

AGRA TENANCY ACT, 1926

Preamble - AGRA TENANCY ACT, 1926

THE AGRA TENANCY ACT, 1926

[Act No. 03 of 1926]

[06th September, 1926]

PREAMBLE

Amended by the U.P. Act no. II of 1931

Amended by the U.P. Act no. VII of 1934

Amended by the U.P. Act no VII of 1937

Amended by the U.P. Act no. XII of 1939

Partially repealed by U.P. Act no. XVII of 1939

Adapted and modified by the Government of India

(Adaptation of India Laws) Order, 1937

Adapted and modified by the Adaptation of Laws  
Order, 1950

(Received the assent of the Governor on August 19,  
1926, and of the Governor General on August

31, 1926, and was published<sup>6</sup> under section 81 of  
the Government of India Act on September 6,

1926.)

An Act to consolidate and amend the law relating  
to agricultural tenancies and certain other  
matters in

Agra.

Whereas it is expedient to consolidate and amend the law relating to agricultural tenancies and certain other matters in Agra; and whereas the Governor General has given his previous sanction to the passing of this Act as required by sub-section (3) of section 80A of the Government of, India Act; It is hereby enacted as follows:

1. For S.O.R., see Gaz., 1925, Pt. VIII, p. 679; for R.S. Com., see *ibid*, 1926, Pt. VIII pp. 229--317,; for discussion, see L.C. Pro., d. Dec. 15, 1925, in Vol. XXVI, p. 151, d. March 29 and 30, 1926, in Vol. XXIX, pp. 309--364 and 372--397, respectively, and d. June 28, 1926 and July 1, 2, 3, 5, 6, 7, 8, 9, 10, 24, 26, 27, 28, 29, 30 and 31, 1926, in Vol. XXX, pp. 124--125, 162--195, 224-270, 274--332, 338--393, 396--450, 452--506, 510--563, 566--620, 624-675, 694--757/780--836, 858-909, 927--980,

994--1010, 1012--1070 and 1073--1085, respectively.

2. For S.O.R., see Gaz., 1931, Pt. VIII, p. 868; for discussion, see L.C. Pro. d. Dec. 17, 1931, in Vol. LII, pp. 363--372; for publication, see Gaz. 1932, Pt. VII, p. I. The Act remained in force for

one year only.

3. For S.O.R., see Gaz., 1934, Pt. VIII, p. 28; for discussion, see L.C. Pro. d. Feb. 20 and 21, 1934, in Vol. LXI, pp. 252 and 292-

-312 respectively; for publication, see Gaz., 1934, Pt. VIII, p. 37. The Act came into force on Dec. 29, 1934, see not no.

3049/IA--515-1933, d. Dec. 24, 1934, in Gaz., 1934, Pt. I. p. 1351.

4. For S.O.R., see Gaz., Extra, d. Sep. 4, 1937, p. 2; for discussion, see L.A. Pro. d. Sep. 7, 1937, in Vol. I, pp. 370-375 and L.C. Pro. d. Sep. 9 and 11, 1937, and Oct. 2, 1937, in Vol I, pp. 239, 310--311 and 507-508, respectively; for publication, see Gaz., 1937, Pt. VII, p. 45.

5. For S.O.R., see Gaz., 1939. Pt. VII, p. 103; for discussion, see L.A. Pro. d. May 10 and 11 and July 19, 1939, in Vol. XVIII, pp.

290, 310-311 and 315--318 and Vol. XIX, pp. 560--567, respectively, and L.C. Pro. d. May 19, 256 and 27 and Aug. 21, 1939, in

Vol. V, pp. 46, 395--407, 423 and Vol. VI, pp. 50--57, respectively; for publication, see Gaz., 1939, Pt. VII-A, pp. 45-46.

6. See Gaz. Extra d. Sept. 6, 1926, pp. 1--50.

## Chapter I - PRELIMINARY

### Section 1 - Short title

(1) This Act may be called the Agra Tenancy Act, 1926.

Local extent.

(2) It extends to the province of Agra 3 except the areas specified in the First Schedule:

Provided that the (State Government)<sup>1</sup> may by

notification in the (Official Gazette)<sup>2</sup> extend the whole or any part of this Act to all or any of the areas<sup>4</sup> so excepted:

Provided also that no provision of this Act which is inconsistent with the provisions of the Pargana of Kaswar Raja Act, 1915, shall apply to the pargana of Kaswar Raja in the district of Benares; and

Commencement.

(3) It shall come into force on such date<sup>5</sup> as the (State Government)<sup>1</sup> may, by notification in the (Official Gazette)<sup>2</sup> appoint in this behalf.

1. Substituted by the A.O. 1950 for (Prov'l. Govt.) which had been Substituted by the A.O. 1937 for (L.G.). Throughout the Act, the expression (Province of Agra) shall stand unmodified by A.O. 1950.

2. Substituted for (Gazette) by *ibid*.

3. The Act has been rep. by s. 2(1) of the U.P. Tenancy Act, 1939 (U.P. Act XVII of 1939), except in respect of the areas to which the latter does not apply.

4. The Act was extended to the portion of the Mirzapur District lying to the south of the Kaimur Range, except the tappas of Dudhi, Phulwa, Barha and Gonda Bajia, see not no. 1323/I-A--474-Camp., d. March I, 1927, in Gaz., 1927, Pt. I, p. 256: it is still in force in this area as the U.P. Tenancy Act, 1939 (U.P. Act XVII of 1939) is not been applied to it.

5. The Act came into force on Sep., 7, 1926, see not to 6155/I-A-487, 1908. d. Sep. 7, 1926, in Gaz. 1926, Pt. I, p. 821.

## Section 2 - Repeal

(1) The Agra Tenancy Act, 1901, is hereby repealed.

(2) When this Act or any portion thereof is extended to any of the areas excepted in the first Schedule, so much of any Act or Regulation in force therein as is inconsistent with this Act or the portion thereof so extended, as the case may be, shall be thereby repealed.

## Section 3 - Interpretation clause

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

(1) all words and expressions used to denote the possessor of any right, title or interest in land, whether the same be proprietary or otherwise, shall be deemed to include the predecessors and successors in right, title or interest of such person;

(2) "land" means land which is let or held for agricultural purposes, or as grove-land or for pasturage. It includes land covered by water used for the 'purpose of growing singhara or other similar produce, but does not include land for the time being occupied by dwelling- houses or manufactories, or appurtenant thereto;

(3) "rent" means whatever is, in cash or kind, to be paid or delivered by a tenant for land held by him, and in Chapter IX includes "sayar" as defined below.

When used with reference to a thekadar rent means the amount payable by the thekadar to his lessor under the terms of the theka.



A share of the timber or its value deliverable or payable to the landholder by local custom on a sale of trees by a grove-holder is rent;

(4) "sayar" includes whatever is to be paid or delivered to a landholder by a lessee or licensee on account of the right of gathering produce, forest rights, fisheries, tanks not used for agricultural purposes, the use of water for irrigation, whether from natural or artificial sources, or the like;

(5) "pay" with its grammatical variations and cognate expressions, when used with reference to rent, includes "deliver" with its grammatical variations and cognate expressions;

(6) "landholder" means the person to whom, and "tenant" the person by whom, rent is, or but for a contract, express or implied, would be payable;

"tenant" includes a grove-holder, but does not include a mortgagee of proprietary rights, a rent-free grantee or, save as otherwise expressly provided by this Act, a thekadar;

and "landlord" means the proprietor of a mahal or of a share or specific plot therein.

Explanation--Where the word "landholder" is used with reference to a thekadar it means the person to whom the thekadar's rent is payable;

(7) "sub-tenant" means a tenant who holds land from a tenant thereof other than a permanent tenure-holder, or from a rent-free grantee thereof who is liable to have rent fixed under section 187;

(8) "holding" means a parcel or parcels of land held under one tenure, or one lease, engagement or grant, and includes the interest of a thekadar;

(9) "agricultural year" means the year commencing on the first day of July and ending on the thirtieth day of June;

(10) "registered" includes attested, under the provisions of section 127;

(11) "improvement" means, with reference to a tenant's holding, any work which adds materially to the letting value of the holding which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is after execution made directly beneficial to it, and subject to

the foregoing provisions, includes--

(a) the construction of tanks, wells, water channels and other works for the storage, supply or distribution of water for agricultural purposes;

(b) the construction of works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water;

(c) the planting of trees and the reclaiming, clearing, enclosing, levelling or terracing of land;

(d) the erection of buildings on the holding or in its immediate vicinity, elsewhere than on the village site required for the convenient or profitable use or occupation of the holding; and

(e) the renewal or reconstruction of any of the foregoing works or such alterations therein, or additions thereto, as are not of the nature of mere repairs;

but does not include--

(f) such water channels, embankments, levellings, enclosures, temporary wells, or other works as are

made by tenants in the ordinary course of cultivation;

(12) "Board," "Revenue court", "Revenue officer," "Settlement officer," "Assistant settlement officer," "Assistant collector" "Tahsildar," "revenue," "mahal," "lambardar" and "minor" have the same meaning respectively as in the United Provinces Land Revenue Act, 1901; and "Assistant collector in charge of a sub-division" has the same meaning as "Assistant collector in charge of a sub-division of a district" in the said Act;

(13) "lease" includes qabbuliat;

(14) "decree" means any order which, so far as the revenue court is concerned, finally disposes of a suit;

(15) "grove-land" means any specific piece of land in a mahal having trees planted thereon in such numbers that when full grown they will preclude the land or any considerable portion thereof being used primarily for any other purpose, and the trees on such land constitute a grove.

Explanation I--The word "trees" does not include tea plants, rose bushes, betel plants, plantains and papitas, or any mere shrubs, bushes, plants or climbers.

Explanation II--The word "trees" includes fruit-bearing trees such as mango or jackfruit, which occupy the land for a long 'period; but does not include trees, such as guavas or peaches, which occupy the land for comparatively short periods.

#### Section 4 - Definition of sir

"Sir" means--

(a) land recorded as sir of a landlord or of a permanent tenure-holder in the last record-of-rights framed before the first day of January, 1902, and continuously so recorded since, or which but for error or omission would have been so continuously recorded;

(b) land cultivated continuously for twelve years before the first day of January, 1902, by the landlord or by the permanent tenure-holder himself with his own stock, or by his servants, or by hired labour;

(c) land recognized by village custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges

among the co-sharers;

(d) land which at the commencement of this Act was being cultivated by the landlord or permanent tenure-holder himself with his own stock, or by his servants, or by hired labour, and which was recorded as the khudkashat of the landlord permanent tenure-holder in the agricultural year immediately preceding the agricultural year in which this Act came into force.

(e) land which has been continuously cultivated by the landlord or permanent tenure-holder himself with his own stock, or by his servants, or by hired labour for a period of ten years, commencing at any time after the commencement of this Act, and has on the application of the landlord or permanent tenure-holder, as the case may be, been declared and demarcated as the applicant's sir by the collector:

Provided, first, that the area of sir which may be acquired by a landlord or permanent tenure-holder under sub-clause (e) when added to the area which is already the sir of the landlord or permanent tenure-holder under sub-clauses (a) (b), (c), and (d) shall not exceed in the aggregate the following scale:

If the cultivated area in the mahal owned by the landlord or held by the permanent tenure-holder is not more than thirty acres.

Fifty per cent of such area.

If such area is more than thirty but not more than six hundred acres.

As above on thirty acres and fifteen per cent, on the balance.

If such area is more than six hundred acres.

As above on six hundred acres and ten per cent. on the balance.

Where the landlords of a mahal do not own specific areas in severalty, the cultivated area owned by each landlord in the mahal shall, for the purposes of the scale, be deemed to be such portion of the total cultivated area of the mahal as is proportionate to the extent of his proprietary right in the mahal:

Provided, secondly, that a landlord or permanent tenure-holder who exchanges sir for tenants' or other land, whether voluntarily or under the order of a court, shall acquire the same right in the land which he receives as he had in the land which he gives in exchange.

"Sir right" means the sum of all special rights

conferred on sir-holders by this Act and by the United Provinces Land Revenue Act, 1901, and includes the right to exclusive possession of the sir against co-sharers of the Mr-holder in the proprietary right, subject to a liability to account for profits.

### Section 5 - Succession to sir right

On the death of sir holder his sir right shall devolve on the person who succeeds to his proprietary interest in the sir.

Explanation--For the purposes of this section the words "proprietary interest" shall be deemed to include the interest of a permanent tenure-holder.

### Section 6 - Transfer of sir right

Sir right is not transferable except--

- (a) by gift of the sir to a person to whom the proprietary interest in the sir is gifted, or
- (b) by exchange of sir between co-sharers in the mahal.



## Section 7 - Extinction of sir right

Sir shall cease to be sir--

(a) when it becomes the subject of an ex-proprietary tenancy;

(b) when a right of occupancy is conferred therein under section 17:

Provided, first, that if an ex-proprietary tenant regains his proprietary right in the land held by him as ex-proprietary tenant, such land shall again become his sir:

Provided, secondly, that if the right of occupancy conferred in sir under section 17 is extinguished, and the landlord or permanent tenure-holder has not in the meantime transferred his right in the lands, such land shall again become his sir or the sir of his heir, as the case may be.

## Section 8 - Restriction leases and agreements relating to tenancies

(1) Every agreement which purports, or would operate, to restrict a tenant from enforcing or exercising any right conferred on or secured to him by this Act is void to that extent.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), an agreement between a land-holder and a tenant is void if and in so far as it purports--

(a) to prevent the tenant from acquiring a right of occupancy in land in accordance with the provisions of this Act;

(b) to take away or limit the right of the tenant to make improvements and to claim compensation for the same in accordance with the provisions of this Act;

(c) to entitle the landholder to eject the tenant or enhance his rent otherwise than in accordance with the provisions of this Act;

(d) to take away the right of the tenant to sub-let in accordance with the provisions of this Act;

(e) to empower the landholder to distraint otherwise than in accordance with the provisions of this Act.

(3) Where land not previously cultivated has been or is hereafter let by a landholder to a tenant either after being reclaimed by or at the expense of the landholder, or for the purpose of being reclaimed by the tenant, nothing in this section shall be construed to affect the conditions of any contract relating to that land until fourteen years have elapsed from the date on which the land was first brought under cultivation:

Provided that where land has remained uncultivated during a period of seven years, it shall, for the purposes of this sub-section, be deemed to have not been previously cultivated.

Section 9 - Power of landholders to act through agent

Save as otherwise expressly provided by this Act, and save as otherwise provided by the Code of Civil Procedure, 1908 in the case of proceeding governed by that Code, anything which is by this Act required or permitted to be done by a landholder, may be done by an agent of the landholder authorized by him in this behalf; and process served on, or notice given to, such agent

shall be as effectual for all purposes as if the same had been served on, or given to, the landholder in person; and all the provisions of this Act relating to the service of process on, or the giving of notice to, a party shall be applicable to the service of process on, or the giving of notice to, such agent.

## Chapter II - CLASSES OF TENANTS

### Section 10 - Classes of tenants enumerated

There shall be, for the purposes of this Act, the following classes of tenants, namely: (a) permanent tenure-holders,  
(b) fixed-rate tenants,

(c) ex-proprietary tenants, (d) occupancy tenants,  
(e) statutory tenants,

(f) heirs of statutory tenants, (g) non-occupancy tenants.

## Permanent tenure-holder and fixed-rate tenants

### Section 11 - Permanent tenure-holders

(1) When any permanent and transferable interest in land in a district or portion of a district which is permanently settled has been held, otherwise than under terminable lease, by any person intermediate between the landlord and the occupants, from the time of the permanent settlement, at the same rate of rent, such person shall have a right to hold such interest at that rate.

(2) Such person shall be called a permanent tenure-holder.

### Section 12 - Fixed-rate tenants

(1) When any land in a district or portion of a district which is permanently settled has been held by a tenant from the time of the permanent settlement at the same rate of rent, such tenant shall have a right of occupancy at that rate.

(2) Such tenant shall be called a fixed-rate tenant.

## Section 13 - Presumption from entry at revision or records

(1) In those districts or portions of districts in which a revision of records has taken place since the first day of January, 1875, every entry made in the revision recording a person as a permanent tenure-holder, or fixed-rate tenant, or otherwise, shall, in the absence of a judicial decision to the contrary in proceedings instituted before the first day of January, 1902, be, as between landlord and tenant, conclusive proof that such person was at the date of such revision permanent tenure- holder, or a fixed-rate tenant, or not, as the case may be.

Presumption from holding at same rate for twenty years.

(2) In those districts or portions of districts in which no revision of records has taken place since the first day of January, 1875, if in any suit or proceeding an issue arises whether a person is a permanent tenure-holder or fixed-rate tenant and it is proved that he has held any land at the same rate of rent for twenty years next before the

institution of the suit or proceeding, it shall be presumed, unless the contrary is proved, that he has field such land at the same rate of rent since the permanent settlement:

Provided that if here after a revision of records takes place in any such district or portion of a district the provisions of this sub-section shall cease to operate, and those of sub-section (1) shall become operative therein.

Ex-proprietary tenants

Section 14 - Ex-proprietary tenants

(1) Every landlord whose proprietary rights in a mahal or in any portion thereof, whether in any share therein, or in any specific area thereof, are transferred either by foreclosure or sale in execution of a decree or order of a Civil or Revenue Court, or by voluntary alienation otherwise than (a) by gift, or (b) by exchange between co-sharers in the mahal, shall become a tenant with a right in occuncy of his sir, and in the land which he has cultivated continuously for ten years at the date of the transfer, and shall be entitled to hold the same at a rent which shall, subject to the provisions of section 49, be

two annas in the rupee less than the rate prescribed for occupancy tenants in section 59.

(2) If a part only of the share of a landlord in a mahal or in any portion thereof is so transferred, such landlord shall become a tenant with a right of occupancy in so much of his sir and of the land which he has cultivated continuously for ten years at the date of the transfer as appertains or corresponds to such part of his share.

(3) Where there are two or more co-sharers in sir and one of them becomes an ex-proprietary tenant in it under this section, his previous share in it shall be divided off by the officer empowered to fix the rent of the holding under section 36 of the United Provinces Land Revenue Act, 1901, and his interest as ex-proprietary tenant shall be limited to such share.

(4) Every such tenant, and every tenant who is at the commencement of this Act an ex-proprietary tenant under the provisions of the Agra Tenancy Act, 1901, or is or becomes an ex-proprietary tenant under other enactment for the time being in force, shall be called an ex-proprietary tenant, and, save as otherwise expressly provided, shall have all the rights and be subject to all the liabilities conferred and imposed upon occupancy tenant by this Act.



(5) A mortgage shall be deemed to be a transfer within the meaning of this section when it has the effect of transferring proprietary possession of the mortgaged property from the mortgagor, but not otherwise. In the former case the right conferred by this section shall come into existence from the date on which possession is transferred.

(6) Nothing in this section shall confer a right of occupancy in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

(7) For the purposes of this section permanent tenure-holders shall be considered to have proprietary rights.

(8) For the purposes of sub-section (1) the use of land as a grove-land shall not be deemed cultivation.

## Section 15 - Effect of relinquishment of ex-proprietary rights

(1) Except as provided in sub-sections (2), (3) and (4) no sale of sir or agreement, relinquishment or other transaction having the effect of a surrender or relinquishment of

expropriatory rights, executed or carried out within six months immediately preceding or succeeding a transfer of proprietary rights, shall affect or detract from the rights created by section 14.

(2) Where a landlord or permanent tenure-holder who under the provisions of section 14 has become or would become on a transfer a tenant with a right of occupancy in his sir or in the land which he has cultivated continuously for ten years at the date of the transfer, desires within six months immediately preceding or succeeding such a transfer, to enter into a transaction having the effect of a surrender or relinquishment of expropriatory rights, he shall apply to the assistant collector in charge of the sub-division, and, if such assistant collector is satisfied that the applicant does not wholly or mainly depend on agriculture for his livelihood, or that the land transferred is Self-acquired or has been acquired within the twenty years last preceding, he shall sanction such application.

(3) If the assistant collector incharge of the sub-division is not so satisfied, he shall inquire whether there are other reasonable grounds for sanctioning the transaction, and if he finds that such grounds exist, he may sanction the application.

(4) An appeal shall lie against an order rejecting an application under sub-sections (2) and (3) to the collector.

(5) Where the court sanctions an application under the provisions of sub-sections (2), (3) or (4), the applicant shall not become or shall cease to be an ex-proprietary tenant, as the case may be, in the sir or other land in respect of which the application is sanctioned, and the order sanctioning the application shall not be questioned, and civil court.

Notwithstanding anything in this section, where the property transferred by means of a mortgage of the kind specified in sub-section (5) of section 14 consists wholly of a specific area or sir the mortgagor may by simultaneous agreement in writing waive his ex-proprietary rights, and in that case the mortgaged land shall, if the mortgagor regains within twelve years of the date of the transfer possession thereof on redemption of the mortgage, resume the character of sir. In such land, statutory rights shall not accrue for twelve years from the date of the transfer.

Occupancy tenants

## Section 16 - Occupancy tenants

Every tenant, who at the commencement of this Act has acquired a right of occupancy under the

Agra Tenancy Act, 1901, or under any previous Act, and

every person on whom a right of occupancy is conferred in accordance with the provisions of section 17 of this Act,

and every person (except in Bundelkhand) who is at or after the commencement of this Act a tenant of Government estates other than nazul land,

shall be called an occupancy tenant and shall have all the rights and be subject to all the liabilities conferred and imposed on occupancy tenants by this Act.

1. repealed

## Section 17 - Conferment of right of occupancy

- (1) The following persons shall be competent to confer a right of occupancy: (a) a landlord, or a permanent tenure-holder;
- (b) a lambardar, with the written concurrence of all the co-sharers whom he represents, and, if any co-sharer is a minor or otherwise unable to act, with the sanction of the district judge obtained on the application of the natural or certificated guardian of such co-sharer;
- (c) a mortgagee in possession, with the written concurrence of the mortgagor;
- (d) a mortgagor in possession, with the written concurrence of the mortgagee, or with the sanction of the district judge;
- (e) a person whose proprietary interest is the subject of litigation in a court of law, with the authority of the court;
- (f) the natural or certificated guardian of a minor proprietor, or the manager of a lunatic's estate, with the sanction of the district judge;
- (g) the manager of a joint Hindu family with the written consent of the members of the family who have attained majority and, where any of the members of the family is a minor with the sanction of the district judge:

Provided that, if the minor has a father or a brother as his natural guardian, the written consent of the natural guardian shall be deemed sufficient;

(h) a thekadar in accordance with the provisions of section 201(2); (i) the court of wards in land under its superintendence;

(j) A Hindu woman having a limited estate, with the written consent of the nearest reversioner or the sanction of the district judge;

(2) A right of occupancy may be conferred--

(a) upon a tenant in his holding or in any part thereof,

(b) upon any person in land in which no tenancy subsists,

(c) upon any person in land in which a tenancy exists, with effect from the date of the extinction of the tenancy.

(3) Notwithstanding anything in the foregoing sub-sections, a right of occupancy shall not be

conferred in grove-land or pasture-land, or upon a corporation, math or other artificial person.

(4) A right of occupancy may be conferred for valuable consideration or gifted, provided that such a right shall not be conferred in land under the superintendence of the court of wards except for valuable consideration, and that the court of wards shall not delegate its powers to confer such rights.

(5) A right of occupancy shall be conferred by registered instrument only.

(6) Notwithstanding the provisions of section 50, the initial rent payable by a tenant upon conferment on him of a right of occupancy shall be the rent which is agreed upon between him and his landlord.

## Section 18 - Recording or a right of occupancy

(1) A person on whom a right of occupancy has been conferred under the provisions of section 17 may present an application to be recorded as an occupancy tenant to the court of the assistant collector in charge of the sub-division, and shall verify such application in presence of the court.

(2) Subject to the provisions of sub-sections (3) and (4), the court, after giving notice to the person who is alleged to have conferred the right of occupancy and satisfying itself that such a right has been conferred in accordance with the provisions of section 17, shall cause the applicant to be recorded as an occupancy tenant in the annual registers maintained under section 33 of the United Provinces Land Revenue Act, 19011. If the court is not satisfied as aforesaid it shall, subject to the provisions of sub-sections (3) and (4), reject the application.

(3) When in proceedings under this section a question arises whether the person purporting to have conferred the right of occupancy was competent to do so, the court shall, if a question of proprietary right is in dispute and has not already been determined by a court of competent jurisdiction, require by an order in writing the party whose name is not recorded as proprietor of the land in the annual registers maintained under section 33 of the United Provinces Land Revenue Act, 19011, to institute within two months a suit in the Civil court for the determination of such question of proprietary right. Where the names of all parties to the dispute about the question of proprietary right are recorded in the aforesaid registers, the court shall frame an issue on the question of proprietary right and submit the



record to the competent civil court for the decision of that issue only. The Civil court, after reframing the issue, if necessary, shall decide that issue only and return the record together with its finding on that issue to the court of the assistant collector in charge of the sub-division who shall accept the finding of the Civil court on the issue referred to it.

(4) Where an order has been passed under sub-section (3), if the party whose name is not recorded in the aforesaid annual registers fails to comply with it, the court of the assistant collector in charge of the sub-division shall decide such question of proprietary right against him. If such party institutes a suit in compliance with the order, the court of the assistant collector in charge of the sub-division shall dispose of the application pending before it under sub-section (2) in accordance with the final decision of the Civil court of first instance or appeal, as the case may be, upon such question of proprietary right.

(5) Where the court of the assistant collector in charge of the sub-division rejects an application under this section, it may (after taking into consideration the decision of the Civil court, if any) award to the applicant such damages (including the return of the consideration, if

any, paid by the applicant to the person purporting to have conferred the right of occupancy) as it may deem just.

(6) The court of the assistant collector in charge of the sub-division or the Civil court may either of its own motion or on the application of any person, direct that any person be made a party to the proceedings, but nothing in this section shall debar a person who has not been a party to such proceedings from establishing any right in any Civil or Revenue court.

(7) An appeal against an order of the court of the assistant collector in charge of the sub-division under this section shall lie to the commissioner; provided that if a question of proprietary right has been in issue between parties claiming such right in the court of first instance and is in issue in the appeal, the appeal shall lie to the court which has jurisdiction to hear appeals from the court in which the question of proprietary right was decided.

(8) Notwithstanding anything in section 14, where a landlord or permanent tenure-holder has conferred a right of occupancy under section 17 in land which is his sir, the following consequences shall ensue if the right of occupancy is still subsisting at the time of a transfer which under

the provisions of section 14 would ordinarily cause the accrual of expropriatory rights:

(a) If the transfer is by mortgage, ex-proprietary rights shall not accrue unless and until the right of occupancy is extinguished.

(b) If the transfer is by foreclosure for sale, no ex-proprietary rights shall accrue.

1. Vol. III.

Statutory tenants and their heirs

Section 19 - Statutory tenants

Subject to the provisions of sub-section (3) of section 8, every person who--

(a) is at the commencement of this Act a tenant of land other than sir, grove-land, pasture- land or land covered by water and used for the purpose of growing singhara or other similar produce, not being a permanent tenure-holder or a tenant with a right of occupancy or a tenant holding from a

permanent tenure-holder, or

(b) is after the commencement of this Act admitted as tenant without a right of occupancy to land, other than sir, grove-land, pasture-land, or land covered by water and used for the purpose of growing singhara or other similar produce, or

(c) is after the commencement of this Act admitted by a permanent tenure-holder to the cultivation of land in his holding other than grove-land, pasture-land or land, covered by water and used for the purpose of growing singhara or other similar produce,

shall be called a statutory tenant, and subject to the provisions of this Act, shall be entitled to a life-tenancy of his holding:

Provided, first, that no statutory rights shall accrue in favour of a sub-tenant and that no sub-tenant shall be deemed a statutory tenant:

Provided, secondly, that no statutory right shall accrue in any land acquired or held for a public purpose or a work of public utility, and in particular, and without prejudice to the generality of this proviso, statutory right shall not accrue in--

(a) lands at present or which may hereafter be set apart for military encamping grounds;

(b) lands situated within the limits of any cantonment; (c) lands included within railway boundaries;

(d) lands acquired by a town improvement trust, in accordance with a scheme

sanctioned under section 42 of the United Provinces Town Improvement Act, 1919; (e) lands within, the boundaries of any Government forest; (f) lands appurtenant to any jail; (g) municipal trenching grounds:

Provided, thirdly, that no statutory right shall accrue in--

(a) lands notified by Government in the (Official Gazette)<sup>1</sup> as tea gardens before the commencement of this Act;

(b) lands used for casual or occasional cultivation in the bed of a river.

1. Substituted for (Gazette) by the A.O. 1937.

Section 20 - Heirs of statutory tenants

(1) The heir of a statutory tenant is the person entitled to succeed to the tenancy under the provisions of section 24 or 25.

(2) Such heir or in the event of his death successive heirs under section 24 or section 25 shall be entitled to retain possession of the holding of the deceased statutory tenant for a period of five years from the latter's death, or if the deceased tenant held a lease at the time of his death of which the unexpired portion is longer than five-years, until the expiry of the period of the lease:

Provided that (1) if (a) he has been admitted in writing by his landholder as a statutory tenant, or (b) no proceedings have been taken by his landholder to eject him within three years after the expiry of the period specified in sub-section (2) he shall be considered to have been admitted to the holding within the meaning of section 19(b) and shall be deemed to be a statutory tenant;

(2) Where there are two or more co-tenants of statutory tenancy, the heir of a deceased co-tenant shall be entitled to continue in possession of the land or interest of the deceased co-tenant till five years have expired from the death of the last surviving co-tenant;

(3) when there are two or more co-tenants of a statutory tenancy, the period of three years specified in proviso (1) (b) shall not be deemed to have expired for the heir of any co-tenant till it has expired for the heir of the last surviving co-tenant.

## Section 21 - Non-occupancy tenants

All tenants other than permanent tenure-holders, fixed-rate Non-occupancy tenants tenants, ex-proprietary tenants, occupancy tenants, statutory tenants or heirs of a statutory tenant are non-occupancy tenants.

## Chapter III - DEVOLUTION, TRANSFER AND EXTINCTION OF TENANCIES AND DIVISIONS OF TENANCIES

### Succession to, and transfer of, tenancies

#### Section 22 - Rights of permanent tenure-holders and fixed-rate tenants

The interest of a permanent tenure-holder and of a fixed-rate tenant is both heritable and transferable.

## Section 23 - Rights of other tenants

(1) The interest of an ex-proprietary tenant, of an occupancy tenant, of a non-occupancy tenant, and of a statutory tenant to the extent provided by section 20 is heritable, but is not transferable either in execution of a decree of a Civil or Revenue court or otherwise except in accordance with the provisions of this Act.

(2) Nothing in the foregoing provisions of this section shall render it illegal for a tenant--

(a) to transfer to (the Government)<sup>1</sup> his interest in any land which is required for a public purpose;

(b) to release or transfer his interest in favour of a co-tenant:

Provided that no person shall be deemed to be a co-tenant, notwithstanding that he may have shared in the cultivation of the holding, unless he was a Co-tenant from the commencement of the tenancy or has become such by succession or has been specifically recognized as such in writing by the landholder;



(c) to sub-let his holding as hereinafter provided.

1. Substituted by the A.O. 1950 for (Crown) which had been Substituted by the A.O. 1937, for (Govt.).

## Section 24 - Succession of male tenants

When a male ex-proprietary tenant, occupancy tenant, statutory tenant or non-occupancy tenant dies, his interest in the holding shall devolve in accordance with the order of succession given below:

### Order of succession

Class I--Male lineal descendants in the male line of descent. Class II--Widow till her death or re-marriage.

Class III--Father.

Class IV--Mother, being a widow.

Class V--Brother, being a son of the same father as the deceased. Class VI--Daughter's son. Class VII--The nearest collateral male relative in the male line of descent:

Provided that no such daughter's son or collateral relative shall be entitled to inherit, who did not share in the cultivation of the holding at the time of the tenant's death.

#### Section 25 - Succession of female tenants

(1) When a female ex-proprietary, occupancy or non-occupancy tenant who has inherited an interest in a holding under section 24, or the female heir of a statutory tenant dies or surrenders, or abandons such interest, or in the case of a widow of class II in section 24, re-marries, such interest shall, notwithstanding anything contained in section 35, devolve upon the nearest surviving heir of the last male tenant such heir being ascertained in accordance with section 24.

(2) When any female ex-proprietary, occupancy or non-occupancy tenant other than one subject to the provisions of sub-section (1) dies, her interest

in the holding shall devolve--

(a) on her male lineal descendants in the male line; (b) if there are no such descendants, on her husband;

(c) if there are no such heirs as abovementioned, on her daughter's son, provided that he was sharing in the cultivation of the holding at the time of the tenant's death.

(3) When a female statutory tenant dies, her interest in the holding subject to the limitation of section 20, shall devolve as in sub-section (2) of this section.

### Section 26 - Passing of interest by survivorship

No person shall be deemed to have an interest in an ex-proprietary, occupancy, statutory or non-occupancy tenancy merely by reason of being joint in estate with any person with whom a contract of tenancy has been made, or who has succeeded to the interest of a tenant, or who has become a tenant by operation of law or otherwise; and except in the case of widows or a co-tenant who dies leaving no heir entitled to succeed under section 24, no interest in any ex-proprietary, occupancy, statutory or non-occupancy tenancy shall pass by survivorship. Where the persons possessing such

interest are joint in estate, they shall be deemed for purposes of succession to be tenants in common.

## Sub-leases

### Section 27 - Prohibition of leases on payment of an advance

No tenant other than a permanent tenure-holder or fixed-rate tenant shall sub-let the whole or any portion of his holding in consideration of a sum of money paid in advance or of a debtor or other obligation, whether reserving or not reserving rent to be paid periodically:

Provided that nothing in this section shall be held to bar stipulation that the sub-tenant shall pay (a) to a tenant with a right of occupancy, not more than two years' rent in advance, (b) to any other tenant, not more than one year's rent in advance.

### Section 28 - Right to sub-let

Subject to the provisions of section 27, a tenant may sub-let the whole or any portion of his holding under the restrictions imposed by this Act:

Provided that no such sub-letting shall in any way relieve the tenant of any of his liabilities to his landholder save with the landholder's written consent.

Section 29 - Sub-leases by ex-proprietary, occupancy, statutory and non-occupancy tenants and by heirs of statutory tenants

(1) No ex-proprietary or occupancy tenant shall, except with the written consent of the landholder, sub-let the whole or any portion of his holding for a term exceeding five years or within five years of any portion of such holding being held by a subtenant.

(2) A statutory tenant shall not, except with the written consent of the landholder, sub-let the whole or any portion of his holding for a term exceeding three years or within three years of any portion of such holding being held by a sub-tenant.

(3) The heir of a statutory tenant shall have the same right to sublet as a statutory tenant:

Provided that the period of a sub-lease given by an heir of a statutory tenant shall not extend beyond the termination of the period for which such heir is entitled to hold as tenant.

(4) A sub-lease for a term exceeding one year, or from year to year shall be made by a registered instrument only.

(5) No non-occupancy tenant shall, except with the written consent of the landholder, sub-let the whole or any portion of his holding for a term exceeding one year or within a year of any portion of such holding being held by a sub-tenant.

(6) A female, a minor, a lunatic, an idiot, a person incapable by reason of blindness of practising agriculture, or a person in the military service of (the Government) 1 otherwise than as a reservist shall not be subject to the restrictions laid down in sub-sections (1), (2) and (5):

Provided that this sub-section shall not apply in the case of a joint tenancy unless all the joint tenants are of one or more of the descriptions specified.

(7) A sub-lease which would be invalid but for the provisions of sub-section (6) shall not remain in

force for more than five years after the lessor either dies or ceases to come within any of the descriptions given therein.

(8) All sub-leases shall terminate with the term of settlement.

1. Substituted by the A.O. 1950 for (Crown) which had been Substituted by the A.O. 1937 for (Govt.).

#### Section 30 - Sub-leases by sub-tenants

No sub-tenant shall sub-let otherwise than with the written consent of his landholder.

Section 31 - Successor to sub-lessor bound by sub-lease

When a tenant has sub-let, the successor-in-interest of such tenant shall be bound by the terms of the sublease, in so far as they are consistent with the conditions of his tenancy and the provisions of this Act.

Section 32 - Rights of sub-tenant on extrication

of tenants' interest

(1) Except as otherwise provided in sub-sections (2) and (3) the extinction of the interest of a tenant whose interest is not transferable shall operate to extinguish the interest of any tenant holding under him:

Provided that the landholder may at his option allow the interest of the sub-tenant to continue, and all covenants previously binding and enforceable as between the tenant and the sub-tenant shall thereupon be binding and enforceable as between the landholder and the sub-tenant.

(2) Where, at the time of the extinction by surrender or abandonment of the interest in a holding of a tenant whose interest is not transferable, there is in existence a valid sub-lease or mortgage of the whole or of a portion of the holding executed before the first day of January, 1902, all covenants binding and enforceable as between the tenant and the sub-tenant of mortgagee, as the case may be, shall, subject to sub-section (4), be binding and enforceable as between the tenant's landholder and the sub-tenant or mortgagee for the remainder of the term of the sub-lease or mortgage, or for the



lifetime of the tenant or for ten years, whichever period may be the shortest.

(3) Where, at the time of the extinction by surrender or abandonment, or by death without any heir entitled to inherit such interest, of the interest in a holding of a tenant whose interest is not transferable, there is in existence a valid sub-lease of the whole or of a portion of the holding, executed on or after the first day of January, 1902, all covenants binding and enforceable as between the tenant and the sub-tenant shall, subject to sub-section (4), be binding and enforceable as between the tenant's landholder and the sub-tenant for the remainder of the term of the sub-leases or for years, whichever period may be the shorter.

(4) In the cases referred to in sub-sections (1) to (3) if the rent payable by the sub-tenant is less than that hitherto payable by the tenant the sub-tenant shall have the option of vacating the holding, but shall, if he continues in possession, be liable to pay rent at the rate hitherto payable by the tenant.

(5) Nothing in this section shall have the effect of limiting the right of the landholder to have the rent of any holding enhanced under the provisions of Chapter V of this Act or to set

aside any sub-lease voidable under the provisions of sub-section (2) of section 34.

### Section 33 - Extinction of sub-leases

When the interest of a sub-tenant is extinguished with the extinction of the interest of the tenant from whom he holds or by the expiry of the term of settlement, he shall vacate his holding accordingly, but shall have in respect of the removal of standing crops and other products of the earth the same rights as the tenant would have upon ejection in accordance with the provisions of this Act.

### Section 34 - Transfers which are void or voidable

(1) Every transfer, other than a sub-lease, made by a tenant in contravention of the provisions of this Act, and every sub-lease made by a tenant in contravention of the provisions of section 27, shall be void.

(2) Every sub-lease made by a tenant in contravention of the provisions of this Act, other than a sub-lease which is void under sub-section (1) shall be voidable at the option of the landholder.

## Extinction of tenancies

### Section 35 - Extinction of tenancies

(1) The interest of a tenant shall be extinguished--

(a) when he dies leaving no heir entitled to inherit it;

(b) in land from which he has been ejected in execution of a decree or order of a court unless such decree or order is subsequently reversed in appeal or otherwise;

(c) by surrender under section 103 or abandonment under section 107;

(d) in land which has been acquired by (the Government) 1 for a public purpose, or a work of public utility;

(e) by merger, as provided in section 36;

(f) where the tenant has been deprived of possession and his right to recover possessions is barred by limitation.

(2) Subject to the provisions of section 16 of the Land Acquisition Act, 1894 (Act I of 1894), the extinction of the interest of a tenant having a transferable interest shall not of itself affect the rights of any transferee from such tenant under a valid transfer but after the transfer all covenants binding and enforceable as between the landlord and the tenant shall be binding and enforceable as between the landlord and the transferee.

1. Substituted by the A.O. 1950 for the (Crown) which had been Substituted by the A.O. 1937 for (Govt.).

### Section 36 - Merger

Where a tenant acquires or succeeds to the entire proprietary right in his holding, the tenancy is extinguished:

Provided that if the transaction by which the proprietary right was acquired is afterwards set

aside by order of a competent court, or if such a right is lost in consequence of the exercise of a right of pre-emption, the tenancy shall revive.

## Division of tenancies

### Section 37 - Division of tenancies

A division of a holding or distribution of the rent payable in respect of a holding or any portion thereof, or such division and distribution shall be effected only (a) by agreement between the co-tenants, or (b) by the decree in a suit instituted under this section by one or more of the co-tenants against the others:

Provided that such division or distribution shall not be binding on landholder unless he agrees thereto in writing.

## Chapter IV - EXCHANGE AND ACQUISITION OF LAND

### Section 38 - Right of occupancy in land Exchanged

with landlord or permanent tenure-holder

A tenant who has a right of occupancy in any land shall have a right of occupancy in any other land which he may receive from the landlord or permanent tenure-holder in exchange therefor and shall thereupon cease to have a right of occupancy in the land so given by him in exchange:

Provided that, notwithstanding anything in this section, a right of occupancy shall not accrue in land in which a right of occupancy could not be conferred under section 17(3).

#### Section 39 - Exchange of land between tenants

(1) If two tenants of the same class other than tenants of sir or sub-tenants agree to exchange land owned by the same landlord with his written consent or owned by different landlords with the written consent of the latter, the tenants may apply to the court to give effect to the exchange.

(2) On exchange the tenants shall have the same rights in the land received in exchange as they had in the land given in exchange.

#### Section 40 - Acquisition of land by landlord from

his ex-proprietary or occupancy tenant

(1) A landlord may apply to the collector to acquire for him land held by an ex-proprietary or occupancy tenant for the purpose of farming on improved lines; and the collector shall, if he is satisfied that reasonable grounds exist, order the acquisition of the land applied for, or part thereof, and shall at the same time award the tenant the compensation to which he is entitled under sub-section (2) of this section and shall thereupon order the ejectment of the tenant from the land acquired.

(2) The collector before passing an order of ejectment under sub-section (1) of this section shall award to the tenant land with similar advantages in the same village, or, with the consent of the tenant, in another village, but to such extent as such land is not available, the collector shall award monetary compensation amounting to six times the annual rental value of the land acquired, calculated at the rates prescribed for statutory tenants in sub-section (3)(b) or sub-section (4) of section 59. Such compensation shall be in addition to the amount of compensation, if any, due for improvement.

Section 41 - Acquisition of land by a landlord permanent tenure-holder from his statutory tenant

or heir of a statutory tenant

(1) A landlord or a permanent, tenure-holder may apply to the collector to acquire for him land held by a statutory tenant or the heir of a statutory tenant for any of the following purposes, namely--

(a) for agricultural development including farming on improved lines, dairy farms, poultry farms, stock-breeding, horticulture or any similar purpose-;

(b) for his own cultivation; (c) for groves;  
(d) for planting trees;

(e) for building houses, outhouses for the landlord or other buildings necessary for the management or development of the estate;

(f) for the erection of houses for tenants and labourers; (g) for sites for hamlets or markets;  
(h) for opening or working a limestone, brickearth, kankar or other mineral quarry, or clay, sand or graved pit, or for the construction of any works or buildings used in connexion therewith;



(i) for mills or factories for industrial purposes;

(j) for making any water-course, reservoir, or canal; (k) for making any road, railway or tramway;

(l) for any educational, religious, or charitable purpose.

(2) The collector shall, if he is satisfied that reasonable grounds exist, order the acquisition of the land applied for or part thereof, and shall at the same time award to the tenant the compensation to which he is entitled under sub-section (3) of this section, and shall thereupon order the ejectment of the tenant from the land acquired:

Provided that acquisition shall not be ordered for the purposes specified in (c) or (d) of sub-section (1) of this section, when suitable land not included in any holding is available.

(3) The collector, before passing an order of ejectment under sub-section (2) of this section, shall award to the tenant monetary compensation which shall not exceed four times the annual rental value of the land acquired, estimated at the rates prescribed for statutory tenants in sub-section (3)(b) or sub-section (4) of section

59. Such compensation shall be in addition to the amount of compensation, if any, due for improvements.

Section 42 - Rights of a tenant whose land has been acquired under section 40 or section 41

(1) When a tenant has been ejected under section 40 or section 41, "he shall be entitled--

(a) to a reduction of rent to be determined by the collector proportionate to the rental value of the land acquired.

(b) to retain the remainder of the holding, if any, with the same right as before,

(c) to be reinstated in the land acquired in the circumstances and on the conditions specified in sub-sections (2) and (3) of this section.

(2) If the person for whom the land was acquired--

(a) does not within two years from the date of ejectment of the tenant use it for the purpose for which it was acquired, or

(b) within the said period of two years uses it for any other purpose, or

(c) in the case of land acquired for any of the purposes specified in (a), (b), (c) or (d) of sub-section (1) of section 41, lets the land to another person within six years of the date of the ejectment of the tenant,

the dispossessed tenant may apply to the collector--

in case (a) of this sub-section, on the expiry of the period of two years.

in case (b) of this sub-section, as soon as the land is used for any other purpose, in case (c) of this sub-section, as soon as the land is let to another person, to reinstate him in the land from which he was dispossessed:

Provided that he has not been admitted by the person for whom the land was acquired to the occupation of other land under any written

agreement, whereby he has waived his right under this sub-section;

(3) The collector on receiving an application under sub-section (2) of this section shall, if the conditions specified in (a), (b) or (c) of sub-section (2) of this section are fulfilled, reinstate the dispossessed tenant in the land acquired with the same rights and at the same rate of rent as at the date of his dispossession, on condition that such tenant restores to the person for whom the land was acquired the land or money or both awarded to him by way of compensation: Provided that, so far as such compensation was money, the tenant shall be entitled to deduct by way of compensation for dispossession such amount as the collector may determine.

Provided, further, that the amount so deducted shall not exceed the annual rent payable on the land acquired for each year of the period of dispossession.

Chapter V - DETERMINATION, ENHANCEMENT, AND ABATEMENT OF RENT

## General

### Section 43 - Initial rent often ant

A tenant on being admitted to the occupation of and is liable to pay such rent as may be agreed upon between him and his landholder.

### Section 44 - Person occupying land without title liable to ejectment and damages

A person taking or retaining possession of a plot or plots of land without the consent of the landholder and in contravention of the provisions of this Act shall be liable to ejectment on the suit of the landholder and also to pay damages which may extend to for times the annual rental value at the rates applicable to statutory tenants under section 59.

### Section 45 - Liability to pay rent when no rent fixed

Whenever any person has been admitted to the occupation of land, or permitted to retain possession of land by anyone having a right to admit or permit him with the intention that a contract of tenancy should thereby be effected/but without any rent being fixed, either he or the person so admitting or permitting him may at any time during the period of his occupation or within three years after the expiry of such period sue to have rent fixed thereon.

Section 46 - Method of fixing rent in suit under section 45

In a suit under section 45 the rent shall be decreed at the rate payable in the previous year, or if no rent was payable in the previous year, at the appropriate rate specified in section 59.

Section 47 - Presumption as to rent

The rent or rate of rent payable by a tenant shall be presumed to be the rent or rate of rent previously payable by him until a registered agreement, or a decree or order of a court, is proved varying the same.

## Section 48 - Compensation for rent exacted in excess

A tenant from whom any sum or produce is exacted by his landholder in excess of the amount recoverable from him as an arrear of rent under this Act, or any other enactment for the time being in force, shall be entitled to recover from the landholder such compensation not exceeding double the amount, or double the value of the produce, so exacted as the court thinks fit to decree, in addition to the amount or value of the produce so exacted.

## Section 49 - Consideration of caste and class of tenant in fixing rent

When a court has to determine the rent of a tenant, if it is proved that by local custom or practice-

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(a) caste is taken into account in determining the rent payable by tenants, or

(b) any class of persons hold land on favourable rates of rent,

the rent shall be fixed with reference to such custom or practice but in no case at an amount less than the revenue payable in respect of his holding, with an addition of twenty per cent thereon.

Enhancement and abatement of rent

Section 50 - Methods of enhancement or abatement

(1) The rent of a fixed-rate tenant, an ex-proprietary tenant, an occupancy, tenant, a statutory tenant or an heir of a statutory tenant may be enhanced or abated only--

(a) by registered agreement, or

(b) by decree or order of a Revenue court.

(2) The rent of such tenant shall not be enhanced by more than one-fourth of his existing rent subject to the condition that the rent fixed shall in no case be less than half the annual rental



value at the circle or village rates which are applicable under section 59 to that class of tenant.

This sub-section shall not apply to decrees or orders of a Revenue court for enhancement of rent on account of an increase in area.

Grounds of enhancement and abatement

Section 51 - Grounds of enhancement of rent of fixed-rate tenant

The rent of a fixed-rate tenant shall be liable to enhancement only on the ground that the area of the land in such tenant's holding has been increased by alluvion or by the tenant's encroachment.

Section 52 - Grounds of abatement of rent of fixed-rate tenant

The rent of a fixed-rate tenant shall be liable to abatement only on the ground that the area of the land in his holding has been diminished by diluvion or by taking up of land' for a public purpose or for a work of public utility.

Section 53 - Grounds of enhancement of rent of ex-proprietary, occupancy Or statutory tenant or heir of statutory tenant

Except as otherwise provided in the Northern India Canal and Drainage Act, 1873, or any other enactment for the time being in force the rent of an ex-proprietary, occupancy or statutory tenant or heir of a statutory tenant shall be liable to enhancement on one or more of the following grounds and no others:

(a) that the rent paid by such, tenant if an ex-proprietary tenant, is at a rate more than two annas in the rupee below the fair and equitable rate payable by occupancy tenants for land of the same class or classes of soil if an occupancy tenant, is less than the fair and equitable rate payable by occupancy tenants for land of the same class or classes of soil, or if a statutory tenant or an heir of a statutory tenant, is less than the fair and equitable rate payable by statutory tenants for land of the same class or classes of soil, the fair and equitable rates referred to above shall be the rates specified in section 59;

(b) that the productive powers of the land held by

the tenant have been increased by fluvial action or by an improvement effected during the currency of the present rent otherwise than by the agency or at the expense of the tenant;

(c) that the area of the tenant's holding has been increased by alluvion or by the tenant's encroachments; or

(d) that there has been a rise in the average local prices of staple food crops during the currency of the present rent.

Section 54 - Grounds of abatement of rent of ex-proprietary, occupancy or statutory tenant or heir of statutory tenant

Except as otherwise provided in the Northern India Canal and Drainage Act, 1873, or any other enactment for the time being in force, the rent of an ex-proprietary, occupancy or statutory tenant or of an heir of a statutory tenant shall be liable to abatement on one or more of the following grounds and no others:

(a) that there has been a fall in the average local prices of staple food crops during the currency of the present rent;

(b) that the productive powers of the land held by the tenant have been decreased by any cause beyond his control during the currency of the present rent; or

(c) that the area of his holding has been decreased by diluvion or by the taking up of land for a public purpose or for a work of public utility.

Fixing of roster years

Section 55 - Definition of roster

A roster year is an agricultural year fixed by the (State Government)<sup>1</sup> in respect of any district or other local area for the determination of fair and equitable rates of rent for the purpose of suits for enhancement and abatement of the rents of fixed-rate tenants, ex-proprietary tenants, occupancy tenants, statutory tenants and heirs of statutory tenants.

1. Substituted by the A.O. 1950 for [Prov]. Govt.] which had been Substituted by the A.O. 1937 for [L.G.,]

## Section 56 - Fixing of roster years

(1) The (State Government)<sup>1</sup> shall, as soon as may be after the commencement of this Act, fix by notification in the (Official Gazette)<sup>2</sup> a roster year<sup>3</sup> for every district or other local area to which this Act applies:

Provided that the (State Government)<sup>1</sup> may, in its discretion, fix different roster years for different portions of a district.

(2) In every local area in which the settlement of the revenue is liable to periodical revision the (State Government)<sup>1</sup> shall, as soon as may be after each revision of the settlement, fix by notification in the (Official Gazette)<sup>2</sup> a fresh roster year.

(3) Every roster year fixed under sub-section (1) and sub-section (2) for an area in which the settlement of the revenue is liable to periodical revision shall be so fixed that the last roster year during the term of the settlement shall coincide, as nearly as conveniently may be, with the last year of such term.

(4) The interval between two roster years in the same tract shall be twenty years.

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).
2. Substituted for [Gazette] by the A.O. 1937.
3. For fixing the roster year in Pilibhit district, see not no. 1568/I-A--444, d. Aug. 18, 1933, in Gaz., 1933, Pt. I, p. 783.

Fixing of rent-rates and their effect

Section 57 - Procedure of special officer in fixing rent-rates

(1) In every roster year the (State Government)1 shall appoint one or more officers with powers not less than those of an assistant collector of the first class as special officer or officers to

propose fair and equitable standard rates for occupancy tenants, and, if necessary, fair and equitable circle rates for statutory tenants also:

Provided that for any cogent reason such as a calamity seriously affecting a local area, or an insufficiency of officers qualified for the purpose, the (State Government)<sup>1</sup> may postpone the appointment of a special officer until the year next following the roster year:

Provided also that if a local area is under settlement, the settlement officer or assistant settlement officer shall perform the duties of the special officer appointed under this sub-section:

Provided also that the special officer or officers may be empowered by the (State

Government)<sup>1</sup> to decide suits for enhancement, abatement or commutation of rent.

(2) If the local area has been divided into circles by a settlement officer or an assistant settlement officer, the special officer shall propose such rates for each such circle and for each separate class of soil demarcated by the settlement officer or the assistant settlement officer, unless with the previous sanction of the

Board the circle and classification of soils are revised.

Explanation--Every circle and soil classification made before the commencement of this Act with the approval of the Board by the assistant collector in respect of any local area in the Benares district shall be deemed for the purpose of sub-section (2) to have been made by a settlement officer.

(3) If no soil classification has previously been made by a settlement officer or an assistant settlement officer, the special officer shall make circles and classify the soils in the manner prescribed for settlement officers by rules made under the United Provinces Land Revenue Act, 1901, and shall propose rates for each class of soil in each circle; and the circles and classification of soil so made shall, when confirmed or as modified under section 58, be thereafter deemed for the purposes of this Act to have been made by a settlement officer.

(4) The rates proposed by the special officer for statutory tenants shall be based on genuine, adequate and stable rents which are paid by substantial tenants who depend for their livelihood on the produce of their holdings and



can be paid without hardship over a series of years, due regard being had to movements in prices and rents and the letting value of land.

(5) In proposing rates for occupancy tenants the special officer shall have regard not only to the movements in prices and rents and the letting value of land but also to the existing level of occupancy rents, distinguishing between holding is of old and those of recent standing.

(6) The special officer shall record with reference to section 49 the extent to which caste is taken into account in determining the rent payable by tenants and the extent to which any class of persons hold on favourable rates of rent, whether for the local area as a whole or for particular villages or mahals comprised in, it.

(7) The special officer shall also record for each village whether the fair and equitable rates proposed by him are applicable without modification, or to what extent they require modification either for the village as a whole or for a specified area or class of soil within it.

1. Substituted by the A.O. 1950 for (Provl. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

Section 58 - Publication of proposals and records prepared under section 57 and submission to Board for confirmation

(1) The special officer shall publish, in such manner as may be prescribed, the proposals and records made by him under section 57 and shall receive and consider any objections which may be made to them.

(2) When such objections, if any, have been considered and disposed of according to the prescribed procedure, the special officer shall submit the proposals and records made by him after such modification, if any, as he may think fit to the Board, or, if the (State Government)<sup>1</sup> so directs in the case of a specified district or other local area, to the commissioner, who after such further inquiry, if any, as may be directed under sub-section (3) shall either confirm or modify the new or revised circles and soil classification, if any, and the proposed rates and other matters recorded under section 57.

(3) On receipt of the proposals and records submitted by a special officer under sub-section (2) the

Board or the commissioner may direct further inquiry into any of the matters contained therein.

1. Substituted by the A.O. 1950 for (Provl. Govt.) which had been Substituted by the A.O. 1937 for (L.G.)

Section 59 - Provision regarding sanctioned rates

(1) The rates and records confirmed or modified under section 58 shall be deemed to be sanctioned rates and records until the next roster year or until the local area is brought under settlement and rent-rates selected by the settlement officer have been sanctioned by the Board under section 63 of the United Provinces Land Revenue Act, 1901 (U.P. Act III of 1901).

(2) The rent-rates for occupancy tenants sanctioned by the Board either before or after the commencement of this Act under section 63 of the United Provinces Land Revenue Act, 1901 (U.P. Act III of 1901), for the purposes of a settlement in a local area shall be deemed to be sanctioned rates for the purposes of this Act until the commencement of the first roster year occurring after the settlement came or comes into force:

Provided that, if the settlement came into force before the commencement of this Act, such rates shall not be deemed to be sanctioned rates for the purposes of any suit instituted more than ten years after the settlement came into force.

Explanation--The sanction of the rent-rates referred to in this sub-section shall be deemed to include sanction of the findings and the recorded opinions, if any, of the settlement officer or assistant settlement officer, in respect of any of the matters referred to in clauses (6) and (7) of section 57, subject to any modification made by the Board or the commissioner.

(3) (a) If the rent-rates referred to in sub-section (2) do not distinguish between occupancy and non-occupancy or statutory tenants, such rates shall be deemed to have been sanctioned for occupancy tenants.

(b) If the rent-rates referred to in sub-section (2) distinguish between occupancy and non-occupancy or statutory tenants, the rates sanctioned for either non-occupancy or statutory tenants shall be deemed to have sanctioned for statutory tenants and for the heirs of statutory tenants.

(4) In every suit for proceeding in which a court has to determine the fair and equitable rate of rent payable by a tenant, and there are no rent-rates which shall be deemed to be the sanctioned rates under sub-sections (1) to (3) of this section the court shall determine such rate after local inspection at the rate generally payable by tenants of the same class for land of the same class or classes of soil.

Suit for enhancement, abatement or commutation of rent

#### Section 60 - Suits for commutation

An occupancy tenant or an ex-proprietary tenant or a statutory tenant or the heir of a statutory tenant whose rent has heretofore been paid in kind, or on the estimated value of a person of the crop, or by rates varying with the crop, or partly in one of such ways, and partly in another or other of such ways, or the landholder or such tenant may sue for the commutation of such rent to a fixed money rent.

Section 61 - Time for instituting suits for enhancement, etc

(1) Any suit for enhancement, abatement or

commutation of rent may be instituted in any year not earlier than the first day of July nor later than the thirtieth day of September:

(Provided that in any permanently settled mahal of the Benares Division or the Azamgarh

District a suit for abatement or commutation of rent may also be instituted between the

thirtieth day of September, 1937, and the first day of July, 1938.)<sup>1</sup>

(2) Notwithstanding anything in this section while a local area is under settlement, no suit for enhancement, abatement or commutation of rent shall be maintainable under this Act until the time for making applications to the settlement officer under section 87 of the United Provinces Land Revenue Act, 1901, has passed.

(3) If a special officer has been appointed to a district or local area for the determination of fair and equitable rates and has been empowered under section 57 to decide suits for enhancement, abatement or commutation of rent, such suits may be instituted in his court within such period as may be fixed by him with the sanction of the Board.

1. Add. by s. 2 of the U.P. Act VII of 1937.

Section 62 - Joinder of tenants in suits relating to enhancement

(1) A suit for enhancement, abatement or commutation of rent may be instituted against or by any number of ex-proprietary, occupancy or statutory tenants or of heirs of statutory tenants collectively:

Provided that all such tenants are tenants of the same landholder, and all the holdings in respect of which the suit is instituted are situated in the same mahal and village.

(2) No decree shall be passed in any such suit affecting the interests of any person, unless the court is satisfied that he has had an opportunity of appearing and being heard.

(3) The decree shall specify the extent to which each of the tenants is affected thereby.

Section 63 - Progressive enhancement

In decreeing an enhancement of the rent of an ex-proprietary, occupancy or statutory tenant or heir of a statutory tenant, if the enhancement is not less than one-fourth of the rent, and if the court considers that the immediate enforcement of the decree to its full extent will be attended with hardship to the tenant, the court may direct that the enhancement shall take effect by yearly increments extending over any number of years not exceeding three.

Section 64 - Matters to be considered in suits for enhancements or commutation

(1) In all suits for enhancement or commutation of rent the court shall determine the rents in accordance with the sanctioned rates and records, unless for special reasons to be recorded the court sees reason to depart from them.

(2) In suits for commutation of rent the court shall also consider any plea to the effect that commutation is undesirable in view of the exceptional liability of the holding to damage by wild animals, flooding or like cause, or exceptional fluctuations in the portion of the holding actually cultivated or its produce, and may dismiss the suit on such' ground.



1 Add. by s. 2 of the U.P. Act VII of 1937.

Section 65 - Matters to be considered in suits for abatement

In suits for abatement of rent on the grounds mentioned in section 54(b) and (c), the court shall ordinarily decree the abatement with reference to the existing rent and the extent ' of the decrease in the productive powers or the area of the holding:

Provided that, notwithstanding anything in the section, the rent so fixed by abatement shall not be less than the valuation of the holding made at assessment of the revenue for the purpose of calculating the assets.

Section 66 - Decree when to take effect

(1) Every decree or registered agreement for enhancement of rent shall take effect from the commencement of the agricultural year next following that in which the suit was instituted or the agreement was registered:

Provided that where under the provisions of this Act such rent is not liable to enhancement till the end of a period which expires subsequently to the commencement of such next following agricultural year, the decree or agreement shall take effect from the commencement of the agricultural year in which the rent will be liable to enhancement.

(2) Every decree or registered agreement for abatement of rent shall take effect from the commencement of the agricultural year in which the suit was instituted or the agreement made, unless in the case of a decree the court for some reason so directs, or unless in the case of a registered agreement the agreement provides that it shall take effect from some later date.

Section 67 - Period for which rent is not liable to enhancement

(1) Except as otherwise provided in the Northern India Canal and Drainage Act, 1873 (Act VIII of 1873), when the rent of a tenant of the classes mentioned in sub-section (1) of section 50 has been agreed upon, fixed enhanced or abated under

this Act or the Agra Tenancy Act, 1901 (U.P. Act. III of 1901), or the United Provinces Land Revenue Act, 1901, it shall not be liable to enhancement or abatement until or unless--

(a) a period of twenty years, or such longer period as may have been agreed on, decreed or ordered has elapsed; or

(b) the period of the settlement of the local area in which the mahal is situated has come to an end; or

(c) the area of the tenant's holding has been increased by alluvion or encroachment or diminished by diluvion or encroachment or by the taking up of land for a public purpose during the currency of the present rent; or

(d) the productive powers of the land held by the tenant have been increased by an improvement effected otherwise than by the agency or at the expense of the tenant or diminished by any cause beyond his control, as the case may be, during the currency of the present rent.

(2) Where the rent has been varied merely on the ground of an increase or decrease in area such variation shall not be considered in computing the periods mentioned in sub-section (1) (a) of this section.

## Section 68 - Allowance for unexhausted improvements

An ex-proprietary, occupancy or statutory tenant or heir of a statutory tenant who is sued for enhancement of rent may plead that he has constructed an improvement which continues to benefit his holding. In such case, if the improvement is one which the tenant was entitled to make, the court shall, in fixing the rent, make such deduction from the enhancement claimed as fairly represents in its opinion the increase in letting value due to the improvement:

Provided that in no case shall such deduction be made if the improvement was completed more than thirty years before the commencement of the suit.

## Non-occupancy tenants

### Section 69 - Enhancement of rent of non-occupancy tenant by agreement

The rent of a non-occupancy tenant, not being a tenant of sir or a sub-tenant, may be enhanced by agreement between such tenant and his landholder

on the following conditions:

(a) The agreement for the payment of enhanced rent shall be by registered instrument or by a compromise filed in adjustment of a suit or proceeding under this Act and recorded by the court under rule 3 of Order XXIII of the Code of Civil Procedure, 1908, and

(b) the tenant shall be entitled to hold the land at the enhanced rent for a term of not less than five years from the beginning of the year in which such enhancement takes effect.

Section 70 - Enhancement and abatement of rent of non-occupancy tenant by suit

Notwithstanding anything contained in clause (b) of section 69 a suit shall lie-- (a) for the enhancement of the rent of a non-occupancy tenant--

(i) on any of the ground specified in clauses (b) and (c) of section 53 in respect of the enhancement of the rent of an occupancy tenant, or

(ii) as provided in section 12 of the Northern India Canal and Drainage Act, 1873 (Act. VIII of 1873), and

(b) for the abatement of the rent of a non-occupancy tenant--

(i) on a ground specified in clause (b) of section 54 for the abatement of the rent of an occupancy tenant, or

(ii) as provided in section 11 of the Northern India Canal and Drainage Act, 1873.

#### Exceptional provisions

Section 71 - Variation of rent under lease for period exceeding term of landlord's engagement

(1) Notwithstanding anything hereinbefore contained, any lease granted or engagement entered into by any landlord fixing the rent of land for any period exceeding the term for which his revenue has been settled shall be voidable on the expiry of the settlement--

(a) at the option of the landlord when the revenue payable in respect of such land is enhanced, unless the tenant agrees to pay such rent as the court may, at the suit of the landlord, decree in

proportion to the enhanced revenue, and

(b) at the option of the tenant when such revenue is reduced, unless the landlord agrees to accept such rent as the court may, at the suit of the tenant, decree in proportion to the reduced revenue.

Section 72 - Remission of rent by court decreeing arrears

(1) Notwithstanding anything here in before contained, if it appears to a court making a decree in a suit for arrears of rent that the area of the holding was so decreased by diluvion or otherwise, or that the produce thereof was so diminished by drought, hail, deposit of sand or other like calamity during the period for which the arrear is claimed that the full amount of rent payable by the tenant for that period cannot be equitably decreed, the court may, with the sanction of the collector, allow such remission from the rent payable by the tenant for that period as may appear to it to be just.

(2) An order of the collector under sub-section (1), giving or refusing sanction to a remission of rent, shall not be questioned in any Civil or Revenue court.

(3) Nothing in this section shall be deemed to authorize any remission in the rent payable by a permanent tenure-holder, fixed-rate tenant, or thekadar.

(4) No remission made under the provisions of this section shall be deemed to vary the rent payable by the tenant otherwise than for the period in respect of which such remission was made.

(5) When remission of rent in accordance with the provisions of this section is granted, the

Revenue authorities shall on the report of the court grant a remission of revenue in proportion to the rent remitted for the corresponding area belonging to the same landlord:

Provided that nothing in this sub-section shall affect tracts assessable to quinquennial land revenue.

(6) The provisions of this section shall not apply to remissions of rent claimed in alluvial tracts under any local custom providing for such remissions in holdings, the culturable area of which has been decreased by diluvion, deposit of



sand, or the like causes.

Section 73 - Power to remit or suspend payment of rent when payment of revenue remitted or suspended

(1) When for any cause the (State Government)<sup>1</sup> or any authority empowered by it in this behalf, remits or suspends for any period the payment of the whole or any part of the revenue payable in respect of any land, whether such revenue is payable to an assignee or to the Government, a collector, or, if so empowered by the (State Government)<sup>1</sup> an assistant collector of the first class, may order that the rents of the tenants holding such land or any portion thereof, immediately or immediately from the landlord, shall be remitted or suspended for the period of such remission or suspension or payment of revenue, to an amount which shall bear the same proportion to the whole of the rent payable in respect of the land as the revenue of which the payment has been so remitted or suspended bears to the whole of the revenue payable in respect of such land.

(2) Remission or suspension of the rent of land, the revenue whereof has either wholly or in part been released, compounded for, or redeemed may be ordered by such authority, and in accordance with

such scale as the (State Government) 1 may by rule direct.

(3) In this section the word "tenant" includes a the kadar.

1. Substituted by the A.O. 1950 for (Provl. Govt.) which had been Substituted by the A.O. 1937 or (L.G.).

Section 74 - Finality of order under the preceding section

(1) An order passed under sub-section (1) or sub-section (2) of section 73 shall not be questioned in any Civil or Revenue court.

(2) A suit shall not lie for the recovery of any rent of which the payment has been remitted in accordance with the provisions of section 73, or, during the period of suspension, of any rent of which the payment has been suspended in accordance with the provisions of section 73.

Section 75 - Period of suspension to be excluded in computing period of limitation

When the payment of rent has been suspended in accordance with the provisions of section 73, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

Section 76 - Penalty for collecting rent remitted or suspended under section 73

If a landholder or other landholder collects any rent of which the payment has been remitted in accordance with the provision of section 73, or before the expiration of the period of suspension collects any rent of which the payment has been suspended in accordance with the provisions of section 73, the whole of the revenue, or rent as the case may be, remitted or suspended in his favour, shall become immediately payable by him.

Chapter VI - EJECTMENT, SURRENDER AND ABANDONMENT

Ejectment General restrictions on ejectment

Section 77 - Ejectment to be according to law

No tenant shall be ejected otherwise than in accordance with the provisions of this Act.

## Section 78 - Improvements

(1) No decree or order for the ejectment of a tenant shall be passed or enforced until any claim duly made by him on account of improvements has been investigated, and the court has recorded a finding as to the amount of compensation (if any) payable to the tenant on that account.

(2) If the compensation exceeds the amount recoverable from the tenant as areas of rent, whether decreed or not, on account of the holding, together with costs (if any), the decree or order for ejectment shall be conditional on the payment by the land-holder of the balance due to the tenant within such time as the court may direct.

(3) If the compensation does not exceed the amount recoverable from the tenant as above specified, the suit or application for ejectment shall be decided irrespective of such compensation, but the tenant shall be entitled to set off the compensation found to be due to him against any claim for arrears of rent, including

costs (if any) made against him by the landholder.

(4) If the court to which a claim under sub-section (1) is made is the court of an assistant collector of the second class, he shall forward the proceedings to the assistant collector in charge of the sub-division who shall dispose of the case as if it had been instituted before himself

(5) In this section the word "tenant" includes a thekadar.

Ejectment of arrears of rent

Section 79 - Ejectment under a decree for arrears of rent

A decree for arrears of rent against a tenant other than a permanent tenure-holder or fixed-rate tenant may, in addition to any other mode of execution, be executed by the ejectment of the tenant from the holding in respect of which the decree was passed.

Section 80 - Procedure on application under

section 79

(1) On an application being made for the ejection of a tenant under section 79, the court shall issue notice to the tenant stating the amount for which he is liable to ejection, and requiring him to pay the amount into court within fifteen days of the service of the notice or to show cause why he should not be ejected from his holding:

Provided that, notwithstanding anything contained in section 264 no such notice shall be served through the post.

(2) Unless within fifteen days of the service of the notice or such further time as may be allowed under sub-section (3) either--

(a) the tenant pays the amount or payment thereof is certified to the court in accordance with rule 2 of Order XXI of the Code of Civil Procedure, 1908 (Act V of 1908) or

(b) the tenant establishes that he is not liable to ejection, the court shall order his ejection.

(3) the court may for reasons to be recorded extend the time for payment:

Provided that except with the consent of the landholder (a) not more than three such extensions shall be allowed, and (b) the total period allowed for payment shall not exceed six months from the date of service of the notice.

Section 81 - Application for issue of notice for payment of arrears and ejection in default

(1) A landholder may apply to the tahsildar for the issue of a notice to his tenant other than a permanent tenure holder or a fixed-rate tenant for payment of arrears of rent and for his ejection in case of default; and the tahsildar shall then issue such notice.

(2) The notice shall be filed in triplicate and specify the name of the village and mahal, the number of the holding, the rent and the amount of the arrear, and shall require the tenant either to pay the arrears into the court of the tahsildar within thirty days of the date of service of the notice or to contest the claim in the same court.

(3) If the tenant does not contest the claim the tahsildar shall, subject to the provisions of subsection (4), order his ejection.

(4) If the tenant applies to the tahsildar to

extend the time for payment, he may do so for reasons to be recorded:

Provided that, except with the consent of the landholder--

(a) not more than three such extensions shall be allowed; and

(b) the total period allowed for payment shall not exceed six months from the date of service of the notice.

(5) If the tenant contests the claim the application for issue of notice shall be deemed to be a suit for arrears of rent on payment of the proper court-fee. If the arrear claimed does not exceed Rs.

200 the tahsildar shall subject, to the provisions of section 78(4), decide the suit: if the arrear claimed exceeds Rs. 200, the tahsildar shall forward the suit to the court of the assistant collector in charge of the sub-division who shall decide it.

Ejectment by suit



## Section 82 - Liability to ejectment for illegal transfer

(1) If a tenant (a) transfers his holding or any portion thereof contrary to sub-section (1) of section

34, or (b) makes a sub-lease of his holding or of any portion thereof which is voidable under sub-section (2) of section 34, both he and any person who may have obtained possession of the whole or any portion of the holding in pursuance of any such attempted illegal transfer, or under any such voidable sub-lease, shall be liable to ejectment at the suit of the landholder:

Provided that no Order for ejectment shall be passed in case (b) unless the sub-tenant is in possession at the time the suit is brought.

(2) To every suit under this section both the tenant and the sub-tenant or the person in whose favour the illegal transfer purports to have been made shall be made parties:

Provided that in the case of a voidable sub-lease the landholder shall not be bound to claim any relief against the sub-tenant.

Section 83 - Decree in suit under section 82

In a suit for ejectment under section 82 if the plaintiff succeeds the court may in its discretion pass a decree for the ejectment of the tenant from the entire holding or such portion of it as is actually transferred or sublet at the date of the institution of the suit, notwithstanding that the plaintiff may have sued for his ejectment from the entire holding;

Provided that, in the case of a voidable sub-lease, for special reasons, which must be recorded in writing, the court may pass a decree permitting the tenant (not being a sub-tenant) to apply in the same proceeding, within a time not exceeding one month from the date of the decree, for the ejectment of the person in whose favour the voidable sub-lease has been made, and directing that if the tenant so applies and if he ejects such person and resumes occupation of the land within such further time as the court, either in its decree or by means of a subsequent order may fix, the decree shall not be executed against the tenant except in respect of costs. In such case the decree shall direct that if the tenant either fails to apply for the ejectment of such person within the time fixed in this behalf, or fails to resume occupation of the land within the

further time allowed by the court for that purpose, the tenant shall be ejected either from the entire holding or from such portion as the court may direct, as the case may be.

Section 84 - Ejectment for detrimental act or breach of condition of tenure

(1) A tenant, not being a permanent tenure-holder or a fixed-rate tenant, shall be liable to ejectment from his holding on the suit of the landholder--

(a) on the ground of any act or omission detrimental to the land in that holding or inconsistent with the purpose for which it was let;

(b) on the ground that he or any person holding from him has broken a condition, not inconsistent with the provisions of this Act, on breach of which he is by special contract with his landholder liable to be ejected:

Provided that the use of a holding for the purpose of grazing or of raising stock (including horses) or the construction of enclosures suitable for stock raising shall not constitute a ground for ejectment under clause (a).

(2) In any suit for ejectment under this section

any person claiming through the tenant may be joined as a party, and where the plaintiff's cause of action is based wholly or partly on any act or omission or breach of condition by a sub-lessee or other transferee such sub-lessee or other transferee shall be joined as a party.

### Section 85 - Decree in suit under section 84

(1) A decree for ejectment under section 84 may direct the ejectment of the tenant either from the holding or from such portion thereof as the court, having regard to all the circumstances of the case, may direct.

(2) Such decree may further direct that if the tenant repairs the damage, or pays such compensation as the court thinks fit within one month from the date of the decree, or such further time as the court may, for reasons to be recorded, allow the decree shall not be executed except in respect of costs.

(3) Notwithstanding anything contained in this section a landholder may, in addition to, or in lieu of suing for ejectment, sue--

(a) for compensation; or

(b) for an injunction with or without compensation; or

(c) for the repair of the damage or waste with or without compensation: Ejectment by notice on application to the court

Section 86 - Ejectment on the application of the landholder

(1) A non-occupancy tenant holding from year to year or under a lease, or for a period which has expired or will expire, at or before the end of the current agricultural year, shall be liable to ejectment on the application of the land-holder.

(2) An heir of a statutory tenant shall, subject to the provisions of section 20(2), on the expiry of five years from the death of the statutory tenant whom he succeeded under section 24 or 25 be liable to ejectment on the application of the land-holder.

Section 87 - Filing of application and contents of notice

(1) An application for the ejection of a tenant under section 86 shall be made in the months of July, August or September accompanied by a notice in triplicate, and, except as provided below, by a certified copy of the latest khatauni filed in the tahsil.

Proviso I--Provided that if the application is made within the prescribed period the court may allow the names of other persons having an interest in the tenancy, or who are for any other reason necessary parties to the proceedings, to be added after such period has expired, and the notice shall be as effectual in respect of all persons so added as if it had been filed within the prescribed period.

Proviso II--Provided also that where the tenant has been admitted to the occupation of the holding after the period to which the khatauni last filed in the tahsil relates, no copy of such khatauni need be filed by the landholder.

Proviso III--Provided also that the (State Government)<sup>1</sup> may by rule made after previous publication extend, either generally or in respect of any local area, the time within which applications under this section may be filed.

(2) Every notice under sub-section (1) shall contain the following particulars: (a) the name, description and place of residence of the landholders; (b) the name, description and place of residence of the tenant; (c) a description of the holding, specifying the name of the village or mahal and of the

pargana or other local division in which the holding is situated, the rent of the holding, and, unless the holding can be otherwise adequately described, the number of each field according to the government survey.

(d) the ground on which ejection is applied for.

It shall also inform the tenant--

(e) that if he desires to dispute the ejection he must contest the notice within thirty days of its being served on him; and

(f) that if within thirty days of the service of the notice he appears and admits his liability to ejection he will not be liable for any costs.

1. Substituted by the A.O. 1950 for (Provl. Govt.)

which had been Substituted by the A.O. 1937 for (L.G.).

#### Section 88 - Service of notice

On an application being made in accordance with section 87 one copy of the notice accompanying such application shall on payment of the prescribed fee be served on the tenant in the same manner as summons issued by the court to which such application is made:

Provided that, notwithstanding anything contained in section 264 no such notice shall be served through the post.

#### Section 89 - Effect of admission of the liability and of non-appearance

(1) If any tenant to whom a notice is issued under section 88 appears within thirty days of the service of such notice and admits his liability to ejectment, the court shall pass an order for his ejectment, but he shall not be liable for any costs incurred by the landholder either under the two preceding sections or under section 90.

(2) If on the expiry of thirty days from the



service of such notice the tenant has not appeared the court shall pass an order for his ejection.

## Section 90 - Execution of order under section 89

(1) Every application for execution of an order passed under section 89 shall be made within one month after the passing of such order, or after the expiry of a period of thirty days from the service of the notice under section 88, which-ever date is the later.

(2) Where the order was passed under sub-section (1) of section 89 it may be executed without any further notice to the tenant.

(3) Where the order was passed under sub-section (2) of section 99 the court shall issue to the tenant the duplicate copy of the notice filed by the landholder under section 87 with an order endorsed thereon informing the tenant that if he desires to show cause why possession should not be delivered to the landholder he must do so within thirty days. If the tenant does not appear within thirty days of the service of the notice so endorsed, or having appeared fails to show cause why execution should not issue, the order of ejection shall be executed as hereinafter

provided.

## Section 91 - Tenant showing cause against execution

(1) If within thirty days of service of a notice under sub-section (3) of section 90 the tenant appears and alleges--

(a) that he is not liable to ejection; and

(b) that the notice under section 88 was not served on him; the court shall forward the record to the assistant collector in charge of the sub-division.

(2) The court to which the proceedings are forwarded or any court to which they may be subsequently transferred under the provisions of this Act, shall proceed to inquire whether the notice under section 88 was duly served. If it finds that the notice was duly served, it shall, subject to the provisions of section 78, return the record to the assistant collector of the second class, who shall cause the order of ejection to be executed according to law. If it finds that the notice was not duly served it shall set aside the order of

ejection and proceed as provided in section 92.

Section 92 - Procedure where tenant contests notice

(1) If within thirty days of service of a notice under section 88 the tenant appears and contests his liability to ejection, the court shall forward the proceedings for disposal to the assistant collector in charge of the sub-division.

(2) In such case and also where the assistant collector sets aside an order of ejection under the provisions of section 91 the application under section 86 shall be deemed to be a plaint, and the case shall proceed as a suit. The landholder shall, within a time to be fixed by the court, deposit the balance of court-fees due from him, failing which the suit shall be dismissed.

Enforcement of ejection

Section 93 - Mode of execution of decree or order

(1) Every decree or order for ejection shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1808 (Act V of 1908),

relating to the execution of decrees for delivery of immovable property:

Provided that before an order of ejectment passed under section 81(3) is executed, the court shall, if the tenant has not appeared, issue to the tenant the duplicate copy of the notice filed by the landholder under section 81(2) with an order endorsed thereon informing the tenant that if he desires to show cause why possession should not be delivered to the landholder he must do so within fifteen days. If the tenant appears and admits the claim, or does not appear within fifteen days of the service of the notice so endorsed, no time shall be allowed under section 81(4) except with the consent to the landholder, and the order of ejectment shall be executed as hereinbefore provided. If the tenant appears and contests the claim the procedure shall be as provided in section 81(5).

(2) Every sub-lessee or transferee of the person to be ejected whose interest is extinguished on the ejectment taking place shall for the purpose of execution of the decree or order for ejectment, be deemed to be a judgment-debtor, but unless he offers resistance or obstruction to delivery of possession, he shall not be liable for costs.

Section 94 - Time of execution

(1) Delivery of possession in execution of a decree or order for ejectment shall not be made before the first day of April, or such later date as the (State Government)<sup>1</sup> may by rule prescribe in respect of any local area, or after the thirtieth day of June, in any year, except when the order for delivery of possession is passed after the first day of June in respect of an application for execution made before the first day of April preceding.

(2) Nothing in this section shall affect any right the tenant may have in respect of standing crops under section 97 or shall apply to any order passed under the provisions of section 79.

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

#### Section 95 - Provision of unlawful re-entry

(1) Any person against whom a decree or order of ejectment from a holding or any portion thereof has been executed under the provisions of this

Act, who re-enters or attempts to re-enter into occupation of the same without the written consent of the person for the time being entitled to occupy the same, shall be presumed to have done so with intent to intimidate or annoy the person in possession, within the meaning of section 441 of the Indian Penal Code.

(2) Where a person is convicted of an offence of criminal trespass in the circumstances stated in sub-section (1), and it appears to the court convicting him that any person has, by reason of anything done in the course of committing the offence, been dispossessed of any land, the court may, if it thinks fit, order the dispossessed person to be restored to the possession of the same.

Section 96 - Prohibition against cutting trees after passing of decree or order

A tenant against whom a decree or order for ejectment has been passed shall not sell, cut or remove any tree upon his holding unless there is a contract or local custom entitling him to do so.

Section 97 - Right to crops when ejectment takes effect

(1)(a) If on the date of actual delivery of possession to the landholder there are ungathered crops or other products sown or planted by the tenant either before the date of the order for execution of the decree or order for ejection, or after such date with the permission in writing of the landholder, the landholder shall have the option of purchasing the same, and upon his forthwith tendering to the tenant the price of the same the right of the tenant to such crops or other products and to use the land for the purpose of tending, gathering and removing the same shall cease.

(b) If the landholder does not elect to purchase the same the tenant shall be entitled to use the land as aforesaid for a further period until such crops or other products have been gathered and removed, paying a fair rent therefor.

(2) If on the date of the actual delivery of possession to the landholder there are upon the land ungathered crops or other products sown or planted by the tenant after the date of the order for execution of the decree or order for ejection without the permission in writing of the landholder, the tenant shall have no right in such

crops and the title to them shall pass to the landholder with the land.

## Section 98 - Settlement of disputes as to price of crops

(1) All claims relating to the price of crops or other products which the landholder has elected to purchase under clause (a) of sub-section (1) of section 97 or to the rent payable by the tenant for the use of the land under clause (b) of the same sub-section, shall be determined by the court executing the decree or order:

Provided that no claim on account of the price of such crops or other products shall be entertained unless it is made within fifteen days of date of delivery of possession.

(2) Any sum payable by the landholder or by the tenant respectively under this section may be set off against any sum payable to him by the other either under this section or under the decree or order.

## Remedies for wrongful ejection

## Section 99 - Resolution of wrongful ejection



(1) Any tenant or rent-free grantee ejected from or prevented from obtaining possession of his holding or any part thereof, otherwise than in accordance with the provisions of this Act, by--

(a) his landholder or any person claiming as landholder to have a right to eject him, or

(b) any person claiming through such landholder or person, whether as tenant or otherwise,

may sue the person so ejecting him or keeping him out of possession-- (i) for possession of the holding;

(ii) for compensation for wrongful dispossession; and

(iii) for compensation for any improvement he may have made:

Provided that no decree for possession shall be passed where the tenant, at the time of the passing of the decree, is liable to ejectment in accordance with the

provisions of this Act within the current agricultural year.

(2) If the decree is for possession no compensation for an improvement shall be awarded.

(3) When a decree is given for compensation for wrongful dispossession but not for possession, the compensation awarded shall be for the whole period during which the tenant was entitled to remain in possession.

(4) A tenant who has sued for possession only shall not be entitled to institute a separate suit for compensation for wrongful dispossession, or for an improvement, in respect of the same cause of action.

Section 100 - When decree or order of ejectment reversed

When a court of appeal or revision reverses a decree or order for the ejectment of a tenant and the tenant is liable to ejectment in accordance with the provisions of this Act within the current agricultural year the decree or order of the court of appeal or revision shall not be for

possession but, subject to the provisions of section 116, for costs only.

Section 101 - Who must be joined in suit under section 99

When a tenant or rent-free grantee of a holding sues under section 99 for possession, he may join as a defendant, in the suit, every person in possession claiming through his landholder or through the person who has ejected him, as the case may be, and if he sues under section 99(1)(b) he shall join his landholder as a defendant in the suit.

Section 102 - Possession be delivered

The provisions of section 93 shall apply mutatis mutandis, to the execution of a decree for the reinstatement of a tenant in his holding.

Surrender

Section 103 - Surrender of holding by tenant

(1) A tenant, not bound by a lease or other agreement for a fixed period to continue to occupy the land in the following year, may, at the end of any agricultural year, surrender his holding, whether it is or is not sublet or mortgaged, but he shall not be entitled to surrender a portion only of his holding.

(2) Notwithstanding such surrender, unless the tenant, before the day of April gives to the landholder notice in writing of his intention to surrender, he shall be liable to the landholder for the rent of the holding for the agricultural year next following the date of the surrender:

Provided that the tenant shall not be so liable in respect of any period during which the holding is let to another tenant, or is taken into his own cultivation, or use, by the landholder.

(3) Nothing in this section shall affect any arrangement by which a tenant and his landholder may agree to the surrender of the whole or any portion of a holding.

Section 104 - Surrender upon enhancement of rent

Notwithstanding anything in the last preceding section, when a decree or order for the enhancement of the rent of any holding is

passed, and the tenant thereof within fifteen days of the date of such decree or order gives to the land-holder notice in writing of his desire to surrender such holding at the commencement of the period in respect of which such enhancement takes effect, and surrenders such holding accordingly, he shall not be liable for the rent payable for such holding in respect of any period subsequent to such surrender.

105. Service through tahsildar of notice of surrender

(1) Any tenant, instead of or in addition to himself giving notice in writing to the landholder under section 103 or section 104, may, before the expiration of the period limited for giving such notice, make an application to the tahsildar, who shall thereupon cause the notice to be served on such landholder, the tenant paying the cost of the service.

(2) Every such notice shall be deemed to have been received at the time it was first tendered.

Section 106 - Suit by landholder to set aside notice

(1) When any such notice has been received by or served on a landholder he may institute a suit to have such notice declared invalid and the court shall thereupon determine the question between the parties.

(2) If the landholder does not institute such suit he shall be deemed to have accepted the surrender.

## Abandonment

### Section 107 - Abandonment

(1) Subject to the provisions of sub-sections (2) and (3), a tenant who ceases to cultivate his holding without arranging for the payment of his rent as it falls due and giving written notice to the landholder of such arrangement shall be presumed to have abandoned his holding.

Explanation--A tenant does not cease to cultivate his holding if he leaves a member of his household or a hired servant in charge of it.

(2) A tenant who ceases to cultivate his holding and without executing a written sub-lease leaves

in charge of his holding any person on whom, in the event of the tenant's death, the tenant's interest would devolve shall, if he does not resume cultivation within five years, lose his interest in the holding, and the person left in charge thereof shall succeed to the holding.

(a) if the holding is held with a right of occupancy as a tenant with a right of occupancy;  
(b) if the holding is held with statutory rights, as heir of the statutory tenant;

(c) if the holding is held with neither a right of occupancy nor statutory rights, as a non-occupancy tenant.

(3) A tenant who ceases to cultivate his holding and without executing a written sub-lease leaves in charge of the holding a person other than one of the persons mentioned in sub-section (2) under an arrangement to which the landholder has not agreed in writing shall be presumed after the expiry of the period for which the tenant could have sublet to have abandoned the holding.

(4) Where a tenant is presumed to have abandoned his holding the landholder may file a notice in the office of the tahsildar for service on the tenant or publication stating that he wishes to

treat the holding as abandoned and is about to enter on it accordingly and the tahsildar shall cause a notice to be served or to be published in such manner as the Board by rule direct. After filing the notice the land-holder may, in any year between the fifteenth day of May and the thirtieth day of June, enter on the holding and let it to another tenant or take it under his own cultivation.

(5) Where a tenant sues under section 99 for recovery of possession of a holding on which the landholder has entered under the provisions of sub-section (4), and the tenant satisfies the court that he has not in fact abandoned his holding, the tenant shall be entitled, subject to the provisions of sub-section (1) of section 99, to reinstatement on such terms as the court may think fit.

Section 108 - Right of suit of successor to holding

Notwithstanding anything contained in section 103 and 107, any person claiming to be entitled under sub-section (1) of section 25 to succeed to a holding which has been surrendered or abandoned may bring a suit for the possession of such



holding.

## Chapter VII - IMPROVEMENTS

### Section 109 - Improvements by permanent tenure-holder or fixed-rate tenant

A permanent tenure-holder or a fixed-rate tenant  
may make any improvement.

### Section 110 - Improvements by exproprietary or occupancy tenant

An exproprietary or occupancy tenant may make any  
improvement except that he may not plant trees,  
make a tank, or erect a building of a permanent  
characters unless there is a local custom  
entitling him to do so or he has obtained the  
written consent of his landholder.

### Section 111 - Improvements by statutory, tenant

A statutory tenant may construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and a temporary building for the purpose mentioned in section 3(11)

(d), but may not, except with the written consent of his landholder or the permission of the court obtained under section 114, made any other improvement.

Section 112 - Improvements by any other tenant or sub-tenant

(1) No other tenant shall make any improvement except with the written consent of the landholder.

(2) No sub-tenant shall make any improvement unless--

(a) it is an improvement which his landholder could himself have made, and

(b) he has obtained the written consent of his land-holder.

Section 113 - Restriction on improvement which may injure other land

Nothing in this chapter shall entitle a tenant to make, except with the written consent of the landlord, any improvement which may substantially diminish the value of other land belonging to the landlord.

Section 114 - Application when permission is refused

(1) If a tenant applies for the written consent of his landholder to the making of an improvement which he may not make without such consent and the landholder omits or refuses to grant it, the tenant may apply to the collector or the assistant collector in charge of the sub-division for permission to make the improvement.

(2) When an application is made to the collector or an assistant collector under sub-section (1) he shall take into consideration any objection which the landholder may have to urge on either of the following grounds namely:

(a) that the work proposed is not an improvement as defined in section 3(11) of this Act, or is too costly, or

(b) that the landholder is himself prepared to make the improvement,

and shall then either grant the permission on such conditions as he considers fair and equitable, or refuse the application.

### Section 115 - Right of landlord to make improvements

(1) A landholder may make an improvement on or affecting the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

(2) A landlord may make an improvement on or affecting the holding of a tenant having a right of occupancy with the written consent of the tenant, or if the tenant refuses his consent, with the permission of the collector or of the assistant collector in charge of the sub-division:

Provided that notwithstanding anything in the sub-section, a landlord may construct a well on or affecting the holding of a tenant having a right of occupancy without the consent of the tenant.

(3) A landlord making an improvement on or affecting the holding of any tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of an improvement made by a landlord is to impair the productive powers of any land held by any tenant from such landlord, such tenant, shall, in addition to any compensation which may be awarded to him under sub-section (3), be entitled to such abatement of his rent as the court considers just.

#### Section 116 - Compensation for improvements

A tenant who has made an improvement which he is entitled to make shall be entitled to compensation for such improvement in the following cases:--

(a) when a decree or order for his ejectment is passed; and

(b) when he has been wrongfully dispossessed by his landholder and has not recovered possession of his holding:

Provided, first, that compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect:

Provided, secondly, that a tenant ejected in execution of a decree passed in a suit for ejectment or in pursuance of a notice of ejectment shall not be entitled to compensation for any improvement begun by him after the service of the summons in the suit, or service of the notice, which resulted in his ejectment.

#### Section 117 - Valuation of compensation

In estimating the amount of compensation due to a tenant for an improvement made by him, the court shall have regard--

(a) to the amount by which the letting value or the produce of the holding or the value of that produce is increased by the improvement;

(b) to the condition of the improvement and the probable duration of its effects;

(c) to the labour and capital required for the making of such an improvement, allowing for-- (i) any reduction or remission of rent or any other

advantage allowed to the tenant by the landholder in consideration of the improvement;

(ii) any assistance given to the tenant by the landholder in money, material or labour; and

(iii) in the case of a reclamation or of the conversion of unirrigated to irrigated land, the length of time during which the tenant has had the benefit of the improvement.

Section 118 - Improvement benefiting land from which tenant is not ejected

(1) When the improvement benefits both the land from which the tenant is to be ejected and other land in the occupation of the same tenant, the compensation payable to the tenant shall be estimated with reference to the extent to which the land from which the tenant is to be ejected has benefited by such improvement.

(2) If the improvement has been executed on the land from which the tenant is to be ejected, the landholder on payment of the compensation awarded to the tenant, shall become the owner of the improvement but the tenant shall be entitled to the benefit of the improvement in respect of the

land remaining in his occupation, to the same extent and in the same manner as that land has hitherto benefited by the improvement.

(3) If the improvement has been executed on land which remain-in the occupation of the tenant, the landholder, on payment of the compensation awarded to the tenant, shall be entitled to the benefit of the improvement in respect of the land from which the tenant is ejected to the same extent and in the same manner as that land has hither to benefited by it.

Section 119 - Landholders right to make other than money compensation

(1) When compensation is found to be payable to the tenant under section 78, the landholder may apply to the court to be allowed to give, in lieu of the sum payable or in lieu of part thereof, a beneficial lease of the holding, or of some other holding, or to make compensation in some other manner.

(2) If the tenant agrees to accept such Beneficial lease or other form of compensation, the decree or order under section 78 shall be modified accordingly.



(3) If the tenant refuses to accept a beneficial lease, and the court, after examining the tenant and making such further inquiry as it may deem necessary, is of opinion that the lease is suited to the circumstances of the tenant, and will adequately compensate the tenant for the improvement in respect of the whole or part of the compensation decreed as the court may determine, and that the tenant has no valid reason for refusing to accept the lease, the court shall allow, the tenant one month within which to come to terms with the landholder, and if within that time or within such further time (if any) as the court may think fit to allow, the tenant accepts the lease, and such acceptance is certified by him to the court, the court shall proceed as provided in sub-section (2);

and if the tenant does not accept the lease within such time, he shall for fit his right to so much of the compensation payable as would have been covered by the beneficial lease.

(4) No compensation other than a beneficial lease shall be decreed or ordered in lieu of money, except with the consent of the tenant.

(5) Every application under sub-section (1) shall be made within one month from the date of the decree or order under section 78.

Section 120 - Disputes as to right to make improvements, etc

(1) If a question arises between a tenant and his landholder-- (a) as to the right to make an improvement, or

(b) as to whether a particular work is an improvement,

(c) as to the amount of compensation or abatement of rent due under sub-section (3) or sub-section (4) of section 115.

the assistant collector in charge of the sub-division shall, on the application of either party, decide the question.

(2) The decision of the assistant collector on questions arising under clauses (a) and (b) of sub- section (1) shall be final.

In questions arising under clause (c) an appeal shall lie from his decision to the collector.

**Chapter VIII - MISCELLANEOUS PROVISIONS REGARDING TENANCIES**

## Section 121 - Suits by tenant for declaration of his right

(1) At any time during the continuance of a tenancy the tenant of a holding may sue the landholder, or any person claiming to hold through the landholder, whether as tenant of rent-free grantee otherwise for a declaration of his right as tenant.

(2) In any such suit against the landholder any person claiming to hold through the landholder may be joined as a party, and in any such suit against a person claiming to hold through the landholder, the landholder shall be joined as a party.

121-A. Suit by proprietor in respect of land alleged to be sir or khudkasht

Any person claiming to hold land as his sir or khudkasht may sue any person claiming to hold such land as a tenant for a declaration of his status or for an injunction in respect of such land.)

Section 122 - Suit by landholder for declaration as to who is tenant

In case of doubt or dispute as to who is the tenant of a holding the landholder may sue the persons as to whose right such doubt exists or between whom such dispute has arisen to have it declared which of such persons is the tenant.

Section 123 - Suits for declaration of class of tenant, etc

At any time during the continuance of a tenancy either the landholder or the tenant may sue for a declaration as to any of the following matters, namely:

- (a) the class to which the tenant belongs;
- (b) the situation, area, numbered plots or boundaries of the holding;
- (c) the rent payable in respect of the holding and whether payable in cash or kind;
- (d) the time, place and manner of appraisalment,

division or delivery of crops for rent; (e) the dates on which, and the installments in which the rent is payable; and  
(f) any other condition of the tenure required to be specified under section 55(d) of the

United Provinces Land Revenue Act, 1901 (U.P. Act III of 1901).

Section 124 - Determination of rent after ejection from part of holding

Whenever a tenant is ejected from a part only of his holding under a decree or order of a court, either he or his landholder may in lieu of bringing a suit under section 123, apply to the court that ordered ejection, within six months thereof, to have it determined what portion of the rent previously payable for the entire holding is payable in respect of the part of the holding from which ejection has not taken place.

Section 125 - Right to written leases and counterparts

(1) Any tenant is entitled to receive a written lease from his landholder and a landholder, upon

delivering or tendering to a tenant a lease consistent with the provisions of this Act, is entitled to receive from him a counterpart thereof.

(2) It shall be sufficient if such lease or counterpart contains in addition to the name and description of the tenant, the particulars specified in section 123.

(3) Such lease or counterpart may be in the form given in the Third Schedule.

(4) No omission in any such lease of any covenants or conditions, not inconsistent with any of the particulars above specified, shall prevent either of the parties thereto from claiming the benefit of such covenants or conditions.

Section 126 - Lease for period exceeding five years to be in writing

A lease for a period exceeding five years shall be made by an instrument in writing.

Section 127 - Attestation in lieu of registration

(1) When under the provisions of this Act, or the Indian Registration Act, 1908, or any other enactment for the time being in force, any lease counterpart, grant or agreement with respect to a tenancy is required to be made by registered instrument, and such lease, counterpart, grant or agreement--

(a) is with respect to land held by a grove-holder, as such, or to land let or granted for the purpose of planting a grove, or

(b) is for a term not exceeding ten years, and stipulates for rent not exceeding one hundred rupees annually.

the parties to such lease, counterpart, grant or agreement may, in lieu of registering the same, obtain the attestation thereto of a Revenue court or of a Revenue officer not inferior in rank to a qanungo, or of such other person as the (State Government)<sup>1</sup> may by general or special order in this behalf, appoint and subject to such conditions (if any) as the (State Government)<sup>1</sup> may, by rules made under this Act, direct.

(2) Such court, officer or other person shall, after satisfying himself as to the identity of the parties and their acquaintance with, and

assent to, the terms of the lease, counterpart, grant or agreement, make, sign and date an endorsement thereon to the effect that the has so satisfied himself.

(3) No such instrument shall be accepted for attestation under this section unless presented within the period prescribed for presentation for registration under Part IV of the Indian Registration Act, 1908 (Act XVI of 1908).

(4) An instrument attested under this section shall be deemed to be a registered document for all purposes of the Indian Registration Act, 1908 (Act XVI of 1908).

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

Section 128 - Landholders right to measure land

In the absence of a contract to the contrary, a land-holder is entitled to enter upon and measure the holding of his tenant.



## Section 128A - Ejectment from house barred in certain cases

(No tenant shall be liable to ejectment from his residential house in a village other than a house which is an improvement, merely because he has been ejected from his holding in that village.) 1

1. Inserted by s. 5 of the U.P. Act XIII of 1939.

## Chapter IX - PAYMENT AND RECOVERY OF RENT

### Payment of Arrears of Rent

#### Section 129 - Instalments of rent

The rent of a tenant shall be payable in the following installments and at the following dates:

(a) if the installments and dates have been agreed on by the parties to the tenancy, the installments and dates so agreed on;

(b) in the absence of any such agreement if the installments and dates have been determined and recorded by a settlement officer, the installments and dates so determined and recorded;

(c) in other cases for permanent tenure-holders and tenants with a right of occupancy twenty-days before the dates appointed for the payment of the installment of land revenue of the mahal; and for all other tenants thirty days before the date so appointed.

### Section 130 - Rent how payable

A payment of rent may be made by the tenant, or through his agent, or by postal money order, or by deposit in court under section 144.

### Section 131 - Rent when in arrear

An installment of rent not paid on the day on which it falls due becomes, on the following day, an arrear of rent, and the tenant shall be liable to pay interest on such arrears at (12 annas per cent.)<sup>1</sup> per mensem.

1. Substituted for the words (one per cent.)' by s. 2 of U.P. VII of 1934.

## Section 132 - Recovery of arrears

(1) An arrear of rent shall be recoverable by suit, or by distraint, or by notice through the tahsildar, in accordance with the provisions of this Act or in any one or more of such ways.

(2) Arrears of rent due in respect of (Government)<sup>1</sup> property may be recovered in accordance with sections 39 to 42 of the United Provinces Court of Wards Act, 1912, as if they were arrears due in respect of property under the charge of the Court of Wards.

1. Substituted by the A.O. 1950 for (Crown) which has been Substituted by the A.O. 1937 for (Govt.)

## Section 133 - Joinder of claims for arrears of rent

(1) A plaintiff may unite in the same suit several claims for arrears of rent against the same tenant: provided that they are in respect of holdings situated in the same mahal.

(2) In such a suit the decree shall specify separately the amount (if any) found due in respect of the several holdings.

## Section 134 - Application of rent payments

(1) When a tenant makes payment on account of rent, whether in satisfaction of a decree or otherwise, to his land-holder with express intimation that he wishes the payment credited to any year, installment or holding, the payment, if accepted, must be applied accordingly:

Provided that, where the tenant has not appropriated a payment made in respect of a decree passed under section 133(2), the court shall appropriate the payment in such manner as to save as many holdings as possible for the tenant.

(2) Subject to sub-section (1), the landholder may apply the payment at his discretion in discharge of any arrear or arrears as he thinks fit:

Provided that--

(a) he shall not apply the payment in discharge of an arrear of which the recovery is barred by the law in force for the time being as to the limitation of suits and application and

(b) subject to clause (a), he shall apply the payment in discharge of an arrear due in respect of an occupancy holding in preference to one due in respect of a statutory or non-occupancy holding, and

(c) he shall not cancel or vary any appropriation communicated to the tenant without the consent of the tenant.

(3) Where at the commencement of any suit or proceeding in which the question of the application of any payment of rent arises, neither the tenant nor the landholder has made any appropriation, the payment shall be applied--

(a) in discharge of an arrear due in respect of an occupancy holding in preference to one due in respect of a statutory or non-occupancy holding.

(b) subject to clause (a) in discharge of an arrear of a longer duration in preference to one of a less duration,

(c) subject to clauses (a) and (b) and where there are several arrears, in discharge of each arrear proportionately:

Provided that the payment shall not be applied in discharge of any arrear which is barred by the law in force for the time being as to the limitation of suits and applications.

Explanation--An arrear means an installment of rent due in respect of a single holding, or any portion of such installment, for the time being remaining unpaid after the date appointed for the payment thereof.

Section 135 - Presumption that payments by tenants are towards rent

Any payment made by a tenant from whom rent is due to the landholder to whom it is due shall in the absence of evidence of a contrary intention on his

part be deemed a payment on account of rent.

## Section 136 - Arrears of canal dues

Any person to whom any sum is due on account of canal dues under section 47 of the Northern

India Canal and Drainage Act, 1873, shall, in respect thereof, have all the legal remedies provided

in this Act as if such sum were an arrear of rent, and where the land for which the sum is due is sub-let, he shall have those remedies against the tenant and sub-tenant jointly.

## Produce rents

## Section 137 - Rights and liabilities in respect of produce

(1) When rent is taken by estimate or appraisement of the standing crop the tenant shall be entitled to the exclusive possession of the crop.

(2) When rent is taken by division to the produce, the tenant shall be entitled to the exclusive

possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landholder.

(4) If the tenant removes any portion of the crop or produce at such a time or in such a manner as to prevent the due estimate or appraisement of division there of, or deals therewith in a manner contrary to local custom the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighborhood for that harvest.

Section 138 - Application for officer to make division, estimate or appraisement

When rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop--

(a) if either landholder or tenant neglects to attend at the proper time, or



(b) if there is a dispute about the quantity, value or division of the produce,

an application may be presented by either party to the court requesting that an officer be deputed to make the division, estimate or appraisement.

With the application the applicant shall deposit such fee as may be prescribed by the (State

Government)<sup>1</sup> in rules made in this behalf.

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

Section 139 - Procedure on such application

(1) On receiving such application, the court shall issue a written notice to the opposite party to attend on the date and at the time specified in the notice, and shall depute an officer by whom such division, estimate or appraisement shall be

made.

(2) If the opposite party objects that the rent is not taken by division, estimate or appraisement, or that no rent is payable, the officer deputed shall record the objection, but shall proceed as hereinafter provided.

(3) If, on or before the date appointed, the dispute has not been adjusted, he shall call on each of the parties to appoint, and shall himself appoint, a resident of the neighbourhood, as an assessor to assist in the division of the produce, or the estimate or appraisement of the crop.

(4) If either party fails to attend, or refuses to appoint an assessor, the officer deputed shall nominate an assessor on his behalf.

(5) The officer deputed shall record, and in making his award shall have regard to the opinions of the assessors.

(6) In the case of a division of the produce, if the parties agree to the ward, the division shall be made accordingly. If the parties do not agree to such division, and in all cases in which the rent is payable by estimate or appraisement of the standing crop, the officer deputed shall make

an estimate of the value of the produce or crop and determine the rent payable. He shall then deliver his award and submit it with a report of his proceedings to the court.

(7) The parties shall be at liberty to file objections to the award within one week after the day on which the award was delivered; and the court shall hear such objections, and pass orders thereon, after such further inquiry (if any) as may appear to be necessary.

If an objection is filed that the rent is not payable by division, estimate or appraisement, or that no rent is payable and the court upholds the objection, it shall set aside the award.

If such objection is not upheld or if any other objection is filed, the court may modify or confirm the award as it thinks fit, and shall pass an order for the payment of the rent and costs (if any), and such order, shall have the effect of a decree for arrears of rent.

Receipts for Rent

Section 140 - Right of tenant to receipt for rent

(1) Every tenant who makes a payment on account of rent to his landholder shall be entitled to obtain forthwith from the landholder a written receipt for the amount so paid signed by the landholder.

(2) The landholder shall prepare and retain a counterfoil or copy of the receipt.

### Section 141 - Contents of valid receipt

(1) The receipt and counterfoil or copy shall specify such of the following particulars as can be specified by the landholder at the time of payment, namely:

(a) the names of the payer and payee;

(b) the name of the village with mahal or patti;

(c) the amount paid;

(d) where there is more than one holding an indication of the holding on account of which the rent has been paid;

(e) the year and installment to which the payment has been credited;

(f) whether the payment has been accepted as a payment in full, or only on account; and

(g) the date on which the rent is paid.

(2) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Section 142 - Suit by tenant for compensation for refusing receipt or wrongly crediting rent

If a landholder without reasonable cause refuses to deliver to a tenant a receipt containing the particulars hereinbefore prescribed for any rent paid by him or to credit the rent paid to the year and installment to which the tenant has requested the payment to be credited, the tenant shall be entitled to recover from him such compensation not exceeding double the amount or value of the rent paid as the court thinks fit to decree.

Section 143 - Power to award compensation for withholding receipt or not keeping counterfoil in suit in which rent is in issue

When in any suit for arrears of rent, or any suit in which the payment of rent is in issue between the landholder and the tenant, the court finds that the landholder has without reasonable cause refused or neglected to deliver to the tenant a receipt, or to prepare and retain a counterfoil or copy of the receipt, containing substantially the particulars required by section 141, it may award the tenant such compensation not exceeding double the amount or value of the rent or canal dues paid as it may see fit to decree.

Deposit of Rent in Court

Section 144 - Application rent in court

(1) In any of the following case, in which a money rent is to deposit due namely:

(a) when a tenant tenders to a landholder full payment of the rent due from him, and the landholder refuses to receive it, or intimates his unwillingness to grant a receipt for it;

(b) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the

joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf;

(c) when two or more persons severally claim the right to collect the rent, or when the tenant entertains a bona fide doubt as to who is entitled to receive the rent;

(d) when by contract or local usage two or more persons are entitled to collect separately their respective shares of the rent of the holding;

(e) when the tenant is used for a portion of the rent of a holding under sub-section (3) of section 226;

the tenant may make an application in writing to the court for permission to deposit in court the full amount of rent then due.

(2) An application to deposit rent under clause (e) shall, notwithstanding anything contained in the

Fourth Schedule, be made to the court before which the suit is pending.

Section 145 - Contents of application

(1) The application shall contain a statement of the grounds on which it is made and shall state--

in cases (a) and (d) the names of the person or persons to whose credit the deposit is to be entered;

in cases (b) and (e), the names of the co-sharers to whom the rent is due; and

in case (c), the names of the person or persons to whom rent was last paid and of the person or persons now claiming it.

(2) The application shall be verified as a plaint.

#### Section 146 - Receipt to be granted

If it appears to the court to which an application under the provisions of section 144 is made that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the court.



Section 147 - Receipt a valid acquittance  
A receipt given under the last preceding section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same as extent if that amount of rent had been received--

in cases (a) ad (b) of section 144, by the person specified in the application as the person to whose credit the deposit was to be entered;

in any other case, by the person or persons entitled to the rent.

#### Section 148 - Notification of deposit

The court receiving the deposit shall forthwith cause to be affixed at a conspicuous place at the court-house, and in the vernacular language of the district, a notification of the deposit of such rent, containing the name of the tenant, the name of the landholder, the amount of rent deposited and any other material particulars.

#### Section 149 - Notice to whom sent

If the amount of deposit is not paid away under the next following section within the period of fifteen days next following the date on which the notification is so affixed, the court shall forthwith-

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in cases (a) and (d) of section 144, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (b) of that section, cause a notice of the receipt of the deposit to be posted at each landholder's village, office or residence, or in some conspicuous place in the village in which the holding is situate;

in case (c) of that section cause a notice to be served on every person who it has reason to believe, claims or is entitled to such deposit.

## Section 150 - Payment or refunds of deposit

(1) The court may pay the amount of deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit and shall, if the deposit

has been made under clause (c) of section 144, except upon the joint application of the disputing parties, retain the amount pending a decision of the Civil court as to the person so entitled.

(2) The payment may, if the court so directs, be made by postal money order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence any order of a Civil or Revenue courts to the contrary, be repaid to the depositor on his application and on his returning the receipt given by the court with which the rent was deposited, or on his producing such other evidence of his having made the deposit as the court may consider sufficient.

Section 151 - Barring of suits

No suit or other proceeding shall be instituted against the (Government)<sup>1</sup>, or against any officer of the (Government)<sup>2</sup>, in respect of anything done by a court regarding a deposit under the foregoing sections; but nothing in this section shall prevent any person, entitled to recover the amount of such deposit, from recovering the same from a

person to whom it has been paid under the last preceding section.

1. Substituted by the A.O. 1950 for (Cown) which had been Substituted by the A.O. 1937 for (Secretary of State for India in

Council.)

2. Substituted by the A.O. 1950 for (Crown) which had been Substituted by the A.O. 1937 for (Govt.).

## Chapter X - DISTRAINT

### Landholder's Right of Distraint

#### Section 152 - Recovery of arrears by distraint

(1) The produce of every holding in the cultivation of a tenant shall be deemed to be hypothecated for the rent payable in respect of such holding by such tenant and by every person other than a thekadar intermediate between such tenant and the landlord; and, until such rent

has been satisfied, no other claim on such produce shall be enforced by sale in execution of a decree of a Civil or Revenue court, or otherwise.

(2) When an arrear of rent is due from a tenant the landholder may in lieu of, or addition to, suing for the arrear as provided by this Act, recover the same by distress and sale of the produce of the holding in respect of which the arrear is due.

(3) Nothing in this section shall be deemed to effect the provision of sections 2, 3 and 4 of the

Bengal Indigo Contracts Regulation, 1823, or of section 11 of the Opium Act, 1857 or of section

141 of the United Provinces Land Revenue Act, 19011.

1. Substituted by the A.O. 1950 for (Crown) which had been Substituted by the A.O. 1937 for (Govt.).

Section 153 - When distraint not allowed

Notwithstanding anything in the last preceding

section, no distraint shall be made--

(a) by a co-sharer who is not entitled to collect the whole of the rent from a tenant; (b) by a landholder who has covenanted not to distraint; (c) by a landholder of any produce, of the whole or any portion of which a previous distraint has been made by him;

(d) in respect of any arrear which has been due for a longer period than one year;

(e) in respect of any arrear for which security has been accepted by the landholder;

(f) in respect of any arrear of rent of which the payment has been remitted or suspended under section 73; and no distraint shall be made--

(g) by an agent who is not expressly authorized by power-of-attorney in that behalf;

(h) by a servant of a person empowered to distrain, unless he has a written authority to distrain.

Section 154 - What may be distrained

(1) The landholder shall be entitled to distrain--

(a) any crops or other products of the earth standing or ungathered on the holding;

(b) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain or the like, whether in the fields or in a homestead.

(2) The landholder shall not be entitled to distrain--

(a) any crops or other products more than thirty days before maturity;

(b) any crops or other products after they have been stored by the tenant; (c) any other property whatsoever

Procedure

Section 155 - Defaulter to be served with written

demand and account

(1) Before or at the time when a distraint is made the distrainer shall serve on the defaulter a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall be dated and signed by the distrainer, and shall if practicable, be served personally on the defaulter; or if he cannot be found, shall be affixed to his usual place of residence.

Section 156 - Distraint to be proportionate to arrear, and list of property, to be served on owner, and copy-filed in tahsil

(1) Unless the demand is immediately satisfied the distrainer may distraint property as aforesaid equal in value, as nearly as may be, to the amount of the arrear and the costs of the distress; and shall prepare a list or description of the said property together with the name of the person appointed as caretaker under section 157(3), date and sign the same and deliver it to the defaulter, or, if he cannot be found, affix it to his usual place of residence, and a copy of such



list

or description, together with a copy of the written demand and account and the name of the caretaker, shall be filed forthwith in the tahsil.

(2) If the distrainer has notice that the cultivator is some person other than the defaulter, a copy of the demand and of the list or description of the property shall, in like manner, be delivered to the cultivator.

(3) No distraint shall be made except between sunrise and sunset.

Section 157 - Standing crops, etc. when distrained may be reaped and stored

(1) Standing crops and other ungathered products may, notwithstanding the distraint, be tended, reaped and gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

(2) If the cultivator neglects to do so, the distrainer shall cause the said crops or products to be tended, reaped or gathered, and stored in some convenient place in the neighbourhood, at the expense of the cultivator.

(3) In either case the distrained property shall be placed in the charge of the person appointed by the distrainer as caretaker.

Section 158 - Sale of products which cannot be stored

Crops or products which, from their nature, do not admit of being stored, may be sold as hereinafter provided before they are reaped or gathered; but, in such case, the distraint shall be made at least twenty days before the time when the crops or products, or any of part of the same, are fit for reaping or gathering.

Section 159 - Assistance to distrainer opposed or apprehending resistance

If a distrainer is opposed or apprehends resistance, he may apply to the court and the court shall, if it appears necessary, depute an officer to assist the distrainer in making the distraint.

Section 160 - Distraint to be with drawn on tender of arrear and expenses before sale

If at any time after property has been distrained, and before the day fixed for putting it up to sale as hereinafter provided, the defaulter of cultivator tenders payment of the arrear demanded and of the expenses of the distraint, the distrainer shall receive the same and shall forthwith withdraw the distraint.

#### Section 161 - Application for sale

(1) Within seven days from the time of making the distraint, the distrainer may apply to the proper officer, hereinafter called the sale officer, for sale of the property specified in the list or description filed under section 156.

(2) If no such application is made, the crops or products shall be released from distraint.

#### Section 162 - Contents of application

The application shall be in writing, and shall specify the following particulars, namely:--

(a) the name and residence of the defaulter and,

in the case provided for in section 156(2), of the cultivator also;

(b) the amount due;

(c) the date of the distraint, and

(d) the place in which the distrained property is.

#### Section 163 - Fee for service of notice

Together with the application, the distrainer shall deliver to the sale officer the fee for the service of notice as hereinafter provided.

#### Section 164 - Procedure on receipt of application

(1) Immediately on receipt of such application and fee the sale officer shall send a copy of the application and of the list or description filed under section 156 to the court having authority to entertain a suit to contest the distraint, and shall serve notice on the defaulter, requiring him either to pay the amount demanded, or to institute a suit to contest the distraint within fifteen

days from the receipt of the notice.

(2) In the case provided for in section 156(2) similar notice shall be served on the cultivator.

(3) The sale officer shall by order fix the date for the sale, which shall be not less than twenty days from the date of the application and shall cause it to be proclaimed at the place where the distrained property is; and he shall also send a copy of his order to the court to put up in its office.

(4) The proclamation shall also specify-- (a) the property to be sold,

(b) the demand for which it is to be sold, and

(c) the place where the sale is to be held.

Section 165 - When sale may be proceeded with

If the institution of a suit to contest the distraint has not been certified, under section 175(2), to the sale officer on or before the date fixed in the proclamation of sale, he shall, unless the said demand, with such expenses of the

distrain as are allowed by him, is discharged in full, proceed in the manner hereinafter prescribed to sell the property or such part of it as may be necessary to satisfy the demand with the expenses of the distraint and the costs of the sale.

#### Section 166 - Place and manner of sale

(1) The sale shall be held at the place where the distrained property is or at the nearest place of public resort, if the sale officer is of opinion that it is likely to sell there to better advantage.

(2) The property shall be sold by public auction in one or more lots, as the sale officer may think advisable.

(3) If the demand, with the expenses of the distraint and the costs of the sale, is satisfied by the sale of a portion of the property, the distraint shall immediately be withdrawn with respect to the remainder.

#### Section 167 - If fair price not offered, sale may be postponed and shall be then completed

If, on the property being put up for sale, a fair

price in the estimation of the sale officer is not offered for it and if the defaulter or cultivator applies to have the sale postponed until the next day, or, if a market is held near the place of sale, the next market day the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

### Section 168 - Payment of purchase money

The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as the sale officer thinks necessary:

Provided that, where the purchaser of any lot is the distrainer, he shall be allowed to set off against the price (less one anna in the rupee on account of the costs of the sale) of such lot any sum due to him on account of the arrear for which the distraint was made.

### Section 169 - Re-sale on default

In default of such payment, the property shall be put up again and sold, and the deficiency in price (if any) which may happen on such second sale, and all expenses attending such second sale shall be

certified to the court by the sale officer and shall, at the instance either of the distrainer, or the defaulter, or the cultivator, be recoverable from the defaulting purchaser under the provisions of the Code of Civil Procedure, 1908, relating to the execution of a decree for the payment of money.

### Section 170 - Certificate to purchaser

When the purchase money has been paid in full, the sale-officer shall give the purchaser a certificate describing the property purchased by him and the price paid.

### Section 171 - Disposal of proceeds of sale

(1) From the proceeds of every sale distrained property under this Act, the sale officer shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall remit the amount so deducted to the tahsildar.

(2) He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distraint, and of the issue of the notice and proclamation of sale prescribed in section 164 to



such amount as, after examining, the statement of expenses furnished by the distrainer, he thinks proper to allow.

(3) The remainder shall be applied to the discharge of the arrear for which the distraint was made. (4) The surplus (if any) shall be delivered to the person whose property has been sold.

Section 172 - Sale officers and employees prohibited from purchasing

Sale officer and all persons employed by or subordinate to such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Section 173 - Postponement of sale and report to court when owner has not received due notice

If, in any case on proceeding to hold any such sale, the sale officer finds that due notice of the distraint and intended sale has not been given, he shall, if the defaulter so desires, postpone the sale and report the ease to the court, which shall thereupon direct the issue of another notice and proclamation of sale under

section 164, of pass such other order as it thinks fit.

Section 174 - Levy of charge when sale officer attends and no sale takes place

(1) When the sale officer goes to any place for the purpose of holding a sale under this Act, and no sale takes place because the demand of the distrainer has been previously satisfied, without any intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of costs shall be leviabale and shall be calculated on the estimated value of the distrained property.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall fee payable by the owner of the property and may be recovered by the sate of such portion thereof as may be necessary.

(3) In every other case it shall be payable by the distrainer, and may be recovered from him as, an arrear of revenue.

(4) In no case shall a larger amount than ten rupees be recovered under this section.

## Suit' Relating to Distraint

### Section 175 - Suit to contest distraint before sale

(1) If sale has not taken place under section 165 or section 169 any person whose property has been distrained may bring a suit to contest the distraint, provided that, if notice has been served on the plaintiff under sub-section (1) or sub-section (2) of section 164, he must institute his suit within fifteen days from the receipt of the notice.

(2) If a suit is instituted under sub-section (1) the court shall send to the sale officer, or if so requested, shall deliver, to the plaintiff a certificate of the institution of such suit; and on such certificate being received, by, or presented to, the sale officer before sale has taken place, he shall suspend the sale.

(3) In a suit to contest a distraint, the distrainer shall be required to prove the amount of arrear for which the distraint was made.

(4) If the plaintiff in a suit under this section is the defaulter or the cultivator, and the demand

of the distrainer, or, any part thereof, is found to be due, the court shall make a decree for the amount in favour of the distrainer, and such amount shall be recovered from the property as provided in section 177.

(5) If the distraint is adjudged to be vexatious or groundless, the court, besides directing the release of the distrained property, may, on the application of the plaintiff, award to him such compensation as the circumstances of the case may require.

Section 176 - Distraint to be withdrawn on security given or amount of arrear and costs deposited

(1) The plaintiff may, at the time of instituting any such suit as aforesaid, or at any subsequent period deposit in court the amount of the arrear claimed together with a sum Rs. 10 to cover the expenses of the distraint to give security for the payment of whatever sum may be adjudged to be due from the defaulter with interest and cost of the suit.

(2) When such deposit has been made or, security given, the court shall give to the plaintiff a certificate to that effect, and, if so requested,

shall serve the distrainer with notice of the same.

(3) Upon such certificate being presented to the distrainer, or served on him by order of the court, the property shall be released from distant.

### Section 177 - Sale of property when amount adjudged due

(1) When the distrained property has not been released from distraint under the provision of section 176, if, the demand or any portion of it, is adjudged to be due, the court shall issue an order to the sale officer specifying the amount adjudged to be due, and authorizing the sale of such property.

(2) The sale-officer shall thereupon fix a date for the sale not less than five nor more than ten days from the date of the proclamation, and shall cause the same to be proclaimed, and unless the amount specified in the order of the court, together with the expenses of distraint is paid, shall sell the property as hereinbefore provided.

Section 178 - Persons not suing in time to save property from sale may sue for compensation

If any person whose property has been distrained is prevented by any sufficient cause from bringing a suit to contest the distraint as provided by section 175 and his property is sold, he may, nevertheless, institute a suit to recover compensation for such distraint and sale.

Section 179 - Wrongful acts of distrainer

If any person under colour of this Act distrains or sells, or causes to be sold any property otherwise than according to the provisions of this Act.

or if any distrained property is lost, damaged or destroyed by reason of the distrainer not having taken proper precautions for the keeping and preservation thereof.

or if the distraint is not immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit against the distrainer for

compensation for any injury which he has thereby sustained.

If the distrainer is an agent or servant, his principal may be joined as a defendant on the suit.

If the distrainer proves that the loss or the damage of property has been due to the negligence of the sale officer, the latter alone will be responsible for the injury or damage.

### Special Provision

#### Section 180 - Rights in respect of sub-tenancies

(1) When an arrear of rent is realized from a cultivator by proceeding in distraint by any person other than his immediate landholder, he shall be entitled to deduct the amount so realized from any rent payable by him to such landholder, and such landholder if he is not the defaulter, shall in like manner be entitled to deduct the same amount from any rent payable by him to his landholder, and so on until the defaulter is reached.

(2) In lieu of deducting any such amount so realized the sub-tenant shall be entitled to institute a suit for the recovery of the same from the defaulter.

(3) Where land is sub-let and any conflict, arises between the claims of a superior and inferior landholder who distrain the same property, the claims of the superior landholder shall have priority.

Section 181 - Conflict of rights upon distraint and attachment

When any conflict arises between the rights of a distrainer and of a person attaching or selling the same property in execution of a decree of a Civil or Revenue court, the right of the distrainer shall prevail but the surplus (if any) payable under section 171 to the person whose property has been distrained shall be deposited in the court from which the order for attachment or sale issued.

Penalties

Section 182 - Penalties for dishonest distraint, or resistance to distraint



(1) If any person--

(a) under colour of this Act dishonestly distrains, sells, or causes to be sold, any property otherwise than in accordance with the provisions of this Act,

(b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

(2) Any person who abets the doing of any such act shall be deemed to have abetted the commission of such offence.

Chapter XI - RENT-FREE GRANTS

Section 183 - Definition of rent-free grant

A rent-free grant means a grant of right to hold land rent-free by a landholder with or without consideration:

Provided that, if made after the commencement of this Act, such grant shall be made by registered instrument.

Explanation I--When a sale of land takes place, a reservation in favour of the vendor of a portion of the land sold, to be held rent-free by such vendor, is a rent-free grant.

Explanation II--A grant of land for the performance of a service, religious or secular, is a rent-free grant.

Section 184 - Presumption in favour of certain land being held under a rent-free grant

Land held rent-free by a person who is not recorded as the proprietor, mortgagee or thekadar thereof, and in respect of which no liability for rent is recorded in the annual registers, shall, in the absence of any evidence to the contrary, be presumed to be held under a rent-free grant.

Grants in respect of which the Right of suit is Barred

Section 185 - Grants in respect of which suit is barred

No suit shall lie under the provisions of this chapter in respect of land-

(a) held rent-free in a district or portion of a district which is permanently settled under a grant made prior to the permanent settlement, or

(b) held rent-free under a judicial decision of a date prior to the twenty-second day of

December, 1873, or

(c) held rent-free by a holder whose title is based on a transfer of the land for valuable consideration made by the landlord or by rent-free holder thereof before the twenty-second day of December, 1873, provided that at that date the right of the landholder to resume the land had been barred by section 28 of Act X of 1859 or by article 130 of the second schedule of the Indian Limitation Act, 1871 (Act IX of 1871).

Grants held in Proprietary Right, but liable to assessment of Revenue

Section 186 - Grants held in proprietary right

(1) Land held rent-free in respect of which a suit is not barred by the provisions of section 185 shall be deemed to be held in proprietary right, and the holder shall be liable to pay the revenue due in respect thereof, where--

(a) it is held under a grant made in perpetuity and in consideration of the loss or surrender of a right previously vested in the grantee, or--

(b) it is held under a grant made in perpetuity by a written instrument for valuable consideration, or

(c) not being held for the performance of some service, religious or secular, or, conditionally, or for a term, it has been held rent-free for fifty years immediately preceding the commencement of this Act and by two successors in interest to the original grantee, or, where there was more than one such grantee, to any one of such grantees.

(2) Whenever a court declares land to be held in proprietary right under this section it shall determine the revenue payable in respect thereof.

Explanation--For the purposes of clause (c) of sub-section (1) a person to whom the interest of a deceased person passes by right of survivorship shall be deemed to be his successor in interest.

Grants liable to Fixing of Rent or Ejectment

Section 187 - Grants liable to fixing of rent

All land held rent-free under a grant not coming within the provisions of section 185 or section 186 is liable to have rent fixed on it.

Section 188 - Liability to ejectment

(1) Where land held rent-free is liable to have rent fixed on it under section 187, the holder thereof shall be liable to ejectment if, by the terms of the grant or by local custom, the land is held--

(a) at the pleasure of the grantor, or

(b) for the purpose of some specific service religious or secular, which the landlord no longer requires, or

(c) conditionally or for a term, when the condition has been broken or the term has expired.

(2) In a case falling under clause (b) of sub-section (1) the filing of a suit for fixing of rent or for ejection shall be deemed sufficient notice that the service is no longer required; but where no previous notice in writing has been given to the grantee, the court may, in its discretion, direct that the whole costs of the suit be borne by the plaintiff.

(3) A rent-free grantee, who is, or may become, liable to ejection under the provisions of this section may make any improvement which a statutory tenant might make, and the provisions of sections 78 and 111 and of sections 113 to 120 shall apply to every such grantee as if he were a statutory tenant.

Section 189 - Date from which liability to fixing of rent and ejection arises

The liability to fixing of rent under section 187, and to ejectment under section 188 in cases to which that section applies arises--

(a) where the land is held under a written instrument by which the grantor has expressly agreed that it shall not be resumed, on the death of the original grantor or on the expiration of the settlement in force at the date of the grant, or on the expiry of a period of thirty years from the date of the grant, whichever event first occurs.

(b) where the land is held for the purpose of some specific service, religious or secular, when the service is no longer required.

(c) where the land is held conditionally or for a term, when the condition has been broken or the term expires, or on the expiry of seven years from the date of the grant, whichever event first occurs;

(d) in any other case, on the expiry of one year from the date of the grant.

Section 190 - Determination of class of tenure and

rent

(1) When land held under a rent free grant is found liable to have rent fixed thereon under section

187, the granted shall be deemed to have been a tenant from the date of the grant, and the class of his tenancy shall be determined in accordance with the provisions of this Act.

(2) A tenant referred to in sub-section (1) who at the commencement of this Act had held the same land continuously for twelve years within the meaning of sections 11 to 14 of the Agra. Tenancy Act, 1901, shall be deemed to have acquired a right of occupancy.

(3) If the granted is declared to be an occupancy or statutory tenant, the rent shall be decreed at the appropriate rate specified in section 59.

(4) The rent decreed under sub-sections (3) shall be payable from the first day of July next following the date of the institution of the suit.

Section 191 - Execution of decree for ejectment



A decree for ejectment under section 188 shall be executed in the same manner as a decree for the ejectment of a tenant, and the provision of sections 39 to 98 shall apply to every such decree.

### Miscellaneous Provision

Section 192 - Provision for granting any relief to which plaintiff is entitled

In any suit brought under the provision of section 186, section 187, section 188 or section 44, unless the plaintiff objects, the court shall after framing the necessary issues, grant any relief under any of those sections to which it may find the plaintiff entitled, notwithstanding that such relief may not have been asked for in the plaint:

Provided first, that after framing such issues the court shall on the request of either party grant reasonable time of the production of evidence:

Provided, secondly, that where the plaintiff has claimed a relief to which he was not entitled, the court may take this fact into consideration in awarding costs.

## Section 193 - Procedure when district is under settlement

Suits under this chapter shall, when the local area in which the land is situated is under settlement, be instituted, in the court of the settlement officer or assistant settlement who shall have been given powers of a court under this chapter.

## Section 194 - Saving of the State Government right to revenue

Nothing in this chapter shall effect the right of (the State Government)<sup>1</sup> of assess revenue on any land in accordance with section 58 or section 103 of the United Provinces Land Revenue Act, 1901 (U.P. Act III of 1901).

1. Substituted by the A.O. 1950 for [the Provl. Govt.] which has been Substituted by the A.O. 1937 for [Govt.].

## Section 195 - Appeals

Notwithstanding anything contained in Chapter XV, appeals from decrees or orders under this chapter shall be governed by the provisions of Chapter X of the United Provinces Land Revenue Act, 1901 (U.P. Act III of 1901), except that the period of appeal or the Commissioner shall be thirty days from the date of the decree or order appealed against.

## Chapter XII - GROVE-HOLDERS

### Section 196 - Definition

A grove-holder is a person to whom land has been let or granted by a landlord or permanent tenure-holder for the purpose of planting a grove, or who has in accordance with local custom entitling him to do so or with the written permission of the landlord or the permanent tenure- holder, planted a grove on land held by him as tenant (not being a permanent tenure-holder, a fixed-rate tenant or a sub-tenant) or as rent-free grantee, not being a grantee to whom the provisions of section 185 or section 186 apply, of

such landlord or permanent tenure-holder, as the case may be:

Provided that where the permission was granted prior to the commencement of this, the permission need not have been in writing and may have been either express or implied.

### Section 197 - Rights and liabilities of grove-holders

Notwithstanding anything previously contained in this Act, but subject in respect of the matters mentioned in clauses (a) (b) (d) and (f) to any custom or contract to the contrary--

(a) it shall be presumed that grove-holder holds the land in respect of which he is a grove-holder as a non-occupancy tenant under a lease the term of which will expire when the land ceases to be grove-land;

(b) the interest of a grove-holder shall be transferable by voluntary transfer or in execution of a decree of a civil or revenue court or otherwise;

(c) the interest of a grove-holder shall devolve

as if it were land and the devolution of such interest shall not be governed by the provisions of section 24 or section 25;

(d) a grove-holder may sub-let the whole or any portion of his grove--land, but not so as to confer on his sub-tenant any interest outlasting his own interest and that of persons claiming through him or to relieve himself of any of his liabilities to his landholder;

(e) a grove holder shall not be liable to ejectment by his landholder except under section 84 or on the ground that he holds under a lease the term of which has expired, or will expire at or before the end of the current, agricultural year but nothing in this clause shall be deemed to prevent the land-holder from obtaining the sale of his grove-holder's interest in execution of a decree for arrears of rent;

(f) a landholder may exercise against a grove-holder the right conferred by sections 152 to

154 to realize the rent by distress and sale of the fruit, or, where these have a commercial value, of the flowers of the grove, or of any crops grown under or among the trees thereof, but not of any other produce of the grove;

(g) nothing in Chapter XI of this Act shall be deemed to apply to land held by a grove- holder as such, and

(h) where a person becomes a grove-holder in respect of land of which he is a tenant or rent-free grantee, he shall hold such land as grove-holder in supersession of all subsisting rights and liabilities so far as they are inconsistent therewith.

#### Section 198 - Presumption regarding grove land

Whenever it is found in any suit or other proceeding relating to grove-land that such land is held by a person who has no proprietary right therein, the court may presume that he holds such land as a grove-holder.

#### Chapter XIII - THEKADARS

Section 199 - Definition of thekadar, theka and theka area

(1) A thekadar is a farmer or other lessee of proprietary rights in land, and in particular of the right to receive rents or profits.

(2) The farm or lease is called a theka, the person who grants it the lessor, and the area to which it relates the theka area.

### Section 200 - Methods of granting theka

A theka may be made only by a written instrument executed by the landlord.

### Section 201 - Rights of thekadar in the absence of contract

(1) Except as otherwise provided by the terms of his theka, a thekadar may exercise during the period and to the extent of his theka all the rights of his lessor under this Act, except--

- (a) the right to sue for enhancement of rent under section 53;
- (b) the right to confer occupancy rights under section 17;
- (c) the right to grant leases to tenants for a period exceeding seven years or exceeding the

unexpired portion of the term of his theka;

(d) the right to give written permission to sub-let under section 29;

(e) the right to make an improvement except as provided in section 214;

(f) the right to sue a rent-free grantee under the provisions of section 186, section 187 or section 188.

(2) The rights mentioned in clauses (a) to (f) of sub-section (1) shall not be exercised by the thekadar unless they are conferred expressly by the terms of the theka.

(3) Rights which may be exercised by a thekadar under the foregoing sub-sections shall not be exercised by his lessor during the period of the theka unless the terms of the theka otherwise direct.

Section 202 - Recovery of arrears of rent by thekadar



Except as otherwise provided by the terms of the theka, the lessor shall be, and the thekadar shall not be, entitled to recover arrears of rent and other dues in respect of the theka area which accrued prior to the commencement of the theka, if legal proceedings for their recovery are instituted within one year of the commencement of the theka; and a thekadar shall not be entitled to recover any such arrears remaining due at the expiry of his theka, or at the time of his ejection or surrender of the theka, whichever event first occurs, unless legal proceedings for the recovery of such arrears are commenced within one year of the expiry of the theka or of the thekadar's ejection or surrender of the theka.

### Section 203 - Rights transfer and succession

(1) Except as may be otherwise provided by the terms of the theka, the interest of a thekadar--  
(a) shall not be transferable, or be saleable in execution of a decree:

(b) unless the theka has been given on payment of a premium, shall not be heritable.

(2) Where a thekadar's interest is heritable it shall devolve as if it were land so far as is consistent with the retention by the landlord of a

right or possibility of reversion.

Section 204 - Ejectment to be according to law

No thekadar shall be ejected otherwise than in accordance with the provisions of this Act.

Section 205 - Grounds of ejectment

(1) A thekadar shall be liable to ejectment on one or more of the following grounds, namely-- (a) on the ground that a decree against him for areas of rent remains unsatisfied;

(b) on the ground of any act or omission prejudicial to the rights of the landlord or inconsistent with the purpose of the theka;

(c) on the ground that he, or any sub-thekadar under him, has broken a condition, on breach of which he is by the terms of his theka liable to be ejected;

(d) on the ground that the term of the theka has expired or, except, in the case of thekas granted before the commencement of this Act, that a period of thirty years has elapsed since the theka was granted;

(e) in the case of a theka from year to year, on the expiry of a notice to determine the theka, provided that at least six months' notice ending on any date in the last year of the thekadar's tenure shall be given.

(2) Notwithstanding anything in clauses (b) and (c) of subsection (1) no the kadar shall be ejected for non-payment of rent otherwise than in accordance with clause (a) of that sub-section.

Section 206 - Procedure to eject a thekadar for nonpayment of arrears decreed

(1) When a landlord desires to eject a thekadar on the ground specified in clause (a) of section

205, he shall apply by way of execution of the decree to the court empowered at the time to execute the same.

(2) Thereafter the court shall proceed so far as may be in accordance with the procedure prescribed by section 80.

Section 207 - Procedure in other cases

When a landlord desires to eject a thekadar on any

other ground than that specified in clause (a) of section 205, he shall proceed by suit.

Section 208 - Sub-thekadars and other transfer when to be made defendants

In a suit for the ejectment of a thekadar any sub-thekadar may be joined as a party to the suit and shall be so joined where the suit is on the ground of any act or omission of such sub-thekadar or to which such sub-thekadar was a party.

Section 209 - Procedure in cases based on forfeiture

The provision of section 85 with regard to a tenant found liable to ejectment on a ground specified in clauses (a) and (b) of section 84 shall apply in the case of a thekadar found liable to ejectment on a ground specified in clause (b) or (c) of section 205.

Section 210 - Execution decree for ejectment

(1) Every decree or order for the ejection of a thekadar shall be executed in accordance with the provisions of the Code of Civil Procedure, 1908, relating to the execution of decrees for delivery of immovable property, and the provisions of sub-section (2) of section 93 of this Act shall apply to every such decree or order.

(2) No decree or order for the ejection of a thekadar under sub-section (1) shall be executed in respect of land in the actual occupation of the thekadar under or in pursuance of the theka before the first day of April in any year or such later date as the Board prescribes by rule in respect of any local area, or after the thirtieth day on of June in any year.

#### Section 211 - Penalty for unlawful reoccupation

When a thekadar re-occupies without the written consent of the landlord any land from which he has been ejected in accordance with sub-section (2) of section 210 the provisions of section 95 shall apply as if for the word "person" the word "thekadar" were substituted.

#### Section 212 - Remedies of thekadar wrongfully ejected

(1) A thekadar who has been wrongfully ejected from the whole or any part of the theka area, or wrongfully prevented from exercising any of his rights as thekadar, by the landlord or any person claiming under or as agent of the land-lord may sue for any or all of the following remedies:

(a) recovery of possession; (b) an injunction; (c) compensation for such wrongful dispossession or unlawful interference; (d) compensation for an improvement lawfully made by him.

(2) The provisions of sub-sections (2), (3) and (4) of section 99 shall apply to any such suit as if for the word "tenant" the word "thekadar" were substituted.

### Section 213 - Surrender

A thekadar may, with the consent of his lessor, surrender his interest in the theka at any time.

### Section 214 - Improvements

In the absence of anything to the contrary in the terms of the theka--

(a) a landlord, notwithstanding the theka, may make any improvement on or affecting the theka area which he is entitled under section 115 to make.

(b) thekadar may with the written consent of the land-lord make any improvement which the landlord could lawfully make.

#### Section 215 - Compensation for improvements

A thekadar who has made an improvement which he is entitled to make shall be entitled to compensation as provided in sections 78 and 212, and the amount of such compensation, shall be determined in the same way as compensation to a tenant as provided in section 117.

#### Section 216 - Application of section 129 to 132 and sections 140 to 151

Except as otherwise provided by the terms of the theka the provisions of sections 129 to 132 (except sub-section (2) of section 132 and the words "or by distraint" and the words "or in any one or more of such ways" in sub-section (1) of

the same section) and of sections 140 to 151 inclusive shall apply to a thekadar as if for the word "tenant" the word "thekadar" were substituted.

#### Section 217 - Application of sections 265 and 266

The provisions of sections 265 and 266 governing the exercise by two or more co-sharers of their rights as against a common tenant shall be applicable also to the exercise of such rights as against a common thekadar.

#### Section 218 - Provision for holding over

If thekadar remains in possession after the expiry of his theka, and the lessor accepts rents from him or otherwise assents to his continuing in possession, the theka is in the absence of an agreement to the contrary renewed from year to year.

#### Section 219 - Saving of agreement between the thekadar and his lessor

(1) The provisions of sections 71, 73, 74, 75 and 76 shall apply to all thekadars unless there is an express provision to the contrary in the theka.



(2) A theka shall be deemed to be a lease for agricultural purposes within the meaning of section

117 of the Transfer of Property Act, 1882.

Section 220 - Application of fourth Schedule

Every suit or application brought by a thekadar against his lessor, or against a thekadar by his lessor, under the provisions of this chapter, which is of the same nature as any suit or application specified in the Fourth Schedule which may be brought by a tenant against his landholder or by a landholder against his tenant, shall, be deemed to be included in that schedule under the same serial number as such similar suit or applications.

Chapter XIV - ARREARS OF REVENUE, PROFITS, ETC.

Section 221 - Suit for arrears of revenue etc. by lambardar

A lambardar may sue a co-sharer for arrears of revenue payable to the Government through the lambardar by such co-sharer and for village expenses and other dues for which such co-sharer may be liable to the lambardar.

Section 222 - Suit for arrears of revenue by co-sharer

A co-sharer who pays arrears of revenue on account of another co-sharer who defaults may sue such co-sharer for the amount so paid.

Section 223 - Suit for arrears of revenue by muafidar, etc

A muafidar or assignee of revenue may sue for arrears of revenue due to him as such.

Section 224 - Smt. for arrears of revenue or rent by taluqdar, etc

A taluqdar or other superior proprietor may sue

for arrears of revenue or rent due to him as such.

## Section 225 - Profits when divisible

(1) In the absence of any determination of the date by the settlement officer, or of an express agreement among the co-sharers, profits, shall be divisible on such dates as the (State Government)<sup>1</sup> may, be rules made under this Act, prescribe.

(2) Revenue or profits not paid on the day on which they fall due become on the following day arrears, and the lambardar or co-sharer or muafidar or assignee of revenue or taluqdar or superior proprietor, as the case may be, entitled to realize such dues, shall be entitled to claim interest on such arrears at one per cent per mensem.

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

## Section 226 - Suit for settlement of accounts and profits against lambardars

(1) A co-sharer may sue the lambardar for settlements of accounts and for his share of the profit of a mahal, or of any part thereof.

(2) In any such suit the court may award to the plaintiff not only a share of the profits actually collected, but also of such sums as have remained uncollected owing to the negligence or misconduct of the lambardar.

(3) In any such suit the burden of proving the amount collected shall be on the lambardar, and where he fails to discharge it the court may presume that the profits have been collected in full or with such deduction on account of unrealizable arrears as it considers reasonable.

#### Section 227 - Suit on profits against co-sharer

(1) A co-sharer may sue another co-sharer for a settlement of accounts, and for his share of the profits of a mahal, or of any part thereof.

(2) In any such suit when it is proved or admitted that either party has made collections the amount of which is in issue, he shall be bound to furnish a true account of such collections. If he fails to do so the court may make any presumption against him which it considers reasonable.

## Section 228 - Form of plaint and decree in certain suits

In any suit under sections 221, 222, or 227 the plaintiff may sue any number of co-sharers collectively but in such case the decree shall specify the extent to which each of the defendants is affected thereby.

Section 229 - "Words "lambardar, etc include "heirs etc."

The words "lambardar," "co-sharer," "muafidar," "assignee of revenue," "taluqdar" and "superior proprietor" in this chapter include also the heirs, legal representatives, executors, administrators and assigns of such persons.

## Chapter XV - JURISDICTION OF COURTS

Suits and applications

Section 230 - Suits and application cognizable by revenue courts only

Subject to the provisions of section 271 all suits and applications of the nature specified in the Fourth Schedule shall be heard and determined by the revenue courts, and no courts other than a revenue court, shall except by way of appeal or revision as provided in this Act, take cognizance of any suit or application, or of any suit or application based on a cause of action in respect of which.....1relief could be obtained by means of any such suit or application2.

Explanation--If the cause of action is one in respect of which 3relief might be granted by the revenue court, it is immaterial that the relief asked from the civil courts may not be identical with that which the revenue court could have granted.

1. The word (adequate) omit, by s. 2(2) of U.P. Act XIII of 1939.

2. For transfer of suits, see s. 4 of ibid. It

runs as follows:

"All suits which under the provisions of s. 230 of the Agra Tenancy Act, 1926, as amended by this Act or the provisions of s. 108 of the Oudh Rent Act, 1886 as amended by this Act, would lie in the revenue court and which at the date of the commencement of this Act are pending in any civil court of first instance shall at such commencement be transferred to the revenue court having jurisdiction under the provisions of these Acts as so amended and such revenue court shall proceed to decide such suits as if the same had been instituted in a revenue court and the proceedings recorded by the civil court had been recorded by it."

3. The word (adequate) omit, by s. 2(2) of U.P. Act XIII of 1939.

### Section 231 - Application of Limitation Act

Subject to the provisions of this Act, the provisions of section 4 of the Indian Limitation Act, 1908, shall apply to all suits and other proceedings under this Act.

## Section 232 - Limitation in cases under Act

The suits and other proceedings specified in the fourth Schedule shall be instituted within the time prescribed in that schedule for them respectively.

## Section 233 - Court-fees payable on suits and applications

For the purposes of the Court Fees Act, 1870, the amount of fee payable in the suits and other proceedings specified in the Fourth Schedule shall be computed as prescribed in the sixth column thereof.

## Grades of Courts

## Section 234 - Powers of assistant collector of the second class

An assistant collector of the second class shall have power to dispose of all suits specified in serial nos. 4 to 9 (inclusive) of group A, in which the value of the subject-matter does not



exceed two hundred rupees, and all applications included in group C of the Fourth Schedule.

### Section 235 - Powers of assistant collector of the first class

An assistant collector of the first class shall have power to dispose of all suits and applications specified in groups A, B and C of the Fourth Schedule.

Provided that no assistant collector shall have power to try suits for the enhancement, abatement or commutation of rent under Chapter V, unless he is empowered by the (State Government)<sup>1</sup> in that behalf.

1. Substituted by the A.O. 1950 for (Prov'l. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

### Section 236 - Powers of Assistant collector in charge of sub-division

An assistant collector in charge of a sub-division

shall have power to dispose of all applications specified in group D of the Fourth Schedule.

### Section 237 - Powers of Collector

A collector shall have all the powers which may be exercised under this Act by an assistant collector in charge of a sub-division, and in addition shall also have power to dispose of the applications specified in group E of the Fourth Schedule.

### Section 238 - Investment of assistant collector with powers of collector

The (State Government)<sup>1</sup> may confer on an assistant collector of the first class all or any of the powers of a collector under this Act and he shall exercise such powers in respect of such a cases or classes of cases as the collector may direct.

1. Substituted by the A.O. 1950 for (Prov'l. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

Section 239 - Courts in which proceedings to be instituted

(1) Notwithstanding anything contained in section 15 of the Code of Civil Procedure, 1908--

(a) all suits specified in serial nos. 4 to, 9 (inclusive) of group A, in which the value of the subject-matter does not exceed two hundred rupees, and all applications included in group C of the Fourth schedule shall be filed in the court of the tahsildar;

(b) all suits under serial nos. 1, 2, 3, 10, 11, 12, 13, 14 and 15 of group A, and all other suits included in group A in which the value of the subject-matter exceeds two hundred rupees, and all suits included in group B of the Fourth Schedule, and all applications included in group D of the Fourth Schedule, shall be filed in the court of the assistant collector in charge of the sub-division.

Provided that if there is no assistant collector in charge of the sub-division, all such suits and applications shall be filed in the court of the collector:

Provided also that the collector may by written

order direct that any class of suits or applications referred to in this sub-section shall be instituted in the court of any other assistant collector competent to try them under the provisions of this Act.

(2) All applications included in group E of the Fourth Schedule shall be filed in the court of the collector.

Courts in which certain applications to be made

(3) All applications included in group F of the Fourth Schedule shall be filed in the court empowered to entertain them under the provisions of this Act.

Appellate jurisdiction of courts

Section 240 - Appeal to be as allowed by Act

No appeal shall lie from any decree or order passed by any court under this Act except as provided in this Act.

Appeals from original decrees

Section 241 - Appeals from decrees of Assistant collectors of the second class

Except as provided by section 271 an appeal shall lie to the collector from every decree of an assistant collector of the second class.

Section 242 - Appeals from decrees of assistant collectors, first class, or collector to commissioner or civil court

(1) An appeal shall lie to the district judge from the decree of an assistant collector of the first class or of a collector in any of the suits included in group A of the Fourth Schedule in which--

(a) the amount or value of the subject matter exceeds rupees two hundred; or

(b) the rent annually payable by a tenant has been in issue in the court of first instance, and is in issue in the appeal; or

(c) the amount of rent payable separately to one or more of a number of co-sharers has been in

issue in the court of first instance, and is in issue in the appeal; and in any suit under sections, 221, 222, 223, 224, 226 and 227 in which--

(d) the amount of the revenue annually payable has been in issue in the court of first instance and is in issue in appeal;

Provided that, when the amount or value of the subject matter of the suit exceeds

Rs. 5,000, the appeal shall lie to the High Court.

(2) Subject to the provisions of sub-section (3) of this section and section 195, an appeal shall lie to the commissioner from the decree of a collector or of an assistant collector of the first class in all suits included in group B of the Fourth Schedule.

(3) In addition to the provisions of section 271 an appeal shall lie to the district judge from the decree of an assistant collector of the first class or of a collector in all suits except suits under chapter XI in which--

(a) question of proprietary right has been in issue between the parties claiming such right in the court of first instance, and is in issue in

the appeal; or

(b) a question of jurisdiction has been decided and is in issue in the appeal;

Provided that when the amount or value of the subject matter of the suit exceeds

Rs. 5,000, the appeal shall lie to the High Court.

Appeals from appellate decrees

Section 243 - Appeals from appellate decree of collector

An appeal shall lie to the district judge from the appellate decree of a collector in any suit in which-

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(a) a question of proprietary right has been in issue between the parties claiming such right in the first appellate court, and is in issue in the appeal; or

(b) a question of jurisdiction has been decided and is in issue in the appeal.

Section 244 - Appeals from appellate decree of commissioner

An appeal shall lie to the Board from the appellate decree of commissioner on any of the grounds specified in section 100 of the Code of Civil Procedure 1908.

Section 245 - Power of Board to reject an appeal summarily

The Board may either admit an appeal or may summarily reject it.

Section 246 - Appeals from appellate decree of district judge

An appeal shall lie to the High Court from the appellate-decree of a district judge on any of the grounds specified in section 100 of the Code of



Civil Procedure, 1908.

Appeals from orders

Section 247 - Appeals from orders of assistant collector of the second class

An appeal shall lie to the collector from every order of an assistant collector of the second class.

Section 248 - Appeals from orders of assistant collector of the first class and of collector

(1) An appeal shall lie to the collector from the order of an assistant collector of the first class and to the commissioner from the original order of a collector, in any of the cases specified below, namely--

(a) orders rejecting an application under section 15(2), or (3)

(b) orders deciding a question regarding compensation for improvements under section 78;

(c) orders allowing time under section 80;

(d) orders under section 114, section 115, section

120(c) and section 124.

(2) An appeal shall lie from the order of an assistant collector in charge of a sub-division under section 18 in accordance with the provisions of section 18(7).

(3) An appeal shall lie from the following order of an assistant collector of the first class or of a collector, namely, orders mentioned in section 47 and 104 and in order XLIII, rule 1, of the Code of Civil Procedure, 1908.

Such appeal shall lie to the court, if any, having jurisdiction under section 242 of this Act to hear an appeal from the decree in the suit, or in the case of applications for execution, the court having jurisdiction to hear an appeal from the decree which is being executed.

(4) An appeal shall lie to the Board from every order under sections 40, 41 and 42.

Section 249 - Appeals not to be from appellate orders

No appeal shall lie from any order passed in

appeal.

Review

Section 250 - Review by Board

The Board, on its own motion or on the application of a party to the case, may review and may rescind, alter or confirm any decree or order made by itself, or by a single member.

Section 251 - Review by other courts

Every other court shall be competent to review its judgment in accordance with the provisions of the Code of Civil Procedure, 1908, and all the provisions of order XLVII of the said Code shall apply to any such review.

Revision

Section 252 - Powers of Board to call for cases

The Board may call for the record of any case decided by any subordinate revenue court in which

no appeal lies either to the district judge or to the Board, and if such subordinate court appears--

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the Board may pass such order in the case as it thinks fit.

Section 253 - Power of High Court to call for cases

The High Court may call for the record of any suit or application which has been decided by any subordinate revenue court and in which an appeal lies to the district judge, and in which no appeal lies to the High Court, and if such subordinate revenue court appears--

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise its jurisdiction illegally or with material irregularity, the High Court may pass such order in the case as it thinks fit.

### Section 254 - Reference Board to High Court

Where the two members of the Board differ regarding a point of law they may make a reference to the High Court of Judicature at Allahabad, whose decision shall be final.

### Transfer of cases

### Section 255 - Transfer of cases by Board

The Board may, on sufficient cause being shown, transfer any suit, application or appeal, or class of suits, applications or appeals from any revenue court to any other revenue court competent to deal therewith.

## Section 256 - Transfer of cases by commissioner

A commissioner may exercise within the limits of his division the same powers as the Board under the last preceding section.

## Section 257 - Transfer of appeals by commissioner to collector

(1) A commissioner may, with the previous sanction of the Board, transfer any appeal or class of appeals, pending before himself, to any collector or additional collector within his division.

(2) The order passed by the collector or additional collector on an appeal transferred to him by a commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the commissioner.

(3) The commissioner may by order recall any appeal or class of appeals transferred to a collector or additional collector under sub-section (1) to his own court.

## Section 258 - Transfer of cases by collector or assistant collector

A collector or an assistant collector in charge of a sub-division may transfer any case or class of cases, pending for before himself, to any subordinate court competent to deal therewith.

Section 259 - With drawal of cases by collector or assistant collector

A collector or an assistant collector incharge of a sub-division may withdraw any case or class of cases from any court subordinate to him, and may try such case or class of cases himself, or transfer the same to any other subordinate court competent to deal therewith.

Section 260 - Transfer and with-drawl of cases by settlement officer

A settlement officer may transfer any case or class of cases pending before him to any assistant settlement officer, and may withdraw any case or class of cases from and assistant settlement officer and may try such case or class of cases himself, or transfer the same to any other assistant settlement officer.

## Section 261 - Subordinate of courts

For the purpose of sections 258 and 259 the courts of all assistant collectors shall be deemed to be subordinate to the collector and the courts of all assistant collectors of the second class to be subordinate to the assistant collector in charge of the sub-division within which they exercise jurisdiction.

## Chapter XVI - PROCEDURE

### Section 262 - Place of sitting of revenue courts

(1) The Board may sit for the disposal of cases under this Act at the headquarters of any district in

Agra,

(2) Every other revenue court shall sit for the disposal of such cases as is provided in section



189 of the United Provinces Land Revenue Act, 1901.

Section 263 - Applications on which orders may be passed without notice

No notice to the opposite party shall be necessary before orders are passed on application under sections 144, 150 and 159.

Section 264 - Application of Code of Civil Procedure

The provisions of the Code of Civil Procedure, 1908, except--

(a) provisions inconsistent with anything in this Act, so far as the inconsistency extends.

(b) provisions applicable only to special suits or proceedings outside the scope of this Act, and

(c) the provisions contained in list I of the Second Schedule,

shall apply to all suits and other proceedings under this Act, subject to the modifications

contained in list II of the Second Schedule.

## Section 265 - Powers of lambardar

(1) The lambardar in an undivided mahal or in the common land of the mahal, thok or patti or of which he is the lambardar is entitled in the absence of any contract or usage to the contrary to collect rents and other dues.

(2) Wherever the lambardar is entitled under the provisions of sub-section (1) to collect rents, he shall also be entitled to settle and eject tenants, to eject rent-free grantees, to enhance rents, and to do all acts incidental to the proper management of the estate with a view to the common benefit:

Provided that a lambardar shall not be entitled on behalf of other co-sharers without their written consent to--

(a) grant a theka;

(b) sell or cut down trees or groves;

(c) confer occupancy rights otherwise than in

accordance with the provisions of section 17 of this Act.

## Section 266 - Suits, etc. by cosharers in undivided property

(1) Except as otherwise provided in section 265, where there are two or more co-sharers in any right, title or interest, all things required or permitted to be done by the possessor of the same shall be done by them conjointly, unless they have appointed an agent to act on behalf of them all.

(2) Nothing in sub-section (1) shall affect any local usage or special contract by which a co-sharer in an undivided property is entitled to receive separately his share of the rent payable by a tenant.

(3) When one of two or more co-sharers is not entitled to sue alone, and the remaining co-sharers refuse to joins plaintiffs in a suit for money recoverable by them jointly, such co-sharer may sue separately for his share, joining the remaining co-sharers as defendants.

(4) Where the tenant of any holding, is also a co-sharer in the proprietary right in such holding, nothing in this section shall require him to be joined as plaintiff in any suit or application brought or made against him as such tenant under the provisions of this Act.

## Chapter XVII - CONFLICT OF JURISDICTION AND QUESTIONS OF TITLE CONFLICT OF JURISDICTION

### Section 267 - Power to refer to High Court question as to jurisdiction

(1) Where either a civil or a revenue court is in doubt whether it is competent to entertain any suit, application or appeal, or whether it should direct the plaintiff, applicant or appellant to file the same in a court of the other description, the court may submit the record, with a statement of the reasons for its doubt, to the High Court.

(2) Where any suit, application or appeal, having been rejected either by a civil court or by a revenue court on the ground of want of

jurisdiction, is subsequently filed in a court of the other description, the latter court, if it disagrees with the finding of the former, shall submit the record with a statement of the reasons for its disagreement, to the High Court.

(3) Provided that, if the court is a revenue court subordinate to a collector, no reference shall be made under the foregoing provisions of this section except with the sanction of the collector previously obtained.

(4) On any such reference being made, the High Court may order the court either to proceed with the case, or to return the plaint, application or appeal for presentation to such other court as it may declare to be competent to try the same.

(5) The order of the High Court shall be final and binding on all courts subordinate to it or to the Board of Revenue.

Section 268 - As to plea in appeal that suit was instituted in wrong court

When, in a suit instituted in a civil or revenue court, an appeal lies to the District Judge or

High Court, an objection that the suit was instituted in the wrong court shall not be entertained by the appellate court unless Such objection was taken in the court of first instance; but the appellate court shall dispose of the appeal as if the suit had been instituted in the right court.

Section 269 - Procedure when such objection was taken in court of first instance

(1) If in any such suit such objection was taken in the court of first instance, but the appellate court has before it all the material necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right court.

(2) If the appellate court has not before it all such materials, and remands the case, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the court in which the suit was instituted, or to such court as it may declare to be competent to try the same.

(3) No objection shall be taken or raised in appeal or otherwise to any such order on the ground that it has been directed to a court not competent to try the suit.

## Question of Proprietary Right in Revenue Court

Section 270 - Procedure when tenant pleads  
opposite party is not his and holder

(1) When in any suit brought under this Act--

(a) by a landholder against a tenant for arrears  
of rent, or

(b) by a tenant against a landholder to contest a  
distrainment for arrears of rent,

the tenant pleads that he has paid the rent of the holding for the period in respect of which the suit is brought or the distrainment made to a third person to whom he has in good faith been paying the rent of the holding up to the date of institution of the suit or the date of the distrainment, such person shall, at the cost of the plaintiff, be made a defendant in the suit, and the question of the payment of rent in good faith to such third person by the tenant shall be inquired into.

(2) If the question is determined in favour of the tenant, the suit shall be decided in his favour and he shall not be made a party to any subsequent suit between the landholder and the third person for the recovery of the amount so paid or for the determination of the property right in the holding.

### Section 271 - Procedure when party raises plea of proprietary right

(1) If (a) in any suit or application filed in a revenue court against a person alleged to be the plaintiff's tenant or under section 44 the defendant pleads that he is not a tenant, but has a proprietary right in the land, or

(b) in any suit instituted under Chapter XIV the defendant pleads that the plaintiff has not got the proprietary right entitling him to institute the suit, or

(c) in any suit instituted under section 121 a dispute as to the proprietary right in the land in suit is raised,

and such question of proprietary right has not been already determined by a court of competent



jurisdiction, the revenue court shall frame an issue on the question of proprietary right and submit the record to the competent civil court for the decision of that issue only.

Explanation I--A plea of proprietary right which is clearly untenable and intended solely to oust the jurisdiction of the revenue courts shall not be deemed to raise a question of proprietary right within the meaning of this section.

Explanation II--"A question of proprietary right" does not include the question whether land in the actual possession of a proprietor thereof is held by such proprietors as his sir or khudkasht or as a tenant or sub-tenant.

(2) The civil court, after re-framing the issue, if necessary, shall decide that issue only and return the record together with its finding on that issue to the revenue court which submitted it.

(3) The revenue court shall then proceed to decide the suit, accepting the finding of the civil court on the issue referred to it.

(4) Every decree of a revenue court passed in a suit in which an issue involving a question of proprietary right has been decided by a civil court under sub-section (2) of this section shall

(a) if the question of proprietary right is in issue also in appeal, be appealable to the civil court which has jurisdiction to hear appeals from the court to which the issue of proprietary right has been referred;

(b) if the question of proprietary right is not in issue in appeal, be appealable to the revenue court.

#### Section 272 - Procedure in appeal in such case

If any such question of proprietary right has been determined by a revenue court, and is a matter in issue in appeal in the court of the district Judge or the High Court, and such appellate court has not before it all the materials necessary for the determination of such question, it may either--

(a) remand the case to the revenue court, or

(b) frame issues with respect to such question and refer them for trial to any subordinate civil court of competent jurisdiction.

#### Questions of Tenant Right in Civil Court

## Section 273 - When Civil court to refer issue to revenue court

(1) If in any suit relating to an agricultural holding instituted in a civil court, the defendant pleads that he holds such land as the tenant of the plaintiff or of a person in possession holding from the plaintiff the civil court shall frame an issue on the plea of tenancy and submit the record to the appropriate revenue court for the decision of that issue only.

(2) The revenue court after re-framing the issue, if necessary, shall decide that issue only, and return the record together with its finding on that issue to the civil court which submitted it.

(3) The civil court shall then proceed to decide the suit, accepting the finding of the revenue court on the issue referred to it.

(4) The finding of the revenue court on the issue referred to it, shall, for purposes of appeal, be deemed to be part of the finding of the civil court.

Chapter XVIII - MISCELLANEOUS

## Section 274 - Power of State Government to make rules

The (State Government)<sup>1</sup> may, after previous publication-make rules<sup>2</sup> consistent with this Act--  
(a) as to the fees payable under this Act;  
(b) as to the time of the year for execution of decrees for ejectment in any local area; (c) as to the attestation of leases, counterparts and agreements under section 127; (d) as to the dates on which profits shall be divisible;  
(e) generally for giving effect to the provisions of this Act; and

(f) as to the publication and cancellation to notifications under clause (a) of the third proviso of section 19.

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

2. For rules, see nots. no. 3346/IA--281-1927, d.

Sep. 8, 1927, in Gaz., 1927, Pt. I, p. 1075, no. 171/IA--455-1927, d. Jan. 31,

1928, in *ibid* 1928, Pt. I, p. 102, no. 2240/IA-90-1932, d. Nov. 3, 1932, in *ibid* 1932, Pt. I, p. 978, no. 1916/I--405, d. July 30,

1935, and no 2460/I--90-1932, d. Oct. 25, 1935, in *ibid* 1935, Pt. I, pp. 1010 and 1380, respectively, and no. 1300/I--1935,

213-1336, d. June 25, 1936, in *ibid* 1936; Pt. I, pp. 751-752.

## Section 275 - Power of Board to make rules

The Board may, with the previous sanction of the (State Government) 1 and after previous publication, make rules<sup>2</sup> consistent with this Act and with any rules made under section 274--

(a) for the guidance of officers in the determination, enhancement abatement and commutation of rent;

(b) as to the manner of publication of a notice of abandonment;

(c) as to the procedure to be followed in applications under this Act; (d) as to the transfer of cases by revenue courts; (e) as to the person before whom, and the mode in which, affidavits may be made and the matters which may be proved by affidavit; and

(f) generally for giving effect to the provisions of this Act.

1. Substituted but A.O. 1950 for (Provl. Govt.) which had been Substituted by the A.O. 1939 for [L.G.]

2. For rules, see nots, on. 911/Judl.,--384B, d. Oct. 8, 1227, no. 923/Judl. 384B, d. Dec, 17, 1927, in no. 175/Judl.--  
884B. d. Dec. 9, 1927 and no. 1095/Judl.--

334B, d. Dec. 21, 1927, Gaz. 1927, Pt. 11, pp. 995, 1004, 1206 and 1209--1910, respectively; no. 295/Judl.--

384B, d. Feb. 14, 1928, no. 476/Judl.--

391B, d. May 9, 1928, no. 598 Jndl./384B, d. July 11, 1928, no. 600/Judl--388B, d. July 12, 1928, no. 643, judl.--

884B, d. July 26, 1928 and no. 741/Judl.--

384B, d. Sep. 8, 1928, in *ibid*, 1028, Pt. 11, pp. 235-236, 548--550, 874--876, 928 and 1139-1140 respectively; no. 476/Judl.--

384B, d. July 1, 1929, and no. 582/Judl.--

384B, d. July 3, 1929, in *ibid* 89, Pt. 11, pp. 749 and 835-836, respectively; no. 382/Judl.--

531B, d. April 8, 1932, in *ibid* 1932r Pt. 11, pp. 800B.--

300D, and no. 1300/I-213-1935 d. June 25, 1936, in *ibid*, 1936, Pt. I, pp. 751-752.

Section 276 - Provisions for excessive ejectment suits before commencement 1 Act

(1) When at the commencement of this Act proceedings in the court of first instance in any suit instituted under clause (a) or clause (b) of section 58 of the Agra Tenancy Act, 1901, at any time between the first day of July, 1924, and the thirtieth day of June, 1926, inclusive, are stayed under an order of the collector, the court shall dismiss such suit, and the order of the collector staying the suit shall not be questioned in any civil or revenue court:

Provided that the process-fees and court-fees paid by the plaintiffs in such suits shall be refunded to them.

(2) The collector may pass an order declaring the number of suits instituted by a landlord after the thirtieth day of June, 1926, under clause (a) or clause (b) of section 58 of the Agra Tenancy Act, 1901, relating to land in any specified mahal, to be excessive, and the court shall thereupon dismiss all such suits and order the refund to the plaintiff of the process-fees and court-fees paid by him in such suits:

Provided (a) that, in deciding whether the number



of such suits is excessive, the collector shall have regard to the average number of suits instituted by the landlord in the five years preceding the first day of July, 1924, in respect of land in that mahal under the aforesaid clause of section 58 of the Agra Tenancy Act, 1901, and (b) that the number of such suits instituted by a landlord after the thirtieth day of June, 1926, shall not be deemed to be excessive unless it exceeds by fifteen per cent, the average number of such suits instituted by him during the aforesaid five years.

(3) Nothing in this section shall apply to a suit for the ejectment of a thekadar, a sub-tenant, or a tenant of land in which statutory rights do not accrue under the provisions of section 19.

(4) A tenant, a suit against whom has been dismissed under the provisos of this section shall not be deemed to have acquired a right of occupancy at the commencement of this Act, unless he had acquired such a right at the date of the institution of the suit.

Section 277 - Demand of receipt by registered post

(1) A tenant to whom, on payment of rent to his land-holder, receipt in the prescribed form has not been given may, within three months of the date of payments demand a receipt from the landholder by registered post.

(2) If the tenant without reasonable cause fails to make such demands he shall not be entitled to compensation under the provisions of section 143.

#### Schedule - THE FOURTH SCHEDULE

#### THE FOURTH SCHEDULE

(The jurisdiction both original and appellate specified in the heading of each group is in all cases subject to the Provisions of sections 241, 271 and 273)

#### GROUP A--Suits

Suits triable, in the case of serial nos. 1, 2, 3, 10, 11, 12, 13, 14 and 15, whatever the value, and in the case of serial nos. 4 to 9 (inclusive), when exceeding Rs. 200 in value by assistant collector of the first class--appeal, if any, to the civil court, in the case of serial nos. 4 to 9

(inclusive) were not exceeding Rs. 200 in value, by assistant collector of the second class--appeal to collector.)

Serial number

Section of Act

Description of suit  
limitation

Period of

Time from which period begins to  
run

Proper court- fees

|                                 |    |  |
|---------------------------------|----|--|
| 1                               | 48 | For compensation for rent or produce exacted in excess of rent lawfully payable. |
| One month                       |    |  |
| The date of the exaction        |    |  |
| As in the Court Fees Act, 1870. |    |  |

|          |    |   |
|----------|----|---|
| 2        | 84 | For the ejectment of a tenant on a ground specified section 84. |
| One year |    | When the forfeiture is in occurred or the condition is broken.  |
| Ditto.   |    |   |

|   |    |   |
|---|----|---|
| 3 | 85 | For an injunction, or for the repair of |
|---|----|---|



175

As in section

175

Ditto.

7                            178                            To recover compensation  
for distraint and sale of property.

Two months

The date on which the sale taken  
place.

Ditto

8                            179                            For compensation for  
wrongful acts of distrainer.

Ditto                            The date on which the right sue  
accrues.

Ditto.

9                            180(2)                            For recovery of the  
amount realized from a sub-tenant by

Ditto                            The date of realization.

Ditto.

proceedings in

distrain.

10                            221                            By a lambardar to recover  
from a co- sharer arrears of revenue, village  
expenses, and other  
dues.

Three years  
When the arrears become due.  
Ditto.

11                      222                      By a co-sharer to recover  
from a co- sharer who defaults arrears of revenue  
paid by the plaintiff on account of the  
defendant.  
Ditto                      When the arrears wee paid  
Ditto.

12                      223                      By a muafidar or assignee  
of revenue for arrears of revenue due  
to him as such.  
Ditto                      When the arrears become  
due.  
Ditto.

13                      224                      By a taluqdar or other  
superior proprietor for arrears of revenue or rent  
due to him as  
such.  
Ditto                      Ditto                      Ditto.

14                      226                      By a co-sharer against a  
lambardar for his share the profits of a mahal, or  
of any part  
thereof.  
Ditto                      When the share of the profits  
become

payable.  
Ditto.

15                      227                      By a co-sharer against a  
co-sharer/or a settlement accounts and his share  
of the profits of the mahal, or  
of any part thereof.

Ditto                      Ditto                      Ditto.

(Suits triable by assistant collector of the first  
class--Appeal to Commissioner except in the case  
of serial

nos. 19, 20 and 21, which are governed by section  
195)

serial number  
Section of Act  
Description of suit  
Period of limitation  
Time from which period  
Proper court-fees  
begins to run

1                      37                      For division of a  
holding or distribution of rent or both.  
None                      None                      On rent payable  
in respect of the part

to be separated as in the Court Fees Act,

1870.

|   |    |  |
|---|----|--|
| 2 | 44 | For ejection of trespasser and damages |
|---|----|--|

Twelve years  
When the landholder first knew of the unauthorized occupation.  
On rent payable as in the Court Fees Act, 1870.

|   |    |                           |
|---|----|---------------------------|
| 3 | 45 | For determination of rent |
|---|----|---------------------------|

As in section 45.  
As in section

45  
As in the Court Fees Act, 1870.

|   |    |                         |
|---|----|-------------------------|
| 4 | 60 | For commutation of rent |
|---|----|-------------------------|

None                      None                      Ditto.

|   |    |   |
|---|----|---|
| 5 | 61 | For enhancement or abatement of the rent of a fixed-rate, ex-proprietary, |
|---|----|---|





lease for a period exceeding term of landlords' engagement with the (State Government.)<sup>1</sup>

One year From the date of declaration of the new assessment.

According to the amount of the rent payable under the lease.

10 82 For relief against a tenant or his transferee on account of an illegal sub-lease or other transfer.

None None As in the Court Fees Act, 1780.

11 92 For the ejectment of a non-occupancy tenant who contests his liability to ejectment.

None None According to the amount of the rent payable by the tenant.

12 99 For recovery of possession of a holding or for compensation, or both.

Six months

When the wrongful dispossession takes place. As in the Court Fees Act, 1870.

|       |       |   |
|-------|-------|---|
| 13    | 106   | To set aside a notice of<br>surrender<br>Fifteen days<br>The date of the receipt of service of the<br>notice.<br>As in the Court Fees Act,<br>1870. |
| 14    | 108   | For possession by an heir<br>or<br>reversioner<br>Six months<br>The date of entry by the<br>landholder.<br>Eight annas.                             |
| 15    | 121   | For a declaration of<br>plaintiff's<br>right as tenant.<br>None   |
|       | None  | Ditto.)2  |
| (15-A | 121-A | For a declaration that land<br>is sir<br>or khudkasht or for an injunction in respect of<br>such land.<br>Do.                                       |
|       | Do.   | Ditto.  |
| 16    | 122   | By a landholder for a<br>declaration as to who is his<br>tenant.  |

|   |     |                           |
|---|-----|---------------------------|
| Do.   | Do. | Ditto.                    |
| 17  | 123 | For a declaration as to   |
| any matter specified in<br>section 123.                                   |     |                           |
| Do.   | Do. | Ditto.                    |
| 18  | 125 | For a lease or            |
| counterpart   |     |                           |
| Do.   | Do. | As in the                 |
| Court Fees Act,<br>1870.  |     |                           |
| 19  | 186 | For assessment of revenue |
| on a rent-free grant.   |     |                           |
| Do.   | Do. | According to              |
| the annual letting value of the land as<br>estimated by the<br>plaintiff. |     |                           |
| 20  | 187 | For fixing rent on a      |
| rent-free<br>grant 9.   |     |                           |
| Do.   | Do. | Ditto.                    |
| 21  | 188 | For the ejectment of      |
| rent-free<br>grantee<br>Twelve years<br>As in section                     |     |                           |

189

Ditto.

GROUP C--Applications triable by Assistant  
Collector of the second class

Serial number

Section of Act

Description of application                      Period of  
limitation

Time from which period begins  
to run

Proper court- fees

|   |    |   |
|---|----|---|
| 1 | 81 | For arrears of rent or<br>ejectment in default<br>Three years<br>When the arrears become due.<br>As in the Court Gees Act,<br>1870. |
|---|----|---|

|   |    |   |
|---|----|---|
| 2 | 86 | For the ejectment of<br>non-<br><br>occupancy tenant. |
|---|----|---|

|  |      |                          |
|--|------|--------------------------|
| None                                   | None | Eight.                   |
| 3                                      | 105  | For the service of a     |
| notice of' surrender under             |      |                          |
| section 103 or 104.                    |      |                          |
| As in section                          |      |                          |
| 105                                    |      |                          |
| As in section                          |      |                          |
| 105                                    |      |                          |
| Nil.                                   |      |                          |
| 4                                      | 138  | For the deputation of an |
| officer to make division, estimate, or |      |                          |
| appraisement of produce or crops.      |      |                          |
| None                                   | None | As in the Court Fees     |
| Act.                                   |      |                          |
| 1870.                                  |      |                          |
| 5                                      | 144  | For permission to        |
| deposit                                |      |                          |
| rent                                   |      |                          |
| Do.                                    | Do.  | One                      |
| rupee.                                 |      |                          |
| 6                                      | 180  | For payment or refund of |
| Do.                                    | Do.  | As in                    |
| rent deposited under section 144.      |      |                          |
| the Court Fees Act,                    |      |                          |

1870.

|     |     |   |
|-----|-----|---|
| 7   | 159 | For assistance to<br>distrainger against resistance or resistance<br>apprehension of<br>resistance. |
| Do. | Do. | Ditto.  |

GROUP D--Applications triable by assistant  
collector in charge of the sub-division

Serial number  
Section of Act  
Description of application  
Period of limitation  
Time from which period  
begins to run  
Proper court-  
fees

|   |       |
|---|-------|
| 1 | 15(2) |
|---|-------|

& (3).  
For relinquishing ex-proprietary rights  
As in section  
15

As in section

15

As in the Court Fees Act,  
1870.

117 For recording

occupancy rights

None None Ditto.

2

3 114 For permission to make  
an  
improvement

Do. Do. Ditto.

4 115 Ditto ditto.  
Do. Do. Ditto.

5 120(1) For establishment of  
right to make  
an improvement.

Do. Do. Ditto.

6 120(1) (b) & (c)  
For settlement of dispute as to an improvement.  
One year The date of completion the  
improvement.



Ditto.

GROUP E--Applications triable by Collector--Appeal  
to Board of Revenue

Serial number

Section of Act

Description of suit

Period of limitation

Time from which period begins to  
run

Proper court fees

1                      39                      To give effect to an  
exchange of land.

None                      None                      According  
to the amount of rent payable or the more highly  
rented of the two- pieces of land  
exchanged.

2                      40                      To acquire land

Do.                      Do.  
According to the amount of rent payable for the  
land  
acquired.

3                      41                      Ditto                      Do.  
Do.                      Ditto.

4                      42                      To recover possession

of land acquired.

Six months

Expiry of two years from the date of acquisition, or the date of admission of another tenant or the use of land for any other purpose, as the

case may be.

ditto.

GROUP F--Other applications--(continued)

Serial number

Section of Act

Description of application

Period of limitation

Time from which period begins to run

Proper court- fees

1                      4(e)                      For declaration and demarcation of land as sir

None                      None                      As in the

Court Fees Act.

18703

2                      80                      For the ejectment of a tenant on the ground of an unsatisfied decree for arrears of rent.

Three years                      The date

of the final decree in the case.

3 .. For the execution of a money decree under this Act, or under any enactment repealed by this Act, not being a decree for (arrears of rent or for)1 a sum of money exceeding Rs. 500, inclusive of the costs of executing such decree, but exclusive of any interest which may have accrued after decree upon the sum decreed.

Ditto

Ditto

Ditto.

[3-A] 4 .. For the execution of a decree for arrears of rent under this Act, not being a decree for a sum of money exceeding Rs. Three years, provided that for every agricultural calamity, other than a slump in prices, in consequences

Ditto.

Ditto.

500, inclusive of the costs of executing such decree, but exclusive of any interest which may have accrued after decree upon the sum decreed. of which there has been a suspension or remission or remission of rent of the holding which

forms the subject matter of the decree, the period of three years shall be extended by six months.

4 .. For the execution of (any money decree under this Act for which provision is not made in series 3 and 3A of this schedule)4.

The period allowed for the execution of a decree of the civil court.

As in the case of a decree of the civil court.

As in the Court Fees Act, 1870.

5 .. For the execution of any decree other than a mone money decree.

One year The date

of the final decree in the case.

Ditto.

6 98 Fort an adjudication as to the price of crops or other products which the land- holder has elected to purchase under section 90.

As in section

98.

As in section 98

Ditto.

|   |         |                   |    |
|---|---------|-------------------|----|
| 7   | 119     | For permission to | As |
| in section  | As in   | Ditto.            |    |
| give compensation otherwise than payment of money for an improvement made by a tenant |         |                   |    |
| 119.  | section |                   |    |

119

|   |                           |                      |
|---|---------------------------|----------------------|
| 8   | 124                       | For determination of |
| rent after ejection from part of holding. |                           |                      |
| Six months                                | The date of the decree or |                      |
| order for                                 |                           |                      |
| ejection,                                 |                           |                      |
| Ditto.                                    |                           |                      |

|   |       |
|---|-------|
| 9 | 250 & |
|---|-------|

251

For a review of judgment.

|             |                           |
|-------------|---------------------------|
| Ninety days | The date of the decree or |
| order.      |                           |

Ditto.

|    |     |              |
|----|-----|--------------|
| 10 | 255 | For revision |
|----|-----|--------------|

None

None

GROUP G--Appeals

Serial number

Section of Act

Description of application

Period of limitation

Time from which period  
begins to run

Proper court-  
fees

1 .. To a Collector

Thirty days

The date of the decree or order appealed  
against.

As in the Court Fees Act,  
1870.

2 .. To a Commissioner or

to a District

Judge

Ditto Ditto Ditto.

3 .. To the Board or the

High  
Court.  
Ninety days  
Ditto

Ditto.

1. Substituted by the A.O. 1950 for (Prov1. Govt.) which had been Substituted by the A.O. 1937 for (L.G.).

2. Inserted by s. 2(3) of the U.P. Act XIII of 1939.

3. Inserted by s. 3 of the U.P. Act VII of 1934.

4. Inserted by s. of *ibid*.

1Substituted or the words (such a decree when exceeding Rs. 500) by s. 5 of *ibid*.

