

THE CONSTITUTION (SEVENTY-EIGHTH AMENDMENT) ACT, 1995

India

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Act 078 of 1995

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Statement of Objects and Reasons appended to the Constitution (Eighty-first Amendment) Bill, 1994 which was enacted as THE CONSTITUTION (Seventy-eighth Amendment) Act, 1995 STATEMENT OF OBJECTS AND REASONS

Article 31B of the Constitution confers on the enactments included in the Ninth Schedule to the Constitution immunity from legal challenge on the ground that they violate the fundamental right enshrined in Part III of the Constitution. The Schedule consists of list of laws enacted by various State Governments and Central Government which inter alia affect rights and interest in property including land.

2. In the past, whenever it was found that progressive legislation conceived in the interest of the public was imperilled by litigation, recourse was taken to the Ninth Schedule. Accordingly, several State enactments relating to land reforms and ceiling on agricultural land holdings have already been included in the Ninth Schedule. Since the Government is committed to give importance to land reforms, it has been certain decided to include land reform laws in the Ninth Schedule so that they are not challenged before the Courts. The State Governments of Bihar, Karnataka, Kerala, Orissa, Rajasthan; Tamil Nadu and West Bengal have suggested the inclusion of some of their Acts relating to land reforms in the Ninth Schedule.

3. Since the amendment to Acts which are already placed in the Ninth Schedule are not automatically immunised from legal challenge, a number of amending Acts along with a few principal Acts are also proposed to be included in the Ninth Schedule so as to ensure that implementation of these

Acts is not adversely, affected by litigation.

4. The Bill seeks to achieve the above objects.

An Act further to amend the Constitution of India. BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

1. Short title.-

This Act may be called the Constitution (Seventy-eighth Amendment) Act, 1995.

2. Amendment of the Ninth Schedule.-

In the Ninth Schedule to the Constitution, after entry 257A and before the Explanation, the following entries shall be inserted, namely:-

258. The Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act 4 of 1948).

259. The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act 22 of 1956).

260. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1970 (Bihar Act 7 of 1970).

261. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1970 (Bihar Act 9 of 1970).

262. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1973 (Bihar Act 27 of 1975).

263. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981 (Bihar Act 35 of 1982).

264. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1987 (Bihar Act 21 of 1987).

265. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989 (Bihar Act 11 of 1989).

- 266. The Bihar Land Reforms (Amendment) Act, 1989 (Bihar Act 11 of 1990).**
- 267. The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 (Karnataka Act 3 of 1984).**
- 268. The Kerala Land Reforms (Amendment) Act, 1989 (Kerala Act 16 of 1989).**
- 269. The Kerala Land Reforms (Second Amendment) Act, 1989 (Kerala Act 2 of 1990).**
- 270. The Orissa Land Reforms (Amendment) Act, 1989 (Orissa Act 9 of 1990).**
- 271. The Rajasthan Tenancy (Amendment) Act, 1979 (Rajasthan Act 16 of 1979).**
- 272. The Rajasthan Colonisation (Amendment) Act, 1987 (Rajasthan Act 2 of 1987).**
- 273. The Rajasthan Colonisation (Amendment) Act, 1989 (Rajasthan Act 12 of 1989).**
- 274. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1983 (Tamil Nadu Act 3 of 1984).**
- 275. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1986 (Tamil Nadu Act 57 of 1986).**
- 276. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1987 (Tamil Nadu Act 4 of 1988).**
- 277. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land (Amendment) Act, 1989 (Tamil Nadu Act 30 of 1989).**
- 278. The West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act 50 of 1981).**

279. The West Bengal Land Reforms (Amendment) Act, 1986 (West Bengal Act 5 of 1986).

280. The West Bengal Land Reforms (Second Amendment) Act, 1986 (West Bengal Act 19 of 1986).

281. The West Bengal Land Reforms (Third Amendment) Act, 1986 (West Bengal Act 35 of 1986).

282. The West Bengal Land Reforms (Amendment) Act, 1989 (West Bengal Act 23 of 1989).

283. The West Bengal Land Reforms (Amendment) Act, 1990 (West Bengal Act 24 of 1990).

284. The West Bengal Land Reforms Tribunal Act, 1991 (West Bengal Act 12 of 1991).".

[The Constitution (Seventy-eighth Amendment) Act, 1995, is legislation aimed at amending the incorporation of land reform laws in states like Bihar, Orissa, Tamil Nadu, West Bengal, Rajasthan, and Kerala in the ninth schedule of the Constitution of India. This amendment gives immunity to legal challenges being faced in the court of law, meaning that laws present in the 9th schedule of the Indian Constitution cannot be challenged in court. The Constitution (1st Amendment) Act of 1951 added 13 statutes that could not be challenged in court even if they violated individuals' basic rights. Later revisions added 284 laws to the Indian Constitution's ninth schedule, which cannot be contested. Also Refer]