

Jammu and Kashmir Land Revenue Act, 1996

JAMMU & KASHMIR

India

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Act 12 of 1996

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Jammu and Kashmir Land Revenue Act, 1996(Act No. 12 of 1996)[Dated 29th August, 1996.]An Act to amend, consolidate and re-enact the Jammu and Kashmir Land Revenue Regulation No.1 of 1980.

Chapter 1 Preliminary

1. Title, extent and commencement.

(1)This Act may be called the Jammu and Kashmir Land Revenue Act, 1996.(2)It extends to the whole of Jammu and Kashmir state.(3)It shall come into force on the publication in the Government Gazette in the prescribed manner.

2. Repeal.

- From the date when this Act comes into force, (a) the Jammu and Kashmir Land Revenue Regulation, 1980 shall be repealed, and (b) all rules and orders previously issued regarding matters dealt within this Act so far as they may be repugnant to it, shall be considered to be repealed :Provided that all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, forms and leases granted, records - of rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done under any of such rules and orders, shall so far as may be, deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

3. Definitions.

- In this Act, unless there is something repugnant in the subject or context,-(1)"estate" means any area -(a)for which a separate record-of-rights have been made;(b)which has been separately assessed to land revenue or would have been so assessed if the land revenue had not been assessed, released or compounded for or redeemed; or(c)which the Government may, by general rule or by special order, declare to be an estate;(2)"land" means land which is occupied or has been let for agricultural purposes or for the purposes subservient to agriculture or for pasture and includes the sites of buildings and other structures situated in such land and trees standing on such land, as well as areas covered by or fields floating over water, and sites of jandars and gharats but does not include the sites of any building in a town or village or any land appurtenant to such building or sites;(3)"land holders" does not include a tenant or assignee of land revenue, but does not include land-owner, chakdar and a person to whom a holding has been transferred or an estate or holding has been let in farm under this Act for the recovery of an arrear of land revenue, or of a sum recoverable as such arrear, and every other person not herein before in this clause mentioned who is in possession of an estate or any share or portion there of, or in the enjoyment of any part of the profits of an estate;(4)"holding" means a share or portion of an estate hold by one land holder or jointly by two or more land holders;(5)"rent", "tenant", "landlord" and 'tenancy" have the meanings respectively assigned to those words in the Jammu and Kashmir Tenancy Act, 1980;(6)"land revenue" includes assigned land revenue and any sum payable respect of land by way of quit rent or of commutation for service to the Government or to a person to whom the Government has assigned the right to receive the payment;(7)"appear of land revenue" means land revenue which remains unpaid after the date on which it becomes payable;(8)"defaulter" means a person liable for an arrear of land revenue, and includes a person who is responsible as surety for the payment of the arrear;(9)"rates and Cesses" means rates and cesses which are primarily payable at land holders and includes -(a)any annual rate chargeable on holders of lands under section 56 of the Jammu and Kashmir State Canal and Drainage Act,1963;(b)the Village Officer's Cesses;(c)the education and road cesses;(d)sums payable on account of village expenses ; and(e)sanitation cess;(10)"Village Cess" includes any cess, contribution or due which is customarily livable within an estate and is neither a payment for the use of private property or personal service, nor imposed by or under any enactment for the time being in force;(11)"Village Officer" means and includes a lambardar;(12)"Revenue Officer" in any provision of this Act means a revenue officer having authority under this Act, to discharge the functions of a revenue officer under that provision;(13)"Muafidar" includes any person, other than a village servant, to whom the land revenue of any land has been assigned in whole or in part by the Government;(14)"Agricultural Year" means as regards the state except the area of Ladakh and Gilgit, the year commencing on the 15th of August, and as regards the Districts of Ladakh and Gilgit the year commencing on 15th of April;(15)"Notification" means a notification published in the official Gazette by authority of a Government;(16)"incumbrance" means a charge upon or claim against land arising out of a private grant or contract;(17)"survey-marks" includes boundary marks;(18)"date of a Regular Settlement" means as regard any state, the date on which the records of the right of the estate, prepared at such settlement was finally attested.

4. Exclusion of Certain land from operation of the Act.

(1) Except so far as may be necessary for the records, recovery and administration of village Cesses, nothing in this Act applies to land which is occupied as the site of the town or village and is not assessed to land revenue. (2) An assistant Collector of the first class may define for the purposes of this Act, the limits of any such land.

5. Power to vary limits and alter number of Tehsils, Districts and Provinces.

- The Government may, by notification, vary the limits of the Tehsil, Districts and Province into which the territories administered by it are divided, and may, by notification, alter the number of those Tehsils, Districts and Provinces.

Chapter II

Revenue officers classes and Powers

6. Classes of Revenue Officers.

(1) There shall be the following classes of Revenue officers, namely:-(a) the Financial Commissioner; (b) the Divisional Commissioner; (c) the Collector; (d) The Assistant Collector of the first class; (e) The Assistant Collector of the second class; (2) [The Deputy Commissioner and the Additional Deputy Commissioner of a District shall be the collector thereof; and a Sub-divisional Magistrate, an assistant Commissioner and a Tehsildar shall be an Assistant Collector of the first class and a Naib-Tehsildar and an Assistant Collector of the second class.] [Substituted by Act No. 6 of 2018, dated 24.2.2018.] (3) Unless the Government issues a notification to the contrary, the jurisdiction of the Financial Officer shall extend to the whole of the state and to the provinces and of collectors and Assistant Collectors to the Districts and Tehsils respectively in which they are employed. (4) The government may by notification confer on any person -(a) all or any of the powers of a Financial Commissioner, Divisional Commissioner or collector under this Act; or (b) all or any power with which an Assistant Collector may be invested there under; (5) A person on whom powers are conferred under sub-section (4) shall exercise these powers within such local limits and in such classes of cases as the Government may direct and, except as otherwise directed by the Government, shall, for all purposes connected with the exercise thereof, be declared to be a Financial Commissioner, Collector or the Assistant Collector, as the case may be. (6) The collector shall respectively include the settlement commissioner and settlement officer and the Assistant Collector of the first class shall include the Assistant Settlement Officer and the Settlement Tehsildar.

7. Control.

(1) The general superintendence and control over all revenue officers shall be vested with the Government. (2) The Divisional Commissioner, the collector and the Assistant Collector shall be subordinate to and under the control of a Financial Officer. (3) Subject to the control of the Financial

commissioner, the collectors shall be subordinate to and under the control of a Divisional Commissioner.(4)Subject as aforesaid and to the control of the Divisional Commissioner, all other Revenue officers in his district, shall be subordinate to and under the control of a Divisional Commissioner.(5)Subject as aforesaid and to the control of collector, an assistant collector of a second class shall be subordinate to and under the control of an assistant Collector of the first class.

8. Power to Distribute business.

(1)The Financial commissioner, the Divisional Commissioner or the collector may by order in writing distribute in such manner as he may think fit any business cognizable by any revenue officer under his control.(2)All revenue officers shall exercise the powers vested in them within the local limits of their jurisdiction. An Assistant Commissioner in a District and a Naib-Tehsildar in a Tehsil shall exercise jurisdiction within the whole of the district, or Tehsil as the case may be, subject to such distribution as may be made by the Deputy Commissioner or Tehsildar respectively.

9. Power to withdraw and Transfer cases.

- The Financial Commissioner or a Divisional Commissioner or a Controller may withdraw any case pending before any Revenue Officer under his Control and either dispose of it himself, or by written order refer it for disposal to any other revenue officer under his control.

10. Appeals.

- Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue Officer as follows :-(a)To the collector when the order is made by an Assistant Collector of either class;(b)To the Divisional commissioner when the order is made by the collector;(c)To the financial Commissioner when the order is made by a Divisional Commissioner :Provided That :- (1)when an original order is confirmed on first appeal, no further appeal shall lie except on the grounds mentioned in clauses (a),(b)and (c) of sub-section (1).(2)The Government may especially empower an Assistant Collector of the first class to hear appeals against the orders of an Assistant Collector of the second class.

11. Limitation for appeals, revisions and reviews.

(1)Save as otherwise provided in this Act, the period of limitation of an appeal under the last foregoing section.(2)Such provision of the limitation Act as apply to appeals, applications for revision and review in civil suits shall also apply to appeals, applications for revision and review under this Act.

12. Power to revise Order.

(1)The Financial Commissioner may at any time call for the records of any case pending before or disposed of by any Revenue Officer under his control.(2)The Divisional Commissioner may call for

the record of any case pending before or disposed of by any Revenue Officer subordinate to him.(3)If in any case in which the Divisional Commissioner has called for a record he is of opinion that proceedings taken or order made should be modified or revised he shall report that case with his opinion thereon for the orders of the Financial Commissioner.

Supplementary Provisions

13. Place of Sitting.

- A Revenue Officer may for exercising his powers under this Act sit at any place within the local limits of his jurisdiction.

14. Holidays.

- Any Proceeding of a Revenue Officer held on a day declared to be a holiday shall not be invalid by reason only of the fact that it was held on such day.

15. Record of Right and Documents included therein.

(1)Save as otherwise provided by this chapter, there shall be a record of rights of each estate.(2)The records of rights for an estate shall include the following documents, namely-(a)Statements showing, so far as may be practicable-(i)the persons who are land-holders, tenants or assignees of land revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;(ii)the nature and extent of the interests of those persons and the conditions and liabilities attaching thereto; and(iii)the land revenues, rent, rates, cesses or other payments due from and to each of those persons and to the state;(b)a statement of customs respects rights and liabilities in the estate;(c)a map of the estate;(d)such other document as the Financial Commissioner with the previous sanction of the Government may prescribe.

16. Preparation of Pass book.

(1)The Deputy Commissioner of the District shall cause to be prepared a passbook of every land holder in his District containing records of rights, agricultural holding, transfer of rights, ration cards, subsidies, liabilities etc. in revenue estate to enable the land holder makes it use for credit facilities and for other matters connected therewith or incidental thereto.(2)The Pass book shall be in such form and valid for such period as may be prescribed.(3)The Pass book shall be completed by such persons and in such manner as may be prescribed. The person so authorized shall be the competent authority for the purposes of sections 22-A, 22-B, 22-C, 22-D,22-E,22-F,22-G and 22-H of this Act.(4)On the presentation of the pass book at the time of attestation of mutation or otherwise with regard to any change in the interest of the holding of the land holder, the Revenue Officer, after being satisfied of the correctness of the changes on the basis of the mutation proceedings, and other relevant evidence, shall make an entry with respect to such change in the Passbook in such form and manner as may be prescribed.(5)The holder of the Pass book shall get it updated within one month after the expiry of its period of validity and on his failure to get it validated, the Pass book shall otherwise, not be entertained as legal document whenever

presented.(6)Soon after the consignment of the next Jamabandi of the Revenue estate in the Sadar Office but not later than the 30th April of the year succeeding the year in which Jamabandi has been completed , the holder of the Passbook shall hand it over to the new Jamabandi against receipt as may be prescribed. However, pending updation of the Pass Book, the entries therein for the period of the preceding Jamabandi would continue to remain valid for that period only.(7)Every entry made in the manner prescribed, in the pass book issued under this section shall be presumed to be true and correct until the contrary is proved.(8)The entries in the Pass book shall carry the same evidentiary value as if these were certified copies of the records-of-rights and other public record for all intents and purposes before the court and the financial institutions including banks.

17. Responsibility of the Competent Authority.

- The Competent Authority shall make every entry in the Pass Book personally from the revenue records of the villages. The competent Authority shall be responsible for every entry made by him in the Pass Book. All entries relating to the revenue record shall be made in accordance with the relevant revenue records.

18. Issue of Additional Pass book to the joint holders.

- Whereas the Pass book is issued in the name of occupant whose name appears first among the joint holders of the land and if any joint holder applies for the copy of the Pass book, after due verification, the Deputy Commissioner shall direct the competent authority to issue copy of the pass book on the payment of such fees and costs as may be determined by the Government from time to time.

19. Issue of Pass Book to the heirs of the land.

(1)Once the Pass book is issued to the land holder it shall not be necessary to issue a new pass book to the person who becomes a holder by succession. If there are more than one successor fresh Pass book shall be issued to each successor.(2)On application made by the successor of the deceased holder accompanied by the Pass book issued to the deceased holder, the Competent Authority, shall after making such enquiries as it may be deem necessary, transfer of Pass book into the name of the successor.Supplemental Provisions

20. Power to make rules respecting records and other matters connected therewith.

- The Government may make rules -(a)prescribing the language and script in which records and registrars under this Chapter are to be made;(b)prescribing the form of those records and registers and the manner in which they are to be prepared, signed and attested;(c)for the survey of land so far as may be necessary for the preparation and correction of those records and registers;(d)for the conduct of inquiries by Revenue Officers under this Chapter;(e)regulating the procedure of Revenue Officers under this Act in case for which a procedure is not prescribing by this Act;

21. Records of Rights and annual records for groups of estates.

(1)The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.(2)The provision of this Chapter with respect to a Records-of-rights and annual records for an estate shall then, so far as they can be made applicable, apply to a records-of-rights, and annual record for a group of estates.Reservation of Rights to the Government and Provisions Relating to Royal and Reserved Trees

22. Right of the Government in mines and minerals.

- The rights to mines, minerals, minor minerals and quarries shall vest in the Government and the Government shall have all the powers necessary for the proper enjoyment of such rights.

23. Assessment of Land Revenues.

(1)All land to whatever purpose applied and wherever situate is liable to the payment of land revenues to the Government, except such land as he has been wholly exempted from that liability by the provision of any law for the time being in force.(2)Land revenue shall be assessed to the land revenue notwithstanding that revenue by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.(3)Land revenue shall be assessed in cash or in kind, or partly in cash and partly in kind as the Government may direct.

24. Surcharge.

- There shall be levied and paid to the Government a surcharge at the rate of Rs. 2 per Kanal on the land used for -(a)cultivation of saffron; or(b)production of fruits or fruit plants ; or(c)Production of vegetable or vegetable seeds.Provided that no surcharge shall be levied on the land-(a)used in the production of vegetables not exceeding one Kanal in area;(b)used for the production of potatoes in specified areas;(c)under fruit trees not bearing fruit so long as such fruit trees do not bear fruits;(d)used for the production of saffron during the period bulbs stop to yield any crop or the land is lying fallow.

25. Confirmation of Assessment.

- An assessment of the land revenue of an area shall not be considered final until it has been confirmed by the Government.

26. Assessment to remain in force till new assessment takes effect.

- Notwithstanding the expiration of the period fixed for the continuation of an assessment under section (3), the assessment shall remain in force till a new assessment takes effect.

27. Writ of Demand.

- A writ of demand may be issued by a Revenue Officer on or after the day following that on which an arrear of land revenue accrues.

28. Power to Postpone Sale.

- The Collector or such Revenue Officer may from time to time postpone the sale; provided that, if the sale is postponed for more time than 7 days a fresh proclamation shall be issued as prescribed for the original sale.

29. Report of sale to Divisional Commissioner.

- Every sale of immovable property under this chapter shall be reported by the Collector to the Divisional Commissioner.

30. Power to refer to Arbitration.

- The law as to arbitration as contained in Schedule II of the Civil Procedure Code, shall apply to arbitrations in matters arising under this Act.

31. Power to make Rules.

- The Government may make rules—(a) for determining the costs of partitions under this chapter and the mode in which such costs are to be apportioned; (b) prescribing forms for use in proceedings under this Chapter; (c) prescribing fees and stamp duties; and (d) generally for carrying out the purpose of this chapter.