, etc., and includes such adjuncts thereto as are necessary for such purpose and treated as appertaining to such place, but does not include any place used for deriving pecuniary benefit therefrom; and

(b) 'Deputy Commissioner' includes Additional Deputy Commissioner (Revenue).

Re-assessment of rent on land exempted from

151B. (1) When any land exempted from payment of rent under section 151A ceases to be used for the purpose for which such exemption was allowed, it shall be liable to be re-assessed to rent and it shall be competent for the Deputy Commissioner to re-assess the rent of such

payment thereof under section 151A

land at a rate which he may deem fair and equitable having regard to the rates of rent generally paid for lands of a similar description and with similar advantages in the same village or in the neighbouring villages:

Provided that no such re-assessment shall be made unless not less than fifteen days' notice has been given to the persons concerned to appear and be heard in the matter.

(2) Any person aggrieved by an order of the Deputy Commissioner under sub-section (1) may, within thirty days from the date of such order, prefer an appeal to the [104][Commissioner of the Division].

[105][(2a) Any person aggrieved by an order of the Commissioner of the Division under sub-section (2) may, within sixty days from the date of such order make an application to the [106][Board of Land Administration for the revision of such order and the order of that Board shall be final.]

[107][* * *]

(4) The rent re-assessed under this section shall be payable from the beginning of the agricultural year next after the date of such re-assessment.]

[108]CHAPTER XVIIIB

SPECIAL PROVISIONS FOR EXEMPTION OF LAND REVENUE IN RELATION TO AGRICULTURAL LAND

Exemption of land revenue in respect of agricultural land in certain cases

151C. Notwithstanding anything contained elsewhere in this Act and subject to the provisions of this Chapter, where the total area of agricultural land held in Bangladesh by a family does not exceed twenty-five standard bighas, such family shall be exempted from payment of land revenue in respect of such lands with effect from the first Baisakh of 1379 B. S. or from such date as it may be entitled to such exemption under section 151I, as the case may be:

Provided that a family holding a total area of agricultural land exceeding twenty-five standard bighas on the 16th day of December, 1971, shall not be entitled to claim any exemption from payment of land revenue as a result of decrease in the total area to twenty-five standard bighas or less due to any transfer made during the period from the 16th day of December, 1971, to the last date for submission of the statement under section 151D:

Provided further that exemption from payment of land revenue under this section or under section 151I shall not absolve any person from the liability of payment of the Development and Relief Tax under the Finance (Third) Ordinance, 1958 (E.P. Ord. LXXXII of 1958), the Additional Development and Relief Tax under the Finance Ordinance, 1970 (E.P. Ord. XVI of 1970), the Education Cess under the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1930) and the Local Rate under the Basic Democracies Order, 1959 (P.O. 8 of 1959), payable on the basis of land revenue and such other taxes, rates and cesses as may be payable under any other law for the time being in force.

Compulsory filing of statements by heads of families holding more than twenty-five bighas of agricultural land

151D. [109][By the 31st day of January, 1973] all heads of families, who either individually or with other members of their families held or hold more than twenty-five standard bighas of agricultural lands in Bangladesh on the 16th day of December, 1971, or on the date of submission of the statement, shall submit to the Revenue-officer a statement of all such lands in such form and manner as may be prescribed [110][:

Provided that the Government may extend the time for submission of such statements in all cases or in any particulars case or class of cases or in respect of any area up to such date as it thinks fit.]

Penalty for non-submission of statements or wilful supression of land

151E. Any head of a family, who fails, without any reasonable cause, to submit the statement required under section 151D within the specified time or wilfully makes any omission from, or incorrect declaration in, the statement submitted by him under the said section, shall be liable to a fine which may extend to taka one thousand, and the land for which no statement has been filed or which has been omitted from the statement or in respect of which the incorrect declaration is made shall stand forfeited to the Government:

Provided that where the failure to submit the statement or the omission from, or incorrect declaration in, the statement relates to any land transferred by any member of the family on or after the 16th day of December, 1971, such land shall not be forfeited but an equivalent quantity of land out of the lands actually held by any member or members of the family shall be forfeited in lieu thereof.

Liability of exempted holdings for re-assessment in certain cases

151F. If any person who is exempted from payment of land revenue under section 151C subsequently acquires at any time agricultural land by inheritance, purchase, gift, heba or otherwise which, added to the total quantity of agricultural land already held by him and other members of his family, exceeds twenty-five standard bigahs in the aggregate, the entire quantity of agricultural land held by him and the other members of his family shall be liable to the payment of land revenue with effect from the following dates, namely:-

(i) in case of acquisition before the first day of Kartik of the Bengali year, with effect from the first day of Kartik of that year; and

(ii) in case of acquisition on or after the first day of Kartik of the Bengali year, from the first day of the Bengali year next following the date of such acquisition.

Compulsory submission of statement by head of the family acquiring land in certain cases

151G. A head of a family, who, or any of the members of whose family, acquires agricultural land making the entire quantity of agricultural land held by such family liable to the payment of land revenue under section 151F, shall, within ninety days of the date of such acquisition, submit to the Revenue-officer a statement of all agricultural lands held by him and the other members of his family in such form and manner as may be prescribed.

Penalty for non-submission of statement or wilful suppression of land

151H. A head of a family, who fails to submit a statement under section 151G within the specified time or wilfully makes any omission from, or incorrect declaration in, the statement submitted by him under the said section, shall be liable to a fine which may extend to taka one thousand and the land for which no statement has been filed or which has been omitted from the statement or in respect of which the incorrect declaration is made shall stand forfeited to the Government.

Exemption from payment of land revenue in case of decrease in area

151I. Where the total area of agricultural land held by a family liable to the payment of land revenue decreases after the submission of the statement under section 151D or section 151G to twenty-five standard bighas or less due to inheritance or bone fide transfer, the head of such family may apply, in the prescribed form, praying for exemption from payment of land revenue, to the Revenue-officer stating the dates and reasons for such decrease, and the Revenue-officer shall, on being satisfied about the statement made in the application after making such enquiry as he deems fit, pass an order allowing such exemption with effect from the following dates, namely:-

(i) in case the application is made before the first day of Kartik of the Bengali year, with effect from the first day of Kartik of that year; and

(ii) in case the application is made on or after the first day of Kartik of the Bengali year, from the first day of the Bengali year next following the date of such application.

Definition of family and head of family

[111][151J. For the purpose of this Chapter-

(a) “family” in relation to a person includes such person and his wife, son, unmarried daughter, son's wife, son's son and son's unmarried daughter:

Provided that an adult and married son who has been living in a separate mess independently of his parents continuously since [112][* * *] before the 16th day of December, 1971, and his wife, son and unmarried daughter shall be deemed to constitute a separate family:

Provided further that in the cases of lands held under wakf, wakf-al-al-aulad, debuttar or any other trust where the beneficiaries have no right to alienate such lands as their personal property, all such beneficiaries together shall be deemed to constitute a separate family in relation to such land; and

(b) “head of a family” means-

(i) in cases other than those mentioned in the second proviso to clause (a) the person, male or female, in relation to whom a family is determined by the Revenue-officer in the prescribed manner, and

(ii) in the cases mentioned in the second proviso to clause (a), the Mutawalli, Sebait or Trustee, as the case may be.]]

CHAPTER XIX

RULES

Power to make rules

152. (1) The Government may, after previous publication, make rules for carrying out the purposes of this Part.

(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) the form of the application referred to in sub-section (1) of section 86 and the manner of and procedure for determining the amount of abatement referred to in that sub-section;

[113][* * *]

(c) the form of the notice referred to in clause (a) of sub-section (1) and sub-section (4) of section 89 and the amounts of process fees referred to therein;

(d) the Revenue Authority referred to in sub-sections (3) and (4) of section 90;

(e) the form of the notice referred to in clause (b) of sub-section (1) of section 92 and the manner in which and the period within which such notice is to be given, and the manner of publication of the notice referred to in sub-section (3) of that section;

(f) the manner of selection of land by the Revenue-officer for transferring encumbrances under section 94;

(g) the procedure to be followed and the power to be exercised by Revenue-officers in determining the rent-rates referred to in clause (a) of sub-section (1) of section 99, and the form of a table of rent-rates under that clause, the manner of preparing such table and the particulars to be specified therein;

(h) the form of a settlement rent-roll under clause (b) of sub-section (1) of section 99, the manner of preparing the same and the particulars to be specified therein;

(i) the manner of determining the normal yield per acre of land referred to in clause (b) of sub-section (2) and in sub-section (3) of section 100;

(j) the manner of determining the average rate of rent referred to in clause (f) of sub-section (2) and in sub-section (3) of section 100;

(k) the manner and period of publication of a draft table of rent-rates under sub-section (1) of section 101 and the Revenue Authority referred to in sub-section (3) of that section;

(l) the manner and period of publication of a draft settlement rent-roll under sub-section (1) of section 108, and the disposal of objections under that sub-section;

(m) the confirming authority referred to in sub-section (1) of section 109 and the manner of final publication of the settlement rent-roll under sub-section (3) of that section;

(n) the superior Revenue Authority referred to in sub-section (1) of section 110;

(o) the manner of presenting an appeal referred to in sub-section (1) of section 111;

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(q) the form of the application referred to in sub-section (1) of section 119;

(r) the manner of making the inquiry referred to in sub-section (1) of section 120, the superior Revenue Authority to whom the application referred to in that sub-section is to be submitted by the Revenue-officer and the procedure to be followed in dealing with the applications referred to in sub-section (2) of that section;

(s) the manner of preparation of the scheme for consolidation of holdings referred to in sub-section (1) of section 122 and the appointment and constitution of the Advisory Committee referred to in sub-section (2) of that section;

(t) the manner and period of publication of a draft scheme for consolidation of holdings under sub-section (1) of section 123 and the disposal of objections

under that sub-section;

(u) the period within which and the manner in which an appeal under sub-section (1) of section 124 and a second appeal under sub-section (2) of that section shall be presented and the superior Revenue Authority referred to in sub-section (1) of that section;

(v) the manner of assessment of the cost of proceedings for consolidation of holdings referred to in sub-section (1) of section 132 and the recovery of such cost under that sub-section;

(w) the dates of payment of instalments of rent referred to in sub-section (1) of section 135;

(x) the manner of payment or tender of rent by postal money order under section 136;

(y) the form of the written receipt referred to in section 138;

(z) the procedure to be followed in recovering arrears of rent under section 141;

(za) the manner in which the record-of-rights referred to in section 143 shall be maintained up-to-date;

(zb) the procedure to be followed and the powers to be exercised by Revenue-officers in revising the record-of-rights under section 144.

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[1] The words “East Pakistan” were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972)

[2] Clause (9a) was inserted and the existing clause (9a) was renumbered as clause (9b) by section 3 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XV of 1961)

[3] Clause (9b) was inserted by section 3 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (East Bengal Ordinance III of 1956) was renumbered as clause (9b) by of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (East Bengal Ordinance No. XV of 1961)

[4] Clause (16a) was inserted by section 3 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1960 (East Pakistan Ordinance No.XII of 1960)

[5] Clause (18a) was inserted by section 3 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1958 (East Pakistan Ordinance No. XLIV of 1958)

[6] Section 2A was inserted by section 4 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1958 (East Pakistan Ordinance No. XLIV of 1958)

[7] Sub-section (2a) was inserted by section 4 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (East Bengal Ordinance No. III of 1956)

[8] Clause (dd) was inserted by section 3 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (East Pakistan Ordinance No. XXXIX of 1959)

[9] Clauses (ff) with the proviso was inserted by section 5 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1958 (East Pakistan Ordinance No. XLIV of 1958)

[10] The words, figures, brackets, commas, semi-colon within the square were substituted for the words, figures and colon “under Chapter IV:” by section 3 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (East Pakistan Ordinance No. IV of 1959)

[11] The words brackets, comma and letters “clauses (e), (f) and (ff)” were substituted for the words brackets and letters “clauses (e) and (f)” by section 5(3) of the East Pakistan Ordinance XLIV of 1958

[12] The words and commas “may, without prejudice to may other mode of recovery,” were substituted for the word “shall” by section 4 of the East Bengal State Acquisition and Tenancy (Second Amendment) Act, 1952 (East Bengal Act No. VI of 1952)

[13] Sub-section (4a) was inserted by section 2 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1961 (East Pakistan Ordinance No. III of 1961)

[14] Section 3A was inserted by section 5 of the East Bengal State Acquisition and Tenancy (Second Amendment) Act, 1952 (East Bengal Act No. VI of 1952)

[15] Sub-section (4a) was inserted by section 3 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XIV of 1961)

[16] Section 6A was inserted by section 9 of the East Bengal State Acquisition and Tenancy (Second Amendment) Act, 1952 (East Bengal Act No. VI of 1952)

[17] Section 10A was inserted by section 2 of the East Bengal State Acquisiton and Tenancy (Amendment) Ordinance, 1960 (East Pakistan Ordinance No. IX of 1960)

[18] Sub-section (2a) was substituted for the explanation by section 6 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1960 (East Pakistan Ordinance No. XII of 1960)

[19] Sub-section (4A) was inserted by section 4 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (East Pakistan Ordinance No. XXXIX of 1959).

[20] Sub-section (4B) was added by section 2 of East Pakistan Ordinance No. I of 1971

[21] Section 25A was inserted by section 12 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1958 (East Pakistan Ordinance No. XLIV of 1958)

[22] Section 36A was inserted by section 3 of the East Pakistan Ordinance No. I of 1971

[23] Item (d) was substituted by section 7 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1960 (East Pakistan Ordinance XII of 1960)

[24] Sub-section (1a) was inserted by section 7 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1960 (East Pakistan Ordinance No. XII of 1960)

[25] Clause (6a) was inserted by section 5 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (East Pakistan Ordinance No. XXXIX of 1959)

[26] Chapter VA was inserted by section 15 of the East Bengal State Acquisition and Tenancy (Second Amendment) Act, 1952 (East Bengal Act No. VI of 1952).

[27] Section 60A was added by section 14 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (East Bengal Ordinance No. III of 1956)

[28] The words “Assistant Judge” were substituted for the word “Munsif” by section 3 of the Civil Courts (Amendment) Act, 1987 (Act No. XIV of 1987)

[29] The words “Assistant Judge” were substituted for the word “Munsif” by section 3 of the Civil Courts (Amendment) Act, 1987 (Act No. XIV of 1987)

[30] Chapter IXA was substituted by section 20 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1958 (East Pakistan Ordinance No. XLIV of 1958).

[31] Sub-section (1a) was added by section 17 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (East Bengal Ordinance No. III of 1956)

[32] Sub-section (1b) was inserted by section 4 of the East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1959 (East Pakistan Ordinance No. IV of 1959)

[33] The word “Pakistan” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972)

[34] Section 75A was inserted by section 13 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (East Bengal Act No. XII of 1954)

[35] Section 75B was added by section 18 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (East Bengal Ordinance No. III of 1956)

[36] Section 76A was inserted by section 14 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1954 (East Bengal Act No. XII of 1954)

[37] Section 76B was added by section 20 of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956 (East Bengal Ordinance No. III of 1956)

[38] Section 77A was inserted by section 5 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XV of 1961)

[39] Clause (g) was omitted by section 4 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1964 (East Pakistan Act VI of 1964)

[40] Section 81A was inserted by section 6 of the State Acquisition and Tenancy (Amendment) Ordinance, 1967 (East Pakistan Ordinance No. VIII of 1967)

[41] Section 81B was inserted by section 4 of the East Pakistan Ordinance No. I of 1971

[42] Clause (4), (5) and (6) were omitted by section 3 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1964 (East Pakistan Act No. XVII of 1964)

[43] Section 86 was substituted by section 2 of the State Acquisition and Tenancy (Amendment) Act, 1994 (Act No. XV of 1994)

[44] Section 87 was substituted by Article 2 of the State Acquisition and Tenancy (Amendment) Order, 1972 (President's Order No. 72 of 1972)

[45] Section 87 was re-numbered as sub-section (1) of that section by Article 2 of the Bangladesh State Acquisition and Tenancy (Sixth Amendment) Order, 1972 (President's Order No. 137 of 1972)

[46] Sub-sections (2) and (3) were added by Article 2 of the Bangladesh State Acquisition and Tenancy (Sixth Amendment) Order, 1972 (President's Order No. 137 of 1972)

[47] The colon (:) was substituted for the full-stop (.) at the end of section 88 and thereafter the proviso was added by Article 3 of the State Acquisition and Tenancy (Amendment) Order, 1972 (President's Order No. 72 of 1972)

[48] Sub-sections (4) and (5) were added by Article 2 of the State Acquisition and Tenancy (Second Amendment) Order, 1972 (President's Order No. 88 of 1972)

[49] Sub-section (4) was substituted by Article 2 of the State Acquisition and Tenancy (Second Amendment) Order, 1973 (President's Order No. 24 of 1973)

[50] The words and commas "or any Officer authorised in this behalf by the Government shall, on application made by the mortgagor, put the applicant in possession of such land by evicting the mortgagee therefrom and may, for such eviction, use or cause to be used such force as may be necessary" were inserted by Article 2 of the State Acquisition and Tenancy (Second Amendment) Order, 1973 (President's Order No. 24 of 1973)

[51] Section 95A was inserted by Article 3 of the State Acquisition and Tenancy (Second Amendment) Order, 1972 (President's Order No. 88 of 1972)

[52] The words and comma "either by way of an out and out sale with an agreement to reconvey," were inserted by Article 2 of the State Acquisition and Tenancy (Fifth Amendment) Order, 1972 (President's Order No. 136 of 1972)

[53] The word "or" was inserted by Article 3 of the State Acquisition and Tenancy (Second Amendment) Order, 1973 (President's Order No. 24 of 1973)

[54] Section 96 was substituted by section 2 of the State Acquisition and Tenancy (Amendment) Act, 2006 (Act No. XXXIV of 2006)

[55] The word and comma "Banais," was inserted by section 3 of the State Acquisition and Tenancy (Amendment) Act, 1974 (Act No. LXI of 1974)

[56] The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

[57] The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

[58] The words "Provisions as to assessment, enhancement and reduction of rent" were substituted for the words "Provisions as to enhancement and reduction of rent" by section 5 of the East Pakistan Ordinance No. I of 1971.

[59] Section 98A was inserted by section 6 of the East Pakistan Ordinance No. I of 1971

[60] Section 106A was inserted by section 16 of the State Acquisition and Tenancy (Amendment) Ordinance, 1967 (East Pakistan Ordinance No. VIII of 1967)

[61] The words "Board of Land Administration" were substituted for the word "Government" by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[62] Section 111A was inserted by section 18 of the State Acquisition and Tenancy (Amendment) Ordinance, 1967 (East Pakistan Ordinance No. VIII of 1967)

[63] Sub-section (1a) was inserted by section 21 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XV of 1961)

[64] Sub-section (2a) was inserted by section 21 of the East Bengal State Acquisition and Tenancy (Third Amendment) Ordinance, 1961 (East Pakistan Ordinance No. XV of 1961)

[65] The words “Board of Land Administration” were substituted for the word “Government” by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[66] Section 134A was inserted by section 8 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1964 (East Pakistan Act No. XVII of 1964)

[67] Section 141A was inserted by section 20 of the State Acquisition and Tenancy (Amendment) Ordinance, 1967 (East Pakistan Ordinance No. VIII of 1967)

[68] Section 143B and 143C were added by section 3 of the State Acquisition and Tenancy (Amendment) Act, 2006 (Act No. XXXIX of 2006)

[69] Sub-section (4A) was added by section 7 of East Pakistan Ordinance No. I of 1971

[70] The words, brackets, figure and letter “and the rents assessed or re-assessed under sub-section (4A)” were inserted by section 7 of the East Pakistan Ordinance No. I of 1971

[71] The words “Director of Land Records and Surveys” were substituted for the words “Board of Revenue” by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President’s Order No. 12 of 1973)

[72] Sections 144A and 144B were inserted by section 14 of the State Acquisition and Tenancy (Amendment) Ordinance, 1967 (East Pakistan Ordinance No. VIII of 1967)

[73] Chapter XVIIA was inserted by section 2 of the State Acquisition and Tenancy (Amendment) Act, 2004 (Act No. IX of 2004).

[74] Sub-sections (3A), (3B) and (3C) were inserted by section 2(a) of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No XXIV of 2023).

[75] Sub-section (7A) was inserted by section 2(b) of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No XXIV of 2023).

[76] Sub-section (3) was substituted by section 3(a) of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No XXIV of 2023).

[77] Sub-sections (3A), (3B) and (3C) were inserted by section 3(b) of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No XXIV of 2023).

[78] Section 145C was omitted by section 4 of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No XXIV of 2023).

[79] Section 145E was substituted by section 5 of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No XXIV of 2023).

[80] Section 146 was substituted by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President’s Order No. 12 of 1973)

[81] The words “Board of Land Administration” were substituted for the word “Government” by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[82] Sub-sections (2) and (3) were substituted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[83] Clause (aa) was inserted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[84] Clause (b) was omitted by Article 3 and the schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973)

[85] Clause (c) was substituted by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973)

[86] The words "Board of Land Administration" were substituted for the word "Government" by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[87] The words "Commissioner of a division" were substituted for the words "Collector of a district" by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[88] Clauses (b) was substituted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[89] The words "Board of Land Administration" were substituted for the word "Government" by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[90] Clause (c) was omitted by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973)

[91] Sub-section (1a) was inserted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[92] Sub-section (2) was omitted by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973)

[93] Sub-section (3) was substituted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[94] The words "Board of Land Administration" were substituted for the word "Government" by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[95] Sub-section (4) was substituted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[96] The words "Board of Land Administration" were substituted for the word "Government" by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[97] Chapter XVIIIA was inserted by section 9 of the State Acquisition and Tenancy (Amendment) Ordinance, 1969 (East Pakistan Ordinance No. XXI of 1969).

[98] The words "Commissioner of the Division" were substituted for the word "Government" by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[99] Sub-section (6a) was inserted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[100] The words "Board of Land Administration" were substituted for the word 'Government' by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[101] Sub-section (7) was omitted by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973)

[102] The words “Board of Land Administration” were substituted for the word ‘Government’ by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[103] The words “the Commissioner of the Division or” were inserted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[104] The words “Commissioner of the Division” were substituted for the word “Government” by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[105] Sub-sction (2a) was inserted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

[106] The words “Board of Land Administration for the revision of such order and the order of that Board shall be final” were substituted for the words “Government for the revision of such order” by section 4 and the Schedule of the Laws (Amendment) Ordinance, 1982 (XLI of 1982)

[107] Sub-section (3) was omitted by Article 3 and the Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President’s Order No. 12 of 1973

[108] Chapter XVIIIB was added by Article 2 of the State Acquisition and Tenancy (Third Amendment) Order, 1972 (President’s Order No. 96 of 1972).

[109] The words, figures and comma “By the 31st day of January 1973” were substituted for the words, brackets, figures, and comma “Within ninety days from the date of commencement of the State Acquisition and Tenancy (Third Amendment) Order, 1972” by Article 2 of the State Acquisition and Tenancy (Seventh Amendment) Order, 1972 (President’s Order No. 157 of 1972)

[110] The colon (:) was substituted for the full-stop (.) and the proviso was added by Article 2 of the State Acquisition and Tenancy (Amendment) Order, 1973 (President’s Order No. 5 of 1973)

[111] Section 151J was substituted by Article 3 of the Bangladesh State Acquisition and Tenancy (Fourth Amendment) Order, 1972 (President’s Order No. 135 of 1972)

[112] The words “five years” were omitted by Article 3 of the State Acquisition and Tenancy (Seventh Amendment) Order, 1972 (President’s Order No. 157 of 1972)

[113] Clause (b) was omitted by Article 4 of the State Acquisition and Tenancy (Amendment) Order, 1972 (President’s Order No. 72 of 1972)

[114] Clause (p) was omitted by section 7 of the East Bengal State Acquisition and Tenancy (Amendment) Act, 1964 (East Pakistan Act No. XVII of 1964)

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