

The Orissa Betterment Charges Act, 1955

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Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulations, 1956
Orissa Regulation 2 of 1956 Received the assent of the President on the 21st September, 1956 and was first published in the Orissa Gazette Extraordinary, dated 4th October, 1956. A Regulation to control and check transfer of immovable property in the Schedule Areas of the State of Orissa by Schedule Tribes Whereas, It is expedient to control and check transfer of immovable property by the Scheduled Tribes in the Scheduled Areas of the State of Orissa. Now, therefore, in exercise of the powers conferred by Sub-paragraph (2) of Paragraph 5 of the Fifth Schedule to the Constitution, the Governor of Orissa, is pleased to promulgate the following Regulation made by him in the Seventh Year of the Republic of India :

1. Short title, extent and commencement.

(1) This Regulation may be called the Orissa Scheduled Areas Transfer of immovable Property (By Scheduled Tribes) Regulations, 1956. (2) It extends to all the Scheduled Areas of the State of Orissa. (3) It shall come into force at once.

2. Definition.

- In this Regulation unless there is anything repugnant in the subject or context-(a) ["agriculture" includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting of trees, farming, cattle breeding, dairy farming seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally Carried on by agriculturists, diary farmer, cattle breeders, poultry farmers and other category of persons engaged in similar activities including marketing of agricultural products, their storage and transport, and the acquisition of implements and machinery in connection with any such activity, and 'agricultural purpose' shall be construed accordingly] [Added by Orissa Regulations 1 of 1975.].(aa)[* * *] [Omitted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No.

11714 dated 4.9.2002).][[(ab)] [Renumbered by Orissa Regulation 1 of 1975.] "Competent authority" means the Collector and includes any other officer or officers appointed by the State Government by notification to preform all or any of the functions of a competent authority under this regulation.](b)["Grama Panchayat" and "Grama Sasan" shall respectively mean the Grama Panchayat and Grama Sasan as defined in the Orissa Grama Panchayat Act, 1964] [Substituted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002)].(c)"Immovable property" does not include standing timber, growing crops or grass;(d)"Prescribed" means prescribed by rules made under this Regulation;[(d-1)]"public financial institution" means - [Added by Orissa Regulation, 1 of 1975.](i)any bank to which the Orissa Co-operative Societies Act, 1962 [Orissa Act 2 of 1963] applies(ii)a banking company within the meaning of the Banking Regulation Act 10 of 1989;(iii)The State Bank of India constituted under the State Bank of India; Act, 23 of 1955;(iv)a Subsidiary Bank within the meaning of the State Bank of India (Subsidiary Bank) Act, 33 of 1959;(v)a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 5 of 1970;(vi)the Agricultural Refinance Corporation established under the Agricultural Refinance Corporation Act, 1 of 1963;(vii)The Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1 of 1956;(viii)the Agro-Industries Corporation;(ix)any other financial institutions which may be notified by the State Government];(e)["Scheduled Areas" and "Scheduled Tribes" shall respectively mean the Scheduled Areas specified in respect of the State of Orissa in the Scheduled Areas (State of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 and the "Scheduled Tribes" specified in respect of the State of Orissa in the Constitution (Scheduled Tribes) Order, 1950, as modified from time to time] [Substituted by Orissa Regulation, 1 of 1979.];[(e-1:)* * *] [Omitted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).](f)"Transfer of immovable property" means mortgage with or without possession, lease, sale, gift, exchange or any other dealings with such property not being a testamentary disposition and includes a charge or contract relating to such property.

3. Transfer of immovable property by a member of the Scheduled Tribes.

(1)[Notwithstanding anything contained in any law for the time being in force any transfer of immovable property by a member of a Scheduled Tribe, except by way of mortgage executed in favour of any public financial institution for securing a loan granted by such institution for any agricultural purpose, shall be absolutely null and void and of no force or effect whatsoever, unless such transfer is made in favour of another member of a Scheduled Tribe :Provided that -(i)nothing in this sub-section shall be construed as to permit any member of a Scheduled Tribe or his successors-in-interest to transfer any immovable property which was settled with such member of Scheduled Tribe by or under any authority of the State or the Central Government or under any law for the time being in force;(ii)in execution of any decree for realisation of the mortgage money, no property mortgaged as aforesaid shall be sold in favour of any person not being a member of a Scheduled Tribe; and(iii)a member of a Scheduled Tribe shall not transfer any land if the total extent of his land remaining after the transfer will be reduced to less than two acres in case of irrigated land or five acres in case of unirrigated land.Explanation I - For the purpose of this sub-section, a transfer of immovable property :(a)in favour of a female member of a Scheduled

Tribe, who is married to a person not belonging to any Scheduled Tribe, shall be deemed to be a transfer made in favour of a person not belonging to a Scheduled Tribe; and (b) shall include a transfer of immovable property to a person belonging to a Scheduled Tribe for consideration paid or provided by another person not belonging to any such Tribe. Explanation II - For the purposes of Clause (iii) of the proviso, the expression "irrigated land" shall mean such land which is irrigated atleast for one crop in a year, and the expression "unirrigated land" shall be construed accordingly.] [Substituted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).] (2) Where a transfer of immovable property is made in contravention of Sub-section (1) the competent authority may, either on application by any one interested therein [or on information received from the Grama Panchayat] [Added by the Orissa Regulation, 1 of 1975.] or on his own motion and after giving the parties, an opportunity of being heard, order ejectment against any person in possession of the property claiming under the transfer and shall cause restoration of possession of such property to the transferor or his heirs. In causing such restoration of possession the competent authority may take such steps as may be necessary for securing compliance with the said order or preventing any breach of peace : [Provided that if the competent authority is of the opinion that the restoration of possession of immovable property to the transferor or his heirs is not reasonably practicable, he shall record his reasons thereof and shall, subject to the control of the State Government settle the said property with another member of Scheduled Tribe or in the absence of any such member, with any other person in accordance with the provisions contained in the Orissa Government Land Settlement Act, 33 of 1962. Explanation - Restoration of possession means actual delivery of possession by competent authority to the transferor or his heirs] [Inserted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).] [Provided further that where, it is decided by the competent authority to settle the said property with any person other than a person belonging to a Scheduled Tribe in accordance with the Orissa Government Land Settlement Act, 1962, he shall obtain prior approval of the concerned Grama Panchayat, accorded with the concurrence of the Grama Sasan.] [Inserted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).] (3) Subject to such conditions as may be prescribed an appeal if preferred within thirty days of the order under Sub-Section (2) shall, if made by the Collector lie to the [Revenue Divisional Commissioner] [Substituted by Orissa Regulation 1 of 1997, vide Orissa Gazette Extraordinary No. 391. dated 27.3.1997.] and if made by any other competent authority to the Collector, or any other officer specially empowered by the State Government in this behalf. ((3-a) (i) Any order passed by the competent authority under Sub Section (1) or under Sub-section (2) may, within a period of five years from the date of such order, be revised, either on own motion or otherwise, by the Revenue Divisional Commissioner if the order was passed by the Collector and by the Collector if it was passed by any other competent authority, after giving the parties concerned a reasonable opportunity of being heard : Provided that no order shall be revised under this sub-section if an appeal against such order has been entertained under Sub- Section (3). (ii) For the purpose of revising any order, the Revenue Divisional Commissioner or, as the case may be, the Collector shall follow such procedure as may be prescribed and shall have power to call for and examine the records of the proceedings wherein such order was passed and pass such order as he deems fit]. (4) Subject to [any order passed under Sub-Section (3) or Sub-Section (3-a)] [Substituted by Orissa Regulation 1 of 1997, vide Orissa Gazette Extraordinary No. 391. dated 27.3.1997.] the decision of the competent

authority under Sub-Section (2) shall be final and shall not be challenged in Court of law.

3A. [Eviction of persons in unauthorised occupation of property. [Added by Orissa Regulation, 1 of 1975.]

(1)Where a person is found to be in unauthorised occupation of any immovable property of a member of the Scheduled Tribes by way of trespass or otherwise the competent authority may, either on application by the owner or any person interest therein, [or on information received from the Grama Panchayat] [Inserted Orissa Regulation 1 of 1997, vide Orissa Gazette Extraordinary No.391. dated 27.3.1997.] or on his own motion, and after giving the parties concerned an opportunity to being heard, order rejectment of the person so found to be in unauthorised occupation and shall cause restoration of possession of such property to the said member of the scheduled Tribes or to his heirs.(2)The provisions contained in Sub-sections (2), (3) and (4) of Section 3 shall mutatis mutandis, apply to the proceedings instituted or initiated under Sub-section.(1).(3)[In every case after finalisation of the proceedings under Sub Section (1), the competent authority shall make a report to the concerned Grama Panchayat about the order of ejection passed in respect of any person in unauthorised occupation of any immovable property of a member of a Scheduled Tribe and the restoration of possession of the property to such member on his heirs and in case of failure of such restoration, the reasons for such failure.] [Inserted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).]

3B. [Reversion of land of members of Scheduled Tribes which was transferred by fraud . [Inserted by Orissa Regulation ,1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).]

(1)Every person who, on the date of commencement of the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribe) Amendment Regulation, 2000 (herein after referred to in this Section as the Amendment Regulation of 2000), is in possession of agricultural land which belonged to a member of a Scheduled Tribe at any time during the period commencing on the 4th October, 1956 and ending on the date of commencement of the Amendment Regulation of 2000 shall, within two years of such commencement, notify to the Sub-Collector in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land.(2)If any person fails to notify the information as required by Sub Section (1) within the period specified therein it shall be presumed that such person has been in possession of the agricultural land without any lawful authority and the agricultural land shall on the expiration of the period aforesaid, revert to the person to whom it originally belonged and if that person be dead, to his heirs.(3)On receipt of the information under Sub-Section (1), the Sub-Collector shall make such enquiry as may be necessary about all such transactions of transfer and if he finds that the member of Scheduled Tribe has been defrauded of his legitimate right he shall declare the transaction null and void and-(a)where no building or structure has been erected on the agricultural land prior to such finding, pass an order revesting the agricultural land in the transferor and if he be dead, in his

heirs;(b)where any building or structure been erected on the agricultural land prior to such finding, he shall fix the price of such land in accordance with the principles laid down for fixation of price of land in the Land Acquisition Act, 1894 and order the person referred to in Sub-section (1) to pay to the transferor the difference, if any, between the price so fixed and the price actually paid to the transferor :Provided that where the building or structure has been erected after the commencement of the Amendment Regulation of 2000, the provisions of Clause (b) shall not apply :Provided further that fixation of price under Clause (b) shall be with reference to the price on the date of registration of the case before the Sub-Collector.]

4. Inadmissibility of a deed for the purpose of registration.

- Notwithstanding anything contained in the Indian Registration Act, XVI of 1908 no deed of transfer of any immovable property executed in contravention of provision of this Regulation shall be accepted for registration.

5. Surrender of relinquishment not valid unless settled by landlord.

(1)No surrender or relinquishment of any holding or a part of a holding by a tenant to a landlord under any law for the time being in force applicable to such tenancy, such tenant being a member of a Scheduled Tribe, shall be valid unless after such surrender or relinquishment the landlord thereof by whatever name called either settles the said holding or part of the holding as the case may be, with another member of a Scheduled Tribe or else retains it in his possession or settles it with any other person with the approval of the competent authority such member of a Scheduled Tribe is not available.(2)Any surrender or relinquishment shall be deemed to be a transfer of immovable property within the meaning of this Regulation and except as otherwise provided in the Sub- Section (1) the other provisions of this Regulation shall, so far as may be, applied.(3)Nothing in this Section shall apply to any tenant holding immediately under the State Government.

6. Bar to attachment of immovable property.

- In execution of a money decree against a member of a Scheduled Tribe, no right, title or interest held by him in any immovable property within any Scheduled Area shall be liable to attached and sold except as and if prescribed.

7. [Punishment of offences. [Substituted by Orissa Regulation 1 of 2002 vide Orissa Gazette Extraordinary No. 1429 dated 4.9.2002 (Notification No. 11714 dated 4.9.2002).]

(1)If any person is found to be in possession of any immovable property in contravention of the provisions of this Regulation, then, without prejudice to his liability to ejectment under this Regulation, or where any person, having been evicted under any provision of this Regulation from any immovable property belonging to a member of a Scheduled Tribe, continues to be in possession of the same, he shall be punishable with rigorous imprisonment for a term which may extend to two

years, or with fine which may extend to five thousand rupees, or with both.(2)Where any person, having been evicted under any provision of this Regulation from any immovable property belonging to a member of a Scheduled Tribe, reoccupies the same shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.(3)When a Court imposes sentence of fine or a sentence of which fine forms a part, the Court may, when passing judgement, order the whole or any part of the fine to be paid to the member of Scheduled Tribe to whom the immovable property belongs, or to his heirs.

7A. Offences to be tried by Executive Magistrate and to be cognizable.

(1)The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of the offences under this Regulations, and on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class or of the second class, as the case may be.(2)An offence under this Regulation may be tried summarily by a Magistrate.(3)Every offence under this Regulation shall be cognizable.]

7B. Consideration money not refundable in case of invalid transfer.

-Notwithstanding anything contained in any law for time being force, where a transfer of immovable property is found to have been made in contravention of the provisions of Section 3 and the transferee or any other person in possession of the property has been evicted therefrom under the said Section, the transferee shall not be entitled to the refund of any amount paid by him to the transfer by way of consideration for the transfer.

7C. Burden of proof and power of Court to ignore admission.

- Notwithstanding anything contained in any other law for the times being in force -(a)If in any proceedings under this Regulation the validity of the transfer or relinquishment of any immovable property is called in question or if such proceedings are for the recovery of possession of immovable property, the burden of proving that the transfer of relinquishment was valid shall lie on the transferee [or any person claiming the right to the property through the transferee] [Inserted by Orissa Regulation 1 of 1997, vide Orissa Gazette Extraordinary No.391, dated 27.3.1997.];(b)the Court shall in any suit or proceeding relating to the transfer of immovable property a member of the Scheduled Tribes have power to require in fact expressly or impliedly admitted by such member to be proved otherwise than by admission.

7D. Amendment of the Limitation Act, 1963 in its Application to the Scheduled Areas.

- In the Limitation Act, 1963 in this application to the Scheduled Areas in the Schedule, after the words "twelve years" occurring in the second column against Article 65, the words "twelve years"

and figure" but thirty years in relation to immovable property belonging to a member of a Scheduled Tribe specified in respect of the state of Orissa in [the Constitution (Scheduled Tribes) Order, 1950 as modified from time to time] [Substituted by Orissa Regulation, 1 of 1979.] shall be added.

7E. [Bar of Jurisdiction of Civil Courts. [Inserted by Orissa Regulation 1 of 1997, vide Orissa Gazette Extraordinary No. 391 dated 27.3.1997.]

- No Civil Court shall have jurisdiction to try and decide any suit or proceeding so far as it relates to any manner which any officer or other competent authority is empowered by or under this Regulation to decide.]

8. Rules.

(1)The State Government may from time to time make Rules consistent with the provisions of this Regulation to come out the purpose thereof.(2)All Rules made under this Section shall be published in the Gazette and on such application shall have the effect as if enacted under this Regulation.

9. Repeal.

(1)On and from the date of commencement of this regulation stand repealed, namely :(a)The Agency Tracts Interest and Land Transfer Act, 1917 (Madras Act of 1917);(b)The enactments mentioned in column 2 of the (Scheduled to the extent in column 3 thereof in so far as they are in force [in the Scheduled Areas] [Substituted by Orissa Regulation, 1 of 1966.].(2)Notwithstanding such repeal by this regulation the repeal shall not effect...(a)the previous operation of such law or provisions so repealed or validity affect or consequence of anything done or suffered thereunder;(b)any right title, privilege, obligation or liability acquired, accrued or incurred under the said law or provision; or(c)any investigation, legal proceeding or remedy in respect such right, title, privilege, obligation or liability; or(d)any release or discharge from any debt, penalty obligation, liability, claim or demand and any such investigation, legal proceedings or remedy may be instituted, continued or enforce and any such penalty, forfeiture of punishment may be imposed as if this Regulation had not been made.

Schedule

List of Enhancement Repealed[See Section - 9]

Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)
1. Madras Act 1 of 1917	Agency Tracts Interest and Land Transfer Act, 1917	The whole
2.		

Orissa Act IV of 1950	Orissa Merged States Laws Act 1950	The words "subject to the restrictions that no transfer of a holding from a member of an aboriginal tribe to a member of a non-aboriginal tribe shall be valid unless such transfer is made with the previous permission of the Sub-divisional Magistrate concerned" in item I of Clause [(d) of Section shall be omitted] [Omitted by Orissa Regulation 1 of 1996.]
Central Provinces Act XI of 1898.	Central Provinces Tenancy Act 1989, amended by Orissa Act, XIII of 1953.	The provision to Clause (b) of Sub- Section [(2) of Section 46 shall be omitted] [Omitted by Orissa Regulation 1 of 1996.]