

# West Bengal Land Reforms Act, 1955

WEST BENGAL

India

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### Act 10 of 1956

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#### 010.

Statement of Objects and Reasons of Act 50 of 1981, dated 24.3.1986. The West Bengal Land Reforms (Amendment) Act, 1981, which was passed in the West Bengal Legislative Assembly in 1981 and to which the President's assent was given on the 6th of March,

#### 1986.

, has been published in the Official Gazette on the 24th of March, 1986. Under the said Act, all rights and interests in land of non-agricultural tenants and under-tenants within the meaning of the West Bengal Non-Agricultural Tenancy Act, 1949 were to vest in the State. The said Act came into force with retrospective effect on the 7th day of August, 1969. One of the objects of the Bill is to specially fix the date of vesting of all rights and interests of all non-agricultural tenants and under-tenants within the meaning of the West Bengal Non-Agricultural Tenancy Act, 1949, as on the 9th of September, 1980, i.e., the date on which the West Bengal Land Reforms (Amendment) Act, 1981, was introduced as a Bill in the West Bengal Legislative Assembly. The proposed amendments to section 3A are also intended to enable a person, whose rights and interests have vested in the State under the said provisions of the Act, to retain land within the ceiling limit prescribed in Chapter II-B of the West Bengal Land Reforms Act, 1955. Amendments to sections 14P and 14U of the principal Act proposed in the Bill are more or less consequential to the proposed amendments to section 3A. A provision has been kept under section 14P in the Bill to exclude bona fide transfer or partition, made lawfully before the 9th of September, 1980, of any land to which section 3A applies.<sup>2</sup> The Bill proposes to amend section 3A of the principal Act to exclude also the lands to which the Calcutta thika Tenancy (Acquisition and Regulation) Act, 1981, applies and also to amend section 14J of the principal Act to exclude from its purview "vacant land" defined under the Urban Land (Ceiling and Regulation) Act, 1976. These amendments are intended to avoid application to a land of more than

one Act under which rights and interests in the land may vest in the State.<sup>3</sup> Section 4B and section 4D which were inserted in the West Bengal Land Reforms Act, 1955, by the West Bengal Land Reforms (Amendment) Act, 1981, came into force with retrospective effect on and from the 7th day of August, 1969. According to the provisions of these sections, transfer, conversion, alteration in area, or change in the use, of a land without obtaining permission from the Collector is punishable. Amendments to sections 4B and 4D are intended to ensure that a transfer, conversion, alteration in area, or change in the use, of a land, if made lawfully by the raiyat in accordance with the provisions of any law for the time being in force do not come within the purview of the said sections so that no person who acted bona fide and in accordance with any law for the time being in force, does not suffer. These provisions will not, however, apply to a transfer of a land if the transferor held land above the ceiling limit prescribed under Chapter II-B of the West Bengal Land Reforms Act, 1955.<sup>4</sup> Amendment to section 14K is intended to define standard hectare for lands other than agricultural lands and orchard.<sup>5</sup> Amendment to section 14Z is intended to ensure that actual area under tea cultivation is not reduced because of application of ceiling provisions of the Act.<sup>6</sup> Amendment to section 48A is intended to make a Common Service Cooperative Society economically more viable and to prescribe a uniform standard of eligibility to be a member of such Cooperative Society which will be applicable to both original and new members.<sup>7</sup> Amendment to section 49 is intended to enable the State Government to settle vested land with statutory bodies so that no legal difficulty is faced in distributing different classes of land that may vest in the State.<sup>8</sup> The Bill proposes amendments to few other provisions of the Act relating to the manner and mode of implementation of the Act. Amendments to sections 14T, 50A, 51A and insertion of the new section 51BB are intended to remove difficulties in implementation of ceiling provisions of the Act and in preparation and maintenance of record-of-rights in land. Statement of Objects and Reasons in the West Bengal Land Reforms (Amendment) Bill 2000. (1) to redefine the term 'bargadar' in such a manner as to exclude certain near relatives of the owner of the land; (2) to change the definition of holding for removing certain unintended anomalies which have arisen from the existing expression; (3) to specify the major modes of use of land so as to prevent conversion of agricultural land into purposes which are not strictly agricultural; (4) to clarify the term 'Township' which has been used in section 14Y of the West Bengal Land Reforms Act, 1955, but has not been properly defined; (5) to amend section 20B of the West Bengal Land Reforms Act, 1955, to facilitate setting up of industry on any land on which there is bargadar(s); (6) to reintroduce Chapter IV of the West Bengal Land Reforms Act, 1955, by repealing the West Bengal Land Holding Revenue Act, 1979, the latter Act having been held ineffective for court orders; and (7) to suggest amendment in section 50, section 51A and section 57 of the West Bengal Land Reforms Act, 1955, so as to permit use of computerized sheets of land records as original records and to facilitate the correction/revision of record-of-rights.] As Amended by Act 6 of 2012 (w.e.f. 07.05.2012) and

### 30. March 1956

An Act to reform the law relating to land tenure consequent on the vesting of all estates and of certain rights therein [and also to consolidate the law relating to land reforms] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.] in the State It is hereby enacted in the Sixth Year of the Republic of India, by the Legislature of West Bengal, as follows :

# Chapter 1

## Preliminary

### 1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Land Reforms Act, 1955.(2)It extends to the whole of West Bengal [except the area described in Schedule 1 of the Calcutta Municipal Corporation Act, 1980 (West Bengal Act LIX of 1980) but not excepting the area included in the said Schedule, which, immediately before the coming into force of the Calcutta Municipal Corporation (Amendment) Act, 1983 (West Bengal Act 32 of 1983) was comprised in the Municipality of Jadavpur, South Suburban r Garden Reach] [Substituted by West Bengal Act No. 5 of 1986, w.e.f. 4.1.1984.]:[Provided that the State Government may, from time to time by notification in the Official Gazette, extend and bring into force the provisions of the Act, in whole or in part, to such part or parts of [the area described in Schedule I of the Kolkata Municipal Corporation Act, 1980 (West Bengal Act LIX of 1980)] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969 (Now see Calcutta Municipal Corporation Act, 1980).] with effect from such date or Cates as may be specified in the notification.](3)This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force on such date or dates and in such district or part of a district as the State Government may from time to time by notification in the Official Gazette specify.

### 1A. Declaration as to the policy of the State.

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India.

### 2. Definitions.

In this Act, unless there is anything repugnant in the subject or context, (1)"agricultural year" means the Bengali year commencing on the first day of Baisakh;(2)"bargadar" means a person who under the system generally known as adhi, barga or bhag cultivates the land of another person on condition of delivering a share of the produce of such land to that person; [and includes a person who under the system generally known as kisani [or by any other description] [Inserted by Act No. 12 of 1972.] cultivates the land of another person on condition of receiving a share of the produce of such land from that person;][but does not include a person who is related to the owner of the land as-(a)wife, or(b)husband, or(c)child, or(d)grandchild, or(e)parent, or (t) grandparent, or(g)brother, or(h)sister, or(i)brother's son or brother's daughter, or(j)sister's son or sister's daughter, or(k)daughter's husband, or (/) son's wife, or(m)wife's brother or wife's sister, or [(ma) husband's brother, or][Inserted by Act No. 31 of 2000, w.r.e.f. 7.8.1969.](n)brother's wife,], and[Explanation. A bargadar shall continue to be a bargadar until cultivation by him is lawfully terminated under this Act;] [Added by Act No. L of 1981, w.r.e.f. 7.8.1969.](3)"certificate" means a certificate signed under the Bengal Public Demands Recovery Act, 1913 (Bengal Act No. 3 of 1913);(4)"Collector" means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of a Collector under this Act;(5)[ "consolidation"

includes re-alignment of a plot of land or rearrangement of parcels of land comprised in different plots of land for the purpose of rendering such plots of land more compact;] [[Subsection (5) substituted by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003) for the following:(5)consolidation includes re-arrangement of parcels of land comprised in a holding or in different holdings for the purpose of rendering such holding or holdings more compact;]](6)[ "co-sharer of a raiyat in a plot of land" means a person, other than the raiyat, who has an undemarcated interest in the plot of land along with the raiyat](6A)"encumbrance" means any lien, easement or other right or interest created by a raiyat on his [plot of land] [Subsection (6) substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or in limitation of his own interest therein, but does not include the right of the bargadar to cultivate the land of the [plot of land] [Substituted for "holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).];(7)[ "land" means land of every description and includes tank, tank-fishery, fishery, homestead, or land used for the purpose of livestock breeding, poultry farming, dairy or land comprised in tea garden, mill, factory, workshop, orchard, hat, bazar, ferries, tolls or land having any other sairati interests and any other land together with all interests, and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to earth;] [[Subsection (7) substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969; the old sub-section read as follows:(7)land means agricultural land other than land comprised in a tea-garden which is retained under sub-section (3) of Section 6 of the West Bengal Estates Acquisition Act, 1953 and includes homesteads but does not include tank.]]Explanation. "Homestead" shall have the same meaning as in the West Bengal Estates Acquisition Act, 1953 (West Bengal Act No. 1 of 1954);(8)"Personal cultivation" means cultivation by a person of his own land on his own account (a)by his own labour, or(b)by the labour of any member of his family, or(c)by servants or labourers on wages payable in cash or in kind not being as a share of the produce or both:[Provided that such person or member of his family resides for the greater part of the year in the locality where the land is situated and the principal source of his income is [produce of,] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1977.] such land.Explanation. The term "family" shall have the same meaning as in clause (c) of Section 14K.];(9)"prescribed" means prescribed by rules made by the State Government under this Act;(9A)"prescribed authority" means an authority appointed by the State Government by notification in the Official Gazette, for all or any of the purposes of this Act;(10)[ "raiya" means a person or an institution holding land for any purpose whatsoever;] [Subsection (10) substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, the old sub-section read as follows: (10) raiyal means a person who holds land for purpose of agriculture;.](11)[ xxx ] [[Omitted by West Bengal Land Holding Revenue Act, 1979, w.e.f. 14.4.1981, the old sub-section read as follows:revenue means whatever is lawfully payable or deliverable in money or kind or both by a <i>raiya</i> under the provisions of this Act in respect of the land held by him;]](12)"Revenue Officer" means any officer whom the State Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue Officer in any area;(13)[ "Scheduled Tribe" shall have the same meaning as in clause (25) of Article 366 of the Constitution of India.] [Substituted by West Bengal Act No. 19 of 1986, w.e.f. 30.7.1965.]

### **3. [ Act to override other laws.**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any custom or usage or contract, express or implied, or agreement or decree or order or decision or award of a court, tribunal or other authority.]

[[Substituted by West Bengal Act L Of 1981, w.r.e.f. 7.8.1969, the old section read as follows:

**3. Act to override other laws etc. The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage, or in any contract expressed or implied inconsistent with the provisions of this Act.]]**

**3A. [ Rights of non-agricultural tenants and under-tenants in non-agricultural land to vest in the State. (1) The rights and interests of all non-agricultural tenants and under-tenants under the West Bengal Non-Agricultural Tenancy Act, 1949 (West Bengal Act No. 20 of 1949) shall vest in the State free from all encumbrances, and the provisions of sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act No. 1 of 1954) shall apply, with such modifications as may be necessary, mutatis mutandis to all such non-agricultural tenants and under-tenants as if such non-agricultural tenants and under-tenants were intermediaries and the land held by them were estates and a person holding under a non-agricultural tenant or under-tenant were a raiyat.**

Explanation. Nothing in sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall be construed to affect in any way the vesting of the rights and interests of a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949 in the State under sub-section (1) of this section.(2)Notwithstanding anything contained in sub-section (1), a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949, holding in his khas possession any land to which the provisions of sub-section (1) apply, shall, subject to the other provisions of this Act, be entitled to retain as a raiyat the said land which together with other lands, if any, held by him shall not exceed the ceiling area under section 14M.(3)Every intermediary, (a)whose land held in his khas possession has vested in the State under sub-section (1), or(b)whose estates or interests, other than land held in his khas possession, have vested in the State under sub-section (1), shall be entitled to receive an amount to be determined in accordance with the provisions of section 14V.(4)[ The provision of this section shall not apply to any land to which the provisions of the West Bengal thika Tenancy (Acquisition and Regulation) Act, 2001 (West Bengal Act 32 of 2001), apply.] [Substituted by the West Bengal Land Reforms (Third Amendment) Act, 1986 (West Bengal Act No. 35 of 1986) published in Calcutta Gazette, dated 12.5.1989, w.e.f. 9.10.1980.](5)This section shall be deemed to have come into force on and from the 9th day of September, 1980.]

## Chapter II

### Raiyats

#### 4. Rights of raiyat in respect of land.

(1) Subject to the other provisions of this Act, a raiyat shall on and after the commencement of this Act be the owner of his [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).] and the [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).] shall be heritable and transferable.[Explanation. For the removal of doubts, it is hereby declared that any person or institution who holds any plot of land (a)under any permit, lease or licence [granted by the State Government shall be deemed to have been substituted with effect from the 7th day of August, 1969] and; or(b)as a thika tenant defined in clause (14) of section 2 of the West Bengal thika Tenancy (Acquisition and Regulation) Act, 2001; or(c)under sairati interests or by retaining such plot of land under clause (g) [or under clause (i) shall be deemed to have been inserted with effect from the 7th day of August, 1969] [Inserted *ibid*, w.r.e.f. 7.8.1969.] of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act 1 of 1954), shall not be a raiyat for the purpose of this sub-section].(2)Nothing in sub-section (1) shall entitle a raiyat to sub-soil rights.(2A)No raiyat shall (a)quarry sand, or permit any person to quarry sand, from his [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).], or(b)dig or use, or permit any person to dig or use, earth or clay of his [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).] for the manufacture of bricks or tiles, for any purpose, other than his own use, except with previous permission, in writing of the State Government and in accordance with such terms and conditions and on payment of such fees as may be prescribed.(2B)If any raiyat commits a breach of the provisions of sub-section (2A), the prescribed authority may, after giving in the prescribed manner an opportunity to the raiyat to show cause against the action proposed to be taken, impose upon him a fine not exceeding two thousand rupees, and where the breach is a continuing one, a further fine not exceeding two hundred rupees for each day during which the breach continues. Such fine, if not duly paid, shall be recoverable as a public demand.(2C)An appeal shall lie from any order made under sub-section (2A) in accordance with the provisions of sections 54 and 55.(3)[Omitted by the West Bengal Land Reforms (Amendment) Act, 1971 (President's Act No. 3 of 1971) and thereafter by the West Bengal Land Reforms (Amendment) Act, 1972 (Act No. 12 of 1972) with retrospective effect from February 12, 1971.](4)Notwithstanding anything in sub-section (1), the [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).] of a raiyat excluding his homestead, [shall vest in the State free from all encumbrances under an order of the prescribed authority made in the prescribed manner] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969; for "shall be sold by the prescribed authority in the prescribed manner".] after such enquiry as it thinks fit and after giving the raiyat an opportunity to show cause against the action proposed to be taken if (a)he has without any reasonable cause used the land comprised in the [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act,

2003 (18 of 2003) (w.e.f. 19.10.2003).] or a substantial part thereof for any purpose other than [that for which it was held by him or settled by the State or directly incidental thereto] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, for Agriculture.];(b)he has without any reasonable cause ceased to keep the land or any substantial part thereof under personal cultivation [or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.] for a period of three consecutive years or more except when such land is under usufructuary mortgage mentioned in section 7;(c)he has without any reasonable cause failed to bring the land comprised in the [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).] or any substantial part thereof under personal cultivation [or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.] within three consecutive years of the date on which this Act comes into force or of the date on which he came into possession of such land, whichever is later;(d)he has let out the whole or any part of the [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).]:Provided that nothing in this sub-section shall prevent the raiyat from cultivating any part of his [plot of land] [Substituted for "the word holding" by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003).] by a bargadar.[Provided further that nothing in this sub-section shall prevent the raiyat from leasing out the whole or any part of his plot of land for the purpose of establishing an industrial park or industrial hub or industrial estate or financial hub or a biotech park or a food park as per project report duly examined, vetted and approved by the appropriate Department of the State Government:Provided also that nothing in this sub-section shall prevent any local authority or an authority constituted or established by or under any law for the time being in force or any wholly Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956), from leasing out the whole or any part of his plot of land in a township as defined in clause (25) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act 13 of 1979).] [Inserted by the West Bengal Land Reforms (Amendment) Act, 2012 (Act 6 of 2012) (w.e.f. 07.05.2012).](5)[ On the [plot of land] [[Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969; the old sub-section read as follows :(5)On the holding of a raiyat being sold as aforesaid, his ownership therein shall cease and the rights of the lessee, if any, shall terminate and the raiyat shall be entitled to receive the surplus sale proceeds after deducting the expenses for conducting the sale.]] of a raiyat being vested in the State under sub-section (4) his ownership therein shall cease and the rights of the lessee, if any, shall terminate and the raiyat shall be entitled to receive an amount to be determined under section 14V.] [Inserted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005) (w.r.e.f. 7.8.1969).]

**4A. [ Certain restrictions on rights of raiyats in Sadar, Kalimpong and Kurseong sub-divisions of Darjeeling District. (1) In the Sadar sub-division, Kalimpong sub-division and Kurseong sub-division of the district of Darjeeling, the [Collector] [Inserted by West Bengal Land Reforms (Amendment) Act, 1965 (Act 18 of 1965).] of the district may, from time to time, give directions regarding the form of cultivation to be adopted by a**

**raiyyat in respect of his [plot of land] [Substituted, *ibid* w.r.e.f 7.8.1969 for holding.] or prohibiting a raiyyat from cutting more than one tree from his [plot of land] [Substituted, *ibid* w.r.e.f 7.8.1969 for holding.] except with the previous permission in writing of the [Collector] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969, for "Deputy Commissioner." ] or such other officer as may be authorised by the State Government in this behalf.]**

(2) For contravention of any of the directions given under sub-section (1), the [Collector] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969, for "Deputy Commissioner".] may, after giving the defaulting raiyyat an opportunity to show cause against the action proposed to be taken, impose upon him, by order, a fine not exceeding [one thousand rupees] [Inserted, *ibid* w.r.e.f 7.8.1969.] which, if not duly paid, shall be recoverable as public demand. (3) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Commissioner against any order passed by the [Collector] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969, for "Deputy Commissioner".] under sub-section (2) and the decision of the Commissioner shall be final: [Provided that in giving directions as aforesaid, the Collector shall follow such procedure as may be prescribed;] [Inserted, *ibid* w.r.e.f 7.8.1969.].

#### **4B. Maintenance and preservation of land.**

- Every raiyyat holding any land shall maintain and preserve such land in such manner that its area is not diminished or its character is not changed or the land is not converted for any purpose other than the purpose for which it was settled or previously held except with the previous order in writing of the Collector under Provided that any raiyyat may plant and grow trees on any land held by him within the ceiling area applicable to him and to his family without any previous order under section 4C, if such land is not cultivated by bargadar. (2) [ Notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgement, decision or award of any court, tribunal or authority, where an intermediary has been allowed to retain land irrespective of area and classification and with or without any order under clause (g) of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estate Acquisition Act, 1953 (West Ben. Act I of 1954.) (hereinafter referred to as the retainer), or where such retainer has already transferred such land or any part thereof to any person or institution or company who is in possession of such land or part thereof, by an instrument mentioned in sub-section (1) of section 5 of this Act, such retainer or transferee, as the case may be, shall be deemed to hold such land or part thereof as lessee directly under the State Government with effect from the date of vesting under the West Bengal Estate Acquisition Act, 1953, or from the date of such transfer, as the case may be, for any of the purposes as referred to in the first proviso to section 14Y excluding tea garden, in accordance with such terms and conditions as may be prescribed.] [Inserted by West Bengal Act no. 19 of 2017, dated 17.4.2017.] [ xxx ] [[Omitted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005, w.e.f. 1.12.2005). Earlier the proviso was inserted by Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989 (w.e.f. 12.5.1989). The omitted proviso read as under: Provided further that without prejudice to the provisions of Chapter IIB of the Act the provisions of this section shall not apply to the diminution



in area or the change of character of any land or the conversion of any land for any purpose other than the purpose for which it was settled or previously held, if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force.]]

Section 4B substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, the old section read as follows:4B. Maintenance and preservation of orchard. (1) Every raiyat owning any orchard shall maintain and preserve the orchard in such manner that its area is not diminished or its character is not changed, except with the previous permission in writing of the Board of Revenue.(2) If any raiyat commits a breach of the provisions of sub-section (1), the prescribed authority may, after giving in the prescribed manner an opportunity to the raiyat to show cause against the action proposed to be taken, impose upon him a fine not exceeding two thousand rupees and where the offence is a continuing one, a further fine not exceeding two hundred rupees for each day during which the breach continues and the fine, if not duly paid, shall be recoverable as public demand.(3) An appeal shall lie from any order made under sub-section (2) in accordance with the provisions of sections 54 and 55.

**4C. [ Permission for change of area, character or use of land. (1) A raiyat holding any land may apply to the Collector for change of area of character of such land or for conversion of the same for any purpose other than the purpose for which it was settled or was being previously used or for alteration in the mode of use of such land.] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.]**

[Explanation. For the purposes of this sub-section, mode of use of land may be residential, commercial, industrial, agriculture excluding plantation of tea, pisciculture, forestry, sericulture, horticulture, public utilities or other use of land.] [Inserted by Act No. 31 of 2000, w.r.e.f. 7.8.1969.](2)On receipt of such application, the Collector may, after making such inquiry as may be prescribed and after giving the applicant or the persons interested in such land or affected in any way an opportunity of being heard, by order in writing either reject the application or direct such change, conversion or alteration, as the case may be, on such terms and conditions as may be prescribed:[Provided that where the application as stated in sub-section (1) relates to permission for change, conversion or alteration of any plot of land having water body of any description or size, the Collector shall not make any order, unless he has made a prior consultation in writing with such appropriate Department of the State Government as may be prescribed and such order of the Collector may, depending on the circumstances of case, include an order for creation of compensatory water body of equal or larger size of such water body which is required to be changed, converted or altered.] [Added by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005) vide Notification No. 2331-L, dated 11.11.2005, published in the Kolkata Gazette, Extraordinary, Part III, dated 11.11.2005 (w.e.f. 1.12.2005).](3)Every order under sub-section (2) directing change, conversion or alteration shall specify the date from which such change, conversion or alteration shall take effect.(4)A copy of the order passed by the Collector directing change, conversion or alteration, if any, under sub-section (2), or in an appeal therefrom shall be forwarded to the Revenue Officer referred to in section 50 or section 51, as the case may be,

and such Revenue Officer shall incorporate in the record-of-rights changes effected by such order and revise the record-of-rights in accordance with such order.(4A)[ Notwithstanding anything to the contrary contained in any other law for the time being in force, where the approval of the appropriate Department of the State Government or the local authority in respect of any scheme or project, or the permission of the appropriate Department of the State Government or the local authority in respect of construction of buildings or any other permission to conduct any business or carrying on any activity (a)involves change of area of any plot of land or character of such plot of land or conversion of the same as mentioned in sub-section (1); or(b)amounts to using of any plot of land having any water body of any description or size in a manner that degrades or destroys, directly or indirectly, such water body, no such approval or permission of the appropriate Department of the State Government or the local authority shall be made unless the order of the Collector directing change, conversion or alteration of such plot of land or plot of land having any water body of any description or size, as the case may be, under sub-section (2), is obtained.][Inserted, *ibid* (w.e.f. 1.12.2005).](5)[ (a) Without prejudice to the foregoing provisions of this section, where any plot of land has been changed or converted or altered in violation of this section, if the Collector, on his own motion or on receiving information, is of the opinion that it is necessary so to do in public interest, he may make an order directing a raiyat or a lessee for restoration of the original character of the concerned land within a specified time.(b)On receipt of the order, the raiyat or the lessee shall restore the original character of the plot of land at his own cost within such time, as may be ordered by the Collector.(c)If the raiyat or lessee fails to comply with the order, the Collector may take action for restoring the original character of such plot of land and realise the cost for restoration from the raiyat or the lessee.(d)If the raiyat or lessee fails to pay the cost of restoration, the Collector may realise the cost as a public demand in accordance with the provision of the Bengal Public Demands Recovery Act, 1913 (Bengal Act No. 3 of 1913)].(6)[ Notwithstanding anything contained in the foregoing provisions of this section, where any plot of land not exceeding 0.03 acre situated in the areas falling within the local limits of any Municipal Corporation or Municipality, or any plot of land not exceeding 0.08 acre situated in the area not falling within the local limits of any Municipal Corporation or Municipality, other than any plot of land having water body of any description or size, has been changed, converted or altered in the area, character or mode of use of such plot of land in violation of the provision of sub-section (2) of section 4C and if the State Government, on the basis of any report of the Collector, is of the opinion that it is necessary to do so in the public interest, the State Government may, by order, authorise the Collector to regularise such change, conversion or alteration in the area, character or mode of use of the said plot of land, other than any plot of land having water body of any description or size, [on payment of such fee depending on the different character or mode of use or size of the plot of land,] [Inserted by West Bengal Act 28 of 2010, w.r.e.f. 7.8.1969.] and in such manner, as may be prescribed.] [[Subsection (5) Substituted, by Act 28 of 2005, w.e.f. 1.12.2005. Before substitution sub-section (5) stood as under:](5)If the Collector is satisfied that any land is being converted for any purpose other than the purpose for which it was settled or was being previously held, or attempts are being made to effect alteration in the mode of use of such land or change of the area or character of such land, he may, by order, restrain the raiyat from such act.]] [Provided that the provision of this sub-section shall not apply to any application for regularisation of any plot of land where such plot of land is changed, converted or altered in the area, character or mode of use of such plot of land in violation of the provision of sub-section (2) of section 4C, made after such time as may be prescribed:Provided further that the

provision of this sub-section shall not apply to any case where prosecution has been initiated under section 4D.] [Inserted by Act 6 of 2012 (w.e.f. 07.05.2012).][Provided that, notwithstanding anything contrary contained in Sub-section (6), if the State Government is of the opinion that it is necessary to do so in the public interest, the State Government may, by order, regularise any change, conversion or alteration in the area, character or mode of use of the plot of land, other than any plot of land having water body of any description or size, in accordance with the other provisions of this Act, on payment of such fee depending on the different character or mode of use of the plot of land and in such 'manner, as may be prescribed.] [Added by Act No. 43 of 2017, dated 17.10.2017.]

**4D. [ Offence and penalties.] [Inserted by Act 50 of 1981, w.r.e.f. 7.8.1969, Calcutta Gazette, dated 24.3.1986.] (1) Any change, conversion or alteration in the area, character or mode of use of any land, except in accordance with the provisions of section 4C, or any violation of the order of the Collector under sub-section (5) of section 4C, [shall be a cognisable and non-bailable offence and shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to fifty thousand rupees or with both] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.]:**

Provided that no prosecution shall lie for an offence under this sub-section in a case where an action has already been taken by the prescribed authority under sub-section (4) of section 4:[ xxx ]  
[[Omitted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005) w.e.f. 1.12.2005. Earlier the proviso was inserted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989 (w.e.f. 12.5.1989) which stood as follows:Provided further that no prosecution shall lie for any diminution in area or change of character of any land or any conversion in the use of any land if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force.]](2)[ xxx ] [Omitted by Act 31 of 2000, w.r.e.f. 7.8.1969.]

**4E. [ Bar to registration. No transfer (including sales in execution of a decree of a civil court or for recovery of arrears of land revenue) of any land or interest in such land within an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976) or within any part of such urban agglomeration, as may be specified by the State Government by notification in the Official Gazette and used mainly for agriculture or as an orchard, without any order in writing of the Collector shall be valid and no registering authority shall, notwithstanding the provisions of the Registration Act, 1908 (16 of 1908), register a document of such transfer unless order of the Collector in writing permitting such transfer is produced:**

Provided that any application made to the Collector for permission for any such transfer made of one's own motion or for registration of a transfer in execution of a decree of a civil court shall be

disposed of by the Collector within sixty days of the application failing which it shall be within the rights of the registering authority to register the document of the transfer.] [Inserted by Act 50 of 1981, w.r.e.f. 7.8.1969, Calcutta Gazette, dated 24.3.1986.]

## **5. Transferability of [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] of a raiyat.**

(1) A transfer of the [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] of a raiyat or a share or portion thereof shall be made by an instrument which must be registered and the registering officer shall not accept for registration any such instrument unless (a) the sale price, or where there is no sale price, the value of the [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] or portion or share thereof transferred, is stated therein [ xxx ] [The word and omitted by the West Bengal Act No. 50 of 1981, w.e.f. 7.8.1969, Calcutta Gazette, dated 24.3.1986.];(b) there is tendered along with it (i) a notice giving the particulars of the transfer in the prescribed form for transmission of the prescribed authority; (ii) such notices and process fees as may be required by sub-section (4); (c) [ the purpose for which the land shall be used by the transferee is stated therein; ] [Clauses (c) & '(d) inserted, ibid, w.r.e.f. 7.8.1969.] and (d) [ such purpose for use of the land by the transferee is consistent with the purpose for which the land was settled or was being used and is not contrary to the provisions of section 4B, section 4C, section 4E or section 49. Explanation. The purposes under clauses (c) and (d) shall include agriculture, horticulture, animal husbandry, trade, manufacture, entertainment, recreation, sport or such other purposes. ] [Clauses (c) & (d) inserted, ibid, w.r.e.f. 7.8.1969.](2) In case of bequest of such [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] or portion or share thereof, no Court shall grant Probate or Letters of Administration until the applicant files in the prescribed form a notice giving particulars of the bequest together with the prescribed process fees for transmission to the prescribed authority. (3) No Court or Revenue Officer shall confirm the sale of such a [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] or portion or share thereof put to sale in execution of a decree or certificate and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] or portion or share thereof, until the purchaser of the mortgagee, as the case may be, files a notice or notices similar to, and deposits process fees of the same amount as that referred to in sub-section (1). (4) If the transfer of a portion or share of such a [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] be one to which the provisions of section 8 apply, there shall be filed by the transferor or transferee notices giving particulars of the transfer in the prescribed form together with the process fees prescribed for the service thereof on all the co-sharers of the said [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] who are not parties to the transfer and for affixing a copy thereof in the office of the registering officer of the Court house or the office of the Revenue Officer, as the case may be, as well as for affixing a copy on the [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.]. (5) The Court, the Revenue Officer or the registering officer, as the case may be, shall transmit the notice to the authority referred to in sub-clause (i) of clause (b) of sub-section (1) who shall serve the notices on the co-sharers referred to in sub-section (4) by registered post and shall cause copies of the notice to be affixed on the [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969 for Holding.] and in the Court house or in the office of the Revenue Officer, or of the registering officer, as the case may

be.Explanation. In this section-(a)"transferor", ["transferee"] [inserted by West Bengal Act No. 50 of 1981, w.e.f. 7.8.1969, Calcutta Gazette, dated 24.3.1986.], "purchaser" and "mortgagee" include their successors-in-interest, and(b)"transfer" does not include simple or usufructuary mortgage or mortgage by deposit of title deeds.

**6. [ Omitted] [Omitted by the West Bengal Land Reforms (Amendment) Act, 1971 (President's Act No. 3 of 1971) and then by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972) with retrospective effect from February 12, 1971.]**

**7. Limitation on mortgage of raiyati [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.].**

(1) A mortgage by a raiyat of his [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] or any share thereof other than (a)a simple mortgage, or(b)a usufructuary mortgage for a period not exceeding fifteen years, or(c)[ a mortgage by deposit of title deeds in favour of [[Substituted by Act 24 of 1990, w.e.f. 7.8.1969, published in the Calcutta Gazette, dated 23.10.1990. The old clause (c) read as follows:(c)a mortgage by deposit of title deeds in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or State Government, or by both, for the purpose of obtaining loan for the development of land or improvement of agricultural production.]](i)a scheduled bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934), or(ii)a co-operative land mortgage bank registered or deemed to be registered under any law for the time being in force, or(iii)a public financial institution referred to in section 4A of the Companies Act, 1956 (1 of 1956), or(iv)a corporation owned or controlled by the Central Government or the State Government or by both the Central Government and the State Government, or(v)the International Finance Corporation established under the Agreement as defined in clause (a) of section 2 of the International Finance Corporation (Status, Immunities and Privileges) Act, 1958 (42 of 1958), or(vi)such other financial institution, by whatever name called, established or registered under any law for the time being in force, as the State Government or the Central Government may, by notification in the Official Gazette, specify, for the purpose of obtaining loan or financial assistance (including debenture as defined in clause (12) of section 2 of the Companies Act, 1956) for the development of the land comprised in the [plot of land] of such raiyat or for the improvement of any agricultural production (including horticulture or fishery) or for the development or improvement of any plantation or for the establishment or development of any industry, livestock breeding, dairy, poultry farming, commercial unit, educational centre, health centre, public recreation centre or research centre upon such land or for the promotion and [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] of sports or cultural or philanthropical activity upon such land or for the construction of any housing estate for bona fide residential purpose or any building for providing accommodation for any office upon such land or for such other activity as the State Government may, by notification in the Official Gazette, specify,] shall be void.(2)A usufructuary mortgage referred to in clause (b) of sub-section (1) may be redeemed at any time before the expiry of the period.

## 8. Right of purchase by co-sharer or contiguous tenant.

(1) If a portion or share of a [plot of land of a raiyat] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] is transferred to any person other than a [co-sharer of a raiyat in the plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.], [the bargadar in the plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] may, within three months of the date of such transfer, or] any [co-sharer of a raiyat in the plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] may, within three months of the service of the notice given under sub-section (5) of section 5, or any raiyat possessing land [adjoining such plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] may, within four months of the date of such transfer, apply to the [Munsif having territorial jurisdiction,] [Substituted by West Bengal Land Reforms (Amendment) Act, 1972.] for transfer of the said portion or [share of the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] to him, subject to the limit mentioned in [section 14M,] [Substituted by West Bengal Land Reforms (Amendment) Act, 1972.] on deposit of the consideration money together with a further sum of ten per cent of that amount:[Provided that if the bargadar in the plot of land, a [co-sharer of raiyat in a plot of land] [inserted by West Bengal Land Reforms Act No. 50 of 1981, w.r.e.f. 7.8.1969.] and a raiyat possessing land [adjoining such plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] apply for such transfer, the bargadar shall have the prior right to have such portion or [share of the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] transferred to him, and in such a case, the deposit made by others shall be refunded to them:][Provided further that where the bargadar does not apply for such transfer and] [Substituted by West Bengal Land Reforms Act No. 50 of 1981, w.r.e.f. 7.8.1969, for "Provided that if".] a [co-sharer of a raiyat in the plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] and a raiyat possessing land [adjoining such plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] both apply for such transfer, the former shall have the prior right to have such portion or [share of the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] transferred to him, and in such a case, the deposit made by the latter shall be refunded to him:[Provided also] [Substituted by West Bengal Land Reforms Act No. 50 of 1981, w.r.e.f. 7.8.1969, for "Provided further".] that as amongst raiyats possessing lands [adjoining such plot of land] [Substituted *ibid*, w.r.e.f. 7.8.1969.] preference shall be given to the raiyat having the longest common boundary with the land transferred.(2)Nothing in this section shall apply to (a)a transfer by exchange or by partition, or(b)a transfer by bequest or gift, or hiba-bil-ewaz, or(c)a mortgage mentioned in section 7,(d)a transfer for charitable or religious purposes or both without reservation of any pecuniary benefit [for any individual, or] [Substituted by *ibid*, for "for any individual."](e)[ a transfer of land in favour of a bargadar in respect of such land if after such transfer, the transferee holds as a raiyat land not exceeding one acre (or 0.4047 hectare) in area in the aggregate. [Clause (e) and Explanation inserted by West Bengal Land Reforms Act No. 50 of 1981, w.r.e.f. 7.8.1969.]Explanation. All orders passed and the consequences thereof under sections 8, 9 and 10 shall be subject to the provisions of Chapter IIB.](3)Every application pending before a Revenue Officer at the commencement of section 7 of the West Bengal Land Reforms (Amendment) Act, 1972 shall, on such commencement, stand transferred to, and disposed of by, the Munsif having jurisdiction in relation to the area in which the land is situated and on such transfer every such application shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provision of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

## 9. Revenue Officer to allow the application and apportion lands in certain cases.

(1) On the deposit mentioned in sub-section (1) of section 8 being made, the Munsif shall give notice of the application to the transferee, and shall also cause a notice to be affixed on the land for the information of persons interested. On such notice being served, the transferee or any person interested may appear within the time specified in the notice and prove the- consideration money paid for the transfer and other sums, if any, properly paid by him in respect of the lands including any sum paid for annulling encumbrances created prior to the day of transfer, and rent or revenue, cases or taxes for any period. The Munsif may after such enquiry as he considers necessary direct the applicant to deposit such further sum, if any, within the time specified by him and on such sum being deposited, he shall make an order that the amount of the consideration money together with such other sums as are proved to have been paid by the transferee or the person interested plus ten per cent of the consideration money be paid to the transferee or the person interested out of the money in deposit, the remainder, if any, being refunded to the applicant. The Munsif shall then make a further order that the portion or [share of the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] be transferred to the applicant and on such order being made, the portion or [share of the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] shall vest in the applicant.(2)When any person acquires the right, title and interest of the transferee in [such plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] by succession or otherwise, the right, title and interest acquired by him shall be subject to the right conferred by sub-section (1) of section 8 on a [co-sharer of a raiyat in a plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or a raiyat possessing [land adjoining the plot of land or bargadar] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.].(8)In making an order under sub-section (1) in favour of more than one [co-sharer of a raiyat in a plot of land or raiyat holding adjoining land or bargadar] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] the Munsif may apportion the portion or [share of the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] in such manner and on such terms as he deems equitable.(4)Where any portion or share of a [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] is transferred to the applicant under sub-section (1), such applicant shall be liable to pay all arrears of revenue in respect of such portion or share of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] that may be outstanding on the date of the order.(5)The Munsif shall send a copy of his order as modified on appeal, if any, under sub-section (6) to the prescribed authority for correction of the record-of-rights.(6)Any person aggrieved by an order of the Munsif under this section may appeal to the District Judge having jurisdiction over the area in which the land is situated, within thirty days, from the date of such order and the District Judge shall send a copy of his order to the Munsif. The fees to be paid by the parties and the procedure to be followed by the District Judge shall be such as may be prescribed.(7)Every appeal pending before an Additional District Magistrate at the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand transferred to, and be disposed of by, the District Judge having jurisdiction in relation to the area in which the land is situated and on such transfer, every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

## **10. Consequences of an order for transfer.**

On an order under section 9 being made (a)the right, title and interest of the raiyat and of the transferee or of the person mentioned in sub-section (2) of section 9 who acquires any right, title and interest in the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969 for the word holding.] shall vest in the raiyat whose application for transfer has been allowed by the Revenue Officer or by the Munsif or, after the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1971 (Act 3 of 1971), by the Additional District Magistrate, or after the commencement of the West Bengal Land Reforms (Amendment) Act, 1972, by the District Judge on appeal:Provided that the transferee or the person mentioned in sub-section (2) of section 9 shall have the right to take away the crops which he might have grown on the land before the date of the order;(b)the raiyat whose application has been so allowed shall be liable for any revenue accruing from the date of the order.

## **11. [ xxx xxx ] [Omitted by Act 31 of 2000, w.r.e.f. 7.8.1969]**

**12. [ Land gained by recess of river or sea. Any land gained by gradual accession to a [plot of land] [Substituted by the West Bengal Land Reforms (Amendment) Act, 1965 (XVIII of 1965).] whether from the recess of river or of the sea, shall vest in the State Government and the raiyat who owns [the plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] shall not be entitled to retain such land as accretion thereto.]**

## **13. [ xxx xxx \*] [Omitted with retrospective effect by section 6 of West Bengal Land Reforms Act No. 18 of 1965.]**

## **14. [Partition of plot of land among co-sharers of a raiyat in plot of land.] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.]**

(1) Partition of a 1 [plot of land] among [co-sharers of a raiyat owning it] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] shall be made either by (a)a registered instrument; or(b)a decree or order of a Court.(2)When partition is effected by an instrument, the registering officer shall not accept for registration any such instrument unless there is tendered along with it a notice, giving the particulars of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] and the area of each share, and such process fee as may be prescribed, for transmission to the prescribed authority.(3)If as a result of partition one or more shares comprise an area less than the standard area (a)the prescribed authority in a case where partition is effected by a registered instrument, or(b)the Court passing the decree or order for partition, shall recast the shares, excluding the homesteads of the co-sharers, so that no share is less than the standard area, and sell such shares, or when the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] comprises an area which cannot be partitioned into two or more shares, each comprising not less than the standard area, sell the entire [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] to the highest bidder or



bidders among the co-sharers, or failing them to other persons, and the sale proceeds shall, after deducting the expenses for conducting the sale, be paid to the co-sharers in accordance with their shares in the 1[plot of land] partitioned, excluding the homesteads.(4)If the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or any share or shares thereof cannot be sold as aforesaid, the prescribed authority or the Court shall report the case to the State Government and the State Government shall, by order made in this behalf, take over such [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or share or shares and shall place at the disposal of the prescribed authority or the Court, as the case may be, the market value thereof for payment to the co-sharers in the manner indicated in sub-section (3).(5)For the purpose of preventing fragmentation of 1[plot of lands] as a result of partition to the State Government may by order made in this behalf specify an area, which in its opinion is the minimum unit for effect [utilisation] [Substituted by West Bengal Land Reforms Act No. 50 of 1981, w.r.e.f. 7.8.1969, for cultivation.] in the interest of [xxx] [Omitted the word "agricultural" by *ibid.*] production [or in the public interest] [Inserted by *ibid.*] as the standard area, and different standard areas may be specified for different localities or for different classes of land.(6)[ Notwithstanding anything contained in any other law for the time being in force or in any agreement or any custom or usage or any decree, judgment or award of any court, no partition amongst [co-sharers of a raiyat in a plot of land] [Inserted by *ibid.*] and coparceners of a Hindu undivided family governed or claiming to be governed by the Mitakshara School of Hindu Law shall have any force unless such partition is made by registered instrument or by a decree or order of a Court and is effected by metes and bounds; and both the conditions having been fulfilled any such partition shall be deemed to have come into force from the date of registration of the deed of partition or the date of final decree or order of a Court, as the case may be, or from the date of effecting partition by metes and bounds, whichever is later.]

## Chapter II

### A Restrictions on Alienation of Land by Scheduled Tribes

#### 14A. Provisions of Chapter IIA to override other provisions of this Act.

The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act.

#### 14B. Restrictions on alienation of land by Scheduled Tribes.

Save as provided in section 14C, [any transfer, other than restoration made under section 14E, by a raiyat] [Substituted for "the words any transfer" by a raiyat by West Bengal Act 28 of 2010. w.e.f. 1.11.2010 vide Notification No. 5779-LR/1A-01/10-GE(M) dated 28.10.2010.] belonging to a Scheduled Tribe of his [plot of and] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969 for holding.] or part thereof shall be void.

## 14C. Modes of transfer of land by Scheduled Tribes.

(1) A raiyat belonging to a Scheduled Tribe may transfer his [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or part thereof in any one of the following ways, namely, (a) by a complete usufructuary mortgage entered into with a person belonging [to a Scheduled Tribe] [Substituted for "the words to the same Scheduled Tribe to which the transferor belongs" by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972).] for a period not exceeding seven years; (b) by sale or gift to the Government for a public or charitable purpose; (c) by simple mortgage to the Government or to a registered cooperative society; (cc) [by simple mortgage or mortgage by deposit of title deeds in favour of a scheduled bank, a cooperative land mortgage bank or a corporation, owned or controlled by the Central or State Government, or by both, for the development of land or improvement of agricultural production;] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972).] (d) [by gift or will to a person belonging to a Scheduled Tribe;] [Substituted by the West Bengal Land Reforms (Second Amendment) Act, 1972 (West Bengal Act 28 of 1972).] (e) [by sale or exchange in favour of any person belonging to a Scheduled Tribe: [Substituted by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972).] Provided that any such raiyat may, with the previous permission, in writing, of the Revenue Officer, transfer by sale his [plot of land] or any part thereof to a person not belonging to any Scheduled Tribe: Provided further that no such permission shall be granted by the Revenue Officer unless he is satisfied that no purchaser belonging to a Scheduled Tribe is willing to pay the 'fair market price of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or any part thereof and that the proposed sale is intended to be made for one or more of the following purposes, namely, (a) for the improvement of any other part of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.], or (b) for investment, or (c) for such other purposes as may be prescribed.] (2) [xxx ] [Omitted by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972).] (3) A complete usufructuary mortgage referred to in sub-section (1) may be redeemed at any time before the expiry of the term. (4) A mortgagor under a complete usufructuary mortgage intending to redeem such mortgage before the expiry of its term or any person acting on his behalf, may make an application for redemption in such form and containing such particulars as may be prescribed to the Revenue Officer. On receipt of such application the Revenue Officer shall after service of notice to the mortgagee make an enquiry in the prescribed manner and pass a preliminary order declaring the amount due under such mortgage to the mortgagee at the date of such order and fixing a date for payment of such amount by the mortgagor. If the mortgagor pays such amount by the date so fixed the Revenue Officer shall make a final order directing the mortgagee to restore possession of the mortgaged property and to deliver up the mortgage-deed, to the mortgagor. (5) A final order made under sub-section (4) shall be executed by the Revenue Officer in such manner as may be prescribed.

**Explanation.** In this section "complete usufructuary mortgage" means a transfer by a raiyat of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage.

## **14D. [ Transfer in contravention of Chapter HA shall not be valid unless registered.**

(1) No transfer of any land or any interest in such land by a raiyat belonging to a Scheduled Tribe shall be valid unless made by a registered instrument.(2)Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908) or in any other law for the time being in force, no instrument of transfer or dealing with land or interest in such land by a raiyat belonging to the Scheduled Tribe made in contravention of the provisions of this Chapter shall be recognised as valid by any court, officer or authority exercising civil, criminal or revenue jurisdiction and no registering officer shall register any such instrument unless he is satisfied that the instrument does not contravene any of the provisions of this Chapter.(3)If, in course of registration of any instrument referred to in sub-section (2) or in any proceeding relating to the registration of such instrument or in any proceeding before any civil, criminal or revenue court, any question arises as to whether the raiyat executing such instrument belongs to the Scheduled Tribe or as to whether such instrument has been made in contravention of the provisions of this Chapter, the registering officer or other officer or authority exercising powers under the Registration Act, 1908 (16 of 1908) or the civil, criminal or revenue court before whom such question arises, shall refer such question to the Revenue Officer referred to in section 14C and shall give effect to the decision of the Revenue Officer.] [[Substituted by the West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969 for:

## **14D. No registration or recognition of transfers in contravention of section 14C. (1) No transfer by a raiyat belonging to a Scheduled Tribe shall be valid unless made by a registered instrument.**

(2)No instrument of transfer made in contravention of section 14C shall be registered or in any way recognised as valid in any court exercising civil, criminal or revenue jurisdiction.]]

## **14E. Power to Revenue Officer to set aside improper transfers by raiyat.**

(1) If a transfer of a [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or any portion thereof is made by a raiyat belonging to a Scheduled Tribe in contravention of the provisions of section 14C, or if the permission for the transfer is found, after an inquiry in the prescribed manner, to have been obtained by misrepresentation or fraud, or if in the case of a complete usufructuary mortgage referred to in clause (a) of sub-section (1) of section 14C, the transferee has continued or is in possession for more than seven years from the date of transfer, the Revenue Officer may, of his own motion or on an application made in that behalf and after giving the transferee an opportunity of being heard, by an order in writing annul the transfer where necessary and eject the transferee from such [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or part thereof :Provided that the transferee whom it is proposed to eject has not been in continuous possession for [thirty years] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, for "twelve years"] under the transfer made in contravention of section 14C, or in the case of a complete usufructuary mortgage referred to in clause (a) of sub-section (1) of section 14C, for [thirty years] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] from the expiry of the [period of seven years,

notwithstanding anything contained in the Limitation Act, 1963 (Act 36 of 1963)] [Substituted by ibid, for "period of seven years"].(2)When the Revenue Officer has passed any order under sub-section(1), he shall restore the transferred [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or part thereof to [the transferor or his successor-in-interest, in such manner as may be prescribed.] [Substituted for "the words the transferor or his successor-in-interest" by West Bengal Act 28 of 2010, w.e.f. 1.11.2010 vide Notification No. 5779 dated 28.10.2010.][Explanation. For the purpose of this sub-section, the word "restoration" shall mean restoration of the plot of land or part thereof which has been transferred by a raiyat belonging to a Scheduled Tribe and include an equivalent quantum of plot of land or part thereof of the same character within the near vicinity of the transferred plot of land or part thereof.] [Inserted, ibid, w.e.f. 1.11.2010.](3)[ For the purpose of restoration of possession of any land and evicting any person in actual occupation of such land under sub-section (2), any such Revenue Officer may use such force as may be required for evicting the person in actual occupation of such land and may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station having jurisdiction or to any police officer superior in rank to such officer-incharge, and on receipt of such written requisition, the police officer concerned shall render all necessary lawful assistance for enforcing delivery of possession of such land:Provided that the provisions of this sub-section shall not be 'applicable to any person not belonging to the Scheduled Tribe, if he has been owning, possessing or cultivating land not exceeding 0.4047 hectare in area in the aggregate and the transfer was made by a member of the Scheduled Tribe owning, possessing or cultivating land measuring 4 hectares or more in area in the aggregate.] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.]

#### **14F. Restriction on the sale of raiyat's [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] or any portion thereof**

.-[(1) No decree or order shall be passed by any court for the sale of the [plot of land] [Original section was renumbered as sub-section (1) and sub-section (2) was inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.] or any portion thereof, of a raiyat belonging to a Scheduled Tribe nor shall any such [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] be sold in execution of any decree or order.(2)Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), and the Indian Contract Act, 1872 (9 of 1872), no decree or order relating to any land or interest in such land shall be passed by any court against a raiyat belonging to a Scheduled Tribe on the basis of any consent, agreement or compromise. Any such decree or order passed in contravention of this sub-section shall be void.]

**14FF. [ Benami transaction or instrument to be void. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) or in any other law for the time being in force, any benami transaction or instrument relating to any land or any interest therein showing the name of any person belonging to a Scheduled Tribe as the ostensible owner shall be void for all purposes.**

(2) No Court shall entertain any suit to enforce any right in respect of any such land or interest in such land against a person belonging to a Scheduled Tribe by or on behalf of a person claiming to be the real owner of such land or interest therein.] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.]

#### **14G. Power to the Revenue Officer to settle or sell [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] for realization of certificate dues.**

(1) When a certificate is filed for the recovery of an arrear of revenue or any other public demand recoverable under the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913), in respect of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] of a raiyat belonging to a Scheduled Tribe, the Certificate Officer shall, before a proclamation for sale of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] is issued in execution of the certificate, refer the case to the Revenue Officer having jurisdiction who may, in his discretion (a) eject the defaulting raiyat from his [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] and put another person belonging to a Scheduled Tribe in possession of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] for a period not exceeding seven years on payment of the amount due in respect of the certificate by him; or (b) sell the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] to a member of a Scheduled Tribe, if available, and, if not available, to any other person at a fair market price to be fixed by the Revenue Officer, not being less than the amount due in respect of the certificate: Provided that if the homestead of the defaulting raiyat is comprised in the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.], he shall not be ejected from such homestead under clause (a), nor shall such homestead be sold under clause (b). (2) (i) If the Revenue Officer puts any person in possession of the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] under clause (a) of sub-section (1) for any period, the amount paid by such person shall, at the end of such period, be deemed to have been satisfied in full, and the Revenue Officer shall then restore the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] to the defaulting raiyat. (ii) If the Revenue Officer sells the [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] under clause (b) of sub-section (1), any amount that may remain out of the sale-proceeds after satisfaction of the amount due in respect of the certificate shall be paid to the defaulting raiyat.

#### **14H. Appeal and revision.**

An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Munsif having jurisdiction from any order made under sub-section (4) of section 14C or section 14E or section 14G and his order shall be final: Provided that an application for revision or modification of the order passed by the Munsif on appeal shall lie to the District Judge if made within sixty days from the date of the order: Provided further that the provisions of section 5 of the Limitation Act, 1963 (Act 36 of 1963), shall apply to an appeal under this section.

#### **14HH. [ Setting aside of sale of land of a raiyat belonging to a Scheduled Tribe. Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law for the time being in**

**force, every court exercising appellate or revisional jurisdiction shall, either of its own motion or on an application made in this behalf, set aside the sale of land of a raiyat belonging to a Scheduled Tribe or any portion of such land in execution of a decree in favour of a person not belonging to a Scheduled Tribe, notwithstanding the failure of the party to file any objection before the court which passed the decree or passed any order for execution of the decree.] [inserted by West Bengal Act No. 19 of 1986, published in Calcutta Gazette, dated 19.8.1986.]**

#### **14I. Bar to suits.**

No suit shall lie in any Civil Court to vary or set aside any order passed by the Revenue Officer in any proceeding under this Chapter except on the ground of fraud or want of jurisdiction.

### **Chapter IIB**

#### **Ceiling on [Land held by a Raiyat] [Substituted by West Bengal Act 31 of 2000, w.r.e.f. 7.8.1969.]**

**14J. [ Provisions of Chapter II-B to have overriding effect. The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force or in any custom, usage or contract (express or implied) or in any agreement, decree, order, decision or award of any court, tribunal or other authority:**

Provided that nothing in this Chapter shall apply to any vacant land in an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976).] [Substituted by Act No. 35 of 1986, published in Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.]

#### **14K. Definitions.**

In this Chapter, (a)"ceiling area" means the extent of land which a raiyat shall be entitled to own;(b)"charitable purpose" includes relief of the poor, medical relief or the advancement of education or of any other object of general public utility; and(c)"family", in relation to a raiyat shall be deemed to consist of--(i)himself and his wife, minor sons, unmarried daughters, if any,(ii)his unmarried adult son, if any, who does not hold any land as a raiyat,(iii)his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as a raiyat,(iv)widow of his predeceased son, if any, where neither such widow nor any minor son or unmarried daughter of such widow holds any land as a raiyat,(v)minor son or unmarried daughter, if any, of his predeceased son, where the widow of such predeceased son is dead and any minor son or unmarried daughter of such predeceased son does not hold any land as a

raiyat, but shall not include any other person. Explanation I. For the purposes of this Chapter, an adult unmarried person shall include a man or woman who has been divorced and who has not remarried thereafter. Provided that where such divorced man or woman is the guardian of any minor son, or unmarried daughter, or both, he or she, together with such minor son or unmarried daughter, or both, shall be deemed to be a separate family. Explanation II. References in this clause to wife, son or daughter shall, in relation to a raiyat who is a woman, be construed as references to the husband, son or daughter, respectively, of such woman; (d) "irrigated area" means an area specified as such by the State Government, by notification in the Official Gazette, being an area which is, or is in the opinion of the State Government capable of being irrigated, at any time during the agricultural year commencing on the 1st day of Baisakh, 1377 B.S., or thereafter, from any State canal irrigation project or [State power-driven deep tube-well or shallow tube-well or any other State irrigation project] [Substituted by West Bengal Act 50 of 1981, w.r.e.f. 7.8.1969.] or State river lift irrigation project; (e) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude; or when fully grown would preclude, a substantial part of such land from being used for [any other] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, for "any agricultural".] purpose; (ee) [ "project report" means a project report relating to such purpose as mentioned in the first proviso to section 14Y, which has been examined, vetted and approved by the appropriate Department of the State Government;] [Substituted by Act 6 of 2012 (w.e.f. 07.05.2012) for the following: (ee) planning area shall have the same meaning as in the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act 13 of 1979).] (f) "standard hectare" means, (i) in relation to an agricultural land, an extent of land equivalent to (a) 1.00 hectare in an irrigated area, (b) 1.40 hectares in any other area, (ii) in relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectares, (iii) [ in relation to any other land, an extent of land equivalent to 1.40 hectare.] [Inserted by Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.]

#### **14L. No raiyat to hold land in excess of the ceiling area.**

[Subject to the provisions of sub-section (3) of section 14Q, section 14Y and sub-section (2) of section 14Z, on and from the commencement] [Substituted by West Bengal Land Reforms (Amendment) Act, 1996, dated 27.8.1996 (w.e.f. 27.8.1996).] of the provisions of this Chapter, no raiyat shall be entitled to own, in the aggregate, any land in excess of the ceiling area applicable to him under section 14M.

#### **14M. Ceiling area.**

(1) The ceiling area shall be, (a) in the case of a raiyat, who is an adult unmarried person, 2.50 standard hectares; (b) in the case of a raiyat, who is the sole surviving member of a family, 2.50 standard hectares; (c) in the case of a raiyat having a family consisting of two or more, but not more than five members, 5.00 standard hectares; (d) in the case of a raiyat having a family consisting of more than five members, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area for such raiyat shall not, in any case, exceed 7.00 standard hectares; (e) in the case of any other raiyat, 7.00 standard hectares. (2) Notwithstanding anything contained in sub-section (1), where, in the family of a raiyat,

there are more raiyats than one, the ceiling area for the raiyat, together with the ceiling area of all the other raiyats in the family shall not, in any case, exceed,--(a)where the number of members of such family does not exceed five, 5.00 standard hectares;(b)where such number exceeds five, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area shall not, in any case, exceed 7.00 standard hectares.(3)For the purposes of sub-section (2), all the lands owned individually by the members of a family or jointly by some or all the members of such family shall be deemed to be owned by the raiyats in the family.(4)In determining the extent of land owned by the raiyats in a family or the sole surviving member of a family or an adult unmarried person, the share of such raiyat or raiyats, or such sole surviving member, or such adult unmarried person, as the case may be, in the lands owned by a co-operative society, company, cooperative farming society, Hindu undivided family or a firm shall be taken into account.Explanation. For the purposes of this sub-section, the share of a raiyat in a family or the sole surviving member of a family or an adult unmarried person in the lands owned by a cooperative society or a joint family shall be deemed to be the extent of land which would be allotted to such raiyat or person had such lands been divided or partitioned, as the case may be.(5)[The lands owned by a trust or endowment other than that of a public nature, shall be deemed to be lands owned by the author of the trust or endowment and such author shall be deemed to be a raiyat under this Act to the extent of his share in the said lands, and the share of such author in the said lands shall be taken into account for calculating the area of lands owned and retainable by such author of the trust or endowment, and for determining his ceiling area for the purpose of this Chapter.Explanation. The expression "author of trust or endowment" shall include the successors-in-interest of the author of such trust or endowment.] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, published in Calcutta Gazette, dated 24.3.1986.](6)[Notwithstanding anything contained in sub-section (1), a trust or an institution of public nature exclusively for a charitable or religious purpose or both shall be deemed to be a raiyat under this Act and shall be entitled to retain lands not exceeding 7.00 standard hectares, notwithstanding the number of its centres or branches in the State.] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, published in Calcutta Gazette, dated 24.3.1986.]

## **14N. Determination of irrigated area.**

(1) If any question arises as to whether any land is or is not within an irrigated area, such question shall be determined by the prescribed authority in such manner as may be prescribed.(2)The State Government shall prescribe such authority as it may think fit for the determination of the question referred to in sub-section (1).

## **14O. Appeal.**

(1) Any person who is aggrieved by any determination made by the prescribed authority under section 14N may, within thirty days from the date of such determination or within such further time as the appellate authority may, on sufficient cause being shown, allow, prefer an appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, against such determination. (2) On receipt of such appeal, the appellate authority may, after giving reasonable opportunity to the appellant of being heard, confirm, modify or reverse the



determination made by the prescribed authority.

**14P. [ Land transferred after the 7th day of August, 1969 to be taken into account in determining the ceiling area. (1) In determining the ceiling area, any land transferred by sale, gift or otherwise or partitioned, by a raiyat after the 7th day of August, 1969 but before the date of publication of the West Bengal Land Reforms (Amendment) Act, 1971 in the Official Gazette, shall be taken into account as if such land had not been transferred or partitioned, as the case may be:**

Provided that provisions of sub-section (1) shall not apply to transfer or partition of land to which provisions of section 3A apply. (1a) In determining the ceiling area, any land to which the provisions of section 3A of this Act apply and which was transferred or partitioned after the 7th day of August, 1969, but before the 9th day of September, 1980, shall be taken into account as if such land had not been transferred or partitioned, as the case may be. (2) The provisions of sub-section (1 a) shall not apply to a bona fide transfer or partition of any land as aforesaid, and the partition shall lie on the transferor or the person in whose name the land stood recorded before the partition, as the case may be. (3) For the purposes of sub-section (2), the transfer of any land in favour of one or more of the following relatives of the transferor shall be presumed to be not bona fide (a) wife, or (b) husband, or (c) child, or (d) grandchild, or (e) parent, or (f) grandparent, or (g) brother, or (h) sister, or (i) brother's son or daughter, or (j) sister's son or daughter, or (k) daughter's husband, or (l) son's wife, or (m) wife's brother or sister, or (n) brother's wife. [Substituted by West Bengal Act No. 35 of 1986, published in Calcutta Gazette, dated 12.5.1989.]

#### **14Q. Ceiling area in special cases.**

—[(1) . . . ] [[Omitted by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003). Before omission the sub-section stood as: (1) Subject to the provisions of sub-section (2), the ceiling area for a co-operative society, company, co-operative farming society, Hindu undivided family or a firm, as the case may be, shall not exceed the sum total of the ceiling area of each member of such co-operative society, company, co-operative farming society, Hindu undivided family or each partner of such firm: Provided that for the purpose of determining the ceiling area referred to in this sub-section, any land held separately by a person, who is member of a co-operative society, company, co-operative farming society or Hindu undivided family or a partner of a firm, shall be deducted from the ceiling area referred to in section 14M, so that the sum total of the area of land held by such person, whether as such member or partner or individually or as a member of a family, may not, in any case, exceed the ceiling area applicable to him under section 14M.]] (2) [ and (2A) omitted] [Omitted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, published in the Calcutta Gazette, dated 24.3.1986.] (3) If the State Government, after having regard to all the circumstances of the case, is satisfied that a corporation or institution established exclusively for a charitable or religious purpose, or both, or a person holding any land in trust, or in pursuance of any other endowment, creating a legal obligation exclusively for a purpose which is charitable or religious, or both, requires land, as distinct from the income [or usufructs] [Inserted by

West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, published in the Calcutta Gazette, dated 24.3.1986.] derived from such land, for the due performance of its obligation, it may, by notification in the Official Gazette, increase the ceiling area for such corporation or institution or person to such extent as it may think fit:[Provided that the State Government may, at any time on its own motion or on an application, revise an order under this sub-section and may resume the whole or any part of the land in excess of the ceiling area and take possession of such resumed land after giving the parties concerned an opportunity of being heard.] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, published in the Calcutta Gazette, dated 24.3.1986.]

## **14R. Exemption.**

The provisions of section 14M shall not apply (a)to any land owned as a raiyat by [a local authority or any wholly Government company as defined in section 617 of the Companies Act, 1956, or] [Substituted for "a local authority or" by Act 6 of 2012 (w.e.f. 07.05.2012).] [an] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.] authority constituted or established by [or under] [Inserted by W.B.Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989.] any law for the time being in force;(b)for such period as may be specified by the State Government, by notification in the Official Gazette, to any land in such hilly portion of the district of Darjeeling as may be specified in the said notification.

## **14S. Vesting of land in excess of ceiling area.**

(1) On the commencement of the provisions of this Chapter, [or on any subsequent date] [Inserted by West Bengal Act No. 35 of 1986, published in Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.] any land owned by a raiyat in excess of the ceiling area applicable to him shall vest in the State free from all encumbrances.(2)Where any land vested in the State under sub-section (1) is beingcultivated by a bargadar, the right of cultivation of such bargadar in relation to any such vested land which, including any other land owned or cultivated by him is in excess of [0.4047 hectare of land used for agriculture] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969, for 1.00 hectare.] shall, on the commencement of the provisions of this Chapter, [or on any subsequent date] [Inserted by West Bengal Act No. 35 of 1986, published in Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.], stand terminated.(3)Every bargadar shall, in relation to the land which he is authorised by sub-section (2) to retain under his cultivation, become, on and from the date of commencement of the provisions of this Chapter, [or on any subsequent date] [Inserted by West Bengal Act No. 35 of 1986, published in Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.], a raiyat.

**14SS. [ Power to enter upon and take possession of vested land. (1) Upon vesting of any land in the State under any of the provisions of this Act, the Revenue Officer or the prescribed authority or any other officer or authority who makes the order of vesting shall enter upon and take possession of such vested land by using such force as may be necessary for this purpose.**

(2) Any Revenue Officer, prescribed authority or any other officer or authority empowered in this behalf, may enter upon and take possession of any other vested land by using such force as may be necessary for this purpose. (3) For the purpose of entering upon such land and taking possession thereof, any such officer or authority may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station, or to any police officer superior in rank to such officer-in-charge, and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for taking possession of such land.] [Inserted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.]

#### **14T. Duty of raiyat to furnish return.**

(1) Every raiyat owning land in excess of the ceiling area shall furnish to the Revenue Officer, in such form and within such time as may be prescribed, a return containing the full description of the land which he proposes to retain within the ceiling area applicable to him under section 14M and a full description of the land which is in excess of the ceiling area and such other particulars as may be prescribed. (2) Where there are more raiyats than one in a family, the return referred to in sub-section (1) shall be furnished by the head of the family or any other raiyat in accordance with the provisions of that sub-section. (3) The Revenue Officer may, on receipt of a return submitted under sub-section (1) or sub-section (2), or on his own motion, determine the extent of land which is to vest in the State under section 14S and take possession of such lands: Provided that where a raiyat has exercised his choice of retention of land within the ceiling area in such a way that portions of more than one plot are to vest in the State, the Revenue Officer may disregard the choice exercised by the raiyat and may, after giving the raiyat an opportunity of being heard, determine the plot or, where necessary, plots of land proposed to be retained by the raiyat from which an area equal to the area of the portions of the plots shown in the return to be in excess of the ceiling area, is to vest in the State and take possession of such land: [Provided further that in the case of mortgage by a raiyat by deposit of title deeds under clause (c) of sub-section (1) of section 7, such raiyat shall first retain the land comprised in his [plot of land] [Added by West Bengal Act 24 of 1990 (w.r.e.f. 7.8.1969), Calcutta Gazette, dated 23.10.1990.] and mortgaged by him within the ceiling area and where the total area of any land comprised in his [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] and mortgaged by him exceeds the ceiling area, such portion of the land so mortgaged as is in excess of the ceiling area, together with any other land owned by him but not so mortgaged, shall vest in the State free from all encumbrances.] (3A) [The Revenue Officer may of his own motion and after giving the raiyat an opportunity of being heard, revise an order made under sub-section (3) and determine afresh the extent of land which is to vest in the State under section 14S and take possession of such land: Provided that applications made to the Revenue Officer prior to the commencement of the West Bengal Land Reforms (Amendment) Act, 1978 shall be disposed of by the Revenue Officer in accordance with the provisions of this sub-section.] [Sub-section (3A) was substituted by West Bengal Land Reforms (Amendment) Act, 1978 (West Bengal Act No. 39 of 1978).] (4) If a raiyat fails to furnish, without any reasonable excuse, the return referred to in sub-section (1), or sub-section (2), within the prescribed time or wilfully makes any omission or incorrect statement in such return, he shall be punishable with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or both. (5) [The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity

of being heard, enquire and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein or any matter of transaction made, on being satisfied that such enquiry and decision are necessary for the purpose of preparation, correction or revision of record-of-rights and all matters incidental or consequential thereto or detection and vesting of surplus land over the ceiling area.] [Sub-section (5) was substituted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989.](6)[ The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question as to whether any trust, endowment or institution is of public or private nature or of exclusively religious or charitable in character, or both, and any question of title incidental thereto as may be necessary to determine the extent of land which is to vest in the State under section 14S, by examining the documents, if any, or by taking into account the following, among others (i)actual user of income or usufructs of the land,(ii)mode of cultivation,(iii)pattern of utilisation of the land, and(iv)share of income or usufructs of the land appropriated or enjoyed, or the area of such land occupied or enjoyed, by or on behalf of the manager, sebaite, mutwalli, or any other person managing the trust, endowment or institution.][Inserted by West Bengal Act No. 50 of 1981, dated 24.3.1986.](7)[ Any person aggrieved by any order made under sub-section (3), (3A), (5) or (6) may prefer an appeal under section 54.] [Sub-sections (6) to (9) were inserted.by West Bengal Act No. 50 of 1981, dated 24.3.1986.](8)[ Notwithstanding anything contained in this Act or in the West Bengal Estates Acquisition Act, 1953 (West Bengal Act No. 1 of 1954) or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, the provisions of sub-sections (5), (6) and (7) shall operate with retrospective effect from the 5th day of May, 1953.] [Sub-sections (6) to (9) were inserted.by West Bengal Act No. 50 of 1981, dated 24.3.1986.](9)[ Sub-sections (5), (6), (7) and (8) of this section shall be deemed to have always been inserted in the West Bengal Estates Acquisition Act, 1953 (West Bengal Act 1 of 1954). Any officer specially empowered in this behalf under the provision of the West Bengal Estates Acquisition Act, 1953 or under the provisions of this Act, may, in exercise of the powers conferred by sub-sections (5) to (8), reopen and decide afresh any proceeding, case or dispute in relation to determination of total land held by an intermediary or a raiyat or an under-raiyat at any point of time or may determine the quantum of land such intermediary, raiyat or under-raiyat was or is entitled to retain and also may determine the extent of land which is to vest in the State or which shall remain vested in the State and shall take possession of such land in accordance with the provisions of section 14SS. Notwithstanding any judgment, decision or award of any court, tribunal or authority to the contrary, the rule of res judicata shall not apply to such cases of reopening and fresh determination.] [Sub-sections (6) to (9) were inserted.by West Bengal Act No. 50 of 1981, dated 24.3.1986.](10)[ Notwithstanding any return submitted by a raiyat under sub-section (1) or sub-section (2) and notwithstanding any order passed by the Revenue Officer under sub-section (3) or sub-section (3A) in respect of the land owned by him, the State Government may, at any time by a notification in the Official Gazette, ask every raiyat owning land in excess of the ceiling area under section 14M to furnish to the Revenue Officer, in such form as may be prescribed and within such time as may be specified in the notification, a return containing the full description of the land which he proposes to retain within the ceiling area applicable to him under section 14M and a full description of the land which is in excess of the ceiling area and such other particulars as may be prescribed.(11)On the publication of the notification under sub-section (10), the provisions of this

section shall apply mutatis mutandis to every raiyat owning land in excess of the ceiling area under section 14M.] [Sub-sections (10) to (11) were inserted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989.]

## **14U. Restriction on transfer of land by a raiyat.**

(1) Except where he is permitted, in writing, by the Revenue Officer so to do, a raiyat owning land in excess of the ceiling area applicable to him under section 14M, shall not, after the publication, in the Official Gazette, of the [West Bengal Land Reforms (Amendment) Act, 1971] [Substituted by West Bengal Act No. 35 of 1986, Calcutta Gazette, dated 12.5.1989.] transfer by sale, gift or otherwise or make any partition of any land owned by him or any part thereof until the excess land, which is to vest in the State under section 14S, has been determined and taken possession of by or on behalf of the State.[Provided that nothing in this sub-section shall apply to any land to which the provisions of section 3A apply :Provided further that if a raiyat has transferred any land which he retained in pursuance of any order of the Revenue Officer under sub-section (3) or sub-section (3A) of section 14T, such land shall be taken into account in determining, on any subsequent occasion, the ceiling area of the said raiyat in pursuance of the provisions of this Act, as if such land had not been transferred.] [Added by Ibid.](2)[ Except where he is permitted, in writing, by the Revenue Officer so to do, a raiyat owning land to which the provisions of section 3A apply, whether or not such land together with other land, if any, is in excess of the ceiling area under section 14M, shall not on and from the date of coming into force of section 3A of the Act, transfer by sale, gift or otherwise, or make any partition of, any such land or any part thereof until the excess land, if any, which is to vest in the State under section 14S has been determined or redetermined and taken possession of by or on behalf of the State.] [[Sub-section (2) was substituted by West Bengal Act No. 35 of 1986, Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989, the old sub-sections read as follows:-](2)If a raiyat makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1), the State Government may, in the first instance, take possession of land, equal in area to the land which is to vest in the State, from out of the land owned by such raiyat and where such recovery from the raiyat is not possible, from the transferee:Provided that where the transferee is a person who is eligible for allotment of surplus land in accordance with the provisions of this Act, the State Government may, instead of enforcing its right to recover the land or an equal amount of land, recover from the transferor the amount which he had received as consideration for the transfer of such land.]](3)[ If a raiyat makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1) or sub-section (2), the State Government may, in the first instance, take possession of land, equal in area to the land which is to vest in the State, from out of the land owned by such raiyat and where such recovery from the raiyat is not possible, from the transferee:Provided that where the transferee is a person who is eligible for allotment of surplus land in accordance with the provisions of this Act, the State Government may, instead of enforcing its right to recover the land or equal amount of land, recover from the transferor the amount which he had received as consideration for the transfer of such land.] [[Substituted by West Bengal Act 35 of 1986, published in the Calcutta Gazette, dated 12.5.1986, w.e.f. 12.5.1989.The old sub-section read as follows:(3)Any raiyat who transfers any land in contravention of the provisions of sub-section (1) shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term

which may extend to six months, or with both.]](4)[ Any raiyat who transfers any land in contravention of the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to six months or with both :Provided that nothing in this sub-section shall apply to any transfer made in accordance with the provisions of any law for the time being in force.] [Sub-section (4) was Inserted by ibid.]

**14V. [ Payment of amount. The State Government shall pay, in the prescribed manner, for the vesting of any land in the State under the provisions of this Act, after possession of such land is taken under sub-section (3) of section 14T, to the person or persons having any interest therein an amount equal to fifteen times the land revenue or its equivalent assessed for such land; or where such land revenue or its equivalent has not been assessed or is not required to be assessed, an amount calculated at the rate of Rs. 135 for an area of 0.4047 hectare.] [Substituted by West Bengal Land Reforms (Amendment) Act, 1980 (XLI of 1980).]**

**14W. Damages for use and occupation of land.**

Omitted by West Bengal Land Reforms (Amendment) Act, 1980 (XLI of 1980).

**14X. Bar of jurisdiction of Civil Courts.**

No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Chapter required to be decided or dealt with or to be determined by the Revenue Officer or other authority specified therein and no orders passed or proceedings commenced under the provision of this Chapter shall be called in question in any Civil Court.

**14Y. [ Limitation on future acquisition of land by a raiyat.**

If at any time, after the commencement of the provisions of this Chapter, the total area of land owned by a raiyat exceeds the ceiling area applicable to him under section 14M, on account of transfer, inheritance or otherwise, the area of land which is in excess of the ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling area shall apply to such land:] [[Substituted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989, the old section read as follows :

**14Y. Limitation on future acquisition of land. If any raiyat acquires any land, whether by transfer, inheritance or otherwise, after the commencement of the provisions of this Chapter, and such land, together with the land owned by him, exceeds the ceiling area applicable to him under section 14M, the area**

**of land which is in excess of such ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling on holding shall apply to such land.]]**

[Provided that if the State Government, after having regard to all the circumstances of a case and on the basis of the project report filed by any person, is satisfied that such person requires land (a)for the purpose of establishing a mill, factory or workshop, livestock breeding farm, poultry farm, dairy, industrial park or industrial hub or industrial estate, financial hub, warehousing, tea garden, agro-industry, power plant or power transmission or distribution sub-station, film city, tourism project, educational and medical institutions, biotech park, food park, port, airport, shipyard including shipbuilding and ship-breaking, oil and gas products piped transportation, information and communications technology (ICT) industries and information and communications technology (ICT) allied industries or mining and allied activities; and(b)for the purpose of future expansion of any such mill, factory or workshop, livestock breeding farm, poultry farm or dairy, industrial park or industrial hub or industrial estate, financial hub, warehousing, agro-industry, power plant or power transmission or distribution sub-station, film city, tourism project, biotech park, food park, port, airport, shipyard including shipbuilding and ship-breaking, information and communications technology (ICT) industries and information and communication technology (ICT) allied industries, such person may, with the previous permission. in writing, of the State Government and on such terms and conditions, and in such manner, as the State Government may, by rules prescribe, acquire and hold land it excess of the ceiling area applicable to him under section 14M:];[Provided further that such person having been permitted by the State Government to establish an industrial park or industrial hub or industrial estate or financial hub or a biotech park or a food park, shall utilize such land and lease out the whole or any part of it with the previous permission of the appropriate Department of the State Government under intimation to the Land and Land Reforms Department, for the purpose for which he has been so permitted to acquire and hold such land to such a person who will set up an unit thereon as per objects of the respective project as approved:Provided also that if such person fails to utilize such land within three years of the date of such permission granted under the first proviso for the purpose for which he has been so permitted by the State Government a id in any case the unit is not set up within the aforesaid period of three years as per objects of the project as mentioned in the second proviso, then, all the provisions of this Chapter relating to ceiling area shall apply to the area of land which is held in excess of the ceiling area applicable to him under section 14M.] [[Substituted by Act 6 of 2012 (w.e.f. 07.05.2012) for the following:Provided further that if such person, having been permitted by the State Government, does not utilise within three years of the date of such permission such land for the purpose for which he has been so permitted by the State Government to acquire and hold it, then, all the provisions of this Chapter relating to ceiling area shall apply to the area of land which is held in excess of the ceiling area applicable to him under section 14M.];[Explanation I. For the purposes of this section, "person" includes an individual, a firm, a company, an institution, or an association or body of individuals, whether incorporated or not, or a local authority or an authority constituted or established by or under any law for the time being in force] [Substituted by Act 6 of 2012 (w.e.f. 07.5.2012) for the following: Explanation I. For the purposes of this section, person includes an individual, a firm, a company, an institution, or an association or body of individuals, whether incorporated or not.];[ xxx ] [[Omitted by Act 6 of 2012 (w.e.f. 07.05.2012). Before omission it stood as under:Explanation II.

Township shall mean a centre of urban population with defined boundaries within a Planning Area having, or proposing to have, usual urban facilities and approved as such by the appropriate Department of the State Government.]]

**14Z. [ Application of Chapter IIB.] [Section 14Z was inserted by West Bengal Land Reforms (Amendment) Act, 1981 (L of 1981), dated 24.3.1986, w.r.e.f. 7.8.1969.] For the removal of doubts it is hereby declared that**

(1) notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, the provisions of this Chapter shall apply to all lands of all classes and descriptions defined in clause (7) of section 2; [Provided that nothing of this section shall apply to the land possession of which has been allowed to be retained under clause (g) [or under clause (f) shall be deemed to have been inserted with effect from 7th day of August 1969] [Added by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005) (w.r.e.f. 7.8.1969).] of sub-section (1) read with sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act 1 of 1954), notwithstanding anything contained in any law for the time being in force or in any agreement or in any decree, judgment, decision, award of any Court, Tribunal or Authority: Provided further that an intermediary, other than a lessee holding land directly under the State Government under a lease, who has been allowed to retain land under sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953, may be permitted, by written order of the State Government, [to transfer by way of open auction for the purposes referred to in the first proviso to section 14Y excluding tea garden] [Substituted by Act 6 of 2012 (w.e.f. 07.05.2012) for "to transfer by way of open auction."] at the price not less than the reserve price to be determined by the Collector, so much of such land as in the opinion of the State Government is required for the purpose of revival of the mills, factories or workshops including the payment of the outstanding liabilities of the employees of such mills, factories or workshops, in such manner as may be prescribed and the price realised from such auction shall be utilised under the supervision and control of such authority, and in such manner, as may be prescribed: Provided also that the portion of land permitted to be transferred by the State Government under the second proviso shall be deemed to have been retained by the intermediary under the provisions of clause (g) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953 and the provisions of sub-section (3) of section 6 of that Act shall stand amended to that extent for that particular case and the transferee shall be deemed to be a raiyat in respect of such portion of land.]; [Provided also that notwithstanding anything contrary contained in the second proviso, a retainer or transferee as mentioned in sub-section (2) of section 4B, has failed or fails to use the retained land for mill, factory or workshop, may further be permitted, by written order of the State Government, to retain as lessee so much of such land as in the opinion of the State Government is required for any of the purposes referred to in the first proviso to section 14Y excluding tea garden, in such manner as may be prescribed.] [Inserted by West Bengal Act no. 19 of 2017, dated 17.4.2017.](2) in the case of land comprised in a tea garden, mill, factory or workshop or land used for the purpose of livestock breeding, [poultry farming or dairy] [Substituted for the words "poultry farming or dairy, or township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979," by Notification No.



West Bengal Act XXIV of 2013 dated 28.1.2014 (w.e.f. 12.2.2014)] the raiyat, or where the land is held under a lease, the lessee, may be allowed to retain (in excess of the prescribed ceiling) only so much of such land as, in the opinion of the State Government, is required for the purpose of the tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be: Provided that the State Government may, if it thinks fit so to do, after reviewing the circumstances of a case and after giving the raiyat or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this clause specifying the land which the raiyat or the lessee shall be entitled to retain for tea garden, mill, factory, workshop, livestock breeding, [poultry farming or dairy] [Substituted for the words "poultry farming or dairy, or township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979," by Notification No. West Bengal Act XXIV of 2013 dated 28.1.2014 (w.e.f. 12.2.2014)] as the case may be: [Provided further that in determining the land required for the purpose of tea cultivation, there shall not be any diminution of the area of a tea garden.] [Inserted by West Bengal L.R. (Third Amendment) Act, 1986, published in the Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.] Explanation. The expression "land under a lease" includes any land held directly under the State Government under a lease.] [[Substituted by Act 6 of 2012 (w.e.f. 07.05.2012) for the following: Provided that a person intending to establish a tea garden, mill, factory or workshop, livestock breeding farm, poultry farm, or dairy, or Township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act 13 of 1979), may, with the previous permission, in writing, of the State Government and on such terms and conditions and in such manner as the State Government may by rules prescribe, acquire and hold land in excess of the ceiling area applicable to him under section 14M.]]

## Chapter III

### bargadars

#### **15. Certain safeguards for [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.] cultivated by bargadars.**

-(1) The provisions of clauses (b) and (c) of sub-section (4) of section 4 shall not apply to the [plot of land] [Original section was renumbered as sub-section (1) and sub-sections (2) & (3) were inserted by West Bengal Land Reforms (Amendment) Act, 1981 (L of 1981), dated 24.3.1986.] of a raiyat or any part of it which is cultivated by a bargadar so long as cultivation by a bargadar continues. (2) The right of cultivation of land by a bargadar shall, subject to the provisions of this Chapter, be heritable and shall not be transferable. (3) The provisions of this Chapter shall not apply to any person not belonging to a Scheduled Tribe claiming to be a bargadar under a raiyat belonging to a Scheduled Tribe.]

#### **15A. Continuation of right of cultivation on bargadar's death.**

(1) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, where a bargadar, cultivating any land, dies at a time when cultivation of such land by

the bargadar was continuing, the cultivation of such land may be continued by the lawful heir of the bargadar or where there are more than one lawful heir, by such lawful heir of the bargadar as all the lawful heirs of the bargadar may determine within the prescribed period :Provided that where the lawful heirs of the bargadar omit or fail to make a determination as required by this sub-section, the officer or authority appointed under sub-section (1) of section 18 may nominate one of the lawful heirs of the bargadar, who is in position to cultivate the land personally, to continue the cultivation thereof.(2)The lawful heir of the bargadar who is determined or nominated or the cultivation of the land shall cultivate the land subject to such terms and conditions as may be prescribed.(3)Where (a)no lawful heir of the bargadar is in a position to cultivate the land personally, or(b)the lawful heirs of the bargadar fail to determine, within the prescribed period, the heir by whom the cultivation of the land will be continued and the officer or authority appointed under sub-section (1) of section 18 also omits or fails to nominate, within the prescribed period, any lawful heir of the deceased bargadar for the continuation of the cultivation of the land, or(c)the person determined or nominated under sub-section (1) omits or fails to take any steps, within the prescribed period, for the continuation of the cultivation of the land, cultivation of the land may be continued by such person, whether an heir of the deceased bargadar or not, as may be nominated by the person whose land was cultivated by the deceased bargadar.

## **16. Share of produce payable by a bargadar.**

(1) The produce of any land cultivated by a bargadar shall be divided as between the bargadar and the person whose land he cultivates (a)in the proportion of 50 : 50, in a case where plough, cattle, manure and seeds necessary for cultivation are supplied by the person owning the land,(b)in the proportion of 75 : 25, in all other cases.(2)The bargadar shall tender, within the prescribed period, to the person whose land he cultivates, the share of the produce due to such person.(3)Where any share of produce tendered under sub-section (2) is accepted by the person whose land is cultivated by the bargadar, each party shall give to the other a receipt, in such form as may be prescribed, for the quantity of the produce received by him.(4)If the person whose land is cultivated by the bargadar refuses to accept the share of the produce tendered to him by the bargadar, or to give a receipt therefor, the bargadar may deposit, within the prescribed period, such share of the produce with such officer or authority as may be prescribed and such deposit shall discharge the bargadar from his obligation to deliver the share of the produce to the person whose land he cultivates:Provided that where the quantity of the produce deposited by the bargadar is lesser than the quantity of the produce due to the person whose land he cultivates, the obligation of the bargadar with regard to the delivery of the deficiency in relation to the produce shall continue.(5)Where a deposit referred to in sub-section (4) has been made, the prescribed officer or authority shall (a)give to the bargadar a receipt in such form as may be prescribed stating therein the quantity of the produce deposited by the bargadar and the particulars of the person for whom the produce has been deposited; and(b)give intimation of such deposit, in such form and in such manner as may be prescribed, to the person for whom the produce has been deposited.(6)Where any produce is deposited under sub-section (4) and the person for whom the produce has been deposited does not take delivery of such produce within fifteen days from the date of service on him of the intimation of such deposit, the officer or authority referred to in sub-section (4) may sell such produce and deposit the proceeds of such sale, after deducting therefrom the cost of conducting the

sale, in the treasury, in revenue deposit, to the credit of the person for whom the produce has been deposited and give intimation of such deposit to such person, in such form and in such manner as may be prescribed.(7)The bargadar shall store or thresh the produce (a)at such place as may be agreed upon between him and the person whose land he cultivates, or(b)where there is disagreement between them, at such place as may be fixed by him after giving notice, in writing, served in the prescribed manner to the person whose land he cultivates: Provided that the person whose land is cultivated by the bargadar may at any time during the storage or threshing of the produce, enter the place where the produce has been stored or is being threshed for the purpose of inspecting the storage or threshing, as the case may be, of the produce.

**16A. [ bargadar entitled to recover his share in certain cases. If the produce of any land cultivated by a bargadar is harvested and taken away, or if such produce after it is harvested by the bargadar is taken away, forcibly or otherwise, by the owner of such land, the bargadar shall be entitled to recover from such owner the share of the produce due to him or its money value.] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1968.]**

## **17. Termination of cultivation by bargadar.**

(1) No person shall be entitled to terminate cultivation of his land by a bargadar except in execution of an order, made by such officer or authority as the State Government may appoint, on one or more of the following grounds (a)that the bargadar has without any reasonable cause failed to cultivate the land, or has used it for any purpose other than agriculture;(b)that the land is not cultivated by the bargadar personally;(c)that the bargadar has failed to tender deposit to the full extent the share of the produce as required by sub-section (2), or sub-section (4), as the case may be, of section 16:Provided that no order for the termination of cultivation, made on the ground specified in this clause, shall be given effect to if the bargadar delivers to the person, whose land he cultivates, the share of the produce due to such person, or pays to him the market price thereof, within such time and in such instalments as the officer or authority making the order may, having regard to all the circumstances of the case, specify in his behalf;(d)that the person owning the land requires it bona fide for bringing it under personal cultivation:Provided that the person owning the land shall be entitled to terminate cultivation by a bargadar of only so much of land as, together with any other land in the personal cultivation of such person, does not exceed 3.00 hectares :Provided further that such person shall not be entitled to so terminate cultivation by a bargadar as to reduce the aggregate area of the land cultivated by the bargadar to less than 1.00 hectare.Explanation. In determining the areas specified in the foregoing provisos no transfer of land made after the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall be taken into account.Explanation. For purposes of clause (b), a bargadar who cultivates the land with the help of members of his family shall be deemed to cultivate it personally.(2)[ If an owner fails to bring under personal cultivation any land, the cultivation of which by a bargadar has been terminated under clause (d) of sub-section (1) within two years from the date of such termination or allows such land to be cultivated by some other person, the land shall vest in the State free from all encumbrances under an order of the prescribed authority in the prescribed manner, and the owner of the land shall

be entitled to an amount therefor in accordance with the provisions of section 14V.] [Substituted by West Bengal Act No. 50 of 1981, dated 24.3.1986.](3)[ xxx ] [Omitted by West Bengal Act No. 50 of 1981, dated 24.3.1986.](4)No bargadar shall be entitled to cultivate more than [4.00 hectares] [Inserted by West Bengal Land Reforms (Amendment) Act, 1977 (XXXIX of 1977).] of land. In computing this area any land owned by the bargadar as well as the land cultivated by him as a bargadar shall be taken into account.(5)If a bargadar cultivates land in excess of [4.00 hectares] [Inserted by West Bengal Land Reforms (Amendment) Act, 1977 (XXXIX of 1977).] the share of the produce due to him as a bargadar in respect of the land in excess of [4.00 hectares] [Inserted by West Bengal Land Reforms (Amendment) Act, 1977 (XXXIX of 1977).] shall be forfeited to the State Government by the order made in this behalf by a Revenue Officer.(6)Where any land cultivated by a bargadar is in excess of the limit specified in sub-section (4), the person whose land is cultivated by such bargadar shall, if the excess land is within the provisions of Chapter II-B, have the land cultivated by any person referred to in section 49 who is willing to cultivate the said land as a bargadar.[Explanation. For the purposes of clause (d) of sub-section (1) and sub-section (2), "personal cultivation" shall not include cultivation by servant or labourers on wages payable in cash or in kind not being as a share of the produce, or both.] [Inserted by West Bengal Land Reforms (Amendment) Act, 1977 (XXXIX of 1977).]

## 18. Jurisdiction to decide certain disputes.

(1) Every dispute between a bargadar and the person whose land he cultivates in respect of any of the following matters, namely : (a) division or delivery of the produce, (aa) recovery of produce under section 16A, (b) termination of cultivation by the bargadar, (c) [Omitted by the West Bengal Land Reforms (Amendment) Act, 1970 (President's Act 16 of 1970) and then by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972) with retrospective effect from July 13, 1970,] shall be decided by such officer or authority as the State Government may appoint: [Provided that no application for decision of any dispute shall be entertained unless such application is presented to the officer or authority within three years from the date on which the claim falls or becomes due.] [[Substituted by West Bengal Act No. 50 of 1981, dated 24.3.1986; the old Proviso read as follows: Provided that no application for decision of any dispute in respect of delivery of the produce referred to in clause (a) shall be entertained unless such application is presented to the officer or authority within two years from the date on which the delivery of the produce falls due.]] (2) If in deciding any dispute referred to in sub-section (1) or otherwise any question arises as to whether a person is a bargadar or not and to whom the share of the produce is deliverable, such question shall be determined by the officer or authority mentioned in sub-section (1). (2A) If in deciding any question referred to in sub-section (2), the officer or authority mentioned in that sub-section finds that any default in the delivery of the share of produce is due to doubt or uncertainty on the question whether the land in respect of which the share of the produce is claimed has vested in the State or has been retained under the West Bengal Estate Acquisition Act, 1953, [or under this Act] [Inserted by Act No. 50 of 1981, dated 24.3.1986.] by the person claiming the share, such officer or authority shall, instead of terminating cultivation of the land by the bargadar on the ground of default, allow him time to deliver the share of the produce due to the person entitled thereto or to pay the price thereof by annual instalments not exceeding four, the first of such instalments being deliverable or payable on a date not later than the first day of Chaitra next

following the date of the order.(2B)[Omitted by the West Bengal Land Reforms (Amendment) Act, 1970 (President's Act 16 of 1970) and then by the West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act No. 12 of 1972) with retrospective effect from July 13, 1970.](3)The decision of any dispute referred to in clause (a) of sub- section (1) shall specify the money value of the share of the produce to be delivered, which shall be payable in default of delivery of such share.(3A)The decision of any dispute referred to in clause (aa) of sub-section (1) shall specify the quantity of the produce recoverable from the owner by the bargadar as his share and also its money value which shall be payable by the owner in default of delivery of such quantity of the produce.(4)For the removal of doubts it is hereby declared that notwithstanding any decision of any Court to the contrary, any order under clause (a) of sub-section (1), specifying the money value of the share of the produce to be delivered payable in default of delivery of such share, made before the commencement of the West Bengal Land Reforms (Amendment) Act, 1972 shall be deemed to be and to have always been validly made as if that Act had come into force when such order was made.(5)If the decision of any dispute referred to in clause (a) of sub-section (1) given before the commencement of the West Bengal Land Reforms (Amendment) Act, 1962, does not specify the money value of the share of the produce to be delivered, the bargadar or the person whose land is cultivated by the bargadar or the successor-in-interest of such person may within ninety days from the commencement of the West Bengal Land Reforms (Amendment) Act, 1965, make an application before the officer or authority who decided the dispute or his or its successor for review of the decision for the purpose of specifying the money value of the shares of the produce to be delivered payable in default of delivery of such share.(6)Upon receipt of such application the officer or authority shall, after giving the parties to the dispute an opportunity of being heard and adducing evidence, pass an order specifying the money value of the share of the produce to be delivered, which shall be payable in default of delivery of such share.

**18A. [ Continuance in office of officers and authorities appointed under sections 17 and 18 until successor commences to function. (1) An officer or authority appointed under section 17 or section 18 shall continue to function after appointment of his or its successor until such successor commences to function.**

(2)Notwithstanding any decision of any court to the contrary, any proceeding continued by or before any such officer or authority, and any order made by any such officer or authority, after his or its successor is appointed but before such successor commences to function, shall be deemed to be and to have always been validly continued or made.(3)Any appeal against any order referred to in sub-section (2) filed before the commencement of the West Bengal Land Reforms (Amendment) Act, 1960 or any order made in any such appeal shall have no effect.] [Inserted with retrospective effect by section 2 of the West Bengal Land Reforms (Amendment) Act, 1960 (VI of 1960).]

**19. Appeal.**

(1) An appeal shall lie to the [Collector] [Substituted by West Bengal Land Reforms (Amendment) Act No. 50 of 1981, dated 24.3.1986, for "Sub-Divisional Officer"] having jurisdiction over the area

in which the land is situated, against any order made [under section 17 or section 18 or sub-section (3) of section 21] [[Substituted *ibid*, for : "under section 17 or section 18 except where such order was made with the consent of the parties to the dispute."]]. The [Collector] [Substituted by West Bengal Land Reforms (Amendment) Act No. 50 of 1981, dated 24.3.1986, for "Sub-Divisional Officer"] shall, on an appeal being disposed of, send a copy of his order to the officer or authority whose decision is appealed against.(1A)[ An officer or authority appointed by the State Government under section 17 or section 18 or an officer specially empowered under sub-section (1) of section 19B shall not pass any interlocutory or final order in any proceedings before him or it on the basis of any consent, agreement or compromise obtained or effected for the purpose of such proceedings, notwithstanding anything contained in the Indian Contract Act, 1872 (9 of 1872), or any other law for the time being in force.] [Inserted by West Bengal Land Reforms (Amendment) Act No. 50 of 1981, dated 24.3.1986.](2)The period within which the appeal mentioned in sub-section (1) must be filed shall be thirty days from the date of the order appealed against :Provided that an appeal against any order referred to in sub-section (2) of section 18A made before the commencement of the West Bengal Land Reforms (Amendment) Act, 1960 may be filed within ninety days of such commencement :Provided further that the provisions of section 5 of the Indian Limitation Act, 1908 shall apply to an appeal under this section.(2A)Every appeal pending before any Munsif at the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall, on such commencement, stand transferred to, and be disposed of by, the [Collector] [Substituted by West Bengal Land Reforms (Amendment) Act No. 50 of 1981, dated 24.3.1986, for "Sub-Divisional Officer." ] having jurisdiction in relation to the area in which the land is situated and on such transfer every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1972.(2B)[ The Collector may transfer any appeal, whether transferred to, or filed before him, for disposal to any officer subordinate to him as may be prescribed:Provided that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed against and every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act.] [[Substituted by the West Bengal Land Reforms (Amendment) Act, 2003 (18 of 2003) (w.e.f. 19.10.2003). The old subsection read as under:](26)The Sub-Divisional Officer may transfer any appeal, whether transferred to, or filed before him, for disposal to any officer not below the rank of a Sub-Deputy Collector, subordinate to him, but senior in rank and position to the Officer or authority against whose order the appeal has been preferred and every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1972.]](3)The Sub-Divisional Officer hearing the appeal may for sufficient cause make an order staying execution of the order appealed against.(4)When the Sub-Divisional Officer makes an order under sub-section (3), a copy of such order shall be sent to the officer or authority before whom an application for execution is pending.

**19A. [ Penalty. (1) Any person who fails to comply with an order made under sections 17, 18 or 19 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred**

**rupees or with both.**

(2) If, after the commencement of the West Bengal Land Reforms (Amendment) Act, 1966, any person owning any land terminates or causes to be terminated, [or attempts to terminate] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1957 (23 of 1957).] the cultivation of the land by a bargadar in contravention of the provisions of this Act, he shall be guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both. (2A) [Any person who fails to give a receipt in contravention of the provisions of sub-section (3) of section 16 for the share of the produce accepted by him shall be guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1977 (XXXIV of 1977).] (3) An offence under sub-section (2) [or under sub-section 2A] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1977 (XXXIV of 1977).] shall be cognizable and bailable.]

**19B. [ Restoration of land to bargadar] [Inserted by West Bengal Land Reforms (Amendment) Act, 1957].--(1) If a person owning any land terminates or causes to be terminated the cultivation of the land by a bargadar in contravention of the provisions of this Act, then any officer specially empowered by the State Government in this behalf, shall, on an application by such bargadar, by order direct**

(a) in a case where such land has not been cultivated, or has been cultivated by the owner or by any person on his behalf other than a bargadar, that the land be immediately restored to the applicant and further that forty per cent of any produce of the land shall be forfeited to the State Government and the remaining sixty per cent of such crops shall be retained by the applicant; (b) in a case where such land has been cultivated by a [person other than the bargadar] [Substituted by West Bengal Land Reforms Act No. 50 of 1981, dated 24.3.1986, Calcutta Gazette, for "New bargadar's"] engaged by the owner that the land be restored at the end of the cultivation season to the applicant and further that the [person other than the bargadar] [Substituted by West Bengal Land Reforms Act No. 50 of 1981, dated 24.3.1986, Calcutta Gazette, for "New bargadar's"] [shall retain twenty-five per cent] [Substituted *ibid*, for "shall retain fifty per cent"] of the crops harvested before restoration and make over the [remaining seventy-five per cent] [Substituted *ibid*, for "remaining fifty per cent"] of such crops to the applicant: [Provided that nothing in this section shall apply to termination of cultivation by a bargadar if the termination occurred before the 4th day of August, 1970, namely, the date with effect from which the West Bengal Land Reforms (Amendment) Act, 1969 ceased to be in force: Provided further that an application under sub-section (1) shall be made within two years from the date of termination of cultivation by the bargadar or two years from the date of commencement of the West Bengal Land Reforms (Amendment) Act, 1980 whichever is later: Provided also that if there is more than one applicant, the bargadar who has cultivated the land for the longest period shall be considered to be the rightful bargadar for the purpose of restoration in exclusion of other bargadars:] [Inserted by West Bengal Land Reforms (Amendment) Act, 1980 (41 of 1980).] Provided also that after any application under sub-section (1) has been disposed of with the order of

restoration of cultivation by a bargadar, the question shall not be reopened on any other application. Explanation. For determining the "longest period" the total period of cultivation may not be continuous, but while computing the "longest period" of cultivation, the period or periods of cultivation since the 4th day of August, 1970 (which may or may not be continuous) shall only be taken into account. [(1 A) If the produce forfeited under clause (a) of sub-section (1) cannot be recovered from the owner of the land or the person cultivating the land on his behalf other than a bargadar or if the share of produce receivable by the bargadar under clause (b) of sub-section (1) cannot be recovered from any person other than the bargadar, money value of the share of produce so forfeited under clause (a) or share of produce so receivable under clause (b) shall be recovered by the prescribed authority under sub-section (1) as a "public demand" under the Bengal Public Demands Recovery Act, 1913 (Bengal Act No. 3 of 1913), on a written requisition sent by such prescribed authority to the Certificate Officer.] [Inserted by West Bengal Land Reforms (Amendment) Act, 1981 (L of 1981), dated 24.3.1986.](2)[ An appeal against any order made under sub-section (1) shall lie to the Collector who shall be superior in rank to the officer from whose order the appeal is preferred.] [Substituted by West Bengal Land Reforms (Amendment) Act, 1981 (L of 1981), dated 24.3.1986.](3)[ xxx ] [Omitted, ibid.]

## **20. Procedure and execution.**

(1) The procedure to be followed in deciding disputes or appeals under this Chapter and the fees to be paid by the parties shall be as may be prescribed. (2) Any order made under this Chapter including an order passed or appeal shall be executed by the officer or authority appointed by the State Government, in such manner as may be prescribed. (3) No order of the ejectment of a bargadar shall be executed except during the months of the Bengali year specified below: (i) in such portions for the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, the month of Pous or Magh, and (ii) elsewhere, the month of Chaitra or Baisakh: Provided that proper compensation is paid, in such manner as may be prescribed, by the owner to the bargadar for his share of the standing or crops, if any.

**20A. [ Setting aside of order for termination of cultivation by bargadars.]**  
**[Inserted by West Bengal Land Reforms (Amendment) Act, 1972 (Act No. 12 of 1972).]** Notwithstanding anything contained in any law for the time being in force, where before the commencement of the West Bengal Land Reforms (Amendment) Act, 1969, an order for the termination of cultivation of any land by a bargadar had been made under clause (b) of sub-section (1) of section 18 but such order has not been given effect to (whether by reason of the operation of any law or otherwise), before the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, then, such order shall, on such commencement stand vacated and the officer or authority by whom such order was made shall, after giving notice to the parties concerned, decide the dispute in accordance with the provisions of section 17 as



**amended by the West Bengal Land Reforms (Amendment) Act, 1972.]**

**20B. [ Surrender or abandonment by bargadar.] [Inserted by West Bengal Land Reforms (Amendment) Act, 1972 (Act No. 12 of 1972).] (1) If a bargadar**

(a)surrenders his right to cultivate in relation to any and cultivated by him as a bargadar, or(b)voluntarily abandons cultivation of such land [the owner of the land or the bargadar or any other person] [Substituted by West Bengal Act No. 50 of 1981, dated 24.3.1986.] may give information in writing of such surrender or abandonment to the officer or authority appointed under sub-section (1) of section 18, having jurisdiction in the area in which such land is situated.(2)On receipt of such information [or on his own motion] [Inserted, ibid.] such officer or authority shall issue a notice, in the prescribed form, to the bargadar, and after giving the bargadar and the person whose land was cultivated by the bargadar, an opportunity of being heard and making such inquiries as he or it may deem necessary, determine whether the bargadar voluntarily surrendered or abandoned his right of cultivation in relation to such land.(3)If such officer or authority determines that the bargadar had not voluntarily surrendered or abandoned the cultivation of the land which was being cultivated by him as such and that he had been compelled by force or otherwise to surrender or abandon the cultivation of such land, such officer or authority shall restore the bargadar to the cultivation of the land, or where the bargadar is not available or is not willing to be restored to the cultivation of such land, the person whose land was so cultivated shall not resume personal cultivation of the land, but he may, with the permission of such officer or authority, get the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a bargadar.(4)If such officer or authority determines that the bargadar had voluntarily surrendered or abandoned the cultivation of the land which was cultivated by him as such, the person whose land was being so cultivated shall not resume personal cultivation of such land but he may, with the permission of such officer or authority, have the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a bargadar.(5)Any contravention of the provisions of sub-section (3) or sub-section (4) shall be an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.[Provided that subject to the payment of compensation by a transferee to a bargadar under the Land Acquisition Act, 1894 (1 of 1894), and the rules made thereunder, nothing in this sub-section shall apply to any land intended to be utilised for any of the purposes referred to in the first proviso to section 14Y.] [Inserted by Act 31 of 2000, w.e.f. 27.8.1996.]

**21. Bar of Jurisdiction.**

(1) No order or other proceedings whatsoever under this Chapter shall be questioned in any Civil Court and no Civil Court shall entertain any suit or proceeding in respect of any matter mentioned in [sections 17, 18, 19B and 20B] [Substituted by West Bengal Act No. 50 of 1981, dated 24.3.1986.](2)On the appointment of officers or authorities under this Chapter all proceedings pending before any Bhagchas Conciliation Board established under the West Bengal bargadars Act, 1950, shall stand transferred to the officer or authority having jurisdiction over the area in ,which

the land, to which the proceedings relate, is situated.(3)If any question as to whether a person is or is not a bargadar arises in the course of any [suit, case, appeal or other] [Inserted, *ibid.*] proceedings before any Civil or Criminal Court, the Court shall refer it to the officer or authority mentioned in sub-section (1) of section 18 [for decision and such Court shall dispose of the suit, case, appeal or other proceedings in accordance with the decision communicated to it by the officer or authority mentioned in sub-section (1) of section 18 to whom the question was referred] [Substituted, *ibid* for "for decision".].(4)[ On a reference being made under sub-section (3) of this section to the officer or authority mentioned in sub-section (1) of section 18 for deviation, such officer or authority shall personally make such enquiry as may be prescribed, shall arrive at a decision after giving all the parties to the suit, case, appeal or other proceedings an opportunity of being heard and shall communicate his or its decision in the prescribed manner to the Court which made the reference. After communication of his or its decision to the referring Court such decision shall not be altered or revised except in an appeal under section 19.] [Inserted, *ibid.*]

**21A. [ Temporary stay of proceedings for termination of cultivation by bargadars. Notwithstanding anything contained in this Chapter,**

(a)all applications made under section 18 for the termination of cultivation by bargadars,(b)all appeals preferred under section 19 against orders made on such applications, and(c)all proceedings commenced under sub-section (2) of section 20 for execution of orders for termination of cultivation by bargadars,which are pending before the appropriate authority at the date of commencement of the West Bengal Land Reforms (Amendment) Act, 1969, or which may be so made, preferred or commenced after such date but before the expiry of the said Act, shall be stayed for the period during which the said Act continues in force.] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1969 (Act XI of 1969) and remained in force for one year with effect from 4th August 1969.]

**21B. [ Person cultivating land of another person to be presumed to be a bargadar in certain cases. A person lawfully cultivating any land belonging to another person shall be presumed to be a bargadar in respect of such land if such person is not a member of the family of the other person whose land he cultivates and the burden of proving that such person is not a bargadar or that the land is in his personal cultivation shall, notwithstanding anything to the contrary contained in any other law for the time being in force, lie on the person who alleges that the person cultivating the land is not a bargadar in respect of such land.] [Inserted by the West Bengal Land Reforms (Amendment) Act, 1977 (XXXIV of 1977).]**

**21C. [ Constitution of State Land Corporation or Regional Land Corporation. (1) The State Government may on its own motion, by notification in the Official Gazette, constitute a State Land Corporation, or**

**one or more Regional Land Corporations or both.**

(2) The State Land Corporation and each of the Regional Land Corporations (hereafter in this section called as Corporation) shall be body corporate with perpetual succession and common seal, and shall have power to acquire, hold and dispose of property, to advance funds, to enter into contracts, to institute and defend suits, cases and all other legal proceedings and to do all things necessary for the purpose of carrying on its object. (3) The object of the Corporation shall be to advance funds in the prescribed manner to a recorded bargadar of the land intended to be Sold or to a bargadar of the land intended to be sold and holding certificate issued under the rules made under this Act or to a person eligible for settlement of land under section 49, to enable him to purchase agricultural land from a raiyat who owns at the material time not exceeding one standard hectare as defined in clause (t) of section 14K of land in the aggregate, whose principal source of income is produce from his land and who being in distress has failed to sell the land in the open market on account of cultivation of the land, which the raiyat intends to sell, by the bargadar and the name of the bargadar has been recorded or certificate has been issued to the bargadar, provided such bargadar or such person is otherwise eligible to receive the advance of fund, as may be prescribed. (4) The price of the land intended to be purchased by the eligible bargadar shall be settled as between the bargadar and the owner of the land. Failing such settlement of price, the Corporation, on being requested by the owner of the land or the bargadar or on its own motion may assess the market value of the land for assessment thereof, mutatis mutandis, in accordance with the principles of the Land Acquisition Act, 1894 (1 of 1894) taking into account the fact of cultivation by bargadar, but assessment of market value shall not include any solatium or interest or any other thing except the market value of the land. (5) If in such a case the bargadar fails or does not intend to buy the land cultivated by him as bargadar, the Corporation, on being requested by the owner of the land, may offer the land to a person eligible under section 49 to buy the land at the mutually settled price or at the price assessed by the Corporation under sub-section (4). If such person fails or does not intend to buy, the Corporation may, within a period of six months of the request by the owner of the land, purchase the land at a price mutually settled between the Corporation and the owner of the land or at the price assessed by the Corporation under sub-section (4) and in case of such purchase the Corporation shall pay the settled or assessed market value, as the case may be, to the owner of the land. (6) The instrument of purchase shall be by a registered deed of conveyance. If, however, the owner of the land does not register the deed of conveyance, within thirty days of payment of the settled or assessed price to him by or on behalf of the bargadar or by the person eligible under section 49 or by the Corporation, as the case may be, notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), the Transfer of Property Act, 1882 (4 of 1882) or any other law for the time being in force, the issue of notification in the Official Gazette by the Corporation shall be the conclusive evidence of sale of the land. (7) The recorded bargadar or the bargadar holding a certificate or the person eligible under section 49 who purchases the land shall mortgage the land to the Corporation as security for the loan advanced or to be advanced to him by a registered instrument and the loan along with service or other charges shall be repayable to the Corporation in the prescribed manner. (8) The land when purchased by the Corporation or acquired by the Corporation in satisfaction of a mortgage shall be sold in public auction in such manner as may be prescribed, for realising the money spent in purchasing or acquiring the land and also for service or other charges, if any. (9) For the purpose of this section, the word "distress" shall mean (a) marriage

of a daughter,(b)performance of an obligatory ceremony due to death of father, mother, husband or wife, as the case may be,(c)medical treatment of an illness of a very serious nature endangering of life of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner,(d)maintenance of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner, due to flood, drought or any other natural calamity.(10)All powers, functions, rights and obligations laid down in this Section for the Corporation shall be applicable to and exercised by any institution or organisation as may be notified by the State Government in the Official Gazette on such terms and conditions and in such manner as may be prescribed:Provided that the provisions of this section shall not apply to a bargadarwho owns and cultivates 4.00 hectares of land in the aggregate.] [Inserted by West Bengal Act No. 50 of 1981, dated 24.3.1986 with retrospective effect from 7.8.1969.]

**21D. [ Names of bargadars to be entered in the record-of-rights. (1) The names of bargadars in respect of every raiyat shall be entered in the record-of-rights in such manner as may be prescribed.] [Inserted by West Bengal Act No. 50 of 1981, with retrospective effect from 7.8.1969.]**

(2)[ The provisions of sub-section (1) shall have effect notwithstanding anything contained in Chapter VII or Chapter VIIA of this Act.] [Section 21D shall be renumbered as sub-section (1) and sub-section (2) inserted by West Bengal Land Reforms (Amendment) Act, 1989 w.e.f. 7.8.1989.]

**21E. [ Bar to legal practitioners. In deciding any dispute under the provisions of Chapter III, the officers and authorities may allow any party to the dispute, unable to make submission on its behalf, to be represented by its relative or by a representative of the association or organisation to which the party belongs:**

Provided that no Advocate or legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 (18 of 1879), shall be allowed to appear, plead or act in any capacity on behalf of the party before any officer or authority, unless such Advocate or legal practitioner himself is a party to the dispute.] [Inserted by West Bengal Act No. 50 of 1981, with retrospective effect from 7.8.1969.][CHAPTER IV] [Substituted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005). 17th day of December 2005 is the date with effect from which a raiyat shall pay revenue for his land in the manner laid down in section 23] Provisions as to revenue

## **22. Liability to pay revenue.**

(1) A raiyat shall be [liable to pay revenue for his plot of land, other than the plot of land used for agricultural purpose.] [Substituted 'liable to pay revenue for his plot of land' by Act No. 42 of 2017, dated 17.10.2017.](2)Revenue shall be a first charge on land held by the raiyat.

**23. [ Determination of revenue. Notwithstanding anything to the contrary contained in any judgement, decree or order of any court or tribunal or in any law for the time being in force, a raiyat shall pay as revenue, determined at the rate as stated in column (3) of the Table below in respect of the category of plot of land as mentioned in column (2) of the said Table, with effect from such date, as the State Government may, by notification in the Official Gazette, specify:] [Substituted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005)]**

Table

S. No.	Category of plot of land	Rate of revenue
(1)	(2)	(3)
1.	Where any plot of land is situated in the areas not falling within the local limits of any Municipal Corporation or Municipality, other than the areas of the Kolkata Metropolitan Development Authority—	
	(a) in case such plot of land is used for the purpose of agriculture;	[[***] [Omitted by Act No. 42 of 2017, dated 17.10.2017.]
	(b) in case such plot of land is used for the purpose of activities allied to agriculture. Explanation.—The expression "activities allied to agriculture" shall mean fisheries, poultries, piggeries, potteries, floriculture, horticulture, sericulture, dairies, livestock breeding and include other land based bio-mass production activities;	
	(c) in case such plot of land is comprised in tea garden and land used for cultivation of tea;	Rs.30.00 per acre.
	(d) in case such plot of land is used as homesteads and non-agricultural purposes other than commercial and industrial activities as mentioned in clause (l) and (n);	Rs.40.00 per acre.
	(e) in case such plot of land is held by any Government undertaking;	Rs.50.00 per acre.

- (f) in case such plot of land is used by a company or a body corporate, other than Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) for the purpose of activities allied to agriculture as defined in Explanation to clause (b); Rs.150.00 per acre.
- (g) in case such plot of land is used for brackish water fisheries by individual fish farmers or by any co-operative society; Rs.200.00 per acre.
- (h) in case such plot of land is used for brackish water fisheries by a company or any body corporate other than a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); Rs.400.00 per acre.
- (i) in case such plot of land is used for any commercial and industrial activities as mentioned in clause (n) without having any pucca structure; Rs.500.00 per acre.
- (j) in case such plot of land is used under multi-story building by any co-operative society; Rs.600.00 per acre.
- (k) in case such plot of land is used for housing complex developed by any private company or any public company, other than a Government company as defined in section 617 of the Companies Act, 1956; Rs. 800.00 per acre.
- (l) in case such plot of land is used for any commercial and industrial activities, not specified in clause (n), in any pucca structure; Rs. 1,000.00 per acre.
- (m) in case such plot of land is used for agro-processing, food-processing, agro industries, agricultural commodities, storage warehouses and godowns, food parks in pucca structure; Rs. 1,200.00 per acre.
- (n) in case such plot of land is used for commercial and industrial activities. Explanation.—The expression "commercial and industrial activities" shall mean cold storage, rice mills, general trading warehouses, godowns, automobiles garages, repairing shops, business establishments in market place or supermarket, multiplexes, cinema, theatre or video halls, and hotels, restaurants, and hospitals, pathological laboratories, nursing homes, and include other offices and establishments of any company or body Rs.1,500.00 per acre.

corporate other than a Government company as defined in section 617 of the Companies Act (1 of 1956);

(o) in case such plot of land is comprised in and used for mills, factories or workshops other than those commercial and industrial activities specified in clause (o) and clause (n).

Rs. 2,000.00 per acre.

Where any plot of land is situated in the areas falling within the local limits of any Municipal Corporation or Municipality, other than the areas of the Kolkata Metropolitan Development Authority—

(a) in case such plot of land is used [for the purpose of activities allied to agriculture;]

[Substituted 'for the purpose of agriculture and activities allied to agriculture' by Act No. 42 of 2017, dated 17.10.2017.]

Rs. 20.00 per acre,

(b) in case such plot of land is used for homesteads and is situated within the local limits of—

(i) any Municipal Corporation,

Rs. 35 per decimal.

(ii) any Municipality of Category A,

Rs. 25 per decimal.

(iii) any Municipality of Category B,

Rs. 20 per decimal.

(iv) any Municipality of Category C,

Rs. 15 per decimal.

(v) any Municipality of Category D,

Rs. 10 per decimal.

(vi) any Municipality of Category E,

Rs. 5 per decimal.

(c) in case such plot of land is comprised in and used for mills, factories, workshops or any other commercial and industrial activities and such plot of land is situated within the local limits of—

(i) any Municipal Corporation,

Rs. 175 per decimal.

(ii) any Municipality of Category A,

Rs. 150 per decimal.

(iii) any Municipality of Category B,

Rs. 100 per decimal.

(iv) any Municipality of Category C,

(v) any Municipality of Category D,

Rs. 50 per decimal.

(vi) any Municipality of Category E.

Rs. 25 per decimal.

Explanation.—The expression "commercial and industrial activities" shall mean coldstorages, warehouses, godowns, automobiles garages, repairingshops, business establishments in market place or supermarket,multiplexes, cinema, theatre or video halls, hotels, restaurantsand hospitals, pathological laboratories and nursing homes, andinclude other offices or establishments of any company and bodycorporate other than a Government company as defined in section617 of the Companies Act, 1956 (1 of 1956);

(d) in case such plot of land is used for non-agriculturalpurposes other than commercial and industrial activitiesmentioned in clause (c); Rs. 50 per acre.

Explanation I.—For thepurpose of determination of revenue in respect of any plot ofland, municipalities are classified into the following categorieson the basis of population as ascertained at the last precedingcensus of which the relevant figures have been published:

Category A—municipal areas having population more than2,15,000;

Category 8—municipal areas having population above1,70,000 but not exceeding 2,15,000;

Category C—municipal areas having population above85,000 but not exceeding 1,70,000;

Category D—municipal areas having population above35,000 but not exceeding 85,000;

Category E—municipal areas having population notexceeding 35,000:

Provided that Darjeeling Municipality is classified asCategory A municipality irrespective of the population.

Explanation II.—For thepurpose of determination of revenue in respect of any plot ofland comprised in and used for mills, factories, workshops, orother commercial and industrial activities, revenue for theportion of the plot of land which is not directly used for shops,offices, storages and godowns, parking spaces in pucca structuresof such mills, factories, workshops shall be assessed at the ratespecified in clause (d) of serial No. 2.



**23A. [ Exemption. Notwithstanding anything contained elsewhere in this Act, the following lands shall be exempted from the payment of revenue under this Act-**

(a)land owned by the Central Government, the State Government and the local bodies;(b)land used as public roads, burial grounds, places of worship, burning ghat or for such other public purposes as may be prescribed; and(c)land held by the Government sponsored educational institution.].[Explanation. For the purpose of this section, the expression "Government sponsored educational institution" means the educational institution which is established under any law of the State of West Bengal, or recognized by the State Government, and is being aided by the State Government.] [Inserted by West Bengal Act 28 of 2010, w.e.f. 1.11.2010 vide Notification No. 5779 dated 28.10.2010.]

**24. Exemption of revenue and payment of cess and surcharge.**

(1) Notwithstanding anything contained in this Chapter (a)where the Revenue Officer on his own motion or on an application made by a raiyat makes an order that the total area of land held by a raiyat and his family does not exceed 2.428 hectares, the raiyat and his family shall be exempted from paying revenue with effect from the 1st day of Baisakh, 1385 B.S.:Provided that such exemption shall not affect the liability of the raiyat to pay any cess imposed on him under the Cess Act, 1880 (Bengal Act No. 9 of 1880), or the West Bengal Primary Education Act, 1973 (West Bengal Act No. 43 of 1973), or the West Bengal Rural Employment and Production Act, 1976 (West Bengal Act No. 14 of 1976), or any other law for the time being in force, on the basis of the revenue of his land determined under section 23:Provided further that no exemption shall be made in respect of any land which lies within (a)any area within the local limits of a Municipality, or(b)[ xxx ] [[Omitted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005), w.e.f. 1.12.2005, published in the Kolkata Gazette, Extraordinary, Part III, dated 11.11.2005. Before omission those read as under:(b)any area constituted by the State Government as a notified area under section 378 of the West Bengal Municipal Act, 1993 (West Bengal Act 22 of 1993), or(c)any area in a newly developing locality as the State Government may, by notification in the Official Gazette, specify, or(d)any area within an urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976), or.]](c)[ xxx ] [[Omitted by the West Bengal Land Reforms (Amendment) Act, 2005 (West Bengal Act 28 of 2005), w.e.f. 1.12.2005, published in the Kolkata Gazette, Extraordinary, Part III, dated 11.11.2005. Before omission those stood as under:(b)any area constituted by the State Government as a notified area under section 378 of the West Bengal Municipal Act, 1993 (West Bengal Act 22 of 1993), or(c)any area in a newly developing locality as the State Government may, by notification in the Official Gazette, specify, or(d)any area within an urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976), or.]](d)[ xxx ] [[Omitted by the West Bengal Land Reforms (Amendment) Act, 2005 (W.B. Act 28 of 2005), w.e.f. 1.12.2005, published in the Kolkata Gazette, Extraordinary, Part III, dated 11.11.2005. Before omission those stood as under:(b)any area constituted by the State Government as a notified area under section 378 of the West Bengal Municipal Act, 1993 (West Bengal Act 22 of 1993), or(c)any area in a newly developing locality as

the State Government may, by notification in the Official Gazette, specify, or (d) any area within an urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976), or.]] (e) any area which is used for mill, factory, workshop or other commercial purposes; [Provided also that notwithstanding anything contained in this Act or any other law for the time being in force, where the revenue under the Act in respect of agricultural land, is nil, the liability of the raiyat to pay any cess imposed on him under the Cess Act, 1880, or the West Bengal Primary Education Act, 1973, or the West Bengal Rural Employment and Production Act, 1976, or any other law for the time being in force, is also nil.] [Inserted by Act No. 42 of 2017, dated 17.10.2017.] (b) where the land held by a raiyat and his family is situated in both irrigated and non-irrigated areas, then, for the purposes of calculating the total area of land of the raiyat and his family, one hectare of land in irrigated area shall be deemed to be equivalent to 1.5 hectares of land in non-irrigated area; (c) if any amount already paid by a raiyat is in excess of the revenue payable by him under this section, the amount paid in excess shall be refunded to him, but if there is any deficiency in such payment, such deficiency shall be recovered from him as an arrear of revenue under the Bengal Public Demands Recovery Act, 1913 (Bengal Act No. 3 of 1913), without any claim for interest being made on such deficiency. Explanation. For the purposes of this section, (r) "family", in relation to a raiyat, shall be deemed to consist of himself, his wife, minor sons and unmarried daughters, if any, and (it) "irrigated area" shall have the same meaning as in clause (d) of section 14K. (2) Any person aggrieved by an order made by the Revenue Officer under clause (a) of sub-section (1) may, within thirty days from the date of such order or within such further time as such authority may, on sufficient causes being shown, allow, prefer an appeal to such authority as the State Government may, by notification in the Official Gazette, specify.

## **25. Grounds for alteration of revenue.**

The revenue payable by a raiyat may, in the manner to be prescribed, be altered by the Revenue Officer, if the land held by the raiyat and his family has increased or decreased in area by diluvion, amalgamation, purchase, partition, subdivision, acquisition or any other cause whatsoever subsequent to the determination of revenue.

## **26. Bar to jurisdiction of Civil Court.**

No suit or other legal proceedings shall be inserted in any Civil Court in respect of the determination of any revenue or the omission to determine any revenue under this Chapter.

## **27. Instalment, time and place for payment of revenue.**

(1) A Raiyat shall pay revenue in such instalments, in such manner, and at such times, as may be prescribed. (2) Payment of revenue shall be made at the office of the Revenue Inspector or at such other places and in such manner as may be prescribed. (3) Any instalment of revenue or part thereof which is not duly paid within the prescribed time shall be deemed to be an arrear.

## **28. Raiyat entitled to receipt for revenue.**

Every raiyat shall, on making payment of revenue, be entitled to obtain forthwith a written receipt in the prescribed form for the amount paid by him, signed by the person authorised to make collection of revenue.

## **29. Chapter IV to have overriding effect.**

The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained in the West Bengal Land Holding Revenue Act, 1979 (West Bengal Act No. 44 of 1979).

**30. [ Repeal of West Bengal Act No. 44 of 1979. The West Bengal Land Holding Revenue Act, 1979, shall stand repealed with effect from such date as the State Government may, by notification in the Official Gazette, appoint.] [Chapter IV inserted by Act 31 of 2000 w.r.e.f. 14.4.1981.]**

**31.**

-38.[Omitted]

## **Chapter V**

### **Consolidation of lands comprised in [plots of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] and Co-operative Farming Societies**

#### **39. Acquisition of [plots of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] for consolidation.**

The State Government may (a)on the representation of raiyats in any area, [as may be necessary,] [Inserted by West Bengal Act No. 50 of 1981, with retrospective effect from 7.8.1969.] or(b)on its own motion, acquire the lands in any area on payment of compensation to the raiyats owning them when the lands comprised in the [plots of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] of the raiyats in such area are not in compact blocks, if the State Government is of the opinion that the lands comprised [in the [plots of land] [Substituted by ibid, for "in the holding in such area"] in such area] should be consolidated:[Provided that consolidation of lands may be undertaken by the State Government if any seven or more persons being raiyats each owning land not exceeding 0.4047 hectare of land in the aggregate or being recipients of lands settled under section 49 or from both such categories make representation therefor.] [Substituted by West Bengal Act No. 50 of 1981, w.r.e.f. 7.8.1969.]

#### **40. Redistribution of land after acquisition.**

On such acquisition being made, the State Government shall rearrange [the plots of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] so that the lands comprised in each [is] ['are' perhaps omitted by slip for 'is'.] in a compact block and re-allot them to the raiyats whose lands have been acquired, in such manner as it thinks fit ensuring that each raiyat gets 1[a plot of land] comprising the same area, and, as far as possible, lands of the same quality and value as before the consolidation: Provided that no raiyat shall be entitled to receive any land in excess of the area held by him prior to acquisition: Provided further that on such allotment being made there shall be deducted from the amount of compensation payable to a raiyat under section 39 the value of the land allotted to him after acquisition.

#### **41. Transference of encumbrances on [plot of land.] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.]**

If the [plot of land] [Substituted by Act 31 of 2000 w.r.e.f. 7.8.1969.] of a raiyat which is acquired for the purposes of consolidation is subject to any encumbrance, such encumbrance shall be deemed to be transferred and attached to the land which is allotted to the raiyat after acquisition and to the compensation, if any, payable to him under this Chapter and shall cease to have any effect against the land from which it has been so transferred.

#### **42. Recovery of the excess value of allotted land.**

If the value of the land allotted to a raiyat after acquisition be greater than the value of the land acquired from such raiyat, the difference in value shall be recoverable from him in such instalments as may be prescribed and if such difference be not paid within the time allowed for the purpose, it shall be recoverable as a public demand payable to the Collector unless the raiyat declines to accept settlement of the land allotted to him.

#### **43. [Formation of Co-operative Farming Societies.] [Effect from 17.1.1977, vide Notification No. 158L Ref/2A-26176, dated 14.1.1977.]**

(1) Any seven or more raiyats owning lands in a compact block or intending to acquire such land, may form themselves into a Co-operative Farming Society and apply in writing in the prescribed form, to the Registrar. Co-operative Societies for the registration of such society under [the West Bengal Co-operative Societies Act, 1973] [Substituted by West Bengal Act No. 50 of 1981, but now see West Bengal Co-operative Societies Act, 1983 (1973 Act is now repealed).]. (2) The Registrar may, after such enquiry as he may deem fit, register the society under [the West Bengal Co-operative Societies Act, 1973] [Substituted by West Bengal Act No. 50 of 1981, but now see West Bengal Co-operative Societies Act, 1983 (1973 Act is now repealed).], and grant a certificate of registration and on such registration the provisions of the [the West Bengal Co-operative Societies Act, 1973] [Substituted by West Bengal Act No. 50 of 1981, but now see West Bengal Co-operative Societies Act, 1983 (1973 Act is now repealed).], subject to the special provisions of this Act, shall apply to

such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force.(3)When a Co-operative Farming Society has been registered under sub-section (2), all lands, excluding homesteads, belonging to the members thereof and forming one compact block, whether owned by them at the time when they became such members or acquired by them subsequently, shall vest in the society, and no member shall be entitled to hold in his personal capacity any land, excluding homestead, which together with any land belonging to him but vested in the society under the provisions of this sub-section exceeds the ceiling area applicable to him under Chapter II-B.(4)When the lands belonging to a member of a Co-operative Farming Society vest in such society, there shall be allotted to him shares the value of which will, as far as possible, be equal to the value of the lands of the member vested in the society.(5)Notwithstanding anything elsewhere contained in this Act, no Co-operative Farming Society shall have the right to acquire or hold any land except the land which vests in it under sub-section (3).(6)Omitted by the West Bengal Land Reforms (Second Amendment) Act, 1972 (West Bengal Act 28 of 1972).

**44. [Restriction on transfer of shares in a Co-operative Farming Society. [Effect from 17.1.1977, vide Notification No. 158L Ref/2A-26/76, dated 14.1.1977.]**

(1) The shares held by a member of Co-operative Farming Society shall not be transferred to any person other than another member of the society or a raiyat or other person residing in the locality in which the society has been established.(2)Subject to restrictions mentioned in sub-section (1), the shares held by a member of a Co-operative Farming Society shall be transferable and heritable.] [Inserted by the West Bengal Land Reforms (Amendment) Act, 2005, published in the Kolkata Gazette, Extraordinary, Part III, dated 11.11.2005.]

**45. [Dissolution of a Co-operative Farming Society. [Effect from 17.1.1977, vide Notification No. 1581\_ Ref/2A-26/76, dated 14.1.1977.]**

No Cooperative Farming Society established in accordance with the provisions of this Act shall be wound up or dissolved except under the orders of the State Government.]

**46. [Transfer of lands on dissolution of Co-operative Farming Society. [Effect from 17.1.1977, vide Notification No. 158L Ref/2A-26/76, dated 14.1.1977.]**

When a Co-operative Farming Society is wound up or dissolved, the prescribed authority shall allot to its members, in such manner and subject to such rules as may be prescribed, all the lands vested in the society and rules may provide for equitable allotment of lands to the members having regard to the area and the quality of lands belonging to them before the vesting of such lands in the society.]

**47. [Revenue payable by Co-operative Farming Society. [Effect from 17.1.1977, vide Notification No. 158L Ref/2A-26/76, dated 14.1.1977.]]**

When a Co-operative Farming Society is established under the provisions of this Act, the aggregate of the revenues which would have been payable by its members for their lands, if such lands had not been vested in the society shall be the revenue payable by the society for the lands vesting in it, subject to such reduction as may be allowed under section 48.]

**48. [Concession and facilities for a Co-operative Farming Society. [Effect from 17.1.1977, vide Notification No. 158L Ref/2A-26/76, dated 14.1.1977.]]**

(1) A Co-operative Farming Society established under this Act shall be entitled to such concessions and facilities from the State Government as may be prescribed.(2)Without prejudice to the generality of the foregoing provisions, such concessions and facilities may include (a)such reduction of revenue as Government may allow;(b)free supply of seeds and manure for the first three years and thereafter at concessional rates;(c)free technical advice by the experts of the State Government; (a) financial assistance on such terms and conditions as may be prescribed; and(e)arrangements for better marketing.]

**48A. [ Formation of Co-operative Common Service Society. (1) Any seven or more persons each owning, cultivating or possessing in any capacity agricultural land not exceeding 0.74047 hectare in area in aggregate in any compact block or in different blocks may form themselves into a Co-operative Common Service Society and apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, West Bengal, for registration of such society under the West Bengal Co-operative Societies Act, 1973 (West Bengal Act No. 38 of 1973).**

(2)The Registrar may, after such enquiry as he may deem fit, register the society under the West Bengal Co-operative Societies Act, 1973 and grant a certificate, and on such registration the provisions of the West Bengal Co-operative Societies Act, 1973, shall, subject to the special provisions of this Act, apply to such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force:Provided that the society shall not enlist any person as its member who owns, cultivates or possesses in any capacity agricultural land exceeding [0.4047 hectare] [Inserted by West Bengal Act 50 of 1981, dated 24.3.1985, w.r.e.f. 7.8.1969.] in the aggregate.(3)Notwithstanding anything contained in the West Bengal Co-operative Societies Act, 1973 and the rules made thereunder (a)the Chairman of any Co-operative Common Service Society shall be nominated from amongst the elected directors of the society by the Collector having jurisdiction on receiving a written requisition from the elected directors of the society. A Chairman so nominated may be removed before expiry of the term of the managing committee of the society and a new Chairman may be nominated in his place;(b)the first managing committee of any Co-operative Common Service Society shall hold office for a term not

exceeding three years;(c)after the expiry of the term of the first managing committee of the society, the Chairman shall be elected by the elected directors of the society.(4)A Co-operative Common Service Society shall raise its funds from, among other sources, the State Government, the Central Government, any bank, any insurance corporation and other financial institutions or from among its own members as grant, loan or equity. The society shall acquire by purchase, grant, gift, hiring, or otherwise plough, cattle, manure (including chemical fertilisers), seeds, modern scientific agricultural implements and such other inputs as may be necessary for cultivation [and poultry farming] [Inserted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.] and supply or utilise the same among its members in proportion to the area of land held by them. The society may advance loan to the members out of its own fund [or out of the fund raised by it] [Inserted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.](5)The society may recover loans, interest, service charges and any other charge for supply of implements and price or part of price of inputs supplied to the members in accordance with the bye-laws of the society specially made for this purpose.(6)The society may undertake marketing of produces grown by its members.]

## Chapter VI

### Principles of distribution of lands

#### 49. Principles of distribution of lands.

—[(1) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force settlement of any land which is at the disposal of the State Government, shall be made without any premium being charged for it, in such manner as may be prescribed, with person who are residents of the locality where the land is situated, and who together with other members of their family, own no land or less than [0.4047 hectares of land used for the purpose of agriculture] [Substituted by West Bengal Land Reforms (Amendment) Act, 1975 (23 of 1975).] one half of the lands cultivated by them a bargadars being taken into account for the purpose of calculating the aggregate of such land, and subject to the following conditions, namely,] (a)that, in the case of agricultural land, such person intends to bring the land under personal cultivation,(b)that, in the case of homestead land, such person having no homestead of his own, intends to construct a dwelling house thereon, and(c)such other terms and conditions as may be prescribed :Provided that among the persons eligible for such settlement, preference shall be given to persons belonging to Scheduled Caste or Scheduled Tribe or who form themselves into a Co-operative Society for the purpose:[Provided further that no settlement of land shall be made with any person or with a member of the family of such person, who is engaged or employed in any business, trade, undertaking, manufacture, calling, service, or industrial occupation:[Provided also that nothing in this sub-section shall apply to any case when freehold title-deed for land is given to a bonafide refugee in accordance with such norms as may be prescribed by the appropriate Department of the State Government.] [Substituted by West Bengal Land Reforms (Amendment) Act, 1980.]Explanation. The second proviso to sub-section (1) shall not apply to an agricultural labourer, artisan, or fisherman.](1A)[ No person with whom any land is or has been settled under sub-section (1) shall be entitled to transfer such land except by way of a simple mortgage or a

mortgage by deposit of title deed in favour of a Scheduled Bank, or a Co-operative Society or a Corporation owned or controlled by the Central or State Government or both, and for the purpose of obtaining loan for the development of land or for the improvement of agricultural production or for the construction of a dwelling house.] [Inserted by West Bengal Land Reforms (Amendment) Act, 1975 (23 of 1975).](2)[ If a Revenue Officer, on his own motion or an application made to him in that behalf, after hearing the person with whom the land was settled and in the case of any subsequent transfer, the transferee as also the person who is, for the time being in actual occupation of such land and after making such enquiry as may be prescribed, is satisfied that settlement of such land was made by mistake or obtained under any provision of this section by practice of fraud, misrepresentation, coercion or otherwise or that a transfer of any land has been made in contravention of the provisions of sub-section (1A), he may, by order in writing, annul the settlement or both the settlement and the transfer, as may be deemed necessary.] [Substituted by West Bengal Land Reforms (Amendment) Act, 1975(23 of 1975).](3)[ When a Revenue Officer makes an order under sub-section (2) annulling settlement or both the settlement and the transfer of any land, as the case may be, the Revenue Officer shall enforce delivery of possession of such land to the Collector by using such force as may be required after evicting the person in actual occupation of such land.] [Substituted by West Bengal Land Reforms (Amendment) Act, 1980 (41 of 1980).](3A)[ For the purpose of enforcing delivery of possession of any land and evicting any person in actual occupation of such land under sub-section (3), any such Revenue Officer may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station or to any police officer superior in rank to such officer-in-charge and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for enforcing delivery of possession of such land.] [Inserted the sub-section (3A) by West Bengal Land Reforms (Amendment) Act, 1980 (41 of 1980).](4)Any person aggrieved by an order made under sub-section (2) may, within thirty days from the date of such order, prefer an appeal to such authority as the State Government may, by notification in the Official Gazette specify and the order passed by such authority in appeal shall be final.(4A)[ Notwithstanding anything contained in the foregoing provisions of this section, the State Government, or an officer authorised in this behalf by the State Government, may transfer to, or settle with, a local body or an authority constituted or established by or under any law for the time being in force land which is at the disposal of the State Government, for such purpose and on such terms and conditions as may be decided by the State Government.] [Inserted the sub-section (5) by West Bengal Land Reforms (Amendment) Act, 1980 (41 of 1980).](5)[ Notwithstanding anything contained elsewhere in this Act, where the State Government is satisfied that it is necessary so to do for a public purpose or for establishment, maintenance or preservation of any educational or research institution or industry, settlement for any period of any land may be made with any person or institution on such terms and conditions including periodical payments, with or without any premium being charged therefor, in such manner as may be prescribed.] [Inserted the sub-section (5) by West Bengal Land Reforms (Amendment) Act, 1980 (41 of 1980).][Explanation I.] [Renumbered by Act 24 of 1996, Calcutta Gazette, dated 27.8.1996.] For the purpose of this sub-section 'person' includes an individual, a firm, a company, or an association or body of individuals, whether incorporated or not.[Explanation II. For the purposes of this sub-section "industry" includes a tea-garden, mill 4 factory or workshop, livestock breeding, poultry farming, or dairy, [or township in an area declared to be a planning area under] [Inserted, ibid.] the West Bengal Town and Country (Planning and



Development) Act, 1979.]

#### **49A. [ Penalty for unauthorised occupation of vested lands. Any person who**

(a)being in unauthorised occupation of any land which is at the disposal of the State Government fails to vacate such land after a notice has been served on him to do so, or(b)obstructs any person with whom any land has been settled under sub-section (1) of section 49 from taking possession of such land, shall be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both.][Inserted by the West Bengal Land Reforms (Amendment) Act, 1976 (XII of 1976).]

## **Chapter VII**

### **50. Maintenance of the record-of-rights. (1)[The prescribed authority] [Substituted, ibid., for the words "The Revenue Officer especially empowered by the State Government in this behalf"] shall maintain up-to-date in the prescribed manner the village IT cord-of-rights by incorporating therein the changes on account of**

(a)Mutation of names as a result of transfer or inheritance;(b)partition, exchange, or consolidation of lands comprised in [plot of land] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.], or establishment of Co-operative Farming Societies;(c)new settlement of lands or 2[plot of land];(d)variation of revenue;(e)alteration in the mode of cultivation, for example by a bargadar, and(f)such other causes as necessitate a change in the record-of- rights.(2)[ For every mouza in any district for which computerisation of land-record has been completed, the original set of finally published record-of-rights prepared under section 51A for such mouza of such district shall be preserved, and a set of computerised print-out of the finally published record of such mouza, duly authenticated by the prescribed authority, shall be taken up for updating and for issue of certified copies through computer. Such computerised record-of-rights, duly authenticated by the prescribed authority, shall be presumed to be correct, and on a par with the original copy of record-of-rights.] [Renumbered and inserted by Act No. 31 of 2000, w.r.e.f. 7.8.1969.][Explanation. - For the purpose of this sub-section, the expression "duly authenticated" includes authentication by affixing digital signature made in accordance with the provisions of section 3 of the Information Technology Act, 2000 (21 of 2000).] [Added by Notification No. West Bengal Act XXIV of 2013 dated 28.1.2014 (w.e.f. 12.2.2014)][CHAPTER VII A] [Chapter VII-A was inserted by West Bengal Act No. 50 of 1981, dated 24.3.1986, w.r.e.f. 7.8.1969.] Preparation or revision of record-of rights

### **50A. Section 50 not to apply to certain cases.**

Section 50 shall not apply to any district or part of such district where Chapter VIIA has come into force for the purpose of revision or preparation of records of rights; but section 50 shall apply to any

land in any such district or part of such district after final publication of any such record-of-rights under section 51A:[Provided that notwithstanding any order made under sub-section (1) of section 51 in respect of a district or part of a district, the State Government may make an order directing the [prescribed authority appointed] [Inserted by West Bengal Act 35 of 1986, dated 12.5.1989, w.e.f. 12.5.1989.] under section 50 to incorporate such changes as may be specified in the said order in the record-of-rights in respect of such district or part of such district under section 50, if the State Government is satisfied that incorporation of such changes is necessary to mitigate the hardship of a raiyat.] [[Substituted by West Bengal Act 50 of 1981, dated 24.3.1986, w.r.e.f. 7.8.1969, for "Maintenance and revision of the record-of-rights."]>[Maintenance of the record-of-rights]</span></a></p><a name=]]

**50B. [ Modification of record-of-rights. (1) The State Government may, in any case where it so think fit, make an order by notification published in the Official Gazette, directing that the record-of-rights in respect of a district or part of a district, as maintained up-to-date under section 50, be modified by eliminating from such record the entries, if any, which have been deleted and scored out under that section from time to time.**

(2)When an order is made under sub-section (1), the prescribed authority appointed under section 50 (hereinafter referred to in this section as the prescribed authority) shall modify in the prescribed manner the record-of-rights in accordance with the provisions of sub-section (1).(3)When a record-of-rights is modified, the prescribed authority shall publish a draft of the record modified in the prescribed manner and for 'he prescribed period and shall receive and consider any objection to any entry therein or to any omission therefrom.(4)When all such objections under sub-section (3) have been considered and disposed of, the prescribed authority shall cause the modified record to be finally published in the prescribed manner and shall certify the fact of final publication and the date thereof and shall date and superscribe the same under his name and official designation.(5)Any officer specially empowered by the State Government in this behalf may, within such period as may be prescribed, revise in the prescribed manner any entry in a record finally published under Sub-section (4) after giving the person or persons interested an opportunity of being heard and after recording reasons therefor.(6)Every entry in a modified record-of-right finally published under sub-section (4) including any entry revised under sub-section (5), shall be presumed to be correct.(7)The provisions of this section shall not apply to a record-of-rights in respect of a village, the revision or preparation of which has commenced under Chapter VIIA, but shall apply to such record-of-rights after its final publication under sub-section (2) of section 51A.(8)When an order has been made under sub-section (1), no Civil Court shall entertain any suit or application which involves correction, revision, modification or cancellation of any entry in the record-of-rights of a village in accordance with such order, till the record-of-rights relating to such village is finally published under sub-section (4), and if any suit or application relating to any entry in such record-of-rights is pending before a Civil Court on the date of issue of such order, such suit or application, as the case may be, shall abate.] [Section 50B inserted by Act 31 of 2000, w.r.e.f. 7.8.1969.]

## 51. Revision or preparation of the record-of-rights.

-(1) The State Government may, in any case if it so thinks fit, make an order directing that record-of-rights in respect of any district or part of a district be revised or prepared by a Revenue Officer in accordance with the provisions of this Chapter and such rules as may be made by the State Government in this behalf.(2)A notification in the Official Gazette of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.(3)When an order is made under sub-section (1), the Revenue Officer shall record in the record-of-rights to be revised or prepared in pursuance of such order, such particulars as may be prescribed.] [Sub-sections (1), (2) and (3) were substituted by the West Bengal Land Reforms (Amendment) Act, 1965 (XVIII of 1965).](4)Omitted by West Bengal Act No. 50 of 1981, w.e.f. 7.8.1969.(5)There shall be a separate khatian for each raiyat and the khatian shall include all lands held by such raiyat in one mauza.

**51A. [ Draft and final publication of the record-of-rights. (1) When a record-of-rights has been revised or prepared, the Revenue Officer shall publish a draft of the record so revised or prepared in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made during such period to any entry therein or to any omission therefrom.] [Inserted by West Bengal Land Reforms (Amendment) Act, 1965 (West Bengal Act 18 of 1965).]**

(2)When all such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally prepare the record and cause such record to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation.(3)Separate publication of different parts of draft or final records may be made under sub-section (1) or sub-section (2) for different local areas.(4)[ An officer specially empowered by the State Government may, on application within one year, or on his own motion [within thirty-five years] [Substituted the sub-section (4) by West Bengal Act 35 of 1986, published in the Calcutta Gazette, dated 12.5.1989.], from the date of publication of the record-of-rights under sub-section (2), revise an entry in the record finally published in accordance with the provisions of sub-section (2) after the persons interested are given an opportunity of being heard and after recording reasons therefor.](5)[ Any person aggrieved by an order passed in revision under sub-section (4) may, within such period, and on payment of such fee, as may be prescribed, appeal in the prescribed manner to the prescribed authority of the district in which the land referred to in the record-of-rights is situated:Provided that where the appeal is preferred to a Collector, he may transfer the appeal to such officer subordinate to him as may be prescribed:Provided further that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed against.] [Substituted by Act 31 of 2000, w.r.e.f. 7.8.1969.](6)The certificate of final publication referred to in sub-section (2), or in the absence of such certificate, a certificate signed by the Collector of any district in which the area to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and of the date

thereof.(7)The State Government may, by notification in the Official Gazette, declare with regard to any area specified in the notification that the record-of-rights for every village included in such area has been finally published and such notification shall be conclusive proof of such publication.(8)In any suit or other proceeding in which a record-of-rights [is] [is perhaps slipped out.] revised or prepared and finally published under this Chapter, or a duly certified copy of the record or an extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.(9)Every entry in the record-of-rights finally published under sub-section (2) including an entry revised under sub-section (4) or corrected .inder section 51B [or section 51BB] [Inserted by West Bengal Land Reforms (Amendment) Act, 1986 (Act 35 of 1996), published in the Calcutta Gazette, dated 12.5.1989, w.e.f. 12.5.1989.] shall, subject to any modification by an order on appeal under sub-section (5), be presumed to be correct.

**51B. [ Revision or correction of entry in record-of-rights.-(1) Any Revenue Officer specially empowered by the State Government in this behalf may, on an application or on his own motion, at any stage of revision or preparation of the record-of-rights under this Chapter but before final publication of any such record-of-rights, revise or correct any entry in such record-of-rights after giving the persons interested an opportunity of being heard and after recording the reasons therefor:**

Provided that any order made under this sub-section shall be appealable in accordance with the provisions of sub-section (5) of section 51A.] [Substituted by West Bengal Act 50 of 1981, dated 24.3.1986, w.r.e.f. 7.8.1969.]

**51BB. [ Revision or correction of entry in record-of-rights before or after final publication. An officer specially empowered in this behalf by the State Government may revise or correct any entry in any record-of-rights in respect of a mouza at any stage before or after final publication of such record-of-rights under this Chapter if it is necessary, in his opinion, to do so in pursuance of an order under Chapter IIB or on account of any amendment made in the provisions of this Act:**

Provided that no such revision or correction shall be made, except when it is necessary to do so in order to prepare a separate khatian as required under sub-section (5) of section 51 by amalgamating the khatians in respect of a raiyat already prepared or finally published under this Chapter or to correct a bona fide mistake, until a notice has been given to the persons interested to appear and be heard in the matter.] [Inserted by West Bengal Act No. 35 of 1986, published in the Calcutta Gazette, 12.5.1989, w.e.f. 12.5.1989.]

**51C. [ Bar to jurisdiction of Civil Court in respect of certain matters. (1) When an order has been made under sub-section (1) of section 51 directing revision or preparation of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of revenue or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application in which any of the aforesaid matters is in issue, is pending before a Civil Court on the date of such order, it shall be stayed and it shall, on the expiry of the period prescribed for an appeal under sub-section (5) of section 51A or when such an appeal has been filed under that sub-section, as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.**

(2) No Civil Court shall entertain any suit or application concerning any land if it relates to alteration of any entry in the record-of-rights finally published, revised, corrected or modified under any of the provisions of this Chapter. Explanation. In this section 'suit' includes an appeal.] [Substituted by West Bengal Act 50 of 1981, w.r.e.f. 7.8.1969, published in the Calcutta Gazette, dated 24.3.1986.]

**51D. [ xxx] [Omitted by West Bengal Land Reforms (Amendment) Act, 1972 (XII of 1972).]**

## **Chapter VIII**

**[Management of lands] [Substituted by West Bengal Act No. 50 of 1981, with retrospective effect from 7.8.1969, published in the Calcutta Gazette, dated 24.3.1986.]**

**52. [ Management of lands. (1) All lands to which this Act applies shall be deemed to have been held under the State on such terms and conditions as may be prescribed.**

(2) Any land belonging to the State or land which is at the disposal of the State Government or held under the State by virtue of the provisions of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act i of 1954), or this Act or any other law in force shall, unless the State Government otherwise directs by any general or special order, be managed, in such manner as may be prescribed, by the Collector of the district under whose jurisdiction the lands are situated [subject to the control of the State Government, particularly determination of terms and conditions of lease as may be specified in the lease deed and fixation of annual rent with or without premium.] [Substituted by West Bengal Act No. 50 of 1981, with retrospective effect from 7.8.1969, published in the Calcutta Gazette, dated 24.3.1986.](3) If the State Government is of opinion that different sets of rules are necessary for the management of different classes or descriptions of lands or lands of different

areas, it may make different sets of rules ' under this section.(4)Until rules made under this section come into operation, management of any land covered by this Act shall continue to be made in accordance with the existing law or rules or manual or principles, whichever may apply.]

**52A. [ Provision for establishment of Government Company, etc. The State Government may, while making rules under section 52, provide for the establishment of any Government Company or any cooperative society or any institution in the public interest for utilisation of any land.] [Section 52A inserted by West Bengal Act 50 of 1981, w.r.e.f. 7.8.1969.]**

**52B. [ Power to enter upon or take possession of land.-[(1)] [Section 52B inserted by West Bengal Act 50 of 1981, w.r.e.f. 7.8.1969.] No withstanding anything contained in any other law for the time being in force or in any custom, usage or contract or in any agreement, decree, order, decision or award of any court, tribunal or other authority, the State Government shall be entitled to enter upon and take possession of any land which is at the disposal of the State Government by evicting, if necessary, any person therefrom [by an order of the Revenue Officer, who shall use such force as may be required for the purpose of such eviction.] [Substituted, Mid for by an order of the prescribed authority in accordance with the provisions of section 49 w.e.f. 1.12.2005].**

Explanation. The expression 'any land at the disposal of the State Government' shall include any land of which any lease, or licence has been determined by the application of any law, by efflux of time, due to rescission of lease, leave or licence or due to violation of the terms of the lease, leave or licence, as the case may be, or for any other reason, and any land which has been abandoned by the lessee or licensee.](2)[ The Revenue Officer may send a written requisition to the officer-in-charge of the local police station or to any police officer superior in rank to such officer-in-charge and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for the purpose of enforcing delivery of possession of the land after evicting the person in actual occupation of such land.] [Inserted by Act 28 of 2005 w.e.f. 1.12.2005].

## **Chapter IX**

### **Miscellaneous**

#### **53. Delegation of powers by the State Government.**

The State Government may by a notification in the Official Gazette delegate any of the powers under sub-section (2A) of section 4, sub-section (2) of section 14U, section 22, section 39 and section 40 to be exercised by the prescribed authority subject to such reservation as may be specified

in the notification.

**53A. [ Revenue Officer to be a necessary party in all suits, etc. Notwithstanding anything contained elsewhere in this Act or in any law for the time being in force, the Revenue Officer having jurisdiction in the area in which any land is situated shall be a necessary party to all suits of a civil nature relating to any such land or portion thereof in which one of the parties to the suit is a member of any Scheduled Tribe and the other party is not a member of any Scheduled Tribe.] [Inserted by West Bengal Land Reforms (Amendment) Act, 1972 (XII of 1972).]**

## **54. Appeals.**

(1) Subject to any special provisions for appeal made in this Act or in any rules made under this Act, an appeal shall lie in the manner indicated below (a) [ to a Collector, when the order is made by a Revenue Officer or revenue authority below the rank of a Collector;] [Substituted by West Bengal Act 50 of 1981, dated 24.3.1986, w.r.e.f. 7.8.1969.] (b) to the Commissioner of the Division, when the order is made by the Collector of a district within the Division; and (c) [ xxx] [Omitted by West Bengal Land Reforms (Amendment) Act, 1972, w.e.f. 12.2.1971.] (2) Where, at the commencement of section 22 of the West Bengal Land Reforms (Amendment) Act, 1971, any appeal is pending before the Member, Board of Revenue, such appeal shall, notwithstanding anything contained in sub-section (1) be disposed of by such Member. (3) [ After any appeal is preferred to a Collector, he may transfer the appeal to any officer subordinate to him as may be prescribed : Provided that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed against.] [Substituted by West Bengal Act 50 of 1971, dated 24.3.1986, w.e.f. 7.8.1969.] (4) An order passed in appeal shall be final. (5) [ Notwithstanding anything contained elsewhere in this Act, the State Government may, on its own motion, correct any erroneous decision passed by the Revenue Officer or by any officer in an appeal under the foregoing provisions of this section and any such order passed by the State Government shall be final and shall not be called in question in any court.] [Inserted, *ibid.*]

## **55. Limitation for appeals.**

Save as expressly provided in this Act or the rules made thereunder, the period of limitation for an appeal under section 54 shall run from the date of the order appealed against and shall be as follows, that is to say- (a) when the appeal lies [to a Collector] [Substituted by West Bengal Act No. 50 of 1981, dated 24.3.1966 with retrospective effect from 7.8.1969.] thirty days; (b) when the appeal lies to the Commissioner of a Division sixty days; (c) [Omitted].

## **56. Power to enter upon land, to make survey, etc.**

A Revenue Officer, or any officer authorised by him subject to any rules made under this Act, may at any time enter upon any land but not a dwelling house with such officers or other persons as he considers necessary, and make a survey or take measurement thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act.

## **57. [ Powers of officers dealing with proceedings under this Act. Subject to the provisions of this Act and any rules made thereunder, any officer in dealing with proceedings under this Act shall exercise the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of**

(a)summoning and enforcing the attendance of any person and examining him on oath as a witness,(b)requiring the discovery and production of any document or record,(c)receiving evidence on affidavits,(d)requisitioning any public record or copy thereof from any Court or office,(e)issuing commission for the examination of witnesses or documents,(f)enforcing or executing orders including an order for restoration of possession as if such orders were decrees of a Civil Court, and(g)remanding any case or proceedings to the officer from whose decree the appeal is preferred, and such officer shall record the substance of the evidence, if any, taken by him.][Substituted by the West Bengal Land Reforms (Second Amendment) Act, 1978.]

## **57A. [ Vesting of powers of Civil Court under the Code of Civil Procedure, 1908. The State Government may, by order published in the Official Gazette, vest any officer or authority with all or any of the powers a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908).] [Section 57A inserted by Act 31 of 2000, w.r.e.f. 7.8.1969.]**

## **58. Protection of action taken under this Act.**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.(2)No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

## **59. Repeal.**

Without prejudice to the provisions of clause (p) of section 2 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act No. 1 of 1954), the following Regulation and Acts are hereby repealed, namely:(1)The Bengal Alluvion and Diluvion Regulation, 1825 (Bengal Regn. XI of 1825).(2)The Bengal Alluvion and Diluvion Act, 1847 (IX of 1847).(3)The Bengal Alluvion Land



Settlement Act, 1858 (XXXI of 1858).(4)The Bengal Rent Act, 1859 (X of 1859).(5)The Bengal Tenancy Act, 1885 (VIII of 1885).(6)The Cooch Bihar Tenancy Act, 1910 (Cooch Bihar Act No. 5 of 1910).(7)The West Bengal bargadars Act, 1950 (West Bengal Act No. 3 of 1950).Proviso [Omitted by West Bengal Land Reforms (Amending) Act, 1965 (West Bengal Act No. 18 of 1965)].

## **60. Power to make rules.**

(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act. (2) The rules so made shall have effect as if they were incorporated in this Act.

**61. [ Bar to jurisdiction of court. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force or in any decree, judgment, decision or award of any court, tribunal or authority, no court shall have jurisdiction to determine any question relating to any land or connected with any matter which is required to be or which has been enquired into or decided by any Revenue Officer or prescribed authority or any officer or authority under the provisions of this Act.**

(2)Any Revenue Officer or prescribed authority or other officer or authority empowered under the provisions of this Act shall have exclusive jurisdiction to enquire into and decide any question relating to any land in connection with any matter which is required to be enquired into or decided by any prescribed authority or other officer or authority under the provisions of this Act.(3)Nothing in sub-section (1) and sub-section (2) shall be deemed to affect any right which the parties to any dispute may otherwise have against each other.] [Inserted by West Bengal Act No. 50 of 1981, dated 24.3.1986, w.r.e.f. 7.8.1969.]

**62. [ Power to State Government to give directions. The State Government may give such directions, not inconsistent with the provisions of this Act, to any Collector, Revenue Officer or prescribed authority under this Act as may appear to the State Government to be necessary for carrying out the purposes of this Act or any rule made thereunder.] [Inserted by West Bengal Act No. 50 of 1981, dated 24.3.1986, w.r.e.f. 7.8.1969.]**

**63. [ Repeal and savings. (1) With effect from the date of coming into force of the West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act 50 of 1981) in any district or in any area of Calcutta, such provisions of the West Bengal Non-Agricultural Tenancy Act, 1949 (West Bengal Act No. 20 of 1949) as are repugnant to the provisions of this Act, shall cease to have effect in that district or area.**

(2)Notwithstanding the provisions of sub-section (1) any proceeding pending on the date of such coming into force before any authority appointed under the West Bengal Non-Agricultural Tenancy Act, 1949 or before any court shall be continued or disposed of as if the West Bengal Land Reforms (Amendment) Act, 1981 had not come into force in that district or area.] [Inserted by West Bengal Act No. 50 of 1981, dated 24.3.1986, with retrospective effect from 7.8.1969.]