

ORISSA ACT OF 1960

THE ORISSA LAND REFORMS ACT, 1960*

X X X X

AN ACT TO REFORM THE LAW RELATING TO LAND TENURES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

WHEREAS it is necessary to enact a progressive legislation relating to agrarian reforms and land Tenures consequent on the gradual abolition of intermediary interest ;

AND WHEREAS it is expedient to confer better rights on agriculturists to ensure increase in food production in the manner hereinafter appearing ;

It is hereby enacted by the Legislature of the State of Orissa in the Eleventh Year of the Republic of India as follows :-

**Act 16 of 1960 as amended by Act 13 of 1965, Act 8 of 1967, Act 13 of 1967, Act 13 of 1969, Act 18 of 1970 President's Act 17 of 1973, Act 9 of 1974, Act 47 of 1975, Act 29 of 1976, Act 30 of 1976 and Act 44 of 1976.*

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement -*

- (1) This Act may be called the Orissa Land Reforms Act, 1960.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force in whole or in part, on such date or dates as the Government may from time to time by notification appoint; and different dates may be appointed for different provisions of this Act.

2. *Definitions -*

In this Act, unless there is anything repugnant in the subject or context -

- (1) "agriculture" includes the raising of crops, grass or garden produce, horticulture, diary farming, breeding and keeping of live-stock and use of land as pasture or for forest or for any other purpose where such is ancillary to agriculture;
- (2) [* * * * *]
- (3) 'Armed Forces' means the Military, Naval or Air Force of the Union ;
- (4) 'Basic holding' means an area of land measuring two standard acres ;
- (5) 'celling area' means the extent of land which a raiyat or land-holder shall be entitled to hold under section 37-A;
- (5-a) 'Classes of land' means -

Class I – Irrigated land in which two or more crops (i) were in any year within a period of three years before the commencement of the Orissa Land Reforms (Amendment) Act, 1973, grown or (ii) can be grown in a year.

Class II – Irrigated land in which not more than one crop (i) was, in any year within a period of three years before the commencement of the Orissa Land Reforms (Amendment) Act, 1973, grown or (ii) can be grown in a year.

Class III – Land, other than irrigated land, in which paddy (i) was, in any year within a period of three years before the commencement of the Orissa Land Reforms (Amendment) Act, 1973, grown or (ii) can be grown in a year.

Class IV – Any other land.

Explanation – For the purposes of this clause tanks, coconut gardens and orchards (except orchards growing banana), shall be deemed to be Class III land;

(6) ‘Collector’ means the Collector of a district or any other officer appointed by the Government to discharge all or any of the functions of Collector under this Act ;

(7) ‘Commencement of the Act’ in relation to any provision means the date specified in respect of that provision in a notification under sub-section (3) of section 1 ;

(8) “District Executive Committee” means the Committee constituted under section 55;

(9) [* * * *]

(9-a) ‘fair and equitable rent’ in respect of any land means cash rent payable by raiyats for similar lands with similar advantages in the vicinity ;

(9-b) ‘fair rent’ in respect of one acre of Class I, Class II, Class III or Class IV land means respectively eight, six, four or two standard maunds of paddy or the cash equivalent thereof.

Explanation I - The Cash equivalent of paddy shall be calculated on the basis of the market value of paddy as may be declared every year with respect to different areas by Government by notification in that behalf ;

Explanation II – For the purposes of conversion, one maund shall be equal to 37’3242 kilograms.

(10) ‘Government’ means the State Government of Orissa ;

(11) ‘holding’ means a parcel or parcels of land forming the subject of a separate tenancy ;

(12) ‘homestead’ means any land, whether or not recorded as such, ordinarily used as house-site, ancillary or incidental to agriculture ;

(13) ‘irrigated land’ means land which is assured of irrigation from an irrigation project constructed or maintained or improved or controlled by the Central Government or the State Government or by a body corporate established under any law for the time being in force and includes land which is assured of irrigation from any private source by means of lift irrigation from any perennial water source operated by diesel or electric power, but does not include continually water-logged lands or sand-cast lands ;

(14) ‘Land’ means land of different classes used or capable of being used for agricultural purposes and includes homestead ;

(15) ‘Land Commission’ means the Land Commission constituted by the Government under section 53;

(16) ‘Land-holder’ means all holders or owners of interest in land between the raiyat and the State and a Proprietor, Sub-proprietor, Malguzar, Thikadar, Gountia, Tenureholder,

Under-tenure-holder and includes an Inamdar, Jagirdar, Zamindar, Illaquadar, Kharposhdar, Parganadar, Sarbarakar and Maufidar ;

(17) 'Landlord' means a person immediately under whom land is held by a raiyat or a tenant ;

Explanation I – A raiyat or a tenant shall be deemed to be a landlord in relation to the tenant or tenants immediately under him ;

Explanation II – Government shall be deemed to be the landlord in respect of the lands held directly under them either by a raiyat or a temporary lessee or a tenant ;

(18) 'Land Reforms Commissioner' means the Land Reforms Commissioner appointed by the Government ;

(18-a) "local committee" mean the local committee constituted under section 55 ;

(19) 'minor' means a person who has not attained the age of majority under the Indian Majority Act, 1875 ;

(20) [* * * * *]

(21) 'Person under disability' means :-

(a) widow, or an unmarried woman or a woman, who is divorced or separated from her husband by a decree or order of a Court or under any custom or usage having the force of law ; or

(b) a minor ; or

(c) a person incapable of cultivating land by reason of some mental or physical disability ; or

(d) a serving member of the Armed forces ; or

(e) a raiyat the total extent of whose lands held in any capacity whatsoever does not exceed three standard acres ; or

(f) a raiyat the total extent of whose lands held in any capacity whatsoever for personal cultivation after the disposal of proceedings, if any, under Chapter III does not exceed three standard acres ;

Provided that in the case of a person covered by any of the sub-clauses (a), (b) or (c) a certificate has been obtained in accordance with the provisions of this Act, to the effect that such person is incapable of cultivating the land personally ;

Provided further that a certificate as aforesaid shall not be granted to a person who is subject to any physical disability if he has any source of income (other than land) as may be prescribed ;

Explanation – In computing the extent of lands for the purposes of sub-clause (e) or (f) lands covered by homestead, orchards and tanks shall not be taken into account ;

(22) "personal cultivation" with its grammatical variations and cognate expressions means to cultivate on one's own account –

(a) by one's own labour ; or

(b) by the labour of any member of one's family ; or

- (c) by servants or hired labour on wages, payable in cash or kind, but not in crop-share, under one's personal supervision or the personal supervision of any member of one's family ;

Explanation – 'family' in relation to an individual, means the individual, the husband or wife, as the case may be, of such individual and their children, whether minor or major ;

- (23) 'prescribed' means prescribed by rules made by the Government under this Act ;
- (24) "privileged raiyat" means –
 - (a) a co-operative society registered or deemed to be registered under the Orissa Co-operative Societies Act, 1962 and includes a Land Development Bank and the State Land Development Bank as defined in that Act ;
 - (b) "Lord Jagannath" at Puri and His Temple within the meaning of the Shri Jagannath Temple Act, 1955 ;
 - (c) any trust or other institution declared under this Act to have been a privileged raiyat prior to the commencement of the Orissa Land Reforms (Amendment) Act, 1973 ;
 - (d) any trust or other institution whose estate has been declared to be a trust estate by a competent authority under the Orissa Estate Abolition Act, 1951 ;
 - (e) any other trust which is declared to be a religious or charitable trust of a public nature by the Tribunal constituted under section 57-A ; and
 - (f) any public financial institution ;
- (25) 'public financial institution' means –
 - (i) a banking company within the meaning of the Banking Regulation Act, 1949 ;
 - (ii) the State Bank of India constituted under the State Bank of India Act, 1955 ;
 - (iii) a subsidiary bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959 ;
 - (iv) a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 ;
 - (v) the Agricultural Refinance Corporation established under the Agricultural Refinance Corporation Act, 1963 ;
 - (vi) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 ;
 - (vii) the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 ; and
 - (viii) the Orissa State Financial Corporation established under the State Financial Corporation Act, 1951 ;
- (26) 'raiyyat' means a person who is or is deemed to be a raiyyat as such under the provisions of this Act ;
- (27) 'rent' means whatever is lawfully payable or deliverable in money or in kind or in both

by a tenant or a raiyat to his landlord on account of the use or occupation of the land held by him ;

- (28) 'Revenue Officer' means any officer appointed as such by Government to discharge any of the functions of a Revenue Officer under the provisions of this Act ;
- (29) 'schedule bank' means a bank included for the time being in the Second Schedule of the Reserve Bank of India Act, 1934 ;
- (30) 'standard acre' means the unit of measurement of land equivalent to one acre of Class I land, one and one half acre of Class II land, three acres of Class III land or four and one-half acres of Class IV land.

Explanation – For the purposes of conversion, one acre shall be equal to 0.4047 hectare ;

- (31) 'tenant' means a person who has no rights in the land of another but under the system generally known as Bhag, Sanja or Kata or such similar expression as under any other system, law, contract, custom or usage personally cultivates such land on payment of rent in cash or in kind or in both or on condition of delivery to that person -
- (a) either a share of the produce of such land ; or
 - (b) the estimated value of a portion of the crop raised on the land, or
 - (c) a fixed quantity of produce irrespective of the yield from the land ; or
 - (d) produce or its estimated value partly in any of the ways described above and partly in another ;
- (32) 'vested estate', 'date of vesting' and similar other expressions refer to an estate which has vested in the State of Orissa under the Orissa Estates Abolition Act, 1951 ;
- (33) 'year' means the agricultural year commencing on the first day of April ;
- (34) words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the Tenancy Acts, Laws, Rules, Regulations, customs or usage in force in any part of the State of Orissa and the Transfer of Property Act, 1882 as the case may be.

3. Act to override other laws -

Save as otherwise provided the provisions of this Act shall have effect, notwithstanding anything to the contrary in any other law, custom or usage or agreement, decree or order of Court.

CHAPTER II RAIYATS AND TENANTS

4. Raiyats -

(1) The following persons shall be deemed to be raiyats for the purposes of this Act in respect of the lands held by them, namely :

- (a) persons holding lands immediately before the commencement of this Act or at any

time thereafter with rights of occupancy under or within the meaning of any law for the time being in force ;

- (b) a raiyat in the districts of Angul and Khondmals within the meaning of the Angul Laws Regulation, 1936 and the Khondmals Laws Regulation, 1936, Respectively ;
- (c) a raiyat in a raiyatwari village in the Sambalpur or Bargarh subdivision of the district of Sambalpur within the meaning of Central Provinces Land Revenue Act, 1881 ;
- (d) a person who, under an inamdar of an inam which is not an estate within the meaning of the Madras Estates Land Act, 1908 whether or not such inam has vested in the State, in the districts of Ganjam and Koraput or the subdivision of Baliguda holds land in such inam with heritable and transferable rights therein ;
- (e) the holder of a raiyatwari patta under the raiyatwari settlement in the districts of Ganjam and Koraput and in Baliguda subdivision of Boudh district ;
- (f) a person with whom land has been settled for agricultural purposes after the commencement of this Act under a lease from a land-holder, or under a permanent lease from Government ;
- (g) persons entitled to acquire rights of occupancy under clauses (g) and (h) of section 7 of the Orissa Merged States (Laws) Act, 1950 ;
- (h) subject to the provisions of sub-sections (2),(3) and (4), persons who are temporary lessees in personal cultivation of lands in the vested estates held under Government for agricultural purposes, persons who are in personal cultivation of such lands held either mediately or immediately under such temporary lessees and the successor-in-interest of any such persons ;

Provided that nothing in this clause shall apply to char or diara lands or lands held under the custom of Utabandi or similar other customs ;

- (i) Subject to the provisions of sub-sections (5) to (8) persons who are in personal cultivation of any land and recorded as sub-tenants or under-raiyats in respect of such land in the record-of-rights under any law in force in any part of the State and their successors-in-interest :

Provided that nothing in this clause shall apply to persons who are recorded as sub-tenants or under-raiyats after the 30th day of September, 1965 or to their successors-in interest if the land in respect of which they have been so recorded belongs to a person under disability or to a privileged raiyat.

(2) The Revenue Officer, on an application in that behalf in the prescribed form and manner by a person referred to in clause (h) of sub-section (1) made not later than ninety days from the commencement of this Act or within such further period not exceeding thirty days as such officer in his discretion allows, may after such enquiry as may be necessary, by order declare that such person shall

be a raiyat holding immediately under Government in respect of the land held as specified in the said clause with effect from the beginning of the year next following the date of the order :

Provided that any such person as aforesaid, who has failed to make an application within the said period, may make such application within ninety days from the date of commencement of the Orissa Land Reforms (Amendment) Act, 1966 :

Provided further that any such person as aforesaid who has failed to make an application within any of the periods specified in this sub-section may make such application within a period of two years from the commencement of the Orissa Land Reforms (Amendment) Act, 1973 :

Provided further that any such application made after the expiry of the period specified in this sub-section and before the aforesaid date shall, for all purposes, be treated as an application filed within the period of limitation :

Provided further that an application under this sub-section may, if it relates to any land situate in an estate vested in the Government after the 30th day of September, 1965, be filed within two years from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 or the date of vesting of the estate, whichever is later.

(3) While making an order under sub-section (2) the Revenue Officer shall determine the premium in respect of the raiyati right to be so acquired to be paid to Government which shall be an amount calculated at the rate of eight hundred rupees per standard acre of the land.

(4) The premium determined under sub-section (3) shall be payable in five equal annual instalments on such dates as may be fixed by the Revenue Officer and the amount of premium or any portion thereof remaining unpaid shall be recoverable as arrears of land revenue.

(5) The Revenue Officer, on an application in that behalf in the prescribed form and manner by the sub-tenant or under-raiyat or the successor-in-interest as the case may be, referred to in clause (i) of sub-section (1) made not later than ninety days from the commencement of this Act or within such further period not exceeding thirty days as such officer in his discretion allows, may, after such enquiry as may be necessary, by order declare such sub-tenant or under-raiyat or-successor-in-interest to be a raiyat in respect of the land referred to in the said clause with effect from the beginning of the year next following the date of the order.

Provided that any such sub-tenant or under-raiyat who has failed to make an application within the said period, may make such application within ninety days from the date of commencement of the Orissa Land Reforms (Amendment) Act, 1966.

Provided further that any such sub-tenant or under-raiyat who has failed to make such application within any of the periods specified in this sub-section may make an application within a period of two years from the commencement of the Orissa Land Reforms (Amendment) Act, 1973.

Provided further that any such application made after the expiry of the period specified in this sub-section and before the aforesaid date shall, for all purposes, be treated as an application filed within the period of limitation :

Provided further that an application under this sub-section may be made, -

- (a) in the case of sub-tenants and under-raiyats who have been recorded in the record-of-rights on or after the 1st day of October, 1965, within two years from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 or the date of final publication of the record-of-rights, whichever is later ; and
- (b) in the case of the successor-in-interest of any recorded sub-tenant or recorded under-raiyat, within two years from the date of commencement of the said Act or the date of death of the sub-tenant or under-raiyat, whichever is later.

(6) While making an order under sub-section (5), the Revenue Officer shall determine the compensation in respect of the land which shall be an amount calculated at the rate of eight hundred rupees per standard acre of the land, to be paid by such sub-tenant, under-raiyat or successor-in-interest to the person or persons (not being the Government or land holder) mediately or immediately under whom the land was being held prior to the conferment of the raiyati right in proportion to the rent that each was receiving in respect thereof and the Revenue Officer shall also apportion the compensation between the persons entitled thereto.

(7) The compensation determined under sub-section (6) shall be payable in the prescribed manner in five equal annual instalments on such dates as may be fixed by the Revenue Officer.

(8) The compensation or any portion there of which remains unpaid shall be recoverable as arrears of land revenue on application to the Revenue Officer by the person entitled thereto.

(8-a) The rights of all persons entitled to receive compensation in accordance with sub-section (6) shall stand extinguished with effect from the date of conferment of raiyati right under sub-section (5) and the sub-tenant, under-raiyat or the successor-in-interest, as the case may be, shall be liable to pay fair and equitable rent to be determined by the Revenue Officer in the prescribed manner to the Government or the person, as the case may be, immediately under whom the land is held consequent on such extinguishment.

(8-b) The Revenue Officer may also on his own motion, within the period allowed for making an application under sub-section (2) or under sub-section (5), take all such action and in such manner as is provided in sub-sections (2) to (8-a) for declaring the persons or their successors-in-interest, as the case may be, referred to in clauses (h) and (i) of sub-section (1) to be raiyats and the provisions contained in sub-sections (2) to (8-a) shall, so far as may be, apply to proceedings under this sub-section.

(9) With effect from the date of commencement of this Act no landlord shall be entitled to recover from his raiyat more than a fair and equitable rent and where in any case rent is paid in kind the Revenue Officer on application of either of the parties interested shall determine the fair and equitable rent in the prescribed manner and pending such determination the rent payable shall not exceed one-eighth of the gross produce or the equivalent thereof.

5. Existing rights of raiyats not to be affected –

For removal of doubts it is hereby declared that, save as otherwise provided in this Act either expressly or by necessary implication, the rights in land in any area held by a person who is raiyat within the meaning of this Act shall be in addition to and not in derogation of his rights, if any, in respect of such land under any other law relating to land tenures including any law relating to landlord and tenants or custom or usage for the time being in force in such area and applicable to such raiyat.

6. Rights of raiyats and prohibition of letting –

(1) The rights of a raiyat in any land held by him as such shall be permanent, heritable and transferable.

(2) Notwithstanding anything in sub-section (1) but subject to the provisions of sub-section (3) a transfer after the commencement of this Act by way of a lease of any land held by a raiyat shall be void and inoperative.

(3) It shall be lawful for a raiyat who is a person under disability or is a privileged raiyat to lease out his lands to any tenant.

(6-A.) (1) Notwithstanding anything contained in sub-section (1) of section 6, but subject to the provisions of sub-section (3) thereof, any transfer by a raiyat of any land which has been settled with him for agricultural purposes under a permanent lease from Government shall, if such transfer is made within a period of ten years from the date of such settlement without obtaining the previous permission in writing of the Revenue Officer, be void.

(2) No right, title or interest held by a raiyat in any such land as aforesaid shall, unless permission in writing is accorded by the Revenue Officer to that effect, be attached and sold in execution of a money decree passed against such raiyat.

(3) Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Registration Act, 1908 purports to transfer any such land within the period specified in sub-section (1), no registering officer appointed under that Act shall register any such document unless such document is accompanied by the written permission of the Revenue Officer for such transfer.

(4) Nothing in sub-section (1) or sub-section (3) shall apply to any transfer by way of mortgage executed in favour of any scheduled bank or in favour of any bank to which the Orissa Co-operative Societies Act, 1962 applies and nothing in sub-section (2) shall apply to a money decree obtained by any such bank.

7. Non-transferability and saving of the rights and liabilities of tenants –

(1) The rights of a tenant in any land held by him as such shall be heritable, but shall not be transferable.

(2) Save as otherwise provided in this Act -

(a) no tenant in lawful cultivation of any land at the commencement of the Orissa Land

Reforms (Amendment) Act, 1973 or at any time thereafter shall be liable to be evicted from such land by the landlord ;

(b) no such tenant shall be bound to pay rent at a rate higher than the rate specified in section 13; and

(c) the rights, benefits, protection, privileges, obligations or liabilities of any tenant in lawful cultivation of any land at the commencement of the Orissa Land Reforms (Amendment) Act, 1973 as were existing immediately prior to such commencement shall not be liable to be modified or extinguished in any manner whatsoever.

8. Eviction of raiyats -

(1) Subject to other provisions of this Act and notwithstanding any contract, custom or usage or decree or order of any Court, a raiyat shall be liable to eviction only if he -

(a) has used the land comprised in his holding in a manner which renders it unfit for the purposes of agriculture ; or

(b) has leased out the land in contravention of the provisions of section 6 or has failed to cultivate the land personally; or

(c) has used the land for any purpose other than agriculture.

Explanation - The construction of a house for the residence of the raiyat and his family members together with all necessary out-houses shall be deemed to be for agricultural purposes.

(2) A raiyat liable to eviction under sub-section (1) shall be entitled to three months' notice in writing from the landlord intimating his intention to so evict and the grounds therefor :

Provided that such eviction on the grounds specified in clause (a) of sub-section (1), shall not take effect unless the raiyat, within a period of one year from the date of service of such notice, fails to restore the land to a condition fit for agriculture.

[8-A. Conversion of agricultural land for purposes other than agriculture-

(1) Notwithstanding anything contained in Section 8 –

(a) the authorised officer may, where an application is made to him by a raiyat in the prescribed form for conversion of the use of any agricultural land belonging to him for purposes other than agriculture, allow such conversion, if he is satisfied that such conversion shall not violate –

(i) any master plan, improvement scheme, development plan or town planning scheme, made or published under the Orissa Town Planning Improvement Trust Act, 1956 or under the Orissa Development Authorities Act 14 of 1982 or under any law for the time being in force and applicable to such land ; and

(ii) any other condition or conditions as may be prescribed for the purpose of dealing with *bonafied* cases of such conversions ;

*Inserted
vide
Orissa
Act
No.12
of 1994.*

"(b) in every case where the authorised officer allows conversion of the use of any agricultural land under clause (a), the raiyat is required to pay conversion fees for such land, calculated at the rate specified in sub-section (2) and the kissam of the land so converted shall be corrected accordingly;

*Substituted
vide Orissa
Act 8 of 2006*

(c) where the conversion of the use of any agricultural land by a raiyat for the purposes other than agriculture has been made prior to the commencement of the Orissa Land Reforms (Amendment) Act, 1993 or, where the land has been transferred by the raiyat to any other person prior to such commencement, and the transferee uses the land for the purpose other than agriculture, without paying the premium fixed therefor as per the provisions existing prior to the commencement of the Orissa Land Reforms (Amendment) Act, 2006, such raiyat or such transferee, as the case may be, is required to pay conversion fees within the prescribed period and in the prescribed manner in respect of that land as calculated at the rate equivalent to fifty per centum of the rate of conversion fees specified against that category of the land in sub-section (2) and the kissam of the land so converted shall, after the payment, be corrected accordingly:

Provided that if the conversion fees so payable is not paid within the prescribed period it shall be recoverable as an arrear of land revenue.

(d) the lands which were deemed to have been surrendered to Government and settled on lease basis under the provisions of the Orissa Government Land Settlement Act, 1962, prior to the date of commencement of the Orissa Land Reforms (Amendment) Act, 2006, shall cease to be so surrendered and settled on lease basis and be held freely by the raiyat or the transferee, as the case may be."; and

*Inserted
vide
Orissa Act
8 of 2006*

(2) The rate at which the conversion fees shall be payable per acre of agricultural land situated at different places of the State, for conversion of its use to any purpose other than agriculture on and after the commencement of the Orissa Land Reforms (Amendment) Act, 1993 shall be as follows :-

*Substi-
tuted
vide
Orissa
Act 8 of
2006*

(i) Land situated within any Municipal area or in areas ... Rs.3,00,000/-
within one- half kilometer on either side of such
National Highways as the State Government may,
by notification, specify from time to time.

(ii) Land situated in any area within one-fourth kilometer
on either side of such State Highways as the State
Government may, by notification, specify from time
to time. ... Rs.1,00,000/-

(iii) Land situated in a Municipal area or a Notified area,
or in any area notified as Urban area under the Orissa

Government Land Settlement Rules, 1983 made under the Orissa Government Land Settlement Act, 1962, other than any land mentioned in clauses (i) and (ii).	...	Rs.75,000/-
(iv) Land situated in such developing areas as the State Government may, by notification, specify, from time to time, other than any area covered by clauses (i), (ii) and (iii).	...	Rs.30,000/-
(v) Land situate in any area not covered by clauses (i), (ii), (iii) and (iv).	...	Five percentum of the market value of such land or Rs.1,000/-, whichever is more.

Explanation - For the purpose of this sub-section,-

(a) "Municipal Act" means the Orissa Municipal Act, 1950:

(b) "Municipal area" means an area included in a Municipality constituted under the Municipal Act; and

(c) "Notified area" means a Notified area within the meaning of section 417-A of the Municipal Act.

(3) The lease documents executed on or before the date of commencement of the Orissa Land Reforms (Amendment) Act, 2006, for the purpose of conversion under this section shall be in operative and the premium paid for such lease shall be treated to be conversion fee."

*Substituted
vide
Orissa
Act 8 of
2006*

9. Dwelling houses of raiyats and tenants -

(1) Every person who is a raiyat or a tenant in respect of any land but has no permanent and heritable rights in respect of any site on which his dwelling house or farm house stands, shall with effect from the commencement of this Act be deemed to be a raiyat in respect of the whole of such site or a portion thereof not exceeding one-fifth of an acre whichever is less if he or his predecessor-in-interest has -

(a) obtained permission, express or implied, from the person having permanent and heritable rights in the site and having right to accord permission for the construction of such house;

and

(b) built such house at his own expense.

Explanation - [(i)]

(ii) Lands to be held as a raiyat in pursuance of this sub-section shall be so determined as to include, as far as practicable, tanks excavated and wells sunk by such person on the site, and so as not to exceed in extent the limit specified in this sub-section.

(iii) Trees standing on the land so determined shall belong to such person.

(iv) Right of way and other easementary rights necessary for the enjoyment of the aforesaid land shall attach thereto.

(1-A) The Revenue Officer, on an application made in this behalf by the person referred to in sub-section (1), in the prescribed form and manner and within the prescribed period, may, after such inquiry as may be necessary, issue a certificate in the prescribed form to such person to the effect that he has become a raiyat in respect of the whole, or, as the case may be, a portion of the site as aforesaid and if such person is evicted from the site at any time after the commencement of the Orissa Land Reforms (Amendment) Act, 1973 the Revenue Officer shall, by order, direct that possession of the site be delivered to the said person and may take such further steps as he may consider necessary to give effect to the order so passed;

(2) If immediately before the commencement of this Act, any person had permanent and heritable rights in the site, in a capacity other than that of a land-holder, the rights of all such persons shall stand extinguished and they shall be entitled to compensation from the raiyat or tenant as the case may be equal to ten times the fair and equitable rent payable for the site under sub-section (3). The classes of rights entitled to such compensation shall share it equally and each such share shall be divided equally amongst persons belonging to the class to which the share relates:

Provided that nothing in this sub-section shall have the effect of extinguishing the rights of Government in the said site.

(3) The person who becomes a raiyat in respect of the site specified in sub-section (1) shall be liable to pay fair and equitable rent therefor to the Government or the land-holder, as the case may be, immediately under whom he holds consequent on the extinguishment of rights referred to in sub-section(2).

(4) In case of a dispute about the amount of rent so payable or about the apportionment of compensation, the Revenue Officer shall on an application by any person interested filed in the manner and within the time prescribed hold such enquiry as may be necessary and decide such dispute.

10. Dwelling houses of agricultural labourers and artisans -

The provisions of section 9 shall *mutatis mutandis* apply to the dwelling houses constructed by agricultural labourers and village artisans and the sites on which such houses stand.

Explanation - If such labourer or artisan or his predecessors-in-interest had for the first time occupied the site in question when he was in the service of the person having permanent and heritable rights in the site and right to accord permission for the construction of the house, the fact of such occupation shall be conclusive proof that permission had in fact been so accorded.

11. Mode of transfer of holding of a raiyat -

(1) Every transfer of the holding of a raiyat or a portion or share thereof by way of sale, exchange or gift shall be made by a registered instrument except in the case mentioned in sub-section(4).

(2) The Registering Officer shall not accept for registration any such instrument unless the rent of such holding or a portion or share thereof is stated separately in the instrument and unless it is accompanied by a notice signed by the transferor and the transferee giving particulars of the transfer.

(3) In the case of a transfer of a holding or a portion or share thereof by bequest, the Court shall, before granting probate or letters of administration require the applicant to file a notice giving particulars of the transfer.

(4) When the holding of a raiyat or a portion or share thereof is sold in execution of a decree or order of a court or in pursuance of an award given under the Orissa Co-operative Societies Act, 1951 or under any law, for the time being in force for recovery of arrears of land revenue or any other public demand, the Court or the officer holding the sale shall before confirming the sale require the purchaser to file a notice given the particulars of such sale.

(5) The notice under any of the preceding sub-sections shall be in the prescribed form accompanied by the prescribed fee and shall be transmitted to the Revenue Officer who shall cause it to be served in the prescribed manner on the landlord, named in the notice. He shall also cause a copy of the notice to be transmitted to the authority competent to maintain the record-of-rights.

12. Decision of disputes among landlord and raiyats -

(1) Any dispute between a raiyat and his landlord relating to-

(i) the landlord's right to evict the raiyat under section 8, or

(ii) the rights conferred under sections 4, 9 and 10, or

(iii) the raiyat's right to possession of the land and his rights to the benefits under this Act,

shall be decided by the Revenue Officer on an application to be filed by any person interested:

Provided that such application shall be filed before the Revenue Officer in the prescribed manner within sixty days from the date on which the dispute arises.

(2) On receipt of an application under sub-section (1) the Revenue Officer shall after making such enquiry as may be necessary pass such orders as he deems fit.

(3) The Revenue Officer may take such further steps as he may consider necessary to give effect to the orders passed under sub-section (2).

13. Rent payable by tenants -

(1) No landlord shall be entitled to recover from his tenant more than one-fourth of the gross produce of the land or the value thereof or the value of one-fourth of the estimated produce as rent, so however that such rent shall in no event exceed the fair rent in respect of such land.

(2) When rent is payable in kind, it shall be paid within a period of two months after the month in which the harvesting of the crop is completed and at such place in the village in which the land is situated as may be specified in that behalf by the landlord.

14. Ground of eviction of tenant -

(1) A landlord may evict his tenant only if such tenant -

- (a) has used the land in a manner which renders it unfit for purposes of agriculture; or
- (b) has failed to cultivate the land properly, or personally; or
- (c) has failed to pay or deliver to the landlord, the rent within a period of two months from the last day by which it becomes payable, there being no dispute regarding the quantum of such rent.

(2) Without prejudice to the provisions of sub-section (1) but subject to the provisions of sub-sections (4) and (5), a tenant shall cease to have the right to cultivate the land -

(a) in any case where the landlord is a person under disability at the end of the year during which the disability ceases; and

(b) in any case where the landlord being a privileged raiyat or a person under disability, ceases to be the landlord at the end of the year during which such cessor takes place.

Provided that in the case of transfer of the land by any such land lord, the tenant shall not cease to have the right to cultivate the land until after the expiry of a period of six months from the date of service of a notice in the prescribed form by the landlord on the tenant intimating him the particulars of the transfer and where the said period terminates on a day prior to the last day of a year, the cessation of the right of the tenant to cultivate the land shall take place at the end of that year:

Provided further that where the landlord -

(i) being a person under disability, ceases to be the landlord by reason of transfer of the land in favour of another person under disability, or

(ii) being a privileged raiyat referred to in sub-clause (b), (c), (d) or (e) of clause (24) of section 2, ceases to be the landlord by reason of transfer of the land in favour of any person, the tenant shall not cease to have the right to cultivate the land, but shall, subject to the other provisions of this section continue as a tenant under the transferee.

Explanation - Where a person ceases to be a person under disability as a consequence of amendment of clause (21) of section 2 by the Orissa Land Reforms (Second Amendment) Act, 1975, such cessation shall be construed as cessation of disability for the purposes of clause (a)

(3) Where the landlord specified in clause (a) of sub-section (2) or the succeeding raiyat, if any, in pursuance of clause (b) of the said sub-section, as the case may be, fails to resume the land for personal cultivation at the end of the year specified in the said clause such landlord shall be deemed to have failed to cultivate the land personally and shall be liable to eviction under the provisions of section 8.

(4) Where the landlord, being a person under disability within the meaning of sub-clause (e) or sub-clause (f) of clause (21) of section 2, ceases to be a person under disability by reason of acquisition of additional land through inheritance, bequest, gift, purchase or otherwise, he shall not be entitled to evict any tenant holding any land under him, but may resume lands for personal cultivation in accordance with the provisions contained in Chapter III and the tenant shall be entitled to acquisition of rayati right in respect of the non-resumable land in accordance with the said Chapter.

(5) For the purposes of sub-section (4) the provisions contained in sections 24 to 36 (both inclusive) shall, so far as may be, apply subject to the modification that the period of limitation in respect of an application to be made under section 26, either by the landlord or by the tenant, shall be six months from the date of such acquisition of additional land.

15. Recovery of rent and dispute between landlord and raiyat or tenant -

(1) Any claim for recovery of arrears of rent by a landlord and any dispute between a landlord and his raiyat or tenant as the case may be as regards -

- (a) the quantum of the rent payable; or
- (b) tenant's possession of the land and his rights to the benefits under this Act ; or
- (c) the right of the landlord to terminate the tenancy of a tenant under section 14 or the liability of a tenant to cease to cultivate the land under that section ; or ;
- (d) the existence of the relationship of land-lord and tenant,

shall be decided by the Revenue Officer on an application to be filed in the prescribed manner by any party interested:

- (a) a claim for recovery of arrears of rent, shall be filed within one year from the date on which such arrear falls due ;
- (b) a dispute referred to in clauses (a) and (c), shall be filed within sixty days from the date on which the dispute arises ; and
- (c) a dispute referred to in clauses (b) and (d), shall be filed within two years from the date on which the dispute arises:

Provided further that in the case of any dispute referred to in clauses (b) and (d) which had arisen prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975, an application in respect thereof may, if not filed earlier, be filed within one year from the said date.

(2) On receipt of the application under sub-section (1), the Revenue Officer may, after making such enquiry as he deems fit direct the payment of arrears of rent, if any, found due or, determine the quantum of rent under clause (a) or in cases under clauses (b), (c) and (d) thereof order the tenant by a notice served in the prescribed manner and specifying the grounds on which the order is made to cease, to cultivate the land: .

Provided that in cases of dispute arising out of a matter mentioned in clause (c) of sub-section (1) of section 14, the Revenue Officer before ordering the tenant to cease to cultivate the land shall decide, if rent had been duly offered and may allow reasonable opportunity to the tenant to pay or deliver to his landlord the rent payable.

(3) An order for eviction made by the Revenue officer under sub-section (2) shall take effect on and from the first day of the year next following the date of such order.

(4) If any tenant on whom a notice under sub-section (2) has been served does not cease to cultivate the land the Revenue Officer may take such steps as he may deem necessary for the purpose of giving effect to his orders.

(5) If after holding enquiry under sub-section (2) the Revenue Officer is satisfied that the tenant was cultivating the land at the date of commencement of this Act or at any time thereafter, and that he is being unlawfully prevented from cultivating such land by his landlord, he may in addition to the penalty that he may impose on the Landlord under section 18, order the landlord by a notice served in the prescribed manner to allow the tenant to enter the land forthwith and to cultivate it as a tenant.

(6) If the Revenue Officer is satisfied after such further enquiry as he may deem necessary that the landlord has failed to Comply with his order under sub-section (5), he shall take such steps as may be necessary to put the tenant in possession of the land.

(7) Pending final disposal of the dispute under this section, the Revenue Officer may pass such interim orders relating to the appointment of Receivers, for taking charge of the crops, or getting the lands cultivated or restraining the landlord from interfering with the tenant's cultivation of the land or for such other purposes as he may deem necessary or expedient.

16. Dispute regarding identity of tenant -

If any dispute arises as to the identity of the tenants in cultivation of any land such dispute shall after such enquiry as may be prescribed be decided by the Revenue Officer on his own motion or on the application of the landlord or any person claiming to be in such cultivation and the Revenue Officer may pass such order as he may deem necessary.

17. Grant of receipt to raiyat or tenant and penalty for non-compliance -

(1) A tenant who makes payment on account of rent to his landlord or his agent shall be entitled to a written receipt for the rent paid by him signed by the landlord or his agent, as the case may be.

(2) The landlord or his agent shall prepare and retain the counterfoil of the receipt so granted by him.

(3) The receipt and counterfoil shall specify such particulars as may be prescribed.

(4) If a receipt does not contain substantially the particulars required by sub-section (3), it shall be presumed, until the contrary is proved to be a valid discharge in full on account of rent accrued due by the date on which the receipt was granted.

(5) If a landlord or his agent without reasonable cause, refuses or neglects to deliver to a tenant a receipt as aforesaid, the tenant may, within three months from the date of payment, apply to the Revenue Officer for the recovery of such compensation from the landlord or his agent not exceeding double the amount or value of such rent as the said officer may deem proper, for such loss or damage that the tenant might have suffered :

Provided that no such application shall be maintainable, if prior to the filing of such application the receipt has been obtained from the landlord.

(6) If the Revenue Officer while passing an order under sub-section (5) finds the landlord or his agent guilty of such refusal or neglect as aforesaid, he may impose on the landlord or his agent or both a penalty not exceeding a sum of rupees hundred.

(7) If a tenant after obtaining a receipt or without being entitled to such a receipt files an application under sub-section (5) he shall be liable to pay a penalty not exceeding a sum of one hundred rupees according as the Revenue Officer may after such enquiry as may be necessary direct.

(8) If the landlord or his agent without sufficient cause fails to comply with the provisions of sub-sections (2) and (3) the Revenue Officer may on his own motion or on an application by any tenant and after such enquiry as he deems proper impose a penalty not exceeding fifty rupees on the landlord or his agent.

Explanation - For the purposes of this section a "tenant" shall include a raiyat.

18. Penalty on landlord for excess realisation or interference with tenant's possession -

(1) If, in contravention of any of the provisions of this Act, a landlord or his agent realizes from a raiyat or tenant anything in excess of the rent lawfully payable or deliverable or evicts the tenant from the land or interferes without sufficient cause with the tenant's cultivation of the land, the Revenue Officer may, after making such enquiry as he deems fit, impose on such landlord or his agent or both a penalty not exceeding five hundred rupees or when double the amount or value of what has been so realised exceeds five hundred rupees not exceeding double the amount or value:

Provided that no landlord or his agent shall be liable to the penalty provided in this sub-section for any contravention that took place prior to the date of passing of this Act.

(2) The Revenue Officer may proceed against the landlord and his agent in the same proceeding and shall award to the raiyat or tenant by way of compensation and cost, such portion of the penalty as he thinks fit.

19. Partition among co-sharer raiyats how to be effected -

(1) No partition of a holding among co-sharer raiyats shall be valid unless made by -

- (a) a registered instrument; or
- (b) a decree of a Court or ; or
- (c) an order of the Revenue Officer in the manner prescribed, on mutual agreement.

(2) When the partition is effected as provided in clause (a) of sub-section (1) the Registering Officer shall not admit for registration any Instrument unless it is accompanied by a notice in the prescribed form with the prescribed particulars and the fee prescribed for the service of such notice.

(3) The notice referred to in the preceding sub-section shall be transmitted to the Revenue Officer who shall cause it to be served on the landlord or his agent named in the notice in the manner prescribed. He shall also cause a copy of the notice to be transmitted to the authority competent to maintain the record-of-rights.

(4) When the partition is effected as provided in clause (b) of sub-section (1), the Court passing the final decree for partition shall send to the Revenue Officer in the prescribed form and in the prescribed manner a detailed list of the lands allotted to each share.

(5) The Revenue Officer shall send a copy of the list as aforesaid to the authority competent to maintain the record-of-rights and to the landlord, where rent of the land is not payable to Government direct.

(6) When partition is effected in the manner provided in clause (c) of sub-section (1) the Revenue Officer shall send to the landlord where rent is not payable direct to Government and to the authority competent to maintain the record-of-rights in the prescribed form a detailed list of lands allotted to each share. A copy of the order along with the detailed list shall be sent by the Revenue Officer for registration under the Indian Registration Act, 1908 to the Sub-Registrar having jurisdiction:

Provided that no charges for such registration shall be payable.

20. Lands lost by diluvion -

(1) If the holding of a raiyat or a portion thereof is lost by diluvion, the rent of the holding shall, on application made by the raiyat in the prescribed manner to the Revenue Officer, be remitted or reduced by an amount as the Revenue Officer may consider fair and equitable.

(2) The right, title and interest of the raiyat shall subsist in such holding or portion thereof during the period of loss by diluvion not exceeding twenty years and subject to the provisions of section 52 the raiyat shall on its reappearance at any time within the said period have the right to possess such land and be liable to pay such rent as in the opinion of the Revenue Officer is fair and equitable.

21. Lands gained by gradual accretion -

Any land gained by gradual accretion to any holding whether from the recess of a river or of the sea, subject to the provisions of section 52 may ordinarily form a part of such holding and the raiyat thereof shall be liable to pay such additional rent as may be determined by the Revenue Officer.

22. Restriction on alienation of land by Scheduled Tribes -

(1) Any transfer of a holding or part thereof by a raiyat, belonging to a Scheduled Tribe shall be void except where it is in favour of -

- (a) a person belonging to a Scheduled Tribe or
- (b) a person not belonging to a Scheduled Tribe when such transfer is made with the previous permission in writing of the Revenue Officer :

Provided that in case of a transfer by sale the Revenue Officer shall not grant such permission unless he is satisfied that a purchaser belonging to a Scheduled Tribe willing to pay the market price for the land is not available, and in case of a gift unless he is satisfied about the *bona fides* thereof.

(2) The State Government may having regard to the law and custom applicable to any area prior to the date of commencement of this Act by notification direct that the restrictions provided in sub-section (1) shall not apply to lands situated in such area or belonging to any particular tribe throughout the State or in any part of it.

(3) Except with the written permission of the Revenue Officer, no such holding shall be sold in execution of a decree to any person not belonging to a Scheduled Tribe.

(4) Notwithstanding anything contained in any other law for the time being in force where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Registration Act, 1908 purports to effect transfer of a holding or part thereof by a raiyat belonging to a Scheduled Tribe in favour of a person not belonging to a Scheduled Tribe, no registering officer appointed under that Act shall register any such document, unless such document is accompanied by the written permission of the Revenue Officer for such transfer.

(5) The provisions contained in sub-sections (1) to (4) shall apply, *mutatis mutandis*, to the transfer of a holding or part thereof of a raiyat belonging to the Scheduled Caste.

(6) Nothing in this section shall apply -

(a) to any sale in execution of a money decree passed, or to any transfer by way of mortgage executed, in favour of any scheduled bank or in favour of any bank to which the Orissa Co-operative Societies Act, 1962 applies; and

(b) to any transfer by a member of a Scheduled Tribe within a Scheduled Area.

22-A. Surrender or abandonment by raiyat or tenant -

(1) No surrender to the landlord or abandonment of any holding or any part thereof by a raiyat or a tenant shall be valid unless such surrender or abandonment has been previously approved by the Revenue Officer.

(2) Any raiyat or tenant desiring to surrender or abandon his holding or any part thereof may furnish information thereof in writing to the Revenue Officer.

(3) On receipt of information under sub-section (2), the Revenue Officer may, after making or causing to be made such inquiry and in such manner as may be prescribed, by order, either approve or disapprove the proposed surrender or abandonment :

Provided that no surrender or abandonment shall be disapproved unless the raiyat or tenant, as the case may be, has been given a reasonable opportunity of being heard in the matter.

(4) Where the surrender or abandonment of any holding or part thereof is approved by the Revenue Officer under this section, the holding or part thereof so surrendered or abandoned shall be settled by the Government -

(i) Where such surrender or abandonment was made by a person belonging to a Scheduled Tribe, with another person belonging to the Scheduled Tribe; or

(ii) in a case where no person belonging to a Scheduled Tribe is available or willing to take settlement under clause (i) or in any other case, with any other person in accordance with the priorities specified in sub-section (2) of section 51.

(5) Where any raiyat or tenant surrenders or abandons his holding or any part thereof without the previous approval of the Revenue Officer and the holding or part thereof so surrendered or abandoned is taken possession of by the landlord, then, it shall be competent for the Revenue Officer (after giving to the landlord an opportunity of being heard) to impose on the landlord a penalty of an

amount not exceeding two hundred rupees per acre of the land so surrendered or abandoned for each year or any part thereof during which the possession is continued.

23. Effect of transfer in contravention of Section 22 -

(1) In the case of any transfer in contravention of the provisions of sub-section (1) of section 22 the Revenue Officer on his own information or on, the application of any person interested in the land may issue notice in the prescribed manner calling upon the transferor and transferee to show cause why the transfer should not be declared invalid.

(2) After holding such inquiry as the Revenue Officer deems fit and after hearing the persons interested, he may declare such transfer to be invalid and impose on the transferee a penalty of an amount not exceeding two hundred rupees per acre of the land so transferred for each year or any part thereof during which the possession is continued in pursuance of the transfer which has been declared to be invalid and may also order such portion of the penalty as he deems fit, to be paid to the transferor or his heir.

(3) On a declaration being made under sub-section (2) the Revenue Officer *suo motu* or on the application of any person interested cause restoration of the property to the transferor or his heirs and for the purpose may take such steps as may be necessary for compliance with the said order or preventing any breach of peace ;

Provided that if the Revenue Officer is of the opinion that the restoration of the property is not reasonably practicable, he shall record his reasons therefor and shall, subject to the control of the Government, settle the said property with another member of a Scheduled Tribe or in the absence of any such member, with any other person in accordance with the provisions contained in the Orissa Government Land Settlement Act, 1962.

Explanation - Restoration of the property means actual delivery of possession of the property to the transferor or his heir.

(4) Where any transfer is declared under this section to be invalid and the transferee or any other person in possession of the property has been evicted therefrom, the transferee shall not be entitled to the refund of any amount paid by- him to the transferor by way of consideration for the transfer.

23-A. Eviction of person in unauthorized occupation of property -

Where any person is found to be in unauthorised occupation of the whole or part of a holding of a raiyat belonging to a Scheduled Caste or of a raiyat belonging to a Scheduled Tribe within any part of the State other than a Scheduled Area, by way of trespass or otherwise, the Revenue Officer may, either on application by the owner or any person interested therein, or on his own motion, and after giving the parties concerned an opportunity of being heard, order eviction of the person so found to be in unauthorised occupation and shall cause restoration of the property to the said raiyat or to his heir in accordance with the provisions of sub-section (3) of section 23.

23-B. Burden of proof and amendment of Limitation Act, 1963 in its application to proceedings under section 23 -

(1) If in any proceedings under section 23, the validity of the transfer of any holding or any part thereof is called in question, or if such proceedings are for the recovery of possession of such holding or part thereof, the burden of proving that the transfer was valid shall, notwithstanding anything contained in any other law for the time being in force, lie on the transferee.

(2) In the Limitation Act, 1963 in its application to proceedings under section 23, in the Schedule, after the words "Twelve years" occurring in the second column against article 65, the words, brackets and figures "but thirty years in the case of immovable property belonging to a member of a Scheduled Tribe or a Scheduled Caste, specified in relation to the State of Orissa in the Constitution (Scheduled Tribes) Order, 1950 or the Constitution (Scheduled Castes) Order, 1950, as the case may be" shall be inserted.

CHAPTER III*
RESUMPTION OF LAND FOR PERSONAL CULTIVATION

**Chapter III substituted by Act 13 of 1965*

24. Resumption of tenanted lands -

(1) Notwithstanding anything to the contrary in Chapter II, but subject to the conditions, limitations and restrictions hereinafter specified the landlord and the tenant shall have the right to the determination of the resumable and non-resumable lands in accordance with the provisions of this Chapter and for the purposes thereof .

Explanation - Resumable land refers to the land which can be resumed for personal cultivation by a landlord from a tenant.

(2) Nothing in this Chapter shall apply in respect of lands held by a landlord who is a privileged raiyat or a person under disability.

25. Extent of resumable lands -

The extent of resumable lands shall not be more than one-half of the lands in respect of each tenant, measured in standard acres only.

26. Rights of the landlord and the tenant to apply -

(1) The landlord shall have the right to make his selection under section 25 and may within three months from the commencement of this Act apply on the basis of such selection to the Revenue Officer in the prescribed form and manner, with intimation of a copy of such application to each of his tenants for the issue of a certificate specifying separately the particulars of the resumable and the non-resumable lands.

(2) A tenant may also apply to the Revenue Officer within the period aforesaid in the prescribed form and manner, under intimation to the landlord for a determination of the non-resumable lands in respect of his tenancy and for the issue of a requisite certificate in that behalf.

Provided that any landlord or tenant who has failed to apply within the aforesaid period, may make such application within three months from the date of commencement of the Orissa Land Reforms (Amendment) Act, 1966 :

Provided further that any such application made after the expiry of the period specified in sub-section (1) or sub-section (2) and before the aforesaid date shall, for all purposes, be treated as an application filed within the period of limitation.

27. Determination of resumable and non-resumable lands -

(1) The Revenue Officer shall, on receipt of application from the landlord under section 26, consider it along with such application, if any, as may have been received from his tenant under the said section and after giving the parties interested an opportunity of being heard, determine the particulars of the resumable lands and also of the non-resumable lands so far as may be in accordance with the selection, if any, made by the landlord under section 26, along with the fair and equitable rent payable in respect of the non-resumable lands.

(2) All proceedings other than in appeal, review or revision relating to any other dispute between such landlord and tenant pending on the commencement of this Act in any Revenue Court or instituted thereafter in any such Court shall stand transferred to the Revenue Officer who shall decide, so far as may be, all such disputes along with the determination of the aforesaid particulars.

28. Compensation for non-resumable lands -

(1) While deciding matters under section 27 the Revenue Officer shall further determine the compensation in respect of the non-resumable lands payable in the prescribed manner by the tenant which shall be determined in accordance with the following sub-sections.

(2) The compensation for the land shall be an amount calculated at the rate of eight hundred rupees per standard acre of the land to be paid in five equal annual instalments with interest at the rate of four and a half percentum per annum on the unpaid balance, the first instalment falling due on such date as the Revenue Officer may in his order specify in that behalf :

Provided further that where the tenant pays up the entire compensation amount on or before the date on which the payment of the first instalment falls due he shall be entitled to a rebate of five percentum of the compensation amount.

(3) The compensation payable for -

(a) wells, tanks and structures of a permanent nature situate in the land and not constructed by or at the cost of the tenant ; and

(b) trees standing on the land, shall be the market value thereof to be paid along with the compensation under sub-section (2).

Explanation - In determining the market value the Revenue Officer shall, as far as practicable be guided by the provisions contained in sub-section (1) of section 23 of the Land Acquisition Act, 1894.

29. Certificate in respect of resumable and non-resumable lands -

After the disposal of appeal, if any, from the orders under sections 27 and 28 preferred within the period specified in section 63, the Revenue Officer, having regard to the alterations and modifications, if any, ordered in such appeal shall issue a certificate in the prescribed form to the landlord and also to the tenant specifying all matters to be determined under the said sections and shall also send a copy of such certificate to the authority competent to maintain the record-of-rights.

30. Tenant to become raiyat and recovery of compensation -

(1) The tenant shall with effect from the beginning of the year next following the date of the issue of the certificate under section 29 become a raiyat in respect of the land for which compensation has been determined under section 28.

(2) The instalments of the compensation amount together with interest due thereon shall remain a first charge on the land to which it relates and shall be recoverable as an arrear of land revenue on application to the Revenue Officer by the person entitled thereto.

31. Person entitled to receive compensation -

(1) The compensation payable by the tenant determined under section 28 shall be paid to his landlord where such landlord is a raiyat or a land-holder ; or if the landlord not being a raiyat or a land-holder holds any right under a raiyat then the raiyat and all such persons holding rights between the raiyat and the tenant shall be entitled to the compensation in respect of their rights in the land ; and persons entitled to such compensation shall take it in proportion to the rent that each receives in respect of the land and the Revenue Officer shall while proceeding under section 28 determine each such share in such compensation.

(2) With effect from the date the tenant becomes a raiyat under section 30 he shall hold the lands as such free from all encumbrances and the rights of all persons (not being Government or a land-holder) mediately or immediately under whom the land was being held shall stand extinguished and the encumbrances, if any, created by such persons in respect of the land shall thereafter attach to the other lands of the landlord.

32. Certificate to be conclusive proof -

A certificate issued under section 29 shall be conclusive proof of the correctness of the contents thereof in respect of all disputes between the tenant and the persons whose rights stand extinguished in pursuance of section 31.

33. Rent of non-resumable land to whom payable -

(1) The fair and equitable rent determined under section 27 shall be payable -

(a) if the landlord is a raiyat or land-holder, to the person immediately under whom such raiyat or land-holder was holding the land; and

(b) in any other case, to the immediate land-holder.

Explanation - For the purposes of clause (b) the term "land-holder" shall include Government.

(2) Arrears of revenue cesses or other dues to Government, if any, by the date with effect from which the tenant becomes a raiyat in pursuance of certificates issued under section 29 in respect of the lands covered by such certificates shall be payable by the persons who were liable for such dues by the said date.

34. Tenant's right to continue on resumable lands -

On the determination of the resumable lands the tenant on such land shall cease to have the right to continue in cultivation hereof with effect from the date of expiry of the year next following the date of issue of the certificate under section 29.

34-A. Consequences of failure of landlord to apply under section 26 -

In any case where the landlord in respect of any land fails to apply in accordance with the provisions of section 26 the Revenue Officer shall, on the expiry of the period specified in the said section, consider the application filed by the tenant in respect of such land and after giving the persons interested an opportunity of being heard determine the particulars of the resumable and non-resumable lands along with the other matters required to be determined under sections 27 and 28 and on such determination the remaining provisions of this Chapter, so far as may be, shall apply :

Provided that if in any such case the landlord contests the claim on the ground that the applicant is not the tenant and the tenant succeeds in establishing his claim the Revenue Officer shall, after giving the tenant an opportunity of selecting the non-resumable lands, determine the aforesaid particulars, so far as may be, in accordance with the selection, if any, made by the tenant:

Provided further that if the landlord does not contest the claim as aforesaid he shall have the right to select the resumable lands and the said particulars shall, so far as may be, be determined in accordance with the selection, if any, made by the landlord.

35. Failure of both landlord and tenant to apply under Section 26 -

Where both the landlord and the tenant in respect of any land fail to apply in accordance with the provisions of section 26 the Revenue Officer may within six months from the expiry of the period specified in the said section and subject to such rules as may be made in that behalf after giving the persons interested and opportunity of being heard determine the 'particulars of the resumable and non-resumable lands along with the other matters required to be determined under sections 27 and 28 and on such determination the remaining provisions of this Chapter, so far as may be, shall apply.

35-A. Rights of tenant until conclusion of proceedings under this Chapter -

The tenant shall, subject to the final orders made in the proceedings, If any, under this Chapter, hold the lands as a tenant with heritable rights until the conclusion of such proceedings and while so holding shall be subject to the provision contained in Chapter II.

36. Removal of doubts -

For the removal of doubts it is hereby declared that where the landlord after having got the right to enter upon the land under section 34, or where the tenant after having become a raiyat under section 30 fails to personally cultivate the land without sufficient cause before the expiry of the year next following the date on which such right accrues, such landlord or tenant, as the case may be, shall be liable to eviction in accordance with the provisions of section 8.

36-A. Tenant to become raiyat in respect of the whole of the land in certain cases -

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, but subject to the provisions of sub-section (2) of section 24, the Revenue Officer may, on an application made in that behalf by the tenant within two years from the commencement of the Orissa Land Reforms (Amendment) Act, 1973 and after giving the parties interested an opportunity of being heard and after consulting the local committee, if any, declare the whole of the land in cultivation of the tenant to be non-resumable and determine the fair and equitable rent and, the compensation payable by the tenant in respect of the land in accordance with the provisions of section 28 and on such determination, the provisions of sections 29 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply:

Provided that nothing in this sub-section shall apply to any land where -

- (a) the particulars of the resumable and non-resumable portions thereof have already been determined under section 27 or under section 35 ; or
- (b) proceedings for the determination of such particulars are pending ;

Explanation - For the purposes of this section “tenant” shall include a tenant whose application under section 26 was rejected prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 on the ground of default or non-prosecution on the part of the tenant and a tenant in respect of whom a case initiated under section 35 was terminated prior to the said date on any such ground.

(2) The Revenue Officer may also, on his own motion, take all such action and in such manner as is provided in sub-section (1) at any time within three years from the commencement of the said Act:

Provided that where the period of limitation specified in sub-section (1) is extended by any further period under section 63, the period of three years as aforesaid shall stand equally extended.

(3) For the removal of doubts it is hereby declared that the Revenue Officer, while proceeding under this section, shall have power to decide any dispute as regards the existence of the relationship of landlord and tenant or as to the identity of the tenant.

36-B. Application of section 36A consequent upon amendment of the Act -

Notwithstanding anything contained in sub-section (1) of section 24, section 25 or section 26, where as a consequence of the amendment of section 73 by the Orissa Land Reforms (Second Amendment) Act, 1975, any land becomes subject to the provisions of this Chapter, the provisions of section 36-A shall, so far as may be, apply to such land subject to the modification that the period of limitation specified therein shall run from the date of commencement of the said Act.

36-C. Tenants inducted in contravention of Act to become raiyats -

(1) Notwithstanding anything contained in sub-section (2) of section 6, any tenant to whom land has been leased out on or after the 1st day of October, 1965 in contravention of the provisions of that sub-section may make an application to the Revenue Officer within two years from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 or the date on which the land was so let out, whichever is later, for being declared to be a raiyat in respect of such land.

(2) The Revenue Officer may also, on his own motion, initiate, proceedings under sub-section(1) within the aforesaid period of two years for declaring the tenant to be a raiyat.

(3) The provisions contained in sections 28 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply to the proceedings under this section as if the whole of the land so let out were non-resumable.

CHAPTER IV*

CEILING AND DISPOSAL OF SURPLUS LAND

**Chapter
IV
substituted
by Act 13
of 1965*

37. Definitions – In this Chapter -

- (a) “person” includes a company, family, association or other body of individuals, whether incorporated or not, and any institution capable of owning or holding property;
- (b) “family”, in relation to an individual, means the individual, the husband or wife, as the case may be, of such individual and their children, whether major or minor, but does not include a major married son who as such had separated by partition or otherwise before the 26th day of September, 1970.

37-A. Ceiling Area -

The ceiling area in respect of a person shall be ten standard acres:

Provided that where the person is a family consisting of more than five members, the ceiling area in respect of such person shall be ten standard acres increased by two standard acres for each member in excess of five, so, however, that the ceiling area shall not exceed eighteen standard acres.

37-B. Persons not entitled to hold land in excess of ceiling area -

On and from the commencement of the Orissa Land Reforms (Amendment) Act, 1973, no person shall, either as land-holder or raiyat or as both, be entitled to hold any land in excess of the ceiling area.

Explanation - For the purposes of this section all lands held individually by the members of a family or jointly by some or all the members of a family shall be deemed to be held by the family.

38. Exemption from ceiling -

Save as otherwise provided in this section, the provisions of this Chapter shall not apply to-

- (a) lands held by a privileged raiyat :

Provided that nothing in this clause shall apply to any land held by a raiyat under a privileged raiyat ;

(b) lands held by industrial or commercial undertakings or comprised in mills, factories or workshops, where such lands are necessary for the use, for any non-agricultural purpose, of such undertakings, mills, factories or work-shops:

Provided that where the said lands are not actually used within a period of five years from the commencement of the Orissa Land Reforms (Amendment) Act, 1973, for the purpose for which they had been set apart, the Collector may, after giving notice to the persons concerned, by order, direct that the provisions of this Chapter shall apply to the said lands:

Provided further that the Collector may, on an application made to him in this behalf and on being satisfied that it is necessary or expedient so to do, extend the said period of five years by such further period or periods as he may deem fit, so, however, that the total period of such extension shall not exceed in any case, eight years;

(c) plantations;

Explanation – “Plantation” means any land used principally for cultivation of coffee, cocoa or tea (hereafter in this *Explanation* referred to as “plantation crops”) and includes lands used for any purpose ancillary to the cultivation of the plantation crops or for the preservation of the same for their marketing ;

(d) lands held by any agricultural university, agricultural school or college, or any institution conducting research in agriculture.

39. Principles for determining the ceiling area -

In determining the ceiling area in respect of a person, the following principles shall be followed, namely :-

(a) homestead lands, or tanks with their embankments, or both, to the extent of three acres in the aggregate shall not be taken into account ;

(b) the transfer of any land by sale, gift or otherwise or the partition thereof by a person during the period beginning with the 26th day of September, 1970 and ending with the commencement of the Orissa Land Reforms (Amendment) Act, 1973 shall, if such person was holding land on the said day in excess of the ceiling area, be deemed to be void, anything contained in any law or agreement or in any decree or order of any Court notwithstanding ;

(bb) the lands so transferred or partitioned shall be taken into account as if the transfer or partition had not taken effect and the Revenue Officer may, at his discretion ignore the selection made by the person of lands to be retained in his possession ;

(c) where the person is a member of a co-operative farming society, the extent of land which he would get as his share if the land held by such society is divided shall be taken into account;

(d) lands in the possession of a tenant or a mortgage shall be deemed to be lands held by the person.

40. Prohibition of transfer and partition of land and restriction of suits for specific performance of contracts -

(1) Except where he is permitted in writing by the Revenue Officer so to do, no person holding land in excess of the ceiling area shall, after the commencement of the Orissa Land Reforms (Amendment) Act, 1973, transfer by sale, gift or otherwise or effect any partition of such land or any part thereof until the surplus land, which is to vest in the Government under section 45, has been determined and taken possession of by or on behalf of the Government and all transfers made and partitions effected in contravention of this sub-section shall be void :

Provided that nothing contained in this sub-section shall apply to.

(a) any transfer by way of mortgage executed in favour of -

(i) the Central Government or any State Government;

(ii) any public financial institution;

(iii) any bank to which the Orissa Co-operative Societies Act, 1962 applies;

(iv) any corporation established by law which is owned controlled or managed by the Central Government or by a State Government;

(v) any company in which not less than fifty-one per cent, of the paid-up share capital is held by the Central Government or by anyone or more State Governments ; or

(b) any sale of land in execution of a decree or order or an award for the realisation of money due under any such mortgage.

(2) Every suit for the specific performance of a contract for the transfer of land, instituted after the 26th day of September, 1970 and before the commencement of the Orissa Land Reforms (Amendment) Act, 1973 shall abate and no suit for the specific performance of any such commencement shall entered into before such commencement shall be maintainable.

(3) All suits for partition of land instituted in a Civil Court after the 26th day of September, 1970 and pending on the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 shall, if the land forming the subject-matter of the suit exceeds the ceiling area in respect of the person who is liable to submit a return under section 40-A in relation to such land, abate.

40-A. Submission of returns -

(1) Every person holding land (which shall include lands transferred by sale, gift or otherwise or partitioned by him after the 26th day of September, 1970) either as land holder or raiyat in excess of the ceiling area at the commencement of the Orissa Land Reforms (Amendment) Act, 1973, shall, before the expiry of ninety days from such commencement, submit to the Revenue Officer, in such form and in such manner as may be prescribed, a return indicating the parcels of land which he wishes to retain and the parcels of land in excess of the ceiling area (hereinafter referred to as “surplus lands”) and furnish in the said returns such other particulars as may be prescribed:

Provided that a person who has made any transfer or effected any partition in contravention of the provisions of sub-section (1) of section 40, shall not have the right to indicate the parcels of land which he wishes to retain and the parcels of land in excess of the ceiling area, but shall have to file the return furnishing the particulars of all the lands held by him as aforesaid:

Provided further that where as a consequence of the amendment of this Act by the Orissa Land Reforms (Amendment) Ordinance, 1974, such person considers it necessary to submit a return or revised return, such return or revised return shall be submitted within thirty days from the date of publication of the said Ordinance in the Gazette.

(2) In any case where on the date of submission of the return under sub-section (1), -

- (a) any proceeding for resumption under Chapter III or mutation proceeding or proceedings for partition in a Civil Court instituted prior to the 26th day of September, 1970 in respect of any land forming subject-matter of the return ; or
- (b) any proceeding under section 57-A relating to a trust on whose behalf the return has been submitted,

is pending, the person who has submitted such return shall submit a revised return on the basis of the result of such proceeding in accordance with sub-section (1) within thirty days from the date of issue of the certificate under section 29 or, as the case may be, from the date of final disposal of the mutation proceedings, proceedings for partition or proceedings under section 57-A after the termination of appeal, revision or review, if any or from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975, whichever is later.

40-B. Submission of returns in special cases -

Where any person, -

- (a) being liable to submit a return under section 40-A, has failed to do so within the period specified therein; or
- (b) has become liable to submit a return under section 40-A as a consequence of the amendment of this Act by the Orissa Land Reforms (Second Amendment) Act, 1975; or
- (c) considers it necessary to submit a revised return as a consequence of such amendment,

he shall submit the return or revised return as the case may be, accordance with the provisions, of that section within thirty days from the commencement of the said Act:

Provided that persons against whom proceedings under section have been initiated by the Revenue Officer on his own motion, shall not be bound to file any return as required by this section.

Provided further that a revised return, if filed by a person after confirmation of the draft statement in respect of his lands under sub-section (1) of section 44, shall not be taken into consideration.

41. Responsibility for submitting returns -

The return referred to in section 40-A or section 40-(B) shall be submitted -

- (1) in the case of an individual, by the individual or his guardian if he is a minor;
- (2) in the case of a family, by the head of the family or any member thereof or by all the members jointly :

Provided that if more than one return is filed in respect of the same family all such returns shall be taken up together for consideration; and

- (3) in any other case, by an individual competent to act on behalf of the person by whom the return is to be submitted.

42. Failure to submit return to entail forfeiture of claim -

If any person required to submit a return under section 40-A or section 40-B fails to do so or submits a return which he knows or has reason to believe to be false in respect of all or any of the material particulars, the Revenue Officer may obtain the necessary information through such agency as he may consider proper and shall thereafter proceed to prepare and publish statement contemplated under section 43 :

Provided that the amount payable for the lands declared to be his surplus lands in accordance with the provisions of section 44 shall be fifty per centum of the amount which he would have been entitled to had he submitted a correct return under section 40-A or section 40-B.

43. Preparation and publication of draft statement showing ceiling and surplus lands -

(1) The Revenue Officer on receipt of the return under sub-section (1) of section 40-A or under section 40-B after considering all relevant materials available to him and the selection made by the person concerned having a right to do so under the said sub-section of the lands to be retained by him and after consulting the local committee if any shall record his findings in a draft statement showing -

- (a) the total area of land held by the person as a land-holder, or as a raiyat and the class to which each plot of the land belongs ;
- (b) the surplus area ;
- (c) the specific parcels of land to be retained by the person and the total area thereof ;
- (d) the specific parcels comprising the surplus lands under clause (b) ;
- (e) lands if any exempted under section 39; and
- (f) such other particulars as may be prescribed :

Provided that no part of the lands held by a Company or any other corporate body of which the person concerned may be a member or share-holder shall be shown as surplus lands in respect of such person.

(2) Subject to the rules made in that behalf, the draft statement under sub-section (1) shall be published inviting objections from persons interested and the Revenue Officer after hearing the objections, if any, received within thirty days of such publication and making such enquires as he

deems necessary, and after consulting the local committee, if any may by order recording his reasons in writing alter or amend all or any of the particulars specified in the draft statement :

Provided that in cases where a revised return is due to be submitted under sub-section (2) of section 40-A, or under section 40-B the Revenue Officer shall prepare the draft statement under subsection (1) after consideration of such return, if any.

44. Final statement of ceiling and surplus lands -

(1) On the termination of the proceedings under section 43 the Revenue Officer shall by order confirm the draft statement with such alterations or amendments as may have been made therein under the said section.

(2) An appeal against the order of the Revenue Officer under sub-section (1) confirming the statement, if presented -

(a) by any person aggrieved by the order within thirty days from the date of the order ;

or

(b) by the State Government within sixty days from the said date, shall lie to the prescribed authority.

(3) The draft statement as confirmed or as modified in appeal or revision if any, shall be published by the Revenue Officer in such manner and for such period as may be prescribed, and on the expiry of the said period the statement shall be final, and conclusive, a copy whereof shall then be furnished to the person concerned free of cost and another such copy to such authority, if any, as may be prescribed.

44-A. Declaration under section 57-A to be produced before finalization of statement -

(1) Where a declaration made under section 57-A in relation to a trust is produced before the Revenue Officer by the concerned trustee at any time before the statement in respect of such trust has become final under sub-section (3) of section 44, all proceedings relating to the fixation of ceiling and determination of the surplus area in respect of such trust shall abate.

(2) Where the concerned trustee has given intimation in writing to the Revenue Officer prior to the finalisation of the said statement about the pendency of proceedings under section 57-A relating to a trust, all proceedings relating to the fixation of ceiling and determination of the surplus area in respect of such trust shall abate and any action taken in furtherance of such proceedings shall be of no effect.

(3) A declaration as aforesaid which is obtained or produced before the Revenue Officer after the statement in respect of the concerned trust has become final under sub-section (3) of section 44, shall, except where the concerned trustee has given intimation in writing to the Revenue Officer prior to the finalisation of the said statement about the pendency of proceedings under section 57-A, be of no effect whatsoever in so far as the proceedings under this Chapter are concerned.

45. Surplus lands to vest in Government -

With effect from the date on which the statement becomes final under sub-section (3) of section 44, the interests of the person to whom the surplus lands relate and of all land-holders mediately or

immediately under whom the surplus lands were being held shall stand extinguished and the said lands shall vest absolutely in the Government free from all encumbrances.

45-A. Delivery of possession of surplus lands -

(1) It shall be the duty of the person in possession of the surplus lands to deliver possession thereof to the Revenue Officer within fifteen days from the date of vesting of the lands in the Government or, if there be any standing crop on the land on the said date, within fifteen days from the harvesting of such crop, whichever is later; and the Revenue Officer shall take over possession of the land on behalf of the Government.

(2) If possession is not delivered in accordance with the provisions of sub-section (1), the Revenue Officer may, by an order in writing direct the person in possession of the surplus lands to deliver possession of such lands within seven days from the date of service of the order on him to such person as may be specified in the order.

(3) If the person in possession of the surplus lands refuses or fails without sufficient cause to comply with the order issued under sub-section (2), the Revenue Officer may take possession of the land and may, for that purpose, use such force as may be necessary.

45-B. Lands escaping ceiling proceedings to vest alongwith surplus lands already vested -

(1) If at any time within six years from the date of finalisation of the statement under sub-section (3) of section 44 relating to any person holding land in excess of ceiling are, it is found that some more lands held by such person have escaped inclusion in the above statement due to any reason whatsoever, the Revenue Officer may, after giving the person an opportunity of being heard and after making such enquiry as he deems proper, declare in the prescribed manner, the whole or any part of such lands as are found to be held by the person to be surplus land in relation to him.

(2) All lands declared to be surplus land under sub-section (1) shall be deemed to have vested in the Government free from all encumbrances along with the surplus lands mentioned in the aforesaid statement and the provisions of sections 45, 45-A and 46 to 51 shall, so far as may be, apply to the lands so vested :

Provided that the amount payable in respect of the interest of the person to whom the surplus lands relate shall be subject to reduction at the following rate :-

	Rate of reduction
(i) where the land was in occupation of the person for a period not exceeding one year from the date of finalisation of the statement under section 44 (3),	Fifty-five percentum
(ii) where the period of such occupation exceeds one year,	Fifty-five percentum plus five percentum for each year or part thereof in excess of one year.

(3) Without prejudice to the provisions of section 39, the transfer of any land declared to be surplus land under sub-section (1), by sale, gift or otherwise or the partition thereof, made or effected after the date of finalisation of the statement under sub-section (3) of section 44 shall be deemed to be void.

46. Assessment Roll to be prepared -

As soon as may be after the date of the aforesaid final statement the Revenue Officer shall determine under section 47 the amount payable by Government in respect of the surplus lands and after deducting there from all rents, revenues, cesses, rates and other dues payable to Government in respect of the land apportion the same in accordance with the Assessment Roll published under section 49 between the persons interested.

47. Principles to determine 'amount' -

(1) The amount in respect of the interest of the land-holders mediately or immediately under whom the surplus lands were being held as a land-holder or raiyat shall be fifteen times the fair and equitable rent.

(2) The amount in respect of the interest of the person to whom the surplus lands relate shall be the aggregate of the following :-

- (a) fifty percentum of the market value of tanks, wells and of structures of a permanent nature situate in the land;
- (b) fifty percentum of the market value of trees standing on the land; and
- (c) value of land to be determined in the following manner, namely :-

Extent of surplus land	Rate of amount
(i) For the first ten standard acres.	Rupees eight hundred per standard acre.
(ii) For the next ten standard acres.	Rupees six hundred per standard acre.
(iii) For the next ten standard acres.	Rupees four hundred per standard acre.
(iv) For the rest	Rupees two hundred per standard acre.

Explanation - In determining the market value, the Revenue Officer shall, as far as practicable, be guided by the provisions contained in sub-section (1) of section 23 of the Land Acquisition Act, 1894.

48. Preparation and publication of Draft Assessment Roll -

(1) After the determination of the amounts under section 47 and after ascertaining in the prescribed manner the dues payable to Government specified in section 46 the Revenue Officer shall prepare and publish in the prescribed form and manner a draft Assessment Roll inviting claims and objections from persons interested, and after hearing such claims and objections, if any, received within sixty days of such publication dispose of the same in accordance with the provisions of this Act and the rules made there under.

(2) An appeal, if preferred within thirty days from the date of the order under sub-section (1) shall lie to the prescribed authority.

49. Final Assessment Roll -

(1) When all such claims, objections and appeals are disposed of the Revenue Officer shall after making such alterations in the draft Assessment Roll as may be necessary to give effect to any order passed under sub-section (1) or, as the case may be, under sub-section (2) of section 48 cause the Roll so altered to be finally published in the prescribed manner, and on such publication, the Roll shall become final and conclusive.

Explanation - The amounts payable in respect of the land-holders specified in sub-section (1) of section 47 shall respectively be shown in the Assessment Roll in proportion to the rent that each such land-holder receives in respect of the land.

(2) Notwithstanding anything in sub-section (1) any party aggrieved by any entry in the Roll relating to the rate of apportionment of any amount as between the holder of an encumbrance referred to in section 45 and the person liable to discharge the same, may apply to the Civil Court of competent jurisdiction within ninety days from the date of publication of the Roll under this section for establishing his claim in respect of such rate and the decision on such application, if any, shall be final.:

Provided that no such proceedings shall be maintainable against Government or the Revenue Officer or the authority prescribed under sub-section (2) of section 48; nor shall any of them be deemed to be necessary or proper party to such proceedings.

50. Payment of amount -

The amount determined in accordance with the foregoing provisions shall be payable on and from the date of delivery of or taking over possession of the surplus land in such mode as may be prescribed and interest shall accrue on the unpaid balance of the amount at the rate of two and half per centum per annum.

51. Settlement of surplus lands -

(1) Seventy per centum of the surplus lands vested in the Government under section 45 shall be settled with persons belonging to the Scheduled Tribes or Scheduled Castes in proportion to their respective populations in the villages in which the lands are situated and the remaining lands shall be settled with persons not belonging to the aforesaid categories:

Provided that where the population of the Scheduled Tribes and Scheduled Castes in a village exceeds seventy per cent of the total population of that village, the percentage of lands to be reserved for persons of the said communities shall be equal to the percentage of their population:

Provided further that if sufficient number of persons belonging to the aforesaid categories are not available in the village in which the lands are situated or, being available, are not willing to accept settlement of land, so much of the lands reserved for the said persons as cannot be settled with them may be settled with other persons:

Provided also that the Collector of a district may, with the prior approval of the Government, set apart any of the said surplus lands for being utilised for any public purpose, other than the purpose

of cultivation, and thereupon the remaining surplus lands shall be settled in accordance with the provisions of this section.

(2) Notwithstanding anything contained in the Orissa Government Land Settlement Act, 1962, the procedure for the settlement of lands under this section shall be such as may be prescribed, and the settlement shall be made in favour of the following categories of persons and in the following order of priority, namely:-

- (a) co-operative farming societies formed by landless agricultural labourers;
- (b) any landless agricultural labourers of the village in which the land is situate or of any neighbouring village;
- (c) ex-servicemen or members of the Armed Forces of the Union, if they belong to the village in which the land is situate;
- (d) raiyats who personally cultivate not more than one standard acre of contiguous land; and
- (e) in the absence of persons belonging to any of the foregoing categories, any other persons.

52. Ceiling on future acquisitions -

The foregoing provisions of this Chapter shall, *mutatis mutandis*, apply where lands acquired and held subsequent to the commencement of the Orissa Land Reforms (Amendment) Act, 1973 by any person through inheritance, bequest, gift, family settlement, purchase, lease or otherwise, together with the lands held by him at the time of such acquisition exceed the ceiling area :

Provided that the return required under section 40-A shall be submitted to the Revenue Officer within ninety days from the date of such acquisition :

Provided further that where an application under section 57-A has been made on behalf of such person within the aforesaid period of ninety days, the return required under section 40-A shall be submitted to the Revenue Officer within ninety days from the date of final disposal of the proceedings under section 57-A.

Explanation I - If, as a result of irrigation the facilities provided by the Central Government, the State Government, any local authority, any Government Company as defined in section 617 of the Companies Act, 1956 or any statutory body or corporation to a person after the commencement of the Orissa Land Reforms (Amendment) Act, 1973, any land falling at such commencement, within Class II, Class III or Class IV, falls, subsequent to such commencement, within Class I or Class II, as the case may be, the lands held by such person in excess of the ceiling area applicable to the class of land to which such land has fallen as a result of the provision of such irrigation facilities, shall be deemed to have been acquired and held by such person after such commencement.

Explanation II - Homestead lands which have been kept out of account in determining the ceiling area in respect of any person, shall, on ceasing to be used as homestead land after the commencement of the Orissa Land Reforms (Amendment) Act, 1973, be deemed to have been acquired and held by him with effect from the date on which such lands have so ceased to be used as homestead lands.

CHAPTER V

ADMINISTRATIVE MACHINERY FOR IMPLEMENTATION OF LAND REFORMS

53. Constitution of Land Commission -

(1) The Government may, by notification constitute a Land Commission for the purposes of this Act.

(2) (a) The Commission shall consist of seven members of whom three shall be officials and four non-officials to be nominated by the Government. They shall unless the Commission is sooner reconstituted hold office for a period of three years from the date of appointment.

(b) The Land Reforms Commissioner shall be the *ex-officio* Secretary to the Land Commission.

(c) The Government shall nominate one of the members to be the Chairman of the Commission.

(3) The Commission shall have power. to co-opt members for special purposes..

(4) The proceedings of the Commission shall be conducted in such manner as may be prescribed.

54. Function of Land Commission -

The Commission shall review the progress of land reforms from time to time, publish report at least once a year and shall advise Government in all matters relating to Land Reforms.

55. Constitution of District Executive Committee and Local Committee -

(1) The Government may constitute for each district a District Executive Committee. The said Committee shall consist of three members of whom the Collector of the district shall be one. The two other members shall be non-officials to be nominated by the Government who shall, unless the Committee is sooner reconstituted, hold office for a period of three years.

(2) The Collector shall be the Chairman of the District Executive Committee and shall appoint a Revenue Officer to act as the Secretary of the Committee.

(3) The Government may constitute local committees for different areas of the State.

(4) The constitution, term of office, powers and functions of the local committee shall be as may be prescribed and the business of the Committee shall be conducted in the prescribed manner.

56. Functions of the District Executive Committee -

The District Executive Committee shall review the progress of land reforms in the district.

56-A. Certificate of disability -

(1) A person under disability specified in sub-clauses (a), (b) or (c) of clause (21) of section 2 may subject to the rules made in that behalf apply for a certificate specified in the proviso to that clause to the Revenue Officer.

(2) On receipt of such application the Revenue Officer shall give the person concerned or his guardian, if he is a minor or of unsound mind an opportunity of being heard and may after making such other enquiries as he may deem fit either reject the application or issue a certificate to the effect that such person is incapable of cultivating his land personally:

Provided that if no orders are passed on such application within thirty days from the date of its filing the application shall be deemed to have been rejected.

(3) The application under sub-section (1) and the certificate to be issued under sub-section (2) shall be in the prescribed form and the application shall be accompanied by the prescribed fee.

56-B. Cancellation of Certificate of disability and its consequences -

(1) If the Revenue Officer, on application in that behalf by a tenant cultivating land under a person who is a person under disability, is satisfied that a certificate under section 56-A was obtained by such person by fraud or by misrepresentation or suppression of any material fact, he may, after giving the tenant and the person an opportunity of being heard, cancel the certificate.

(2) On cancellation of the certificate, the Revenue Officer may, on an application made in that behalf by the tenant within sixty days from the date of such cancellation and after giving the parties interested an opportunity of being heard, declare the whole of the land to be non-resumbale and determine the fair and equitable rent and the compensation payable by the tenant in respect of the land in accordance with the provisions of section 28 and on such determination the provisions of sections 29 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply.

57. Procedure to be followed by Revenue Officers -

(1) The Revenue Officer shall have the same powers in making enquiries under this Act as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely:-

- (a) admission of evidence by affidavits;
- (b) summoning and enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of documents; and
- (d) any other matter that may be prescribed.

(2) The Revenue Officers and other authorities shall have the power to award costs in proceedings before them in accordance with rules made in that behalf:

Provided that if an appellate authority is satisfied that any appeal has been preferred on frivolous grounds, it shall award such cost as it deems fit, the amount of which shall not be less than fifty rupees and more than five hundred rupees.

(3) The procedure to be followed by Revenue Officer in holding enquiries or in the matter of execution of orders passed under this Act shall be as may be prescribed.

57-A. Constitution of Tribunals and declaration of trust to be religious or charitable trust of a public nature -

(1) The Government may, by notification in the Official Gazette, constitute one or more Tribunals having such local jurisdiction as may be specified in such notification for the purpose of sub-clause (e) of clause (24) of section 2.

(2) The Tribunal shall consist of one member to be appointed by the Government from among the officers of the State Judicial Service not below the rank of a subordinate judge.

(3) Any trustee or trustees desiring to get any trust declared to be a religious or charitable trust of a public nature under sub-clause (e) of clause (24) of section 2 may make an application to the Tribunal in such form and containing such particulars as may be prescribed.

Provided that no application under this sub-section shall be maintainable if, -

(a) it relates to a trust which has been created and established after the 26th day of September, 1970; or

(b) it is filed after the date of expiry of a period of six months from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1976:

Provided further that nothing in clause (a) of the preceding proviso shall affect any declaration made prior to the date of commencement of the Orissa Land Reforms (Amendment) Act, 1976.

(4) On receipt of an application under sub-section (3), the Tribunal may after making such inquiry and in such manner as may be prescribed, by order, declare such trust to be a religious or charitable trust or refuse to make such declaration:

Provided that no order refusing to make such declaration shall be made without giving an opportunity to the trustee or trustees of being heard in the matter.

(5) The Tribunal shall, while holding an inquiry under this section, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

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

(b) requiring the discovery and production of any document ;

(c) reception of evidence on affidavits ;

(d) requisitioning any public record from any court or office ;

(e) issuing commission for examination of witnesses.

(6) The Tribunal shall have power to regulate its own procedure.

(7) The Tribunal shall, as far as may be practicable, dispose of an application made under this section within a period of six months from the date of receipt of such application.

57-B. Reference of cases of certain privileged raiyats by the Collector -

(1) If the Collector of the district on his own information or on receipt of information from any source whatsoever, is of opinion that there are circumstances to indicate that in respect of any trust

or other institution which is a privileged raiyat within the meaning of sub-clause (c) of clause (24) of section 2,-

(a) return of the accounts of such trust or other institution has not been periodically furnished or lands belonging to the trust or other institution have been alienated or encumbered without the previous permission of the authority prescribed in that behalf, at any time prior to the commencement of the Orissa Land Reforms (Amendment) Act, 1973; or

(c) the trust or other institution has ceased to provide benefit to the public,

he may make an application to the Tribunal constituted under section 57-A for a declaration that such trust or other institution has ceased to be a privileged raiyat.

(2) On receipt of an application under sub-section (1) the Tribunal may, after making such enquiry and in such manner as may be prescribed, by order, declare the trust or other institution to have ceased to be a privileged raiyat :

Provided that no such declaration shall be made without giving an opportunity to the trustee or trustees or the person in charge of management of the trust or other institution, as the case may be, of being heard in the matter.

(3) The provisions contained in sub-sections (5), (6) and (7) of section 57-A shall apply to an inquiry held under this section in the same manner as they apply to inquiries held under that section.

(4) On a declaration being made under sub-section (2), the Revenue Officer may, on an application in that behalf by any tenant cultivating any land under such trust or other institution filed within sixty days from the date of the order made under the said sub-section and after giving the parties interested an opportunity of being heard, declare the whole of the land in cultivation of the tenant to be non-resumable and determine the fair and equitable rent and the compensation payable by the tenant in respect of the land in accordance with the provisions of section 28 and on such determination the provisions of sections 29 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply.

(5) The trustee or trustees or the person in charge of management, as the case may be, of the trust or other-institution in respect of which a declaration is made under sub-section (2), shall, if the lands held by it on the date of the order made under the said sub-section exceed the ceiling area, submit a return in accordance with the provisions of section 40-A within ninety days from the said date and the provisions of Chapter IV shall, so far as may be, apply to the lands so held.

CHAPTER VI MISCELLANEOUS

58. Appeal -

(1) Any person aggrieved by an order passed under any of the following sections may prefer an appeal to the prescribed authority, namely :-

Sections 4, **8-A***, 9 (4), 10, 12 (2), 15, 16, 17, 18, 19 (1) (c), 20, 21, 22 (1), [22-A (5), 23 (2), 23-A,] 27, 28, [34-A, 35] [36-A,] [36-C, 42,] [45-B (1),] [52, 56-A, 56-B and 57-B (4).]

*
Inserted
vide
Orissa Act
8 of 2006

(2) The procedure for filing and disposal of appeals shall be as may be prescribed.

(3) Any tenant aggrieved by an order passed under section 27, section 35 or section 36-A (other than an order dismissing the case for default or non-prosecution) prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 may, if he has not preferred an appeal as provided in sub-section (1), prefer the same within one year from the said date.

59. Revision -

(1) The prescribed authority may, on application by any party aggrieved by any order passed in an appeal under any provision of this Act filed within the prescribed period, revise such order.

(2) The Board of Revenue may, at any time on being moved in that behalf by the Collector of a district or by the Land Reforms Commissioner, revise any order passed by any authority under this Act,

(3) For the purposes of revising any order, the prescribed authority and the Board of Revenue shall follow such procedure as may be prescribed and shall have power to call for and examine the records of the proceedings wherein such order was passed and to pass such order as they deem fit :

Provided that no order under this section shall be passed without giving the parties concerned a reasonable opportunity of being heard.

60. Review -

(1) Any order passed under this Act may, after notice to all persons interested, be reviewed by the officer who made the order or his successor in office on the ground of any clerical mistake or error in course of any proceeding under this Act.

(2) Without prejudice to the provisions of sub-section (1), where the appellate authority, on application filed by the concerned party within two years from the date of finalisation of a statement under sub-section (3) of section 44 or within sixty days from the date of the appellate order, whichever period expires later, is satisfied that any land has been included in such statement in contravention of any provision of this Act, he may modify the order passed by the Revenue Officer under the said section:

Provided that no such modification shall be made without giving the parties concerned a reasonable opportunity of being heard :

Provided further that no such modification shall be made if -

(a) an application for revision under section 59 is pending, or

(b) an order has been passed under that section.

61. Orders to be final -

Any order passed under any of the provisions of this Act shall, subject to any order passed in appeal or revision as the case may be, be final and shall not be called in question in any Court of law.

62. Court-fees -

Notwithstanding anything contained in the Court-fees Act, 1870, every petition or application or memorandum of appeal under this Act shall bear Court-fee stamp if any of such value as may be prescribed.

63. Limitation -

(1) The State Government may, by notification, from time to time, for sufficient reasons, extend the period of limitation provided under the second proviso to sub-section (2) or the second proviso to sub-section (5) of section 4 or under section 36-A by such further period as they deem proper, so, however, that the total period of extension shall in no event exceed two years.

(2) Every appeal or application for revision under this Act unless Specifically provided elsewhere in the Act shall be filed, within a period of thirty days from the date of the order against which such appeal or revision is preferred. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal or application for revision.

64. Enquiries and proceedings to be judicial proceedings -

All proceedings under this Act before any prescribed authority, Revenue Officer, Collector or the Board of Revenue shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

65. Execution of orders -

(1) The authority passing an order under any of the provisions of this Act may on his own motion or on application in the prescribed manner direct that possession of any land forming the subject matter of such an order be delivered to the person entitled to such possession and take such steps as may be necessary to give effect to his orders.

(2) Penalties and other dues, if any, payable to Government under the provisions of this Act shall be realisable as arrears of land revenue.

66. Fees of legal practitioners not to form part of cost -

Fees of legal practitioners appearing in any proceedings under this Act shall not form part of the costs in any such proceedings.

67. Bar of jurisdiction of Civil Courts -

Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction to try and decide any suit or proceeding so far as it relates to any matter which any officer or other competent authority is empowered by or under this Act to decide.

68. Penalties -

(1) Whoever contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land under this Act or makes a declaration or furnishes any information, which may be or is required to be made or furnished under this Act and which he knows to be false or has reasons to believe to be false, shall on conviction be punishable with imprisonment of

either description which may extend to six months or with fine which may extend to five hundred rupees or with both.

(2) Whoever fails to submit a return as required under section 40-B, shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) Whoever, after having been evicted under section 23 or under section 23-A from any holding of a raiyat belonging to a Scheduled Tribe or a Scheduled Caste, reoccupies the same without a valid transfer made in his favour, shall, on conviction, be punishable with rigorous imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees, or with both.

69. Delegation of power –

The Government may, by notification, direct that any power which is conferred on them by this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the said notification, be exercised or discharged by any officer so empowered.

70. Indemnity -

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

(2) No suit or other legal proceeding shall lie against the Government or any officer or authority for any damage caused or likely to be caused, for any injury suffered or likely to be suffered by virtue of any provision of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

71. Executive instructions -

In all matters connected with this Act, Government shall have power to issue such instructions and directions as they think fit with respect to the discharge of executive or administrative function by any of the authorities assigned to them under this Act.

72. Power to enter upon land -

Subject to any condition and restrictions as may be prescribed any officer entrusted with the performance of any duty under this Act may at any time between sunrise and sunset enter upon any land with such other officers or persons as he deems fit and make survey and take measurement of any land and do all other acts necessary for carrying out his duties under this Act.

73. Act not to apply to certain lands -

Nothing contained in this Act, shall apply -

- (a) to the Government in respect of lands held by them and which is used or set apart for any public purpose;
- (b) to lands held by-

- (i) the Government of India;
 - (ii) any local authority;
 - (iii) any University established by law in the State;
 - (iv) the Bhoodan Yagna Samiti established under the Orissa Bhoodan and Gramdan Act, 1970.
 - (v) any Government company as defined in the Companies Act, 1956;
 - (vi) any Corporation established under any law in force;
- (c) to any area which the Government may, from time to time by notification in the official Gazette specify as being reserved for urban, non-agricultural or industrial development or for any other specific purpose; and
- (d) to any land which was under the management of any Civil, Revenue or Criminal Court immediately prior to the 26th day of September 1970, for so long as such management continues.

74. Repeal -

- (1) On the coming into force of Chapter I of this Act the Orissa Tenant's Relief Act, 1955, shall be repealed.
- (2) The repeal under sub-section (1) shall not affect-
 - (a) the previous operation of the said enactment or anything duly done or suffered thereunder; or
 - (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactment; or
 - (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactment; or
 - (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

75. Limitation -

- (1) The Government may, after previous publication, make rules for carrying out all or any of the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.
- (3) All rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Assembly may make during the said period.

76. Power to remove doubts and difficulties -

If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act or the rules made thereunder, which appears to them necessary for purposes of removing the doubt or difficulty.
