

# **The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948**

HARYANA

India

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### **Act 50 of 1948**

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The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948East Punjab Act 50 of 1948Statement of Objects and Reasons. - In the last budget session the East Punjab Legislative Assembly passed a resolution recommending to Government the adoption of necessary measures for compulsory consolidation of holdings in the Province and to complete it within the shortest possible time. At present there are two methods of consolidation in vogue in the Province. One is through the Revenue Department and the other through the Co-operative Department. Under the Revenue method of consolidation, if not less than two thirds of the landowners in an estate or a sub-division of an estate holding not less than three-fourth of the cultivated area, make an application for the consolidation of their holdings, and if any scheme of consolidation is confirmed in such a case it becomes binding on all the landowners and their successors-in-interest. Under the Co-operative method, the proprietary body has to agree to the scheme of consolidation and in case of disagreement recourse is made to arbitration. In the past consolidation work in this Province has been done through both the Revenue and Co-operative Department but the speed of work has been very slow, and the process has been so lengthy that material results have not been obtained so far.<sup>2</sup> The existing law of consolidation of holdings is contained in the Punjab Consolidation of Holdings Act, 1936. It is defective legislation inasmuch as it does not give sufficient powers to Government to undertake compulsory consolidation of holdings. Besides, there is no provision in it to avoid fragmentation of holdings due to partition between co-sharers and other causes. As the prosperity of the peasantry depends chiefly on the size of holdings in the country, Government have decided to implement the resolution passed by the Assembly to repeal the Punjab Consolidation Holdings Act, 1936, and to replace it by a new enactment. The new Bill is designed to consolidate holdings in villages compulsorily and to avoid fragmentation of holdings. (vide East Punjab Government Gazette Extraordinary, dated the 8th October, 1948, page 601-02)Received the assent of his Excellency the Governor General of India on the 7th December, 1948, and was first published in the East Punjab Government Gazette, Extraordinary, dated the 14th December,

1948. An Act to provide for the compulsory consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in [The State of Punjab] [Substituted for the words 'Province of East Punjab' by Adaptation of Laws (Third Amendment) Order, 1951.] [and for the assignment or reservation of land for common purposes of the village.] [Added and deemed always to have been so added by Punjab Act No. 27 of 1960.]

## Chapter I

### Preliminary

It is hereby enacted as follows :-

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

(1) This Act may be called the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948. (2) It extends to the whole of the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.] of [Punjab] [Substituted for the words 'East Punjab' by the Adaptation of Laws Orders, 1950.]. (3) This section shall come into force at once and the remaining provisions of the Act shall come into force in such area and from such date as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may be notification appoint in this behalf, and different dates may be appointed for the coming into force of the different provisions of the Act.

#### 2. Interpretation.

- In this Act, unless there is anything repugnant in the subject or context, -(a) "Consolidation Officer" means an officer appointed as such under section 14 by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and includes any person authorised by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to perform all or any of the functions of the Consolidation Officer under this Act; (b) "Consolidation of Holdings" means the amalgamation and the redistribution of all or any of the lands in an estate or sub-division of an estate so as to reduce the number of plots in the holdings; (bb) [ "common purpose" means any purpose in relation to any common need, convenience or benefit of the village] [Inserted by Punjab Act 22 of 1954. This clause shall be deemed always to have been inserted.] [and includes the following purposes:- [Added and deemed always to have been so added by Punjab Act 27 of 1960.]] (i) extension of the village Abadi; [-] (ii) providing income for the Panchayat of the village concerned for the benefit of the village community]. (iii) [ village roads and paths; village drains, village well, ponds or tanks, village water courses or water channels; village bus stands and waiting places; manure pits; hada rori; public latrines; cremation and burial grounds; Panchayat Ghar; Janj Ghar; Grazing grounds; tanning places; mela grounds; public places of religious or charitable nature; and [Inserted and deemed always to have been so added by Punjab Act 39 of 1963.]] (iv) schools and play-grounds, dispensaries, hospitals and institutions of like nature; water works or tube wells whether such schools, play-grounds, dispensaries, hospitals, institutions, water-works or tubewells may be managed and controlled by the State Government or

not.](c)"fragment" means a plot of land of less extent than the appropriate standard area determined under this Act :Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by dilution;(d)"land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land;(e)"notified area" means any area notified as such under section 3;(f)"owner" means in the case of unalienated land the lawful occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land, owner means the superior holder;(g)"prescribed" means prescribed by rules made under this Act;(h)"Settlement Officer (Consolidation)" means an officer appointed as such under section 20 by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and includes any person authorised by the [State] Government to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act;(i)"standard area" in respect of any class of land means the area which the [State] Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area and includes a standard area revised under the said section;(j)"sub-division" means a part of an estate recorded as a sub-division, patti, traraf or pana in a record-of-rights prepared under section 31 of the Punjab Land Revenue Act, 1887 (XVII) of 1887), provided it forms a compact block; and(k)words and expressions used in this Act but not defined, have the meanings assigned to them in the Punjab Land Revenue Act, 1887 (XVII of 1887).

## **Chapter II**

### **Determination of Standard Areas and Treatment of Fragments**

#### **3. Determination of notified area.**

- The [State] [Substituted for the word 'Provincial' by adaptation of Laws Order, 1950.] Government may, after such inquiry as it deems fit, specify any estate or sub-division of any estate as a notified area for the purposes of this Chapter of this Act.

#### **4. Settlement of standard Areas.**

(1)The [State] [Substituted for the word 'Provincial' by adaptation of Laws Order, 1950.] Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.(2)The [State] [Substituted for the word 'Provincial' by adaptation of Laws Order, 1950.] Government shall by notification and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

#### **5. Determination and revision of standard areas.**

(1)The [State] [Substituted for the word 'Provincial' by adaptation of Laws Order, 1950.] Government shall, after considering the objections, if any, received within three months of the date

of publication of the notification under sub-section (2) of section 4 in the estate concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such notified area.(2)The State Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in Section (4) and sub-section (1) of section 5.(3)The State Government shall by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2)

## **6. Entry in the record-of-rights.**

(1)On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record-of-rights.(2)Notice of every entry made under sub-section (1) shall be given in the prescribed manner.

## **7. Transfer and lease of fragments.**

(1)No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.(2)Notwithstanding anything contained in the Punjab Tenancy Act, 1887 (XVI of 1887), no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

## **8. Fragmentation prohibited.**

- No land in any notified area shall be transferred or partitioned so as to create a fragment.

## **9. Penalty for transfer or partition contrary to provision of Act.**

- The transfer or partition of any land contrary to the prevision of this Act shall be void.

## **10. Valuation of fragment.**

- Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey number or recognised sub-divisions of survey members, determine the market price, and such determination shall be final and conclusive for the purposes of this chapter.

## **11. Transfer of fragment.**

- The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey numbers or recognised sub-division of survey numbers and in case of their refusal to purchase for the price as determined under the last preceding section may

transfer it to the [Government] [Substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] for the purpose of the [State]. On payment by the [Government] [Substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] of such price as aforesaid to persons possessing interest therein as the Collector may determine, and thereupon the fragment shall vest absolutely in the [Government] [Substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] for the purpose of the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950] free from all encumbrances.

## **12. Partition of estate assessed to payment of revenue to Government or separation of share thereof.**

- When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908 (V of 1908), for the partition of an undivided estate assessed to the payment of revenue to the [Government] in any notified area for which standard areas have been fixed, or for the separate possession of share of such an estate, no such partition or separation shall be made so as to create a fragment.

## **13. State Government or local authority not to acquire land so as to leave fragment.**

(1)Notwithstanding anything contained in any law for the time being in force, no land shall be acquired by the [State] Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment.(2)If any land acquired by the [State] Government or any local authority is in excess of its requirements, it shall be offered for sale in the first instance to the owners of contiguous survey numbers or recognised sub-divisions of survey numbers at the price at which it was acquired under sub-section (1).

## **Chapter III**

### **Consolidation of Holdings**

## **14. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.**

(1)With object of consolidating holdings in any estate or group of estates or any part thereof for the purpose of better cultivation of lands therein, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may of its own motion or on application made in this behalf declare by notification and by publication in the prescribed manner in the estate or estates concerned its intention to make a scheme for the consolidation of holdings in such estate or estates or part thereof as may be specified.(2)On such publication in the estate concerned the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may appoint a Consolidation Officer who shall after obtaining in the prescribed manner the advice of the landowners of the estate or estates concerned [and of the non-proprietors and the Gram Panchayat,

if any, constituted in such estate or estates under the Gram Panchayat Act, No IV of 1953] [Inserted by East Punjab Holdings (Consolidation and Prevention of Fragmentation)(Amendment and Validation) Act, 1955 (Punjab Act VII of 1955.)], prepare a scheme for the consolidation of holdings in such estate or estates or part thereof as the case may be.(3)[ Where a notification under sub-section (1) has been made in respect of a group of estates and the holding is situated in more than one estate in the group, then notwithstanding any thing contained in the Punjab Land Revenue Act, 1887, the scheme prepared by the Consolidation Officer may provide for the alteration of boundaries of such estates] [Sub-section (3) added by Punjab Act No. 15 of 1959.].

## **15. Scheme to provide compensation.**

(1)The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.(2)[-] [Substituted sub-section (2) of section 15 omitted by the Punjab Act 23 of 1960, Section 2.]

## **16. Occupancy tenancies.**

(1)The scheme prepared by the Consolidation Officer may provide for the distribution of land held under occupancy tenure between the tenants holding a right of occupancy and his landlord in such proportion as may be agreed upon between the parties.(2)When the scheme is [confirmed] [Substituted for the word 'finally sanctioned' by Punjab Act 25 of 1962] under section 20, the land so allotted to the occupancy tenant and the landlord shall, notwithstanding anything to the contrary contained in the Punjab Tenancy Act, 1887, or in any other law for the time being in force, be held by each of them respectively, in full right of ownership, and the right of occupancy in the land allotted to the landlord shall be deemed to be extinguished.

**16A. [ Power to make provisions in the scheme to partition joint land and joint occupancy tenancies. - (1) Notwithstanding anything contained in Chapter IX of the Punjab Land Revenue Act, 1887, except section 117 thereof, the scheme prepared by the Consolidation Officer may provide for the partition of land between joint-owners of land, or between joint tenants of a tenancy in which a right of occupancy subsists, in accordance with the share of each owner or tenant in the land or tenancy, as the case may be, if -**

(a)such share is recorded under Chapter IV of that Act as belonging to him, or(b)the right of such owner or tenant to such share has been established by a decree which is still subsisting at the time of preparing the scheme, or(c)a written acknowledgement of such right has been executed by all persons interested in the admission or denial thereof.(2)When the scheme is [-] [New section 16-A inserted by Punjab Act 20 of 1959.] confirmed under section 20, the land so partitioned shall, notwithstanding anything to the contrary contained in any law for the time being in force, be held by

each such owner or tenant in full right of ownership or tenancy, as the case may be, and the rights of other joint-owners or joint tenants, in the land shall be deemed to be extinguished].

## **17. Amalgamation of public roads etc. within scheme for consolidation of holdings.**

(1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be extinguished or, as the case may be, transferred to a new road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes laid out in the scheme of consolidation. (2) The declaration in sub-section (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 19. (3) Any member of the public or any person having any interest or right in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal within may with thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right : Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be entertained. (4) The Consolidation Officer shall, after considering the objections, if any, made to proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Officer (Consolidation), together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall be final.

## **18. Land reserved for common purposes.**

- Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct -(a) that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place; (b) that any land under the bed of a stream or torrent flowing through or from the Shiwalik mountain range within the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] shall be assigned for any common purpose; (c) that if in any area under consolidation no land is reserved for any common purpose including extension of the village abadi, or if the land so reserved is inadequate, to assign other land for such purpose.

## **19. Publication of draft scheme.**

(1)When the draft scheme of consolidation is ready for publication the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, shall within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall after considering the objections, if any, received, submit the scheme with such amendments as he considers to be necessary, together with his remarks to the objections, to the Settlement officer (Consolidation).(2)Omitted by Punjab Act 25 of 1962.

## **20. Confirmation of scheme.**

(1)The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may by notification appoint one or more persons to be Settlement Officers (Consolidation) and, by like notification, specify the area in which each such Officer shall have jurisdiction. The Consolidation Officers in the area under the jurisdiction of the Settlement Officer (Consolidation) shall be subordinate to him subject to any conditions which may be prescribed.(2)[if no objections are received to the draft scheme published under sub-section (1) of section 19 [-] [Sub-sections (2) and (3) substituted by Punjab Act No. 12 of 1962.] and also if no written or oral objections to [the draft scheme] [Substituted of the word 'any such scheme' by Punjab Act 25 of 1962.] are received under sub-section (3) by the Settlement Officer (Consolidation), he shall confirm the scheme.(3)If any objections are received to the draft scheme published under sub-section (1) of Section 19 [-] [The words 'or to the amended draft scheme published under sub-section (2) of that section' omitted by Punjab Act 25 of 1962.] or if any written or oral objections are received by the Settlement Officer (Consolidation) before the confirmation of [the draft scheme] [Substituted for the word 'any such scheme' by Punjab Act 25 of 1962.] by him, the Settlement Officer (Consolidation) may after taking the objections into consideration together with the remarks thereon of the Consolidation Officer and also after considering the written or oral objections, either confirm the scheme with or without modifications, or refuse to confirm it. In case of such refusal, the Settlement Officer (Consolidation) shall return the draft scheme, with such directions as many be necessary, to the Consolidation Officer, for reconsideration and re-submission.](4)Upon the confirmation of the scheme under sub-section (2) or (3) the scheme as confirmed shall be published in the prescribed manner in the estate or estates concerned.

## **21. Repartition.**

(1)The Consolidation Officer shall, after obtaining the advice of the landowners of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 20, and the boundaries of the holdings as demarcated shall be shown on the shajra which shall be published in the prescribed manner in the estate or estates concerned.(2)Any person aggrieved by the repartition may file a written objection within fifteen days of the publication before the Consolidation Officer who shall after hearing the objector pass such orders as he considers proper confirming or modifying the repartition.(3)Any person aggrieved by the order of the Consolidation Officer under sub-section (2) may within one month of that order



file an appeal before the Settlement Officer (Consolidation) who shall after hearing the appellant pass such order as he considers proper.(4)[ Any person aggrieved by the order of the Settlement Officer (Consolidation) under sub-section (3), whether made before or after the commencement of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Second Amendment and Validation Act, 1962, may within sixty days of that order, appeal to the Assistant Director of Consolidation.] [Substituted for sub-section (4) by Punjab Act 25 of 1962.](5)Any appeal against an order of the Settlement Officer (Consolidation), pending under sub-section (4) immediately before the commencement of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Second Amendment and Validation Act, 1962, either before the State Government or any officer to whom the powers of the State Government in this behalf have been delegated shall be decided by the Assistant Director of Consolidation.(6)The appellate authority may entertain an appeal under sub-section (3) or sub-section (4) after the expiry of the period of limitation prescribed therein if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(7)The State Government may by notification appoint any person to be an Assistant Director of Consolidation to exercise the powers under this section in respect of such area as may be specified in such notification.

## **22. Preparation of record-of-rights.**

(1)The Consolidation Officer shall cause to be prepared a new record-of-rights in accordance with the provisions contained in Chapter IV of the Punjab Land Revenue Act, 1887 (XVII of 1887), in so far as these provisions may be applicable, for the area under consolidation giving effect to the repartition [and order in respect thereof made] [Substituted vide Punjab Act No. 25 of 1962.] under the preceding section.(2)Such record of right shall be deemed to have been prepared under section 32 of the Punjab Land Revenue Act, 1887.

## **23. Right to possession of new holdings.**

(1)If all the owners and tenants affected by [the repartition as carried out under sub-section (1) of section 21] [Substituted for the words 'the scheme of consolidation, or as the case may be, repartition as finally confirmed' by Punjab Act 25 of 1962.], agree to enter into possession of the holdings, allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.(2)[ If all the owners and tenants as aforesaid do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings and tenancies allotted to them from such date as may be determined by the Consolidation Officer and published in the prescribed manner in the estate or estates concerned, and the Consolidation Officer shall, if necessary, put them in physical possession of the holding to which they are so entitled including standing crops, if any, and for doing so may exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887.] [Substituted by Punjab Act 25 of 1962.](3)If there are standing crops on any holding of which possession has been given under sub-section (2), the Consolidation Officer shall determine [in the manner provided under this Act] [Substituted for the words 'in the prescribed manner' by Punjab Act 23 of 1950.] the compensation payable in respect of such crops by the persons put in possession, who shall, within six months of the date of possession, pay such compensation to the person or persons from whom

possession was transferred and in case of default such compensation shall be recoverable from him as an arrear of land revenue.(4)If any person from whom compensation is recoverable under the scheme fails within 15 days of the [date] [Substituted for the words 'commencement of the agricultural year' by Punjab Act 25 of 1962.] referred to in sub-section (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised, after deducting the expenses, shall be paid to any person having the interest in the holding.[23A Management and control of lands of common purposes to vest in Panchayats or State Government. - As soon as a scheme comes into force the management and control of all lands assigned or reserved for common purposes of the villages under Section 18, -(a)in the case of common purposes specified in sub-clause (iv) of clause (bb) of section 2 in respect of which the management and control are to be exercised by the State Government, shall vest in the State Government; and(b)in the case of any other common purpose, shall vest in the Panchayat of that village;and the State Government or the Panchayat, as the case may be, shall be entitled to appropriate the income accruing therefrom for the benefit of the village community, and the rights and interests of the owners of such lands shall stand modified and extinguished accordingly :Provided that in the case of land assigned or reserved for the extension of village abadi or manure pits for the proprietors and non-proprietors of the village, such land shall vest in the proprietors and non-proprietors to whom it is given under the scheme of Consolidation.] [Substituted by Punjab Act 39 of 1963.]

## **24. Coming into force of scheme.**

- [(1) As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings, respectively allotted to them, the scheme shall be deemed to have come into force and the possession of the allottees affected by the scheme of consolidation, or as the case may be, by repartition, shall remain undisturbed until a fresh scheme is brought into force or a change is ordered in pursuance of provisions of sub-sections (2), (3) and (4) of section 21 or an order passed under section 36 or 42 of this Act.] [Substituted by Punjab Act 46 of 1956, and shall be deemed to have been so substituted from the 27.12.1954.](2)[ A Consolidation Officer shall be competent to exercise all or any of the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887 (Act XVII of 1887), for purposes of compliance with the provisions of sub-section (1).] [Substituted (2) added by Punjab Act 46 of 1956.]

## **25. Right of landowners and tenants after consolidation same as before.**

- A landowner or tenant shall, subject to the provisions of [sections 16 and 16-A] [Vide Punjab Act 20 of 1959.] have the same right in the land allotted to him in pursuance of the Scheme of consolidation as he had in his original holding or tenancy, as the case be.

**25A. [ Effect of consolidation of holdings on Evacuee Property. - (1) If in pursuance of scheme for consolidation of holdings any land which is evacuee property within the meaning of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), is or has been exchanged for any other**

**land which is not evacuee property, then such other land shall, as from the date of coming into force of the scheme, be deemed to be evacuee property declared as such within the meaning of the said Act and the original evacuee land shall, as from such date, be deemed to have ceased to be evacuee property.**

(2) If a displaced person to whom any land has been leased or allotted by the Custodian under the conditions published by the notification of the Government of Punjab in the Department of Rehabilitation No. 4891-S or 4892-S, dated the 8th July, 1949, has been allotted some other land in lieu thereof in pursuance of any scheme, for consolidation of holdings, then such other land shall be deemed to have been leased or allotted, as the case may be, to such displaced person under the aforesaid conditions within the meaning of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954). (3) In this section, the expressions 'Custodian' and 'displaced persons' have the meanings respectively assigned to them in the Administration of Evacuee Property Act, 1950 (XXXI of 1950) and the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) [Substituted 25-A inserted by Punjab Act 40 of 1954.].

## **26. Encumbrances of landowners and tenants.**

(1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officers subject to any rules that may be made under section 46, may have determined in preparing the scheme; and thereupon the lessee, mortgagee or other encumbrancers, as the case may be, shall cease to have any right in or against the land for which the lease, mortgage or other encumbrance has been transferred. (2) If the holding or tenancy to which a lease, mortgage, or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall subject to the provisions of section 34 be entitled to the payment of such compensation by the owner of the holding, or as the case may, the tenant as the Consolidation Officer may determine. (3) Notwithstanding anything contained in section 23, the Consolidation Officer shall if necessary put any lessee or any mortgagee or other encumbrancer entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

## **27. Transfer of rights of landowners in holdings and of tenants in tenancies.**

- Notwithstanding anything contained in the Punjab Land Revenue Act, 1887 (XVII of 1887), and the Punjab Tenancy Act, 1887 (XVI of 1887), the rights and liabilities of landowners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

**27A. [ Decree for possession of land to be executed against land allotted on repartition. - Notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, no decree for possession of land against a judgment-debtor whose land has been included in a scheme for consolidation of holdings shall be executed except after repartition [and orders in respect thereof under section 21 and against land allotted to him in pursuance of such repartition] [Substituted 27-A inserted by Punjab Act 20 of 1959.] and orders].**

## **28. Cost of consolidation proceedings.**

(1)The cost of consolidation proceedings shall be assessed in the prescribed manner.(2)The cost of consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation.

## **29. Compensation or costs or other sums payable under this Act.**

- Compensation under section 15 or costs under section 28 or any other sums due payable under this Act shall be recoverable as an arrear of land revenue.

## **30. Transfer of property during consolidation proceedings.**

- After a notification under sub-section (1) of section 14 has issued and during the pendency of the consolidation proceedings no landowner or tenant having a right of occupancy upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to transfer or otherwise deal with any portion of his original holding or other tenancy so as to affect the rights of any other landowner or tenant having a right of occupancy therein under the scheme of consolidation.

**30A. [ Prohibition of cutting trees and erecting buildings, etc., during consolidation proceedings. - (1) After a notification under sub-section (1) of section 14 has issued and during the pendency of consolidation proceedings no landowner upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to cut trees from, and erect buildings or other structures upon, any portion of his original holding included in the scheme.**

(2)If any person contravenes the provisions of sub-section (1) he shall, on conviction, be punishable with fine which may extend to five hundred rupees.(3)An offence under this section shall be cognizable and bailable.(4)If any building or other structure is erected in contravention of the provision of sub-section (1) and the landowner fails to remove it within one month of the date of

publication of the shajra under sub-section (1) of section 21, it shall, without payment of any compensation vest in the new land-owner who enters into possession of that holding as a result of repartition.] [Substituted Section 30-A inserted by Punjab Act 12 of 1960.]

### **31. Transfer not affected by Punjab Alienation of Land Act, 1900.**

- Notwithstanding anything contained in section 3 of the [Punjab Alienation of Land Act, 1900 (Punjab Act XIII of 1900),] [Repealed by Adaptation of Laws (Third Amendment) Order, 1951.] no exchange of land by a member of an agricultural tribe in pursuance of a scheme of consolidation of holdings shall require the sanction of the Deputy Commissioner under the Act.

**32. [ Suspension of partition proceedings during currency of consolidation proceedings. - After a notification under sub-section (1) of section 14 has issued, no proceedings under Chapter IX of the Punjab Land Revenue Act, 1887, in respect of any estate or a sub-division of an estate affected by the scheme of consolidation shall, subject to the provisions of section 16-A, be commenced, and where such proceedings were commenced before the issue of the notification, they shall remain in abeyance, during the pendency of the consolidation proceedings.] [Substituted by Punjab Act No. 20 of 1959.]**

### **33. No instrument necessary to effect transfer.**

- Notwithstanding anything contained in any law for the time being in force -(a)no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings, and(b)no instrument, if executed, shall require registration.

**34. [ Apportionment of compensation or net value in case of dispute. - (1) The amount of compensation payable under this Act shall be assessed, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894).] [Inserted by Punjab Act, 23 of 1959.]**

(2)[ Where there is dispute in respect of the apportionment of -(a)the amount of compensation determined under sub-section (2) of section 15, or sub-section (4) of section 17;(b)the net value realised under sub-section 4 of section 23;(c)the total amount of compensation determined under sub-section (2) of section 26,the Consolidation Officer shall refer the dispute to the decision of the Civil Court and deposit the amount of compensation or net value, as the case may be, in the court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894 (1 of 1894) shall, so far may be, apply.] [Existing proviso of section 34 renumbered as sub-section (2) by Punjab Act, 23 of 1950, section 4.]

### **35. Application of Chapter II to consolidation of holdings.**

- In any estate or group of estates or any part thereof where consolidation of holdings has been effected under this Chapter, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall, as soon as may be, take all necessary steps to apply the provisions of Chapter II.

**36. [ Power to vary or revoke scheme. - A scheme for the consolidation of holdings confirmed under this Act may, at any time, be varied or revoked by the authority which confirms it subject to any order of the State Government that may be made in relation thereto and a subsequent scheme may be prepared, published and confirmed in accordance with the provision of this Act.] [Substituted by Punjab Act 20 of 1953.]**

## **Chapter IV**

### **Other Powers of Consolidation Officers**

#### **37. Powers of officers to enter upon land for purposes of survey and demarcation.**

- The Consolidation Officer and any person acting under his orders may, in the discharge of any duty under this Act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

#### **38. Penalty for destruction, injury or removal of survey marks.**

(1) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of that officer be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal. (2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code, (XLV of 1860).

#### **39. Report of destruction or removal or injury to survey marks.**

- Every village officer of an estate shall be legally bound to furnish a Consolidation Officer with information respecting the destruction or removal of, or any injury done to, any survey mark lawfully erected in the estate.

#### **40. Power of Consolidation Officer or Settlement Officer (Consolidation) to summon persons.**

(1)A Consolidation Officer or a Settlement Officer (Consolidation) may summon any person whose attendance he considers necessary for the purpose of any business before him a Consolidation Officer or a Settlement Officer (Consolidation).(2)A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allow, by his recognised agent or a legal practitioner.(3)The person so attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or make statements and to produce such documents and other things relating to any such matter as the Consolidation Officer or the Settlement Officer (Consolidation) may require.(4)[ If a person summoned under sub-section (1) fails, without good cause, to attend or to produce any document or other thing which he may be required to produce, he shall be liable, at the discretion of the Consolidation Officer or the Settlement Officer (Consolidation), as the case may be, to a fine which may extend to fifty rupees:Provided that no such fine shall be imposed on a person unless he was summoned to attend or required to produce any document or other thing within the limits of the estate in which he ordinarily resides, holds or cultivates land.] [Added by Punjab Act 8 of 1952.]

### **Chapter V**

#### **General**

#### **41. Appointment of officers and staff and delegation of powers.**

(1)The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may for the administration of this Act, appoint such persons as it thinks fit, and may by notification delegate any of its powers or functions under this Act to any of its officers either by name or designation.(2)A Consolidation Officer or a Settlement Officer (Consolidation) may, with the sanction of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, delegate any of its powers or functions under this Act to any person in the service of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.

#### **42. Power of**

[State] [Substituted by Adaptation of Laws Order, 1950, for 'Provincial'.] Government to call for proceedings. - The [State] [Substituted by Adaptation of Laws Order, 1950, for 'Provincial'.] Government may at any time for the purpose of satisfying itself as to the legality or propriety of [any order passed, scheme prepared or confirmed or repartition made by any officer under this Act] [Substituted for the words 'any order passed by any officer under this Act' by Punjab Act No. 27 of 1960 and shall be deemed always to have been so substituted.], call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit :Provided that [no order or scheme or repartition shall be varied or reversed without

giving the parties interested notice to appear and opportunity to be heard] [Vide Punjab Act No. 27 of 1960.] [except in cases where the State Government is satisfied that the proceedings have been vitiated by unlawful consideration.] [Vide Punjab Act No. 20 of 1953.]

### **43. Appeal and Revision.**

- Except as provided in this Act no appeal or revision shall lie from any order passed under this Act.[43A. Correction of clerical errors. - Clerical or arithmetical mistakes in a Scheme made or an order passed by any officer, under this Act arising from any accidental slip or omission may at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties.] [New section 43-A inserted by Punjab Act 20 of 1959, Section 6.]

### **44. Jurisdiction of Civil Court barred as regards matters arising under this Act.**

- No civil court entertain any suit instituted or application made, to obtain a decision or order in respect of any matter which the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government or any officer is, by this Act, empowered to determine, decide or dispose of.

### **45. Public servants indemnified for acts done under this Act.**

- No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act; in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

### **46. Rules.**

(1)The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may by notification make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the [State] Government may make rules providing for -(a)the manner of publication under sub-section (2) of section 4, sub-section (1) of section 14, [-] [The words 'sub-sections (1) and (2) of' omitted by Punjab Act 25 of 1962] section 19, sub-section (4) of section 20 and sub-section (1) of section 21;(b)the manner of giving public notice under sub-section (3) of section 5;(c)the manner of giving notice under sub-section (2) of section 6;(d)the procedure to be followed in the preparation of the scheme under section 14;(e)the manner in which the area is to be reserved under section 18 and the manner in which it is to be dealt with and also the manner in which the village abadi is to be given to proprietors and non-proprietors (including scheduled castes, Sikh backward classes, artisans and labourers) on payment of compensation or otherwise;(f)the manner in which compensation recoverable from any person under sub-section (3) of section 23 shall be deposited by him;(ff)[ the fees to be paid in respect of appeals and applications made under this Act, the documents which shall accompany such appeals



and applications and the period within which application shall be filed; ] [Clause (ff) inserted by Punjab Act 20 of 1959](g)the guidance of the Consolidation Office in respect of the transfer of a lease, mortgage or other encumbrance under section 26;(h)the manner in which the area of assessment (including water-rate, if any) of each reconstituted holding and tenancy shall be determined;(i)the appointment of guardians ad litem for minors;(j)generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act; and(k)any other matter which is to be or may be prescribed.(3)all rules made under this section shall be subject to the condition of previous publication.

## **47. Repeal.**

- The enactments mentioned in the schedule are hereby repealed.The Schedule(See Section 47)Enactments Repealed

Year No. Short title

1936 IV The Punjab Consolidation of Holdings Act, 1936.

1940 IX The Punjab Consolidation of Holdings (Amendment) Act, 1940.

1945 II The Punjab Consolidation of Holdings (Amendment) Act, 1945.