

Jammu and Kashmir Tenancy Act, SVT. 1980 (1923 A.D.)

JAMMU & KASHMIR

India

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Act 2 of 1980

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Jammu and Kashmir Tenancy Act, SVT. 1980 (1923 A.D.)(Act No. 2 of 1980)[Sanctioned by His Highness the Maharaja Sahib Bahadur in Council under Resolution No. 16, dated the 13th September, 1923 and published in Government Gazette dated 14th Maghar, 1980.]An Act to consolidate, amend and declare the law relating to the tenancy of land in the Jammu and Kashmir State.Preamble. Whereas it is expedient to consolidate, amend and declare the law relating to the tenancy of land in Jammu and Kashmir State; it is hereby enacted as follows:-

Chapter I Preliminary

1. Title extent and commencement.

(1) This Act shall be called the Jammu and Kashmir Tenancy Act, 1980, and shall extend to the whole of the Jammu and Kashmir State [x x x] [Saving clause to section 1(1) repealed by Revenue Department Notification No. S-50, published in the Government Gazette dated 20th Bhadon, 1987.](2)[It shall come into force on and from the 1st of Poh, 1980.] [Sections 4 and 5 were enforced in such Tehsils of the Jammu Province as were under Settlement in 1914 or have come under Settlement since then, from the 1st October, 1914 and elsewhere in the Jammu Province from 1st of Assuj, 1980 (by State Council Resolution No. VII dated the 2nd August, 1923, and Notification No. 16 dated the 19th Bhadon, 1980).](3)From the date when this Act comes into force all circulars, rules and orders previously issued regarding matters dealt with therein, so far as they may be repugnant to it, shall be considered repealed:But all orders issued, rights acquired, liabilities incurred, or things done under the circulars, rules and orders hereby repealed shall be deemed to have been respectively issued, incurred or done under this Act.

2. Definitions

In this Act, unless there is something repugnant in the subject or context, (1)"land" means land which is not occupied as the site of any building in a town or village, and is occupied or has been let for agricultural purposes or for purposes sub-servient to agriculture or for pasture, and includes the site of buildings and other structures and trees standing on such land as well as areas covered by or fields floating over water, and sites of Jandars and Gharats: Provided that, nothing in this Act shall apply to the site of any jandar or gharat attached to any canal under the management of the State Department of Public Works, or distributary thereof; (2)"rent" means what ever is payable to a landlord in money, kind or service by a tenant, on account of the use or occupation of land held by him or on account of the use of water for irrigation; (3)"pay" with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render" with their grammatical variations and cognate expressions; (4)"arrear of rent" means rent which remains unpaid after the date on which it becomes payable; (5)"tenant" means a person who holds land, under the State, or under another person, and is, or but for a special contract in that behalf would be, liable to pay rent for that land, to the State or to that person; but it does not include (a) an inferior landholder, or (b) a person to whom a holding has been transferred, or an estate or holding has been let on farm, for the recovery of an arrear of land revenue, or of a sum recoverable as such, or (c) a mortgagee of the rights of a landholder, (d) [omitted] [Clause (d) of section 2 (5) omitted by Act 1 of Svt. 1995.]. (6)"landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land; (7)"tenant" and "landlord" include the predecessors and successors-in-interest of a tenant and landlord respectively; (8)"tenancy" means a parcel or parcels of land held by a tenant of a landlord under one lease or engagement or one set of conditions, but may comprise land held by a tenant partly in right of occupancy and partly without such right; (9)"improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the purpose for which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it: Explanation I. It includes, among other things (a) the construction of tanks, wells, water-channels and other works for the storage or supply or distribution of water for agricultural purposes; (b) the construction of works for the drainage of land or for protection of land against floods or from erosion or other damage by water; (c) the planting of trees, the reclaiming, clearing, enclosing, levelling and terracing of land for agricultural purposes, and other works of a like nature; (d) the erection of buildings on the tenancy, or in its immediate vicinity, elsewhere than on the village site, required for the more convenient or profitable use or cultivation of a tenancy; and (e) the renewal or reconstruction of any of the foregoing works, or such alteration therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value; but it does not include such clearances, enbankments, levelling, enclosures, temporary wells, and water-channels or other works, or petty alterations or repairs to such works, as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit; accruing to land from the ordinary operation of husbandry: Explanation II. A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement: Explanation III. Unless made with the written consent of the landlord, any work that substantially diminishes the value of any other part of the landlord's property, is not an improvement; (10)"estate"

"land-holder", [x x x] [Words "Assami or Malguzar" in clause (10) deleted by Act I of Svt. 1995 and word "Chakdar" deleted by Act XIII of Svt. 1996.], "holding", "land revenue", "arrear of land revenue", "defaulter", "rate and cesses", "village-cesses", "village-officer", "Revenue officer", "muafidar", "agricultural year", "notification", "encumbrance", and "date of regular settlement" have the meanings assigned to those words in [the Jammu and Kashmir Land Revenue Act, 1980] [Land Revenue Act Svt. 1996 (Act. No. XII of Svt. 1996).];(11)"land revenue" means land revenue assessed, or assessable, under any law or orders for the time being in force, whether payable to the State or assigned by the State to other person; also any sum payable in respect of land, by way of quit-rent or of commutation for service, to the State or to a person to whom the State has assigned the right to receive the payment;it also includes any rate imposed in respect of the increased value of land due to irrigation, but does not include any fluctuating abiana imposed in addition to the fixed assessment on account of crops matured by means of irrigation, except in so far as such a biana may be declared by notification issued by the Government in that behalf, to be a rate imposed in respect of the increased value of the land due to irrigation;(12)["abi land" means all irrigated lands and for purposes of section 16, includes such dry lands as grow sugar-cane, wheat, maize and linseed.] [Clause (12) inserted by Act VII of 2005]

Chapter II

Right of Occupancy

Part I – Provisions Applicable to the Jammu Province

3. Grades of occupancy tenants

(1) There shall be the following grades of occupancy tenants: (a)occupancy-tenants of grade A, holding land direct from a land-holder, or from the State;(b)occupancy-tenants of grade B, holding land from occupancy-tenants of grade A.(2)No tenants holding land from an occupancy tenant of grade B shall be entitled to right of occupancy:Provided that, any person recorded in a record-of-rights, sanctioned before the date on which this Act comes into force, as possessing a right of occupancy subordinate to a tenant of grade B shall, until the next general re-assessment of the district or tehsil in which the tenancy is situate, retain such right of occupancy, and shall, as far as may be subject to all the provisions of this Act relating to occupancy tenants:Provided further that, at the next general re-assessment of the tract in which the tenancy is situate, the right and liabilities, to which such tenants shall be subject after the date of the re-assessment, shall be determined by rules to be issued in this behalf by the [Government] [Substituted by Act XIII of 1996.].

4. Classification of occupancy-tenants

At the next Regular Settlement made in any tract after the date on which this Act comes into force, the classification of the occupancy tenants in force at that date as described in Part I of Appendix A of this Act, shall be revised, in every estate, by a Revenue Officer not below the rank of Tehsildar, and all tenants already recorded as possessing a right of occupancy shall be assigned according to

the length of their respective tenancies to one of the following classes, namely:-Class 1. Tenants whose possession of their tenancies began in or before the Samvat year 1928;Class 2. Tenants whose possession began after the Samvat year 1928, but not later than the Samvat year 1935;Class 3.

Tenants whose possession began after the Samvat year 1935, but not later than the Samvat year 1950;Class 4. Tenants whose possession began after the Samvat year 1950. Tenants of grade B, as described in section 3 of this Act, shall be recorded as such, under the appropriate clause of this section.

5. [Repealed.] [Section 5 repealed by Act I of 2007.]

Part II – Provisions Applicable to Kashmir Province, Ladakh District and Gilgit District

6. Classes of occupancy tenants

The tenants entitle to a right of occupancy under any rules or orders in force at the date on which this Act takes effect, as described in Part II of Appendix A of this Act, and tenants who may hereafter become entitled to such right, shall be recorded as Kashtkar mustaqil of one of the following classes, namely: In the Province of KashmirClass 1. Tenants whose possession of their tenancies began in

or before the Samvat year 1937;Class 2. Tenants whose possession began after the Samvat year 1937, but not later than the Samvat year 1951;Class 3. Tenants whose possession began after the Samvat year 1951, but not later than the Samvat year 1963;Class 4. Tenants whose possession began after the Samvat year 1963:Provided that in the twelve districts of the city of Srinagar, namely: Narsingharh,Habakadal,Maharaj

Ranbirganj,Tashawan,Khanayar,Rainawari,Nawakadal,Mahisuma,Kothi Bagh,Chattabal,Sangin Darwaza,Nauhatta,[x x x] [In section 6 class (4) the words " notwithstanding anything to the contrary in the tenancy Rules here to fore in force" deleted by Act XIII of 1996.] no tenant shall enjoy a right of occupancy under this Act, unless such tenant on or before the 8th day of Katik, 1975 -(a)had been recorded as, or had been declared to be, an occupancy-tenant, or(b)having instituted a suit for a right of occupancy, or in a suit pending at that date having claimed such right, is declared by a competent Court to be an occupancy tenant, or unless(c)the landlord of the tenancy consents to the tenant receiving a right of occupancy.In the Districts of Ladakh and GilgitClass 1. Tenants whose possession of their tenancies began in or before the Samvat year 1942;Class 2. Tenants whose possession began after the Samvat year 1942, but not later than the Samvat year 1951;Class 3.

Tenants whose possession began after the Samvat year 1951, but not later than the Samvat year 1965;Class 4. Tenants whose possession began after the Samvat year 1965.

7. Enquiry regarding the right of tenants at next Regular Settlement

(1) At the next Regular Settlement made in any tract, after the date on which this Act comes into force, a Revenue Officer not below the rank of Tehsildar shall make enquiry in every estate regarding the status of all tenants holding land therein.(2)The Revenue Officer shall, by his order, determine the tenants, who are entitled to a right of occupancy and shall direct the entry of every

tenant so entitled under the appropriate class of section 6 of this Act.

Part III – Provisions applicable to all districts

[7-A. Tenants who may be declared occupancy-tenants on suit or otherwise (1) On the application of the tenant, and with the consent of the landlord or on suit preferred before a competent Revenue Court, notwithstanding anything to the contrary in the Tenancy Rules heretofore in force, a tenant (a)who was in possession of land in the Samvat year 1935 in the Jammu Province, or in the Samvat Year 1937 in the Kashmir Province, or in the Samvat year 1942 in the Districts of Ladakh and Gilgit, or(b)who owned land and has ceased to be landowner thereof (otherwise than by forfeiture to the State for disloyalty, or by the order of criminal Court, or by any voluntary act), or(c)who is an Udharach tenant in the Kathua District and was recorded as tenant of any land at the first Regular Settlement, or(d)who, at the first Regular Settlement was entitled to a right of occupancy in any land under the rules or orders at that time in force, but was erroneously recorded as tenant-at-will, may be declared to be an occupancy tenant thereof of the appropriate class under section 4 or section 6 of this Act:Provided in the case of a suit under this sub-section that such tenant has since held continuous possession of the land up to one year before the date on which the suit is instituted.(2)Except as provided in sub-section (1) of this section, nothing in the foregoing sections of this Act shall be deemed to confer on a tenant a right of occupancy to which such tenant was not entitled under the Tenancy Rules heretofore in force.(3)On the application of the landlord or of the tenant, a tenant on whom the landlord, with the permission in writing of a Revenue Officer duly empowered in this behalf, has voluntarily agreed to confer a right of occupancy, shall be declared to be occupancy-tenant thereof of class 4 under section 4 or section 6 of this Act.] [1. Section 7-A inserted by Act I to 2007.]

8. Right of occupancy not to be acquired after completion of first Regular Settlement by mere length of occupancy

Except as provided in [section 7-A] [Substituted by Act I of 2007 for] of this Act, a tenant, who at the date of the first Regular Settlement of the tract in which the tenancy is situated, was not entitled under this Act to a right of occupancy as regards such tenancy, shall not subsequently acquire such right by mere length of possession.

9. Establishment of right of occupancy by virtue of local custom or usage, or otherwise

Nothing contained in this Act shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in the foregoing sections.

10. Occupancy right may be possessed in waste land

A right of occupancy may be possessed by tenants under this Act in respect of areas of waste land:Provided that, no such right shall be acquired in respect of grazing 'grounds included in the

area of any State forest, dhars, or other public grazing ground.

11. Illegal ejectment, no interruption of continuous possessions under this Chapter

Tenancies interrupted by ejectment contrary to the provisions of this Act or by refusal on the part of the landlord to allow re-entry of a tenant entitled to possession, shall be held for the purposes of this Chapter [x x x] [Words "and Chapter II-A" omitted by Act XII of 1955 (for earlier amendments see Act I of 2007).] to be continuous.

12. Exchange etc. by tenants, no interruption of continuous possessions under this Chapter

Exchanges by tenants, whether voluntary or otherwise, and alterations in the site of a jandar or gharat owing to a change in the course of a stream, shall not be deemed to be breaches of continuous possession for the purposes of this Chapter: Provided that, a tenant shall not be entitled to a right of occupancy in the land relinquished by him owing to such exchange or alteration of site.

13. Exclusion of certain classes of occupiers from acquisition of occupancy-right

Nothing contained in this Act shall be deemed to confer a right of occupancy on (a) a village menial, in respect of land held by him solely in remuneration for the customary service rendered by him to the village community; (b) 1. Clause (b) omitted by Act XII of 1955. [omitted]; (c) the attendant of any shrine or religious institution, in respect of land held by him from such shrine or institution in consideration of his services rendered thereto; (d) hired labourers, who are paid by the landholder for their labour either in cash or in kind or both, or by a share of the produce of the land cultivated by them in respect of such land; (e) tenants cultivating land in gardens or orchards in respect of such land; (f) [chowkidars of the Forest Rest Houses cultivating land within the demarcated forest boundary in lieu of or in addition to the monthly salary for service rendered to the department.] [Clause (f) added by Act VII of 1991.]

14. Exclusion of co-sharer in joint holding from acquisition of right of occupancy

No co-sharer in the village common land, or in any joint holding, shall acquire a right of occupancy in land comprised in such village common or joint holding as against the other co-sharers therein.

15. Right of occupancy not to accrue in land leased to a mustajir

No person shall be competent to acquire in tenancy a right of occupancy, not previously subsisting

therein, when and so long as the rights of the landlord in regard to such tenancy are mortgaged, with possession, by the landlord to any other person, or the land is leased to a mustajir.

Chapter II

A Protected Tenants

[15-A. Protected tenants (1) All tenants other than occupancy tenants and such fixed term tenants as hold maliari or vegetable growing land shall be deemed to be protected tenants and recorded as such in respect of such land as is held by them in their cultivating occupation at the time of the commencement of the Jammu and Kashmir Tenancy (Amendment) Act] [3. Section 15-A substituted by Act XII of 1955. (For earlier amendments see Acts VII of 2005 and I of 2007).], [1965] [Substituted by Act XIV of 1965 for "1955]:Provided that the right of protected tenancy of a tenant shall cease when a landlord resumes land for personal cultivation under section 49 of the Act:Provided further that the right of protected tenancy of a tenant holding under a lessee or a mortgagee, shall also cease on the expiry of the lease or mortgage, as the case may be, if the lessor or the mortgagor was in self cultivating occupation of such land immediately before such land was leased or mortgaged and such land including the other land in his personal cultivation does not exceed the size of the holding specified for a landlord in clause (a) of section 45 of the Act:[Provided also that the right of protected tenancy shall not accrue to a tenant admitted by a protected tenant:Provided further that a tenant admitted after the coming into force of Act XII of 1955 shall not be entitled to such right in respect of such portion of the land as together with what he holds in ownership right or in tenancy right as an occupancy or protected tenant or both does not exceed 2 acres of Abi or 4 acres of Khushki land in the Kashmir Province including the districts of Ladakh and Gilgit and 4 acres of Abi or 6 acres of Khushki in the Jammu Province.Explanation. For the purposes of this proviso 1 acre of land held in ownership right shall be deemed to be equal to 2 acres of land held in tenancy right.] [Provisos added by Act XIV 1965.](2)[Notwithstanding anything contained in Chapter IV of the Jammu and Kashmir Land Revenue Act, Samvat 1996, the recording of the right of protected tenants under sub-section (1) shall be made by an entry in the Girdawari register at the time of the crop inspection following the coming into force of the Jammu and Kashmir Tenancy (Amendment) Act, 1965 and shall immediately thereafter to be taken to the current quadrennial Jamabandi in such manner as may be notified by the Government in this behalf.] [Sub-section (2) substituted by Act XIV of 1965.][15-B. Procedure for declaration as protected tenant (i) Any tenant who is entitled to a right of protected tenancy but is not entered as such may make an application for being declared and entered as a protected tenant within one year of the attestation of the quadrennial Jamabandi of the village in which such land is situate prepared immediately after coming into force of the Jammu and Kashmir Tenancy (Amendment) Act, [1965] [Section 15-B substituted by Act XII of 1955. (For earlier amendments see Acts VII of 2005 and I of 2007).]:[Provided that where the quadrennial Jamabandi is attested without the note being recorded, or without the entries being read out to the tenants and landlord in the manner prescribed under section 15-A, the period of one year shall be reckoned from the date the Jamabandi is attested in such manner.] [Proviso added *ibid*.](ii)Notice of every application presented by a tenant under sub- section (i) shall be given to the landlord and no order shall be made on such application unless the landlord has been given an opportunity to be heard.(iii)On an application by a landlord or a

tenant, a tenant may be declared a protected tenant and recorded as such, if the landlord has agreed to confer on him the right of protected tenancy.][15-C. Land exempted Nothing in section 15-A shall apply to] [Section 15-C inserted by Act VII of 2005.]

5. Clause (i) of section 15-C substituted by Act XII of 1955.[(i) khalsa and other lands owned by the State excepting those acquired by the State in exchange with private lands held in ownership right before or after the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, [1965] [Substituted by Act XIV of 1965 for "1955".];

(ii)pasture grounds (Kahcharai area) recorded in the village papers;(iii)land situated within the limits of any cantonment;[iii-a] [Clause (iii-a) added by Act XVII of 1962.] land owned by the Government of India;(iv)lands included within railway or canal boundaries;[iv-a] [Clause (iv-a) added ibid.] lands held by persons serving in the Armed, Naval or Air Forces of India.[(iv-b) Lands which grow Saffron excepting those in respect of which protected tenancy rights have already occurred under the provisions of the Jammu and Kashmir Tenancy (Amendment) Act, 1955;] [Clause (iv-b) substituted by Act XXXVI of 1966 with effect from 08-04-1965.](v)lands belonging to a municipality or town area or in possession of any State Department;(vi)[omitted] [Clause (vi) of section 15-C deleted by Act XII of 1955.](vii)lands in gardens or orchards;(viii)lands held by the chowkidars of the Forest Rest Houses within the demarcated forest boundary for service rendered to the Forest Department;(ix)[omitted] [Clause (ix) of section 15-C deleted by Act XII of 1955.](x)[omitted] [Clauses (x) of section 15-C deleted by Act XII of 1955.](xi)[lands situate within the limits as these exist at the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, of a municipality or a notified areas and lands within the limits of such town areas as may be declared by the Revenue Minister by a notification in the Government Gazette;] [Clause (xi) substituted by Act XII of 1955.](xii)[omitted.] [Clause (xii) of section 15-C deleted ibid.]

Chapter III

Rents

Rents Generally

16. Respective rights of landlord and tenant to produce

(1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.[(1-a) Where the size of the holding comprising of cultivated land of any class other than Maliari of a landlord or each of the co-sharing landlords including such land as is held by him in his own cultivation exceeds one hundred kanals, the maximum rate of rent payable by the tenant shall, notwithstanding any agreement, usage, decree or order of a Court or anything to the contrary in the Act, not exceed (a)for Abi lands (i)in case of produce rent, one fourth of the produce;(ii)in case of money rent, one fourth of the value of such produce; and(b)for Khushki lands -(i)in case of produce rent, one-third of the produce; and(ii)in case of money rent, one third of the value of such

produce: Provided that no share of fodder of a grain bearing crop shall be payable by the tenant as part of such rent, in cases where the landlord does not provide him with seed, implements and cattle for purposes of cultivation: Provided further that this sub-section shall not apply to such Government land as the Government may by a special or general order exempt from the operation of this sub-section.] [Sub-section (1-a) substituted by Act XVII of 1962.][(1-b) Except as provided for in sub-section (1-a), a tenant shall not be liable to pay for a tenancy rent exceeding in case of a produce rent 1/2 of the produce and in case of a money rent 1/2 of the value of such produce.] [Sub-section (1-b) added by Act I of 2007.](2) A tenant shall be entitled to tend, cut and harvest the produce of his tendency in due course of husbandry, without any interference on the part of his landlord. (3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce. (4) Where rent is taken by division of the produce - (a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided; and (b) the landlord shall be entitled to be present at and take part in the division of the produce; and (c) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

17. Commutation and alteration of rent

(1) Where rent is taken by any of the following methods, namely: (a) by division or appraisement of the produce, (b) by rates fixed with reference to the nature of the crops grown, (c) by a rate on a recognised measure of area, (d) by a rent in gross on the tenancy, or (e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section and partly by another or others of them, one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant. (2) [Subject to the provisions of sub-sections (1-a) and (1-b)] [Substituted by Act I of 2007 for "Subject to the provisions of sub-section (1-a)". (For earlier amendment see Act VII of 2005).] of the foregoing section, in the absence of a contract or a decree or order of competent authority to the contrary, a tenant, whose rent is taken by any of the methods specified in sub-section (1), shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the last preceding agricultural year in which rent was payable for the tenancy. [Any reduction in the size of the holding specified in sub-section (1-a) of section 16 shall not make the tenant liable to pay rent at a rate or amount higher than that to which he was liable to pay immediately before such reduction: Provided that the rent at a higher rate or amount already paid shall not be refundable.] [Added by Act XVII of 1962.][17-A. Prohibition of enhancement of rent Nothing in sections 16 and 17 of this Act shall be constructed to permit the existing rent to be enhanced where such rent is less than the maximum prescribed in sub-sections (1-a) and (1-b) of section 16.] [Section 17-A inserted by Act I of 2007.][17-B. Declaration of the size of holding For determining the rate or amount of rent payable under this Act, a landlord or a tenant may institute a suit for grant of a declaration in respect of the size of a holding.] [Section 17-B inserted by Act XVII of 1962.]

18. Payment for land occupied without consent of landlord

Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or if rent was not payable in that year, at such rate as the Court may determine to be fair and

equitable.

19. Collection of rents of undivided property

When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.[19-A. Landlord bound to give receipt for rent received (i) A landlord shall be bound to give his tenant a receipt for 'he rent paid by him.(ii)Any landlord who refuses to give to the tenant on demand a receipt for the rent paid by him shall, on an application made by the tenant to a Revenue Officer, be liable to a fine not exceeding Rs. 50:Provided that no order shall be made against the landlord unless he has been given an opportunity to be heard.

19.

-B. Procedure for recovery of rent (1) Where a tenant fails to pay rent due to a landlord, the landlord may apply to a Revenue officer for realization thereof.(2)Notwithstanding anything to the contrary contained in the Limitation Act, Svt. 1995, or any other law for the time being in force, an application under sub-section (1) shall be made within a period of six months from the date the rent falls due:Provided that an application for realisation of rent fallen due at the time the Jammu and Kashmir Tenancy (Amendment) Act, 1955, comes into force may be made within six months of the date of the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, or within the period prescribed by the Limitation Act, Svt. 1995, for suits for arrears of rent, whichever period expires first.(3)An order for recovery of rent passed by a Revenue Officer on an application made under sub-section (2) shall be deemed to be a decree of a Court and executed in the manner provided in the Code of Civil Procedure, 1977.(4)All suits for arrears of rent pending on the date the Jammu and Kashmir Tenancy (Amendment) Act, 1955 comes into force shall be triable as applications Made under sub-section (2).(5)Where the rent due is for more than one harvest the Revenue Officer, in cases where such rent pertains to the period before the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, shall, and in cases-where the rent pertains to the period after the commencement of Jammu and Kashmir Tenancy (Amendment) Act, 1955, may order its payment in instalments extending over a period of not more than three years in cases where 1/4 of the produce is payable as rent and not more than six years in cases where half of it is so payable.[(5-a) An application for recovery of rent by a landlord shall be dismissed where it is proved that the claim preferred by the landlord is false and frivolous or vexatious.] [Sub-section (5-a) inserted by Act III of 1970.](6)Where an application by a landlord for recovery of rent under this section is dismissed and the Revenue Officer by whom the application is heard is satisfied that the claim preferred by the landlord was false and either frivolous or vexatious, the Revenue Officer may direct that compensation to such amount not exceeding rupees fifty be paid by the landlord to the tenant:Provided that no such order shall be made against the landlord unless he has been given an opportunity to be heard.] [Section 19 A and 19 B added by Act XII of 1955.][Explanation: For purposes of this section a claim shall be presumed to be false and frivolous or vexatious where it is proved that the landlord is entitled to 1/4 of the produce only while he has wilfully preferred the claim for 1/2 of the produce.] [Explanation added by Act III of 1970.]Produce rent

20. Presumption with respect to produce removed before division or appraisement

Where rent is taken by division or appraisement of the produce, if the tenant removed any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

21. Harvesting of crops where rent is taken by appraisement on failure of landlord to attend

Where rent is taken by appraisement of produce -(1)if the landlord fails to attend either personally or by agent, at the proper time for making the appraisement, the tenant may give him, or his accredited agent, notice, orally or in writing, to attend within three days in order to make the appraisement;(2)if the landlord, or his agent, notwithstanding the receipt of such notice, neglects to attend within three days of its receipt, the tenant shall be entitled to cut and harvest the produce of his tenancy and shall be entitled to exclusive possession of the whole produce until it is divided;(3)when the produce of a tenancy has been cut under sub-section (2) the landlord, shall take the rent for the harvest by division of the actual produce and not by appraisement.

22. Where rent is taken by appraisement, power of landlord or tenant to require division of actual produce, and of Revenue Officer to control appraisement

Where rent is taken by appraisement of the produce (1)if the landlord, or the tenant, does not agree to the amount fixed by appraisement at any harvest, he may require that the rent shall be taken for that harvest by division of the actual produce, and not by appraisement; and may, if the other party neglects or refuses to make such division, apply to [a Revenue Officer] [In Section 22(1), 23, 37(b) and 41 the words "a Revenue Officer" substituted for the words, "Assistant Collector of the second class" by Act III of 2008.] for the appointment of a referee under section 23 of this Act;(2)a Revenue Officer [x x x x] [The words "not below the rank of Assistant Collector of the second class" omitted by Act III of 2008, (For earlier amendment see Act XIII of 1996).] for reasons to be recorded by him may, of his own motion, order the appointment of referee to make the appraisement under section 24 of this Act, or may require the appraisement to be made in his own presence;(3)a Revenue Officer issuing an order under sub-section (2) shall cause notice to be issued to the landlord and the tenant not to proceed with the appraisement, except in his presence, or in the presence of the referee, as the case may be;(4)any person failing to comply with a notice or order issued to him under sub-sections (2) and (3) of this section shall be liable by the order of the [Revenue Officer] [Substituted for "Tehsildar" by Act III of 2008. (For earlier amendment see Act XIII of 1996).] to a fine not exceeding fifty rupees, in respect of each tenancy to which such notice or order related.

23. Appointment of referee for division of appraisement

If either the landlord or the tenant neglects to attend either personally or by agents, at the proper time for making the division or appraisement of the produce, or if [there is a dispute or likelihood of a dispute] [Substituted by Act I of 2007 for "there is a dispute".] about the division or appraisement, a [Revenue Officer] [See foot-note under section 22(1).] may, on the application of either party [or suo motu] [Added by Act I of 2007.], appoint such person as he thinks fit to be a referee to divide or appraise the produce.

24. Appointment of assessors and procedure of referee

(1) When a Revenue Officer appoints a referee under the last foregoing section he may, in his discretion, give him instruction with respect to the association with himself of any other persons as assessors, the number, qualifications, and selections of those assessors, and the procedure to be followed in making the division or appraisement.(2)The referee so appointed shall make the division or appraisement, in accordance with any instructions which he may have received from the Revenue Officer under the last foregoing sub-section.(3)Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed ex-parte.(4)For the purpose of making the division or appraisement, the referee with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

25. Procedure after division or appraisement

(1) In the case of a division of the produce, if the parties agree to the award, the division shall be made accordingly. If the parties do not agree to such division, and in all cases in which the rent is payable by appraisement, the referee shall make an estimate of the value of the produce, and shall submit the record with a report of his proceedings to the Revenue Officer.(2)The Revenue Officer shall consider the record, and, after such further enquiry, if any, as may deem necessary, shall make an order either confirming or varying the division or appraisement.(3)The Revenue Officer shall also make such order as to the cost of the reference as he thinks fit.(4)The cost may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee, subject to the adjustment at the close of proceedings.Provisions Relating to Suits for Enhancement or Reduction of Rent, and Proceedings for Adjustment of Rents on Alteration of Land Revenue

26. Regulation of enhancements and abatements

(1) The rent of an occupancy-tenant shall be liable to enhancement or abatement only (a)by registered agreement, or(b)by decree or order of a Revenue Court, and, when so enhanced or abated, shall not again be liable to enhancement or abatement except on the grounds specified in clauses (b) and (c) of section 27 or in section 29, until or unless -(i)ten years or such longer period as

may have been agreed upon, decreed or ordered since rent was commuted under section 17, has elapsed, or(ii)the estate in which the tenancy is situated has come under revision of assessment.(2)Where the rent has been varied merely on the ground of any increase or decrease in area under clause (c) of section 27 or clause (b) of section 29, such variation shall not be considered in computing the period of ten years.(3)The term for which the rent of an occupancy-tenant is fixed by decree or order of a Revenue Court shall not be less than ten years, but no term in excess of ten years shall be so fixed, except upon agreement by the parties.

27. Enhancement of rent of occupancy tenants

The landlord of an occupancy-tenant may sue for enhancement of rent on one or more of the following grounds and no others: (a)that the rate of rent paid by such tenant is below the prevailing rate paid by the occupancy-tenants of the same class for land of similar quality and with similar advantages in the neighbourhood; or(b)that the productive powers of the land held by the tenant have been increased by an improvement effected during the currency of the present rent, otherwise than by the agency or at the expense of the tenant; or(c)that the area of the tenancy has been increased by alluvion or by the tenants's encroachments:Provided that the rent of an occupancy-tenant of the description mentioned in section 28 of this Act shall not be enhanced under this section.

28. Enhancement of certain cash rents payable by occupancy-tenant

(1) Where a tenant having a right of occupancy pays his rent entirely by a cash rate consisting of the whole or a share of the land revenue of the tenancy with or without an addition in cash proportionate to the amount of such land revenue, that rent may be enhanced on the ground that deduction therefrom of the land revenue with rates and cesses chargeable on the tenancy, it is -(i)in the case of tenants of class 1 of section 4 and 6, less than two annas per rupee of the amount of the land revenue; or(ii)in the case of tenants of class 2 of section 4 or 6, less than four annas per rupee of the amount of the land revenue; or(iii)in the case of tenants of class 3 of section 4 and 6, less than six annas per rupee of the amount of the land revenue; or(iv)in the case of tenants of class 4 of sections 4 and 6, less than eight annas per rupee of the amount of land revenue:Provided that in the Tehsils of Samba and Ranbirshinghpura, and in any other local areas to which this proviso may hereafter be extended by the order of the Government the rates specified in clauses (i) and (ii) of this sub-section may be increased to amounts not exceeding four and five annas respectively per rupees of the land revenue.(2)In the case specified in sub-section (1) of this section, the rent payable by an occupancy-tenant of grade B may also be enhanced on the ground that after deduction therefrom of the rent payable by the tenant of the grade A to the landholder, it is less than two annas per rupee of the amount of the land revenue, or exceeds by less than 2 annas per rupee of the land revenue, the rent which would have been payable if the tenant had been a tenant of the same class of grade A.(3)In cases to which sub-sections (1) and (2) apply, the rent may be enhanced to an amount not exceeding "two, four, five, six," or eight annas per rupee of the amount of the land revenue of the tenancy, as the case may be, in addition to the amount of the land revenue of the tenancy and the rates and cesses chargeable thereon.(4)The rent of an occupancy tenant may be fixed or enhanced with regard to the provisions of this section in any of the proceedings hereinafter mentioned, and

not otherwise-(a)on suit for enhancement of rent by the landlord of the tenancy, or(b)[omitted,]
[Clause (b) of section (28) omitted by Act XII of 1955.](c)on the application of either the landlord or
the tenant, in any other suit by a tenant to establish a claim to a right of occupancy, or by a landlord
to prove that a tenant has not such a right.

29. Abatement of rent of occupancy tenants

An occupancy tenant may sue for abatement of rent on one or more of the following grounds and on no other: (a)that the productive powers of land held by the tenant have been decreased by any cause beyond his control during the currency of the present rent; or(b)that the area of his tenancy has been decreased by diluvion or by encroachments, or by the taking up of the land for a public purpose, or for a work of public-utility.

30. Discretion as to extent of enhancement or reduction

In enhancing or reducing the rent of any land, under the foregoing provision of this Chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable but shall not, in any case, fix the rent at a sum less than the amount of the land revenue of the land and the rates and cesses chargeable thereon.

31. Time for enhancement or reduction to take effect

(1) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.(2)A court decreeing a reduction of rent shall specify in the decree the date on and from which the deduction is to take effect.

32. Adjustment of rent proportionate to land revenue.

(1) Where the rent of a tenancy is the whole or a share of the land revenue thereof, with or without any addition in money, kind, or service, and the land revenue of the holding in which the tendency is situate is altered, a Revenue Officer having authority to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situated shall determine, also the amount of the land revenue of the tenancy or proportionate share thereof, payable by the tenant as rent.(2)Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land revenue of the tenancy or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue Officer shall, in like manner, from time to time, alter the amount of the addition in proportion to any alteration of such land revenue or rates and cesses.(3)The sum or sums determined under the foregoing sub-section, together with any other addition previously payable, shall be the rent payable in respect of the tenancy, until there is again an alteration of the land revenue thereof or the rate and cesses chargeable thereon, or until the rent is enhanced by a suit under this Act.(4)An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

33. Adjustment of fixed cash rent at a general reassessment

(1) Where the rent of tenancy is neither of the kind described in section 32 nor a share of the gross produce, nor a rent fixed for a term of years, but is a fixed amount in cash or in kind, a Revenue Officer having authority to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situated, shall enquire into and may by his order revise the amount of such rent. (2) In revising the rent of a tenancy under sub-section (1) the Revenue Officer, subject to the general provisions of this Act in regard to the enhancement or abatement of rents, shall have regard especially to the amount by which the land revenue and cesses assessed on the tenancy have been increased or diminished since the rent is fixed.

34. Treatment of leases for period exceeding or equal to term of assessment of land revenue

(1) Where a lease has been granted, or an agreement has been entered into, by a land-holder in respect of any land assessed to land revenue, fixing for a period exceeding the term for which the land revenue has been assessed, the rent under the lease or agreement, and that term has expired, the lease or agreement shall be voidable (a) at the option of the land-holder if the land revenue of the land has been enhanced, and the person to whom the lease has been granted, or with whom the agreement has been entered into, refuses to pay such rent or other sum as a Revenue Court, on the suit of the land-holder, determines to be fair and equitable; and where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement; (b) at the option of the tenant if the land revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable. (2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement, or the agreement is terminated by consent of parties or course of law, continue in force up to a revised assessment takes place. Remissions or Suspensions of Rent

35. Remission of rent by Courts decreeing arrears

Notwithstanding anything in the foregoing sections of this Chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand, flood or other like calamity, that the full amount of rent payable by the tenant be equitably decreed, the Court may allow such remission from the rent payable by the tenant as may appear to it to be just.

36. Remission or suspension of rents, on remission or suspension of land revenue

(1) Whenever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, [a Revenue Officer] [Substituted by Act III of 2008 for "an Assistant Collector of the 1st Class". (For earlier amendment see Act XIII of Svt. 1996).] may, if the rent is payable in cash, or rent is payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land, as the land revenue of which payment has been remitted or suspended, bears to the whole of the land revenue payable in respect of the land: Provided that, in the case of an occupancy-tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land revenue payable in respect of his land shall, in the absence of a written order by a Revenue Officer to the contrary, carry with it a proportionate remission or suspension, as the case may be, of his rent. (2) When the payment of the rent of any land has been suspended under this section it shall remain under suspension until the [Collector] [Substituted by Act XIII of Svt. 1996 for "Governor".] orders the revenue of that land to be realized. (3) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court. (4) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension of any rent of which the payment has been suspended. (5) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent. (6) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the [Revenue Officer] [See foot-note under section 36(1).] may recover from landlord the amount or value of the rent so collected, and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him. (7) The Provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land revenue has been released or redeemed, in any case in which, if the land revenue in respect of the land had not been released, or redeemed, the whole or any part of it might, in the opinion of the [Revenue Officer] [See foot-note under section 36(1).], be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land revenue. (8) Any sum of which the recovery is ordered under sub-section (6) on account of rent or penalty may be recovered by the [Collector] [Substituted by Act XIII of 1996 for "Governor".] as if it were an arrear of land revenue. Deposits

37. Power to deposit rent in certain cases with Revenue Officer

In either of the following cases, namely: (a) when a landlord refuses to receive or grant a receipt for any rent payable in money when tendered to him by a tenant; (b) when a tenant is in doubt as to the person entitled to receive rent payable in money; the tenant may apply to [a Revenue Officer] [See foot-note under section 36(1).] for leave to deposit the rent in his office, and the Revenue Officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

38. Effect of depositing rent

(1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due. (2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person, who, he has reason to believe, claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled. (3) No suit or other proceeding shall be instituted against the State or any officer of the State, in respect of anything done by a Revenue Officer under this section, but nothing in this sub-section shall prevent any person entitled to receive amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer. Recovery of Rent from Attached Produce

39. Recovery of rent from attached produce

(1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue Officer by whom the attachment is to be or has been made, to sell the produce and pay to him out of the proceeds of the sale thereof the amount or the value of - (a) any rent which has fallen due to him in respect of tenancy within the year immediately preceding the application, and (b) the rent which will be falling due after the harvesting of the produce and is chargeable against it. (2) The Revenue Officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce, or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale, in the first instance, to satisfy the claim. (3) The finding of the Revenue Officer under sub-section (2) shall have the force of a decree in [an application] [Substituted by Act XII of 1955 for the words "a suit".] between the landlord and the tenant. [39-A. Recovery of arrears of rent as arrears of revenue] [Section 39-A added by Act II of 1990.] (1) In case of any general refusal on the part of the tenants of any local area to pay arrears of rent, rates or cesses in cash or kind due by them to their landlords [the Government] [Substituted by Act X of 2010 for "His Highness the Maharaja Bahadur".] may, by notification in the Gazette, declare that such arrears may be recovered as arrears of land revenue. (2) In any local area to which a notification made under sub-section (1) applies, a landlord to whom an arrear of rent, rate or cess in cash or kind is due by a tenant may (notwithstanding anything to the contrary contained in this Act, or any other Regulation for the time being in force), [x x x] [Certain words omitted by Act XII of 1955.] apply in writing to the [Deputy Commissioner] [Substituted by Act III of Svt. 2008 for "Wazir Wazarat".], to realize the same, and the [Deputy Commissioner] [Substituted by Act III of Svt. 2008 for "Wazir Wazarat".] shall, after satisfying himself that the amount claimed is due proceed to recover such amount with costs and interest as an arrear of land revenue. (3) The [Deputy Commissioner] [Substituted by Act III of Svt. 2008 for "Wazir Wazarat".] shall not be made [a party to any application] [Substituted by Act XII of 1955 for "a defendant to any suit".] in respect of any amount for the recovery of which an order has been passed under this section. (4) No appeal shall lie from an order of a [Deputy Commissioner] [Substituted by Act III of Svt. 2008 for "Wazir Wazarat".] under this section but nothing herein contained and no order passed under this section

shall debar (a) a landlord [from making an application under section 84] [Substituted by Act XII of 1955 for "from maintaining a suit under section 85".] of this Act for the recovery of any amount due to him which has not been recovered under this section, or (b) a person from whom any amount has been recovered under this section, in excess of the amount due from him, from recovering the said amount under section [84] [Substituted by Act XII of 1955 for the figure "85".] of this Act. [39-B. Recovery of Court-fees chargeable on amount realised (1) When a notification, under the provisions of section 39-A, sub-section (1) of the Tenancy Act, is made applicable to local area and the [Deputy Commissioner] [Section 39-B added by Act III of 1991.] in charge, on the application of a landlord to whom an arrear of rent, rate or cess in cash or kind is due by a tenant, realises the amount claimed, he shall also recover along with the sum collected the amount of the court-fee chargeable ad valorem under the provisions of the Court Fees Act, on the amount realised by him. (2) Out of the sum collected by a [Deputy Commissioner] [Substituted by Act III of Svt. 2008 for "Wazir Wazarat".] under the provision of section 39-A of the Tenancy Act, there shall be deducted an amount of 2 per cent, in case of cash collections, and 2 1/2 per cent, in case of collections in kind on account of the cost of collection. The amount deducted on account of cost of collection will be in addition to the amount of the Court-fees recoverable by the Government under the provisions of sub-section (1)].

Chapter IV

Relinquishment, Abandonment and Ejectment Relinquishment

40. Relinquishment by tenant for a fixed term

A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of the term.

41. Relinquishment by any other tenant

(1) Any other tenant may relinquish his tenancy by giving orally or in writing to his landlord or to his landlord's agent, on or before the date fixed by Appendix B of this Act, notice of his intention to relinquish the tenancy after the harvesting of the current crop. (2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to [a Revenue Officer] [See footnote under section 22 (1).] on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue Officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be. (3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of this tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person, or is not cultivated by the landlord himself.

42. Relinquishment of part only of a tenancy

A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy. Abandonment

43. Abandonment of a tenancy by occupancy-tenant

If a tenant having a right of occupancy [x x x] [Words "or protected tenancy deleted by Act XIV of 1965. These words were inserted by Act XXIX of 1961.] fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of rent thereof as it falls due, the right of occupancy [XXX] [Words "except for reasons beyond his control" deleted by Act XIV of 1965.] shall be extinguished from the end of that year.

Ejectment Liability to ejectment [44. Grounds of ejectment of tenants (1) No tenant shall be liable to be ejected from his tenancy except on any of the following grounds, namely: (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purpose for which it was let; (b) when rent is payable in kind, that he has without sufficient cause, failed to cultivate the land in the manner or to the extent customary in the locality in which the land is situate; (c) that a decree for arrears of rent in respect of the tenancy has been passed against him and remains unsatisfied without sufficient cause; (d) that being a tenant other than an occupancy tenant or a tenant for fixed term, he has sub-let the land [x x x x]; (e) that the landlord requires the land for his personal cultivation. (2) Nothing contained in clause (e) of sub-section (1) shall render liable to ejectment an occupancy tenant or a tenant for a fixed term before the expiry of the term for which the land was let to him. (3) Notwithstanding anything contained in sub-section (1) a tenant holding for a fixed term under a contract or a decree or an order of competent authority shall be liable to ejectment at the expiration of the terms or before expiration thereof on any ground which would justify ejectment under the contract, decree or order.

Explanation. Personal cultivation shall include cultivation by any of the members of the family of the landlord.] [Section 44 substituted by Act XII of 1955.]

[45. Conditions for ejectment of tenant on ground of resumption for personal cultivation by landlord (1) The ejectment of a tenant on the ground that the land is required for personal cultivation by the landlord shall be subject to the following conditions, namely] [Section 45 substituted by Act XII of 1955.]: (a) a landlord whose holding does not exceed 4 acres of abi or 6 acres of Khushki land in the Province of Kashmir including the districts of Ladakh and Gilgit and 6 acres of abi or 8 acres of khushki land in the Jammu Province shall be entitled to resume for personal cultivation a unit of land not more than 2 acres of abi or 4 acres of khushki in the Kashmir Province including the districts of Ladakh and Gilgit and 4 acres of abi or 6 acres of khushki in the Jammu Province, including such land as is held by him in his personal cultivation; (b) a landlord whose holding exceeds the size of the holding specified in clause (a) shall also be entitled to resume for personal cultivation a unit of land not more than 2 acres of abi or 4 acres of khushki in the Kashmir Province including the districts of Ladakh and Gilgit and 4 acres of abi or 6 acres of khushki in Jammu Province, including such land as is held by him in his personal cultivation: Provided that, no tenant shall, as a result of such resumption, be ejected in a manner as to reduce his tenancy to less than 2 acres of abi or 4 acres of khushki land in the Kashmir Province including districts of Ladakh and Gilgit and 4 acres of abi or 6 acres of khushki land in the Jammu Province. (bb) [the resumption of land by the landlord shall first be made from such tenants as have entered into possession during the period intervening between the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955 and the Jammu and Kashmir Tenancy (Amendment) Act, 1965 and, in case such land is not available or is less than the unit prescribed for resumption by the landlord, from other tenant to the extent necessary to make up such unit] [Clause (bb) inserted by Act XIV of 1965.]; (c) the selection of land for personal cultivation by the landlord shall be made

by mutual agreement between the landlord and the tenant or the tenants, as the case may be, and failing such agreement by a Revenue Officer with due regard to the better cultivation and management of such land, such as the proximity of land to the dwelling house, consolidation of holdings and facility of cultivation;(d)where a tenant is ejected in a manner that no land is left with him, or his tenancy is materially reduced, he may be settled on alternative land to the extent possible.(2)Any landlord who after the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, ejects any tenant otherwise than in due course of law shall forfeit his right to resume for personal cultivation the quantum of land from which the tenant is so ejected.[45-A. Consequences of failure to bring land under personal cultivation within prescribed period (1) A landlord, who has secured the ejectment of his tenant on the ground that the land was required by him for his personal cultivation, shall be bound to bring such land under his personal cultivation within a period of six months in case of dofasli land and within one year in case of ekfasli land, from the date its possession is delivered to him, failing which he shall forfeit this right to hold such land for personal cultivation in future:Provided that, no order against a landlord shall be made under this sub-section unless he has been given an opportunity of representing against such order.(2)The landlord who has forfeited his right under sub-section (1) shall be dispossessed of such land, and a [Revenue Officer shall on an application made within two years from the date of such ejectment restore it,] [Section 45-A Substituted by Act XII of 1955.(For insertion of section 45-A originally see Act VII of 2005).] to the tenant ejected therefrom provided he holds less than the unit prescribed for a tenant in clause (b) of sub-section (1) of section 45 inclusive of the land so resorted, and in case he holds more than the said unit, the Revenue Officer may let it to other landless tiller of the village in which the land is situate, and failing him to any other landless tiller as he observes fit, priority being given to such landless tiller, who brings the factum of such land not having been put under personal cultivation by the landlord within the prescribed period first to the notice of any Revenue Officer.Explanation. (i) The landless tiller for the purposes of this Act includes a cultivator who holds or occupies land less than the unit of land prescribed for a tenant in clause (b) of sub-section (1) of section 45.(ii)For purposes of this Act, "dofasli" land means land growing two or more crops within a year and "ekfasli" land means land growing only one crop within a year or two crops within two consecutive years.(iii)For purposes of this Chapter, in the determination of the size of the holding of landlord, 1 kanal of abi land will be treated to be equal 1 1/2 kanal of khushki land in the Kashmir Province including the districts of Ladakh and Gilgit and 1 1/2 Kanals of abi land equivalent to 2 kanals of khuski land in the Jammu Province, and in the determination of the unit of land resumable by the landlord and also retainable by the tenant, 1 kanal of abi land will be treated to be equivalent to 2 kanals of khushki land in the Kashmir Province including the districts of Ladakh and Gilgit and 1 kanal of abi land equivalent to 1 1/2 Kanals of khushki land in the Jammu Province].(3)[On reinstatement of the tenant under sub-section (2) the Revenue Officer shall eject any other person who may be occupying the land.(4)Subject to the provision of clause (b) of sub-section (1) of section 45, tenants admitted under sub-section (2) shall be deemed to be protected tenants.] [Sub-Section (3) and (4) added by Act XIV of 1965.][46. Ejectment of tenant at will] [Section 46 substituted by Act XII of 1955. (For earlier amendment see Act VII of 2005).] [(1)] [Section 46 re-numbered As sub-section (1) and sub-section (2) inserted ibid.] Notwithstanding anything contained in sub-section (1) of section 44, a tenant other than an occupancy, protected or fixed term tenant may be ejected at the time specified in Appendix B of this Act.](2)[(i) Where a tenant-at-will contends that he is a protected tenant but has erroneously been recorded not as such,

the Revenue Officer shall enquire into it and, if he is satisfied that the tenant is a protected tenant, declare him to be so. (ii) A declaration made under clause (i) shall be deemed to be declaration under section 15-B.] Procedure on Ejectment [47. Restriction on ejectment (1) A tenant shall not be ejected otherwise than in execution of a decree for ejectment except (a) where a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied; or (b) where he is liable to be ejected under section 46 of this Act; or (c) where on an application by the landlord for resumption of land for personal cultivation an order has been passed under section 49 of the Act. (2) All suits for ejectment pending on the date of the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, against occupancy, protected or fixed-term tenants on any of the grounds other than those specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 44 shall abate and the plaintiffs in such suits shall, on application to the Collector, be entitled to a refund of court fee paid by them on the plaint filed in such suits. Explanation. Suits shall include execution applications and appeals arising out of such suits. (3) [No suit shall lie for the ejectment of a tenant by the landlord for resumption of land for personal cultivation and all such suits pending on the day of commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1965, shall abate.] [Sub-section (3) added by Act XIV of 1965.]

48. Ejectment for failure to satisfy decree for arrear of rent

(1) (a) In any such case as is mentioned in clause (a) of sub-section (1) of section 47, the landlord may apply to a Revenue Officer for ejectment of the tenant. (b) On receiving such application the Revenue Officer shall, after such inquiry with respect to the existence of the arrear as he may deem necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder and informing him that if he does not pay that amount to the Revenue Officer within 30 days from receipt of the notice, he will be ejected from the land. (c) If the amount is not so paid, the Revenue Officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant, unless good cause is shown to the contrary. (2) (a) In any such case as is mentioned in clause (b) of sub-section (1) of section 47, the landlord may apply to a Revenue Officer for ejectment of the tenant. (b) On receiving such application, the Revenue Officer, if he, after such enquiry as is considered sufficient, finds that the tenant is liable to ejectment shall, subject to the provisions of this Act with respect to the payment of the compensation, order the ejectment of the tenant. (1) [In any such case as is mentioned in clauses (a) and (b) of sub-section (1) of section 45 and in cases where a landlord is a minor or of unsound mind suffering from any mental or physical disability or is employed in the Armed, Naval or Air Forces of India, the landlord may, within a period of one year from the date of coming into force of the Jammu and Kashmir Tenancy (Amendment) Act, 1965, apply to a Revenue Officer in the form given in Appendix "C" for ejectment of a tenant for resumption of land for personal cultivation: Provided that a landlord, who has already resumed land for personal cultivation before coming into force of the Jammu and Kashmir Tenancy (Amendment) Act, 1965, shall not be entitled to any further resumption.] [1. Section 49 substituted by Act XII of 1955. (For earlier amendments see Act XIII of 2007 and Act III of 2008).] 49. Ejectment in case of resumption for personal cultivation by landlord (2) All the tenants of the landlord shall be necessary parties to an application under sub-section (1). (3) (i) on receiving the application the Revenue Officer shall fix a date of hearing and cause a notice to be issued to all the tenants

mentioned in the application. On the date of hearing the tenants shall present written statements admitting or denying the particulars as mentioned in the application and shall also furnish further particulars if required by the Revenue Officer.(ii)Notice to the tenants may be given by registered post.(iii)The application shall bear a Court fee of Rs. 2.00 and shall be verified in the manner prescribed by the Code of Civil Procedure, 1977, for verification of pleadings.(iv)The Revenue Officer after such enquiry as he deems sufficient shall, subject to the provisions of section 45, order ejectment of the tenant or the tenants, as the case maybe, from the land or such portion of it, as he considers fair, with due regard to the quantum of land that may be ,left with such tenant or tenants after such ejectment and such other factors as the productive capacity of land and the number of dependents and other sources of income of the tenant.(v)(a)It shall be lawful for the Revenue Officer to order exchanges for land between the tenants inter se or between the landlord and the tenant or tenants, as the case may be, with a view to consolidate their holdings or otherwise as he considers fair; provided that the exchange of land between a landlord and tenant shall be effected, only if the landlord is also the owner of the land.(b)Notwithstanding anything contained in section 138 of the Transfer of property Act, 1977, exchanges ordered under clause (a) shall be deemed to be valid transfers.(vi)The Revenue Officer shall also decide disputes arising between the tenants inter se in regard to the land from which ejectment is to be ordered.(4)Notwithstanding anything contained in section 15-A, the right of protected tenancy shall be deemed to have accrued in respect of the land transferred to a tenant in exchange under the provisions of clause (3) of sub-section (3).]50.[Omitted] [Section 50 omitted by Act XIII of 2007].

51. Power to make rules

The [Government] [Substituted for the words "Revenue Member subject to the sanction of His Highness the Maharaja Bahadur in Council" by Act XIII of 1996.] may make rules prescribing (a)the form and language of applications and notice under the two last foregoing sections; and(b)the manner in which those applications and notices are to be signed and attested.

52. Tenant cannot be ejected from part only of a tenancy, or except at the instance of all the landlords

When a tenancy is held jointly by several landlords (a)the tenant shall not be ejected from a part only of the tenancy, being the undivided share of one or more of such landlords: and(b)he shall not be ejected from such tenancy except at the instance of all the landlords, unless the Revenue Officer, or Revenue Court, is satisfied that the landlords applying or suing for ejectment are acting bona fide in the interest of the other landlords as well as in their own interest, and that the tenant will not be prejudiced by reason of the proceedings being taken in the absence of such other landlords of the tenancy.

53. Time for ejectment

A decree or order for the ejectment of a tenant shall be executed only between the dates fixed in this behalf in Appendix B of this Act, unless the Court making the decree or (where the order is

made [under section 48 or section 49] [Substituted by Act XII of 1955 for "under section 49".]) the officer making the order, for reasons to be recorded in the order, otherwise directs.

54. Award of compensation to landlord instead of ejectment

(1) If in a suit for the ejectment of a tenant [on either of the grounds mentioned] [Substituted by Act VII of 2005 for certain words etc.] in [clauses (a) and (b) of sub-section (1) of section 44] [Substituted by Act XII of 1955 for "clauses (a) and (b) of section 44 or of section 45 or of section 45-A] it appears to the Court that an award of compensation to the landlord will be sufficient compensation for the loss sustained by him, the Court may, instead of making a decree for the ejectment of the tenant, order him to pay into Court, within a period to be fixed in the order, such compensation as the Court thinks fit. (2) The Court may, for special reasons to be recorded in its order, from time to time extend the period fixed under sub-section (1). (3) If within the period fixed under sub-section (1) or (2) the amount is not paid into Court, a decree for the ejectment of the tenant shall be made.

55. Rights of ejected tenants in respect of crops and land prepared for sowing

(1) Where, at the time of the proposed ejectment of a tenant from any land, his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from the part until the crops have ripened and he has been allowed a reasonable time to harvest them. (2) The Court or Revenue Officer decreeing or ordering the ejectment of the tenant shall determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion (a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or (b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue Officer, forthwith eject the tenant. (3) When a tenant, for whose ejectment proceedings have been taken, has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fare equivalent in money for the labour and the capital expended by him in so preparing the land, and the Court or Revenue Officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him. Relief for wrongful dispossession [56. Relief for wrongful ejectment after the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955 (1)(i) A tenant who after the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, is ejected otherwise than in due course of law may, within six months of the date of such ejectment, make an application to a Revenue Officer for reinstatement on the land from which he has been so ejected. (ii) On receiving the application the Revenue Officer shall make such enquiry as he deems sufficient and if he finds that the tenant has been illegally ejected, shall restore him to possession and may impose on the landlord a fine not exceeding Rs. 200 and may also award to the tenant such portion of it as compensation for his wrongful disturbance as he considers fair. (2) In any enquiry under clause (ii) of sub-section (1) the

defence of the landlord that the land is required by him for personal cultivation, and where a surrender is not made in writing and is not certified by a Revenue Officer, the defence of the landlord that the possession of the land was voluntarily surrendered by the tenant, shall not be entertained.] [Section 56 substituted by Act XII of 1955. (For earlier amendments see Act XIII of 2007).]

57.

[Omitted] [Section 57 omitted by Act XII of 1955.][57-A. Relief for wrongful ejectment before the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955 (1)(a) A tenant who has been ejected otherwise than in due course of law from any land comprised in his tenancy may, within six months of the date of commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 1955, apply to a Revenue Officer for reinstatement on the land from which he has been so ejected:Provided that, a tenant so ejected on a date earlier than the first day of Baisakh, 2004, shall not be entitled to seek relief under the provisions of this section.(b)On receiving the application the Revenue Officer shall make such enquiry as deems sufficient and if he finds that the tenant has been illegally ejected shall, subject to the provisions of sub-section (2), order his reinstatement except where such land has already been mutated in the name of a person other than such tenant under the provisions of the Big Landed Estates Abolition Act, 2007.(2)Where the tenant making the application already holds -(i)more than the unit prescribed for a tenant in clause (b) of sub-section (1) of section 45 and the land in respect of which application is made under sub-section (1) is occupied by another tenant who holds-(a)less than the said unit, no order for reinstatement of such tenant I shall he made;(b)more than the said unit, an order for reinstatement of such tenant shall be made in respect of so much of the land as is held by the other tenant in excess of the said unit;(ii)less than the unit, prescribed for a tenant in clause (b) of sub-section (1) of section 45 and the land in respect of which the application is made under sub-section (1) is occupied by another tenant, who also holds less than the said unit, the Revenue Officer shall either refuse reinstatement or pass an order for reinstatement of such tenant in respect of such portion of the land as he deems fair.(3)A tenant, who is not restored possession of either the whole or part of the land from which he has been ejected otherwise than in due course of law, shall be entitled to compensation for wrongful disturbance which shall not exceed Rs. 200 and which shall be payable by the landlord:Provided that, the tenant shall not be entitled to claim compensation in a case where the Revenue Officer has refused to order his reinstatement on the ground that such land has already been mutated in the name of the person other than such tenant under the provisions of the Big Landed Estates Abolition Act, 2007, or where his reinstatement has been refused in pursuance of the provisions of sub-section (2) of this section.(4)Any fine including compensation imposed under this Chapter shall be recoverable as arrears of land revenue.] [Section 57-A substituted by Act XII of 1955. (For earlier amendments see Act I of 2007).][57-B. Penalty for unlawful ejectment after restoration of possession under section 56 or section 57-A-(1) No landlord shall eject otherwise than in due course of law a tenant who has been reinstated on land under section 56 or section 57-A.(2)Whoever ejects otherwise than in due course of law such tenant from land or a part thereof, on which he (the tenant) was so reinstated shall, on conviction by a Magistrate of the first class especially empowered by the Government in this behalf, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.(3)On conviction by the

Magistrate the Collector shall suo moto or on an application made to him by the tenant proceed to reinstate the tenant on the land from which he has been so ejected.(4)The Magistrate may, when passing sentence of fine under sub-section (1), order the whole or any part of fine recovered to be paid as compensation to the tenant so ejected.] [Section 57-B inserted by Act XII of 1955.]

58. Power to alter dates

(1)Any of the dates fixed in Appendix B of this Act may be altered by order of the 2. Substituted by Act XII of 1996 for "Revenue Minister with the previous sanction of His Highness the Maharaja Sahib Bahadur".[Government].(2)Such order shall be published by notification and shall not take effect until the expiration of one year from the date of such publication.[58-A. Restriction on execution of decree or order No order or decree of any Court whereby a tenant has been ordered to be ejected from any land, if not executed till the date of the commencement of the Jammu and Kashmir Tenancy (Amendment Act,[1955,] [Sanction 58-A inserted by Act I of 2007.]shall be executed where a right of protected tenancy has accrued to him for such land under the provisions of this Act.] [[Section 47 and 48 substituted by Act XII of 1955. \(For earlier amendment see Acts XIII of 2007 & III of 2008\).](#)]

Chapter V

Alienation of, and Succession to, right of Occupancy

Alienation

59.

[Omitted] [Section 59 omitted by Act I of 1995.][60. Transfer of right of occupancy Right of occupancy may be transferred by sale, mortgage or gift, subject to the provisions of Alienation of Land Act and to the following provision namely :-(1)If an occupancy tenant intends to transfer his right of occupancy, in whole or part, by sale, mortgage or gift, he shall apply to [a Revenue Officer] [Section 60 (as amended by Revenue Department Notification S-38) substituted by Act I of 1995.] for permission to proceed with such transfer:Provided that, in the case of occupancy tenants holding directly under the State, such permission shall not be necessary.(2)On receipt of such application, the [Revenue Officer] [Substituted by Act III of Svt. 2008 for "an Assistant Collector of the first class" (For earlier amendment see Act XIII of 1996).] shall summon the landlord of the tenancy, and shall enquire whether he desires to purchase the right of occupancy which the tenant intends to transfer(3)If the landlord, without good and sufficient reason, fails to attend in obedience to the summons, due service of such summons having been proved to the satisfaction of the [Revenue Officer] [Substituted by Act III of Svt. 2008 for "an Assistant Collector of the first class" (For earlier amendment see Act XIII of 1996).] or if the landlord on attendance declines to purchase the right of occupancy which the tenant intends to transfer, the [Revenue Officer] [Substituted by Act III of Svt. 2008 for "an Assistant Collector of the first class" (For earlier amendment see Act XIII of 1996).] shall, by written order, authorise the tenant to proceed with the transfer.(4)If the landlord, on appearance before the Revenue Officer, states that he wishes to purchase the right of occupancy, the

Revenue Officer shall fix the value of the said right.(5)The landlord shall be deemed to have purchased the said right, if he pays to the tenant through the Revenue Officer the value fixed under sub-section (4) within such time as the Revenue Officer by his order under sub-section (4) appoints in that behalf.(6)On the value being so paid the right,of occupancy shall be extinguished, and the Revenue Officer shall, on application being made to him, put the landlord in possession of the tenancy, or part thereof transferred.(7)If the landlord fails to pay the value fixed within the time appointed, the Revenue Officer shall authorise the tenant to proceed with the transfer.(8)Where there are several landlords of the tenancy, any one or more of them may claim to purchase a right of occupancy under sub-section (4) of this section; and in case of a dispute arising between two or more landlords of a tenancy in proceedings under this section, the Revenue Officer shall pass such orders as appear to him to be equitable in regard to the matters in dispute having regard especially to their respective shares in the ownership of the tenancy.(9)Where two or more landlords of a tenancy desire to exercise a right of purchase under sub-section (4), such landlords shall be jointly and severally responsible for the payment within the time appointed of the whole amount fixed under that sub-section.(10)In case an occupancy-tenant of grade B intends to transfer his right of occupancy, the option of purchasing such right under this section shall be exercised in the first place by occupancy-tenants of grade A to whom the tenant of grade B is subordinate; and in the second place by the superior landlord of the tenancy.] [Section 46 re-numbered as sub-section (1) and sub-section (2) inserted *ibid.*]

61. Disallowance of transfer

(1)In proceedings under section 60 it shall be open to the landlord, and in the cases mentioned in sub-section (10) of section 60 it shall be open to the occupancy tenant of grade A, to show cause for the disallowance of the proposed transfer.(2)If the [Revenue Officer] [Substituted by Act III of 2005 for an assistant Collector of the first class." (For earlier amendment see Act XIII of 1996.),], after making such enquiry as he thinks necessary, considers that reasonable ground has been shown for disallowing the proposed transfer, he shall pass orders on the application disallowing it.Explanation. Among others the fact that a right of occupancy is likely to be extinguished on the death of the existing tenant under sub-section (5) of section 67 of this Act may be a sufficient cause for the disallowance of the transfer under this section.

62. Extinction of right of mortgage on extinction of tenancy

If an occupancy-tenant whose rights are subject to a mortgage dies without heirs entitled to succeed under section 67 of this Act, the right of the mortgagee shall be extinguished.

63. Sale of right of occupancy in execution of decree

(1) A right of occupancy [x x x] [The words "in the Jammu Province" deleted by Act I of 1995.] may be sold in execution of a decree or order of a Court [subject to the provisions of Alienation of Land Act] [Added by Act I of 1995.].(2)[x x x] [The word "but" deleted by Act XIII of 1996.] Notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court, or to the officer

conducting the sale, a deposit of 25 per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid:[Provided that the landlord pays the balance of the purchase-money within fifteen days of the date on which the sale takes place] [Proviso to section 63 (2) added by Act XIII of 1996.].

64. Rights and liabilities of transferee of right of occupancy

(1) When a right of occupancy has been transferred in accordance with the provisions of this Act by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights and be subject to the same liabilities, as the tenant, to whom before the right belonged, had and was subject to.(2)When a right of occupancy has been transferred by sale or gift to a person other than the landlord, the right of the transferee shall devolve on his heirs according to the provisions of section 67 of this Act.

65. Sub-letting

(1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding six years.(2)A person, to whom land is sublet by a tenant having a right of occupancy therein, shall in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.[65-A. Restrictions on transfer by landlords Every transfer, whether by any act of the parties or by an order or decree of any Court, made within one month preceding the commencement of the Jammu and Kashmir Tenancy (Amendment) Act, 2005 (VII of 2005) or thereafter, which purports or would operate to restrict a tenant from enforcing or exercising any right conferred on or secured to him [by this is Act] [2. Section 65-A inserted by Act I of 2007.], is void to that extent]Irregular Transfer

66. Irregular transfers voidable

Transfers of occupancy right not made in accordance with the provisions of this Act shall be voidable on suit instituted within six years of the date of the transfer at the instance of the landlord or in the cases mentioned in sub-section (10) of section 60, at the instance of either of the landlord or of the occupancy-tenant of grade A.Succession

67. Succession to right of occupancy

(1) When a tenant having a right of occupancy in any land dies, the right shall devolve (a)on his male lineal descendants, if any, in the male line of descent;Explanation. "Male lineal descendant" includes a son formally adopted according to Hindu Law, and in accordance with any Acts in force in the State regarding such adoptions;(b)failing such male lineal descendants on-(i)his widow, or(ii)father's widow, or(iii)the widow of a male lineal descendant in the male line of descent, who predeceased the late tenant:Provided that, such widow has not remarried, and further that the right of a female succeeding to a right of occupancy under this clause shall be extinguished when she dies

or remarries, or abandons the land, or is under the provisions of this Act ejected therefrom, and(c)failing such descendants and widows, or, if a female succeeds to the tenancy under clause (b), then when her interest terminates, or his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives:Provided, with respect to clause (c) of this sub-section, in the case of a right occupancy not held directly from the State, that the common ancestor occupied the land.(2)As among descendants and collateral relatives claiming under sub-section (1), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.(3)If there be more than one widow entitled to succeed under any one sub-division of clause (b) of sub-section (1), the right of occupancy as among such widows shall be shared by all of them equally, with benefit of [survivorship] [Substituted for "remaindership", by Act XIII of 1996.] unless an established custom to the contrary be proved to exist.(4)When a widow succeeds to a right of occupancy [and such right is not held directly from the State as landlord in the Jammu Province] [Inserted in section 67(4) by Revenue Department Notification No. S-48 dated 12th November, 1929 published in the Government Gazette dated 21st Maghar, 1986.] she shall not transfer the right by sale, gift or mortgage, or by sub-lease for a term exceeding [two years.] [Substituted for one year" by Act XIII of 1996.](5)If the deceased tenant has left no such heirs as are mentioned in sub-section (1) or in section 68 of this Act, on whom his right of occupancy may devolve, the right shall be extinguished.Exception. The provisions of this section shall not be applicable to a right of occupancy held by any person professing the Buddhist religion, or held by a member of any tribe, or in any locality, specially exempted therefrom by [the Government] [Substituted by Act XIII of 1996 for "order of His Highness the Maharaja Bahadur in Council".] and amongst such persons or in such tribe or locality the right shall devolve in accordance with the customs in force regarding the devolution of rights in land in the community or tribe to which the tenant belongs or in locality in which the tenancy is situate.

68. Succession of appointed heir or chela

(1) An appointed heir shall not succeed as such to a right of occupancy without the consent of the landlord.Explanation. "Appointed heir" includes a son informally adopted in accordance with customary law, and it also includes a khandamad, but it does not include an illegitimate son.(2)The landlord shall be deemed to have given his consent under sub-section (1) of this section, if the appointed heir continues to hold possession of the tenancy for a period of three years from the date of the death of the deceased tenant with the knowledge of the landlord, and without interference by him.(3)The chela of a celibate sadhu or faqir shall not succeed to a right of occupancy held by such sadhu or faqir without the written consent of the landlord.(4)On the death without heirs entitled to succeed under section 67 of this Act of a sadhu or faqir who was the manager of a temple, khanqah or other religious institution, a right of occupancy held by such sadhu or faqir shall devolve on such temple, khanqah or institution, unless the landlord, in a suit preferred before a competent Court, proves that the right of occupancy was held by the deceased sadhu or faqir personally, and not by him as manager on behalf of such institution.[68-A. Application of sections 67 and 68 to and nullity of transfers made by protected tenants] [Section 68-A substituted by Act XII of 1955, (It was inserted by Act VII of 2005.) (1) The provisions of sections 67 and 68 of this Act shall apply mutatis mutandis to protected tenants.(2)[(a) Any transfer of right of protected tenancy in respect of land

shall be null and void and shall cause forfeiture of such rights in such land: Provided that nothing in this clause shall apply -(i) to a transfer of such right by mortgage in favour of the State, Co-operative Bank, or Land Development Bank; or (ii) to a transfer of such right for purposes of co-operative farming.](b) When a right of protected tenancy is forfeited under clause (a) the landlord may make an application to a Revenue Officer to eject the transferee or the tenant, whoever be in possession of such land. (c) An application under clause (b) shall be deemed to be an application under section 46 and dealt with accordingly.

Chapter VI

Definition of area held in right of Occupancy or Protected Tenancy

69. Definition of right of occupancy or protected tenancy in part of tenancy

(1) Where a [right of occupancy or protected tenancy extends] [Substituted by Act I of 2007 for "right of occupancy extends".] to a part only of a tenancy, either to an undivided share of such tenancy, or to a specified but undefined area included in such tenancy, [a Revenue Officer] [Substituted by Act III of 2008 for "an Assistant Collector of the First Class"] may, of his own motion or on the application of either the landlord or the tenant of the tenancy, take action to separate such share or define such area. (2) Such application shall be deemed to be an application for the partition of land, and the [Revenue Officer] [Substituted by Act III of 2008 for "Assistant Collector".] in taking action under sub-section (1) shall be guided, as far as may be, by 4. Substituted by Act XIII of 1996 for "the law or rules in force". [any law or rule having the force of law] prevailing at the time regarding such partitions. [69-A. Presumption against Khudkasht entries in revenue records Notwithstanding anything contained in section 31 of the Land Revenue Act, 1996, any entry made in a record of rights or in annual record under the provisions of that Act or rules thereunder, whereby the Khudkhasht cultivated holding except land grown with trees, of a landholder or any one of the co-sharing land-holders is shown to exceed one hundred kanals shall not be presumed to be true.] [Section 69-A inserted by Act, II of 2005.]

Chapter VII

Improvements and Compensation Improvements by Landlords

70. Improvements by landlords on tenancies of occupancy or protected tenants

(1) Without the previous permission of [a Revenue Officer] [Substituted by Act III of 2008 for "Assistant Collector".] a landlord shall not make an improvement on tenancy of a tenant having a right of occupancy [or protected tenancy.] [Added by Act I of 2007.] (2) If a landlord desires to make such an improvement, he may apply to the [Revenue Office] [Added by Act VII of 2005.] for permission to make it, and the [Revenue Officer] [See footnote under section 36(6).] shall, before

making an order on the application, hear the objection, if any, of the tenant.(3)In making an order on an application under sub-section (2), the Revenue Officer shall be guided by such rules, if any, as the [Government may] [Substituted by Act XIII of 1996 for the words "Revenue Member may with the sanction of His Highness the Maharaja Bahadur in Council".] make in this behalf.Improvements by Tenants

71. Title of occupancy or protected tenant to make improvements

A tenant having a right of occupancy [or a protected tenant] [Added by Act VII of 2005.] is entitled to make improvements on his tenancy.

72. Title of tenant not having right of occupancy to make improvements

(1) [A tenant not having a right of occupancy] [Substituted by Act I of 2007 for "a tenant having a right of occupancy".] [or protected tenancy] [Added by Act XII of 1955.] may make improvements on his tenancy with assent of his landlord.(2)If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having right of occupancy, the assent may be inferred from circumstances.

73. Improvements made before commencement of this Act

Improvements made by a tenant before the commencement of this Act shall be deemed to have been in accordance with this Act, unless they were contrary to [any law or rules having the force of law] [ubstituted by Act XIII of 1996 for "The Tenancy Rules".] inforce at the time, or unless, in the case of a tenant not having a right of occupancy, it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

74. Improvement begun in anticipation of ejectment

A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice which resulted in his ejectment.

75. Tender of lease for twenty years to tenant to be a bar to right to compensation

If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

76. Liability to pay compensation for improvements to tenant, on ejectment or on enhancement of his rent

Subject to the foregoing provision of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act, shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvements:[Provided that chowkidar of a Forest Rest House cultivating land in lieu of or in addition to a monthly salary for his service to the Department shall not be entitled to any compensation on relinquishing the land.] [Proviso to section 76 added by Act VII of 1991.]

77. Compensation for disturbance of clearing tenant

(1) A tenant who has cleared and brought under cultivation waste land in which he has not a right of occupancy shall, if ejected from the land, be entitled to receive from landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or [a Revenue Officer] [See footnote under section 36(1).] in accordance with the merits of the case, but not exceeding five years rent of the land:Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.(2)If rent has been paid for the land by division or appraisement of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent; or no rent other than the land revenue of the land and the rates and cesses chargeable thereon has been paid therefor, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof.Procedure in Determining Compensation

78. Determination of compensation by Revenue Court

(1) In every suit [or application] [Words added by Act XII of 1955.] by a landlord to eject a tenant or to enhance his rent, the Court [or the Revenue Officer] [See footnote under section 36(1).] shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.(2)If the Court decrees [or the Revenue Officer] [See footnote under section 36(1).] orders ejectment of the tenant [or the] [Words added by Act XII of 1955.] enhancement of his rent, it or he shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into court [to the Revenue Officer] [See footnote under section 36(6).] that amount less any arrears of rent or costs proved to the satisfaction of the Court [or the Revenue Officer] [See footnote under section 36(6)] to be due to him from the tenant.

79. Determination of compensation by Revenue Officer

[Where a notice has been served on a tenant] [Substituted by Act XIII of 2007 for certain words.] [under section 48] [Substituted by Act XII of 1955 for "under section 49".] the tenant may apply to [a Revenue Officer] [See footnote under section 36 (6).] having authority to order his ejectment [under section 48] [Substituted by Act XII of 1955 for "under section 49".] [xxx] [The words "or

Section 50 as the case may be" omitted by Act XIII of Svt. 2007.] to determine the amount of compensation due to him for improvements or for disturbance, or for both; and the [Revenue Officer] [See foot-note under section 36(1).] shall determine the amount, if any, accordingly, and stay the ejectment of the tenant until the landlord pays to the [Revenue Officer] [See foot-note under section 36(1).] the amount so determined, less any arrears of rent or costs proved to the satisfaction of the Revenue Officer to be due to the landlord from the tenant.

80. Matters to be regarded in assessment of compensation for improvement

In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue Officer shall have regard to -(a)the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;(b)the condition of the improvement and the probable duration of its effect;(c)the labour and capital required or the making of such an improvement;(d)any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and(e)in the case of a reclamation or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had benefit of the improvement.

81. Form of compensation

(1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.(2)If the parties so agree, the Court or Revenue Officer shall make an order accordingly.Relief in case of Ejectment before Determination of Compensation

82. Relief in case of ejectment before determination of compensation

(1) If from any cause the amount of compensation payable to a tenant under this Chapter for improvement or disturbance, or, under section 55 for the value of uncut or ungathered crops, or the preparation of land for sowing, has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission; but the Court or Revenue Officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or Officer may determine the tenant to be entitled to.[No such order shall be operative until the tenant in whose favour the order is made has paid such ad valorem court fee as would be payable on a plaint for a claim of the amount ordered to be paid to the tenant] [Second para to section 82(1) added by Act XIX of 1989.](2)An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Officer.

Chapter VIII

Jurisdiction and Procedure Jurisdiction

83. Revenue Officers

There shall be the same classes of Revenue Officers under this Act as under the Jammu and Kashmir Land Revenue Act, 1996, and in the absence of any order of the Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under that Act shall be a Revenue Officer of the same class having jurisdiction within the same local limits under this Act.[84. Applications and proceedings cognizable by Revenue Officers] [Section 84 substituted by Act III of 2008. For earlier amendment see Acts XIII of 1996, VII of 2005, I of 2007 and XIII of 2007.] (1) The following applications and proceedings shall be disposed of by Revenue Officers as such, and no Court shall take cognizance of the matters with respect to which any applications or proceedings might be instituted: First Group(a)applications by a landlord or a tenant for declaration of a right of occupancy under section 7-A (1) and (3);[(a-1) applications by a tenant under section 15-B for declaration and entry of a right of protected tenancy, or by a landlord to prove that a tenant has not such a right;] [Clause (a-1) substituted by Act XII of 1955. (It was inserted by Act XX of 2009).](b)proceedings under section 32 or 33 for adjustment of cash rents;(c)proceedings relating to the remission and suspension of rent under section 36;[(c-1) applications under section 45-A;] [Clause (c-1) inserted by Act XI of 1965.]

5. Clause (d) substituted by Act XII of 1955.[(d) applications under sections 48, 49 or 68-A;]

(e)applications by a tenant under section 79;(f)[applications to proceedings under sections 56, 57-A, 57-B;] [Clause (f) substituted by Act XII of 1955.](g)application under section 60 (1) for permission to transfer a right of occupancy and all proceedings under that section;Second Group(h)proceedings under Chapter VII with respect to the award of compensation for improvement or disturbance;(i)applications under section 62 for extinction of right of mortgagee on extinction of tenancy.(j)applications or proceedings under section 69 for definition of a right of occupancy;(k)applications by a landlord under section 70 for permission to make an improvement on a tenancy;(l)applications under section 22 with respect to the division or appraisal of produce;(m)applications under section 55 for the determination-(i)of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejection of a tenant, or(ii)of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;(mm)[Applications or proceedings under sections 19-A, 19-B or 45-A;] [Clause (mm) inserted by Act XII of 1955.]Third Group(n)applications under section 37 by tenants to deposit rent;(o)applications under section 41for service of notice of relinquishment.(2)A Collector may dispose of any of the applications and proceedings mentioned in sub-section (1).[(2-a) An Assistant Collector of the 1st Class not below the rank of Assistant Commissioner or an Assistant Settlement Officer may dispose of such of the applications and proceedings under clauses (a), (a-1)] [Added by Act XIII of 1956.], .[(c-1), (d) and (g) mentioned in the First Group of sub-section (1) as may be transferred to him by the Collector.] [Inserted by Act XIV of 1965.][(2-b) Notwithstanding anything contained in sub-section (2) the Revenue Minister may by general or special order empower any Revenue Officer or class of Revenue Officers to dispose of applications and proceedings mentioned in clause (f) of the First Group of sub-section (1).] [Sub-section (2-b) inserted by Act XVII of 1967.](3)An Assistant Collector of the first class may

dispose of any of the applications and proceedings mentioned in the second and third groups of that sub-section; [xxx] [Proviso to sub-section (3) omitted by Act XIII of 1956. (It was inserted by Act XII of 1955).](4)An Assistant Collector of the second class may dispose of any of the applications mentioned in the third group of that sub-section [and also applications under section 19-B; provided the value of the subject matter does not exceed Rs. 100.] [Inserted by Act XIX of 1972, s.2.]

85. [Revenue Courts and suits cognizable by them When a Revenue Officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3) of this section or with respect to an appeal or other proceedings arising out of any such suit, he shall be called a Revenue Court] [Section 85 substituted by Act No. III of 2008 (For earlier amendments see Acts V of 1995, XIII of 1996, VII of 2005, and XIII of 2007.).]

(2)There shall be the same classes of Revenue Courts as of Revenue Officers under this Act, and in the absence of any order of the Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits, under this Act, shall be Revenue Court of the same having jurisdiction within the same local limits.(3)The following suits shall be instituted in, and heard and determined by, Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted: First Group(a)suits by a tenant under section 7-A (1) or otherwise, to establish a right of occupancy, or by landlord to prove that a tenant has not such a right;[(a-1) Omitted;] [Clause (a-1) deleted by Act XII of 1955. (It was inserted by Act XX of 2009).](b)suits between landlord and tenant for enhancement or reduction of rent under sections 27, 28 or 29;(c)suits by landlord or tenant to set aside a lease or agreement under section 34 (and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 8 of the Jammu and Kashmir Alienation of Land Act);(d)suits by landlord to eject the tenant;(e)[omitted;] [Clause (e) deleted by Act XII of 1955.](f)suits by a landlord under section 66 to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes;(g)any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held [or for declaration regarding the size of a holding under section 17-B;] [Words inserted by Act XVII of 1962.](h)suits for sums payable on account of village cesses or village expenses;(i)suits by a co-sharer in an estate, holding or tenancy for a share of the profits thereof or for a settlement of accounts;(j)suits for the recovery of over-payments of rent, of land revenue, or of any other demand for which a suit lies in a Revenue Court under this sub-section;(k)suits relating to the emoluments of [xxx] [Words "Zaildars, Inamdars or" deleted by Act XII of 1955.] village-officers;Second Group(l)suit [xxx] [Certain words deleted *ibid.*] for sums recoverable under section 18;(m)suits by a land-owner to recover moneys claimed as due for the enjoyment of rights in or over land or in water including rights of irrigation, rights over fisheries, rights of pasturage and forest rights;(n)suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue under any enactment for the time being in force, and by a superior land-owner for other sums due to him as such.(4)A Collector may hear and determine any of the suits mentioned in sub-section (3).[(4-a) An Assistant Collector of the first class not below the rank of Assistant Commissioner or an Assistant Settlement Officer may dispose of such of the suits under clauses (a) and (d) mentioned in First Group of

sub-section (3) as may be transferred to him by the Collector.] [Sub-section (4-a) inserted by Act XIII of 1956.](5)An Assistant Collector of the first class may hear and determine any of the suits mentioned in the second group of that sub-section; provided that the value of the subject matter does not exceed Rs. 500; and(6)An Assistant Collector of the second class may hear and determine any of the suits mentioned in the second group of that sub-section; provided that the value of the subject matter does not exceed Rs. 100][85-A. Conferment of powers of Revenue Officer (1) Notwithstanding contained in the Land Revenue Act, 1996, the Government may by notification in the Government Gazette confer on any person] [Section 85-A added by Act XX of 2009.] (a)all or any of the powers of a Collector under this Act, or(b)all or any of the powers with which an Assistant Collector of either class is, or may be, invested thereunder; and may, by notification in the Government Gazette, withdraw any powers so conferred.(2)A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the 'Revenue Minister may direct and, except as otherwise directed by the Revenue Minister, shall for all purposes connected with the exercise thereof be deemed a Collector or Assistant Collector, as the case may be.(3)The Government may direct [three or more persons including the Chairman] [Substituted by Act VIII of 2011 for "two or more persons".] in any place to sit together as a Board, and may by an order invest such Board with any of the powers conferred or conferrable by or under this Act on a Collector or an Assistant Collector of the first or second class and direct it to exercise such cases, or such classes of cases only and within such local limits, as the Revenue Minister thinks fit.(4)[(a) The Chairman of a Board established under sub-section (3) shall preside over the sittings of the Board and shall be responsible for the conduct of its work. All orders made and summons, notices and other processes issued on behalf of the Board shall be signed by him.(b)The quorum of the Board shall be two or such larger number as the Revenue Minister may by a general or special order direct.(c)When the Chairman and the members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the Chairman shall have a casting vote.(5)Any order passed by a person or Board empowered under sub-section (1) shall, for all purposes be deemed to be the order of a Revenue Officer or Revenue Court, as the case may be, having the same powers as are conferred on such person or Board.] [Sub-sections (4) and (5) of section 85-A substituted by Act VIII of 2011.]Administrative Control, Appeal, Review and Revision

86. Administrative control appeal, review and revision

In regard to all matters relating to (a)the general superintendence and control of Revenue Officers;(b)power to distribute business under this Act, and to withdraw cases pending before a Revenue Officer or Revenue Court;(c)appeals from the, order or decree of a Revenue Officer or a Revenue Court;(d)limitation of such appeals;(e)review by a Revenue Officer or Revenue Court of an order passed by himself or itself or predecessors in office; and(f)revision of proceedings, order or decree of a Revenue Officer or Revenue Court;the provisions [xxx] [Words and figures "of section, 9, 10, 11, 12, 13, 14, 15, 16] of the Jammu and Kashmir Land Revenue Act, 1996, [shall apply to the proceedings, decrees or order of Revenue Officers, whether exercising jurisdiction as such or as Revenue Courts under this Act:] [Substituted by Act XI of 2001 for "shall apply to the proceedings of Revenue Officers or Revenue Courts under this Act"] [Provided that, appeal from an original or appellate order or decree of the Collector in suits mentioned in section 85 shall lie to the High Court and shall be heard by a Single Judge and any further appeal if maintainable under the provisions of

the Code of Civil Procedure, 1977, shall be heard by a Division Bench of the High Court on a point of law only.] [Proviso to Section 86 substituted by Act XX of 2009. (For earlier amendments see Acts XIII of 1996, XX of 1996 and Notification No. S-37 of 1986)] Miscellaneous

87. Procedure of Revenue Courts

The Code of Civil Procedure for the time being in force in the State shall, as far as may be consistent with the provisions of this Act, regulate the proceedings of Revenue Courts in matters under this Act.

88. Procedure of Revenue Courts and Revenue Officers

In regard to the following matters, namely: (a) rules relating to the procedure of Revenue Officers; (b) appearances before an applications to Revenue Officers and Revenue Courts; (c) costs; (d) power of Revenue Officers or Revenue Courts to summon persons; (e) mode of service of summons; (f) mode of service of notice, order or proclamation; (g) mode of making proclamation; (h) place of sitting of Revenue Officers or Revenue Courts; (i) holidays; and (j) retention of powers by Revenue Officers on transfer; the provisions [xxx] [Words and figures "of sections 17, 18, 19, 20, 21, 22, 23, 24 and 26" deleted by Act XIII of 1996.] of the Jammu and Kashmir Land Revenue Act, 1996 shall apply to the proceedings of Revenue Officers or Revenue Courts under this Act.

89. Joinder of tenants as parties to proceedings relating to rent

(1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue Officer or the Revenue Court, be made parties to any proceeding under Chapter III. (2) But a decree or order shall not be made in any such proceeding unless the Revenue Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard. (3) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

90. Payment into court of money admitted to be due to third person

(1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to be plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into court the amount so admitted to be due. (2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person. (3) Unless the third person, within three months from the receipt of the notice, institutes a suit against the plaintiff, and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor. (4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3). (5) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an

acquittance in the same manner and do the same extent as if it had been given by the plaintiff or the third person, as the case may be.

91. Execution of decrees for arrear of rent

A Court passing a decree for an arrear of rent may, on the oral application of the decree holder, order execution thereof against the movable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

92. Prohibition of imprisonment in execution of decree for arrears of rent

A tenant shall not, during the continuance of his occupancy, be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

93. Power to refer party to Civil Court

(1) If in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and if he fails to comply with the requisition, may decide the question as it thinks fit. (2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be. (3) Mutatis mutandis the provisions of sub-sections (1) and (2) shall be applicable, if in any proceeding pending before a Civil Court, it appears to the Court that it is necessary to decide any matter, which under the provisions of section 85 (3) of this Act should be heard and determined by a Revenue Court.

94. Power to refer to High Court of Judicature question as to jurisdiction

(1) If in any suit, application or appeal filed in a Civil or Revenue Court, the Court doubts whether such suit, application or appeal should be filed in a Civil or a Revenue Court, it may submit the record, with a statement of the reasons for its doubt through the Courts to which it is subordinate, to the [High court of Judicature.] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] (2) If the Court is a Revenue Court subordinate to the [Commissioner] [Substituted by Act XIII of 1996 for "Revenue Member".] no such reference shall be made except with the sanction of the [Commissioner] [Substituted by Act XIII of 1996 for "Revenue Member".] previously obtained. (3) On any such reference being made, the [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] may order the Court either to proceed with the cases, or to return the plaint, application, or appeal for presentation to such other Court as it may

declare to be competent to try the same(4)The order of the [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] on any such reference shall be final.

95. Power of High Court of Judicature to validate proceedings under mistake as to jurisdiction

(1) In either of the following cases, namely: (a)if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 85 which under the provisions of that section should have been heard and determined by a Revenue Court, or(b)if it appears to a Revenue Court that a Court under its control has determined suit which should have been heard by a Civil Court,the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the [High Court of Judicature.] [Substituted for "High Court" by Revenue Department Notification No. 5-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.](2)On the perusal of the record, the [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] may pass such order as it thinks fit, and may direct its order to such Court as it may declare to be competent to determine the suit, or, if it appears to the [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the [High Court of Judicature] [. Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] may order that the decree be registered in the Court which has jurisdiction.(3)If it appears to the [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] otherwise than on submission of a record under sub-section (1) of that Civil Court under its control has determined a suit of a class mentioned in section 85 which the under the provision of that section should have been heard and determined by a Revenue Court, [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] may pass any order which it might have passed if the record had been submitted to it under that section.(4)With respect to any proceeding subsequent to decree, the [High court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.(5)An order of the [High Court of Judicature] [Substituted for "High Court" by Revenue Department Notification No. S-36 dated the 11th May, 1929, published in the Government Gazette dated 10th Jeth 1986.] under this section shall be conclusive as against persons who were not parties to the suit or proceedings as well as against persons who were parties thereto, and the decree or proceedings to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.[96. Power to make rules The Government may, after previous publication make such rules as may be necessary for the purpose of giving effect or carrying out the provisions of this Act for the guidance of Revenue Officers and Courts.] [Section 96 substituted by Act XIII of 1996.]

Chapter IX

Effects of this Act on Records-of-Rights and Agreements

97. Nullity of certain entries in record-of-right

An entry in any record-of-right providing (a)that a landlord may prevent a tenant from making or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or(b)that a tenant ejected from his tenancy shall not be entitled to compensation for improvements for disturbance in any case in which he would, under this Act, be entitled to compensation thereof, or(c)that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act.shall be void to that extent.

98. Nullity of certain agreements contrary to this Act

(1) Nothing in any agreement made between a landlord and a tenant after the passing of the Act shall (a)override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having right of occupancy;(b)take away or limit the right of a tenant as determined by this Act to make improvements, and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation; or(c)entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.(2)Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement made at the expense of his landlord, and to the benefit of which the tenant is not otherwise entitled.

99. Saving of other agreements when in writing

Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of this Act or has been entered by order of a Revenue Officer in a record-of-rights or annual record.

Clause	Description	Tehsil or District to which this rule isapplicable	Section of rules or other authority	Explanation
1	2	3	4	5
Part I. — Jammu Province.				
(a)	Tenants who settled in the village with thefounders	Kathua and Jasmergarh Tehsils	Section 1	Section 1

- thereof. and held continuous possession up to the time of the 1st Regular Settlement.
- (b) Tenants who at the time of the 1st Regular settlement had held continuous possession of land for two generations.
- Tenants who were recorded at General Devi Singh's Settlements of the Jasrota District in Samvat 1935-37 as possessing ploughs, and who thereafter held continuous possession up to the time of the 1st Regular Settlement.
- (c) do Section 4
- Tenants who being "Udharach" cultivators had at the time of 1st Regular Settlement, held continuous possession for not less than 10 years.
- (d) do Section 5
- "Udharach" cultivators means tenants whomigrate from the kandi tracts to cultivate lands in the Andhar tracts with ploughs supplied by the landlords and whose cultivating occupancy is ordinarily continuous from year to year. the leader of each party being known as "Halarclar".
- Tenants who, before the date of the 1st Regular Settlement, had been declared by judicial decision, or by the order of a competent Revenue Officer, or by the order of His Highness the Maharaja Sahib, to be occupancy-tenants.
- (e) Jammu and Mirpur Districts. Reasi and Udhampur Districts and Basohli Tehsil. Section 1(a)
- Tenants who, before the date of the 1st Regular Settlement, had been declared to be
- (f) Jammu and Mirpur Districts, Reasi and Udhampur Districts, Section 1(a)

- occupancy- tenants and Basohli Tehsil.
by agreement with the
landlords.
- Tenants who were recorded
as tenants in the Settlement Jammu and
record of Samvat 1926-1928. Mirpur Districts.
(g) with or without description of Reasi and Section
title, and thereafter held Udhampur Districts 2Section 2
continuous possession up to and Basohli Tehsil.
the time of the 1st Settlement.
- Tenants who held possession
in Samvat 1926-1928 but were
erroneously omitted from the Jammu and Mirpur
records of the Settlement Districts. Reasi and Section
(h) of that years, and who Udhampur Districts, 3Section 3
thereafter held continuous and Basholi Tehsil.
possession up to the time of
the 1st Regular Settlement.
- Lahridars, who received
grants of waste land, whether
the property of the State or
village common land,
and, having reclaimed it at
their own expense, held Jammu and Mirpur
(i) continuous possession up to Districts. Reasi and Section
the time of 1st Regular Udhampur Districts, 4Section 4
Settlement; or who received and Basholi Tehsil
grants of cultivated land and
held continuous
possession from the date of
the grant until the time of the
1st Regular Settlement.
- Muafidars, who at the date of
the 1st Regular Settlement,
had held continuous Jammu and Mirpur
(j) possession of land comprised Districts, Reasi and Section
in the Muafi for not less than Udhampur Districts 5Section 5
25 years without interference and Basholi Tehsil
by landholder.
- (k) Chaudhri Mansabdar, in Samba Tehsil Section
regard to lands known as 1-2
Dag Sarkari of which he was
placed in possession between "Dag Sarkari" means
land, which
having deserted at the
famine of 1934, was not

the year 1939 and 1946, and on which he remained in cultivating possession at the time of 1st Regular Settlement.

allotted to any plough at the Settlement of 1939, and being made over to Chaudhri Mansabdar, was reclaimed by Bawaris settled by him thereon, or by tenants at will under him.

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|-----|---|---|------------------------|
| (l) | Bawaris, who were placed by Chaudhri Mansabdar in possession of Dag Sarkari between the years 1939 & 1946 and who at the time of the 1st Regular Settlement remained in cultivating occupancy thereof. | Samba Tehsil. | Section 1-2 |
| (m) | Tenants who were given land for cultivation on payment of rent, by agreement with the proprietor in Samvat 1934 and who thereafter held continuous possession up to the time of the 1st Regular Settlement provided that there was no contract or agreement debarring them from rights of occupancy in such land. | Jammu Tehsil, Akhnoor Tehsil, and Mirpur District. Reasi and Udhampur Districts and Basohli Tehsil. | Section 6
Section 4 |
| (n) | Tenants who during or shortly after the famine of 1934 were placed in possession of land by any written order or Parcha granted by an officer of the State and who thereafter held continuous possession up to the time of the 1st Regular Settlement. | Jammu and Akhnoor Tehsils and Mirpur District. Reasi and Udhampur Districts and Basohli Tehsil. | Section 7 |
| (o) | In villages which were not previously surveyed or of which no survey files were forthcoming. tenants who cultivated land continuously | Jammu and Akhnoor Tehsils and Mirpur District. Reasi and Udhampur Districts | Section 8 |

- on behalf of the proprietors and Basohli Tehsil.
or on behalf of the State for 15
years prior to the date of the
first Regular Settlement.
- In estates of which the
proprietary right is vested in
the Durbar. persons not
being Assamis or Malguzars
holding directly from the State, and possessing Parchas
of the Settlement of Samvat
1926. Mirpur Tehsil.
- (p) State Council Resolution
dated 30th Baisakh.
1955 and section 2 of
rules.
- Tenants holding land under
persons described in
the preceding clause on
payment of rent in kind or in
cash, and possessing parches
of the Settlement of Samvat
1926. Mirpur Tehsil.
- (q) State Council Resolution
dated 30th Baisakh,
1955 and section 2 of
rules.
- Tenants holding land on
payment of rent under
the State, who have received a
right of occupancy under
Ailan No. 4 dated 9th Jeth.
1969. All districts.
- (r)
- Tenants who by mutual
agreement with the
proprietor have been recorded
as occupancy-tenants since
the completion of the 1st
Regular Settlement. do
- (s)
- Tenants entitled to a right of
occupancy under any of the
above clauses. but holding
land from occupancy-tenants
of a higher grade and not
directly from the landholder. All districts.
- (t)

Part II. -
Kashmir
Province
and Gilgit
and Ladakh
Districts

(a)	Tenants who at the date of the 1st Regular Settlement had held continuous possession for not less than 12 years.	Muzaffarabad District, Illaqa Mirbehri Tehsil Khas.	1 (a)	State Council Resolution dated 9th October, 1897.
		Baltistan except Zaskar. Ladakh and Zaskar	3 (a)ii (a)	
(b)	Tenants who at the date of the 1st Regular Settlement had acquired a right of occupancy by agreement with the landlord, or by the usage, or by the decree of a competent Court.	Muzaffarabad District. Srinagar city.	1 (b)	
		Baltistan except Zaskar.	Section 3 (b)	
		Ladakh and Zaskar	ii (b)	
(c)	Tenants who were recorded as cultivators of land in the Khatounis prepared in Samvat 1945, or who although not so recorded prove that they were cultivators of land in that year, and who held continuous possession of such land up to the Samvat year 1956.	Srinagar city.	1 (a)	
(d)	Tenants who were recorded as cultivators of land at the 1st Regular Settlement, and who held possession of such land continuously up to the date of the second Regular Settlement.	Those parts of the Kashmir valley including the Niabat of Gurez. of which 2nd Regular Settlement was completed before the year 1966.	11(a)	For the purposes of this Clause and of (e) there records of the 1st Regular Settlement include the annual record prepared in the Samvat year 1951.
(e)	Tenants who having been recorded as cultivators of land at the last Regular Settlement, were illegally ejected therefrom before the	As clause (d)	11(b)	See note under clause (d).

	date of the 2nd regular Settlement. and having held the land continuously for not less than 10 years at the time of the ejectment were reinstated in possession of their tenancies during the 2nd Regular Settlement.			
(f)	Tenants who at the date of the 2nd Regular Settlement had acquired a right of occupancy by virtue of any lawful agreement or usage.	As clause (d)	11(c)	
(g)	Tenants whose possession began not later than the Samvat year 1957. and who held possession continuously up to the date of the 1st Regular Settlement.	Deohri Khas Jagir estates.	Proposed	As proposed in Settlement Commissioner's No. 312 dated 21st Baisakh. 1916.10 Revenue Minister. The 1st Regular Settlement is that of which the operations began in the year 1971.
(h)	Tenants who settled in an estate with the founder thereof.	Baltistan	3(a)	
(i)	Tenants who were recorded as cultivators of land of the Settlement of Samvat 1942, and who continuously held possession of such land up to the date of the 1st Regular Settlement.	Ladakh	ii(a)	
(j)	Tenants whose possession began not later than the Samvat year 1958, and who continuously held possession up to the date of the Second Regular Settlement.	Gilgit District	Proposed	As proposed in Settlement Commissioner's No. 312 dated 21,1 Baisakh 1916, to the Revenue Minister.

Appendix B The dates shown in the following table are prescribed for proceedings under Chapter IV of this Act.

Province	Name of district or illaqa	Latest date for service of notice of relinquishment[S. 41 (2)].	Time for ejectment(Sections 46 and 53)	
Begins	Ends			
1	2	3	4	5
Jammu	(a) Mirpur, Bhimber, Akhnoor, Jammu, Ranbirsinghpura, Samba, Jasmergarh and Kathua.	15th Phagan	1st Jeth	15 Har.
	(b) Kotli, Rampur (except Barfani circle), Reasi (except Barfani circle), Ramban (except Barfani and Banihal circle), Ramnagar (except Barfani circle), Udhampur (except Barfani circle), Basholi (except Barfani circle).	15th Phagan	1st Jeth	15 Har.
	(c) Rampur (Barfani circle), Reasi (Barfani circle), Ramban (Barfani and Banihal circle), Udhampur (Barfani circle), Ramnagar (Barfani circle), Basholi (Barfani circle), and Kishtwar.	15th Bhadon	15th Assuj	15th Katik.
Kashmir	(d) The whole.	15th Bhadon	15th Assuj	15th Katik.
	(e) Gilgit District	15th Bhadon	15th Assuj	15th Katik.
Frontiers	(f) Ladakh	15th Bhadon	15th Assuj	15th Katik.
	(g) Baltistan	15th Bhadon	15th Assuj	15th Katik.

[Appendix 'C'] [Appendix "C" inserted by Act XII of 1955] Form of Application by the Landlord (See section 49)(i) Name and description of tenants. (ii) The area and the description of land in possession of each tenant. (iii) The land owned by the tenant and also other land occupied by the tenant with area and description. (iv) Total land owned by the landlord and the area and description of that already in his personal cultivation together with that held by him as tenant of another owner. (v) If the landlord was not cultivating before, reasons for now wishing to resort to personal cultivation. (vi) Other sources of income of the landlord. (vii) The number of the dependents of the landlord with names and description. (viii) The number of dependents of each tenant with their names and description. (ix) Other sources of income, if any, of the tenant. [Clause (a) substituted by Act XIII of 1967.]