

The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956

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Act 22 of 1956

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The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956(Bihar Act 22 of 1956)Received the assent of the President on the 6th September, 1956, and the assent was first published in the Bihar Gazette, of the 10th October, 1956. For Statement of Objects and Reasons, See the Bihar Gazette, Extra-ordinary, of the 10th October, 1956, for Report of the Select Committee See the Bihar Gazette, Extra-ordinary, of the 31st March, 1956.An Act to provide for the consolidation of holdings and prevention of fragmentation.Be it enacted by the Legislature of the State of Bihar in the Seventh Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

- (1)This Act may be called the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.(2)It extends to the whole of the State of Bihar.(3)It shall come into force on such date or dates as the State Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(1)"agricultural year" means the year commencing on the first day of April;(2)["Consolidation Officer" means an officer appointed by the State Government to discharge all or any of the functions of the Consolidation Officer under this Act and he shall be an officer of Gazetted rank;] [Substituted by Section 2(i) of

Bihar Act 27 of 1975.](2a)["Assistant Consolidation Officer" means an officer appointed by the State Government to discharge all or any of the functions of the Assistant Consolidation Officer under this Act and who shall be an officer not below the rank of Kanungo,] [Inserted by Section 2(i) of Bihar Act 27 of 1975.](3)"consolidation" includes re-arrangement of parcels of land comprised in a holding or in different holdings for the purpose of rendering such holdings more compact;[Explanation. - For the purpose of this clause, holding shall not include the following:-(i)land which was orchard or grove in the agricultural year immediately preceding the year in which the notification under Section 3 was issued;(ii)land subject to fluvial action and intensive soil erosion;(iii)such compact areas as are normally subject to prolonged water-logging;(iv)such other areas as the Director of Consolidation may declare to be unsuitable for the purpose of consolidation;](3a)['Chak' means every parcel of land allotted to a raiyat or the under raiyat on consolidation; [Clause 3(a) and 3(b) inserted by Act 27 of 1975.](3b)"rectangulation" means the process of dividing the area of a unit into rectangles or part of rectangles of convenient sizes with a view to regulate the allotment of Chaks, during consolidation operation;](4)["Director of Consolidation" means the officer appointed as such by the State Government to exercise the powers and perform the duties of Director of Consolidation under this Act or the rules made thereunder and shall include an Additional Director of Consolidation and a Joint Director of Consolidation; [Added by by Act 27 of 1975.](4a)"Deputy Director of Consolidation" means an officer not below the rank of Additional District Collector appointed as such by the State Government to exercise such powers and perform such duties of the Director of Consolidation as may be delegated to him by the State Government and shall include an Assistant Director of Consolidation;(4b)"Assistant Director of Consolidation" means an officer not below the rank of Deputy Collector appointed as such by the State Government to exercise the powers and perform the duties of an Assistant Director of Consolidation under this Act or the rules made thereunder;](5)["Fragment" means a piece of land being in area less than :- [Substituted by by Act 27 of 1975.](a)one acre of land irrigated by flow irrigation work or tube-well or lift irrigation;(b)two acres of unirrigated land;(c)four acres of hilly or sandy land:Provided that no piece of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;] [Added by Section 2(i) of Bihar Act 27 of 1975.](6)"Gram Panchayat" means a Gram Panchayat established under Section 3 of the [Bihar Panchayat Raj Act, 1947] [Now, Bihar Panchayat Raj Act, 2006.] (Bihar Act VII of 1948);(7)"Holding" means a parcel or parcels of land held by a raiyat and forming the subject matter of a separate tenancy;(8)"Encumbrance" includes the right of an under raiyat in a holding or part thereof, but does not include a right of easement;(9)"Land" means agricultural land, and includes horticultural land, Kharpur land, land with bamboo clumps, pasture lands, cultivable waste land, homesteads, tanks, wells and water channels;(10)"Landless labourer" means a person whose main source of livelihood is agriculture or agricultural labour and who does not hold any land or holds land not exceeding such area as may be prescribed;(11)"Notified area" means any area in respect of which a notification is made under Section 3;(12)"Prescribed" means prescribed by rules made under this Act;(13)"Public purpose" includes any purpose in relation to any common need, convenience or benefit of the village or villages;(14)"Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family or by hired servants or with the aid of partners, and includes, also the successors-in-interest of persons who have acquired such a right and includes-(i)in the district of the Santhal Parganas, a village headman in respect of his private holding, if any; and(ii)in the areas to which the Chota Nagpur Tenancy Act, 1908 (Bengal Act VI of 1908), applies a Mundari Khunt

Kattidarand Bhuinhar;(15)[* * * *] [Deleted by Bihar Act 27 of 1975.](16)"Scheme" means a scheme for the consolidation of holdings;(17)" Under raiyat" means a tenant, holding whether immediately or mediately under a raiyat;(18)["Unit" means a village or part of a village and where the Director of Consolidation so notifies, by publication in the Official Gazette, two or more villages for which a single scheme of consolidation is to be framed;] [Inserted by Bihar Act 27 of 1975.](19)["Village Advisory Committee" means the Village Advisory Committee constituted under section 7; and[Clauses (18) and (19) renumbered as Clauses (19) and (20) respectively by Bihar Act 27 of 1975.](20)all words and expressions used, but not defined in this Act, shall have-(i)in their application to any area in which the Bihar Tenancy Act, 1885 (VIII of 1885), is in force, the same meanings as are assigned to them in that Act.(ii)in their application to any area in which the Chota Nagpur Tenancy Act, 1908 (Bengal Act VI of 1908), is in force, the same meanings as are assigned to them in that Act; and(iii)in their application to any area in which the Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (Bihar Act XIV of 1949), is in force, the same meanings as are assigned to them in that Act]

Chapter II

Consolidation of Holdings

3. Declaration by State Government of its intention to make scheme for consolidation of holdings.

(1)With the object of effecting consolidation of holdings for the purpose of better cultivation of lands in any area, the State Government may, after such enquiries as it may deem fit, by notification in the Official Gazette, declare its intention to make a scheme for the consolidation of holdings in that area.(2)The substance of the notification shall be announced by beat of drum in the villages comprised in the notified area and copies of the notifications shall be hung up at the offices of all the Gram Panchayats, if any, the police stations, the offices of the Anchal Adhikaris and the village Cutcheries of the State Government for collection of rent in such area.

4. [Effect of notification under Section 3(1) of the Act. [Substituted by Bihar Act 27 of 1975.]

- Upon the publication of the notification under sub-section (1) of Section 3 in the official gazette the consequences, as hereinafter set forth, shall, subject to the provisions of this Act, from the date specified in the notification till the close of the consolidation operation, ensue in the area to which the notification relates, namely-(a)the district or part thereof, as the case may be, shall be, deemed to be under consolidation operations and duty of preparing and maintaining the record-of-rights and the village map of each village shall be performed by the Director of Consolidation, who shall prepare or maintain them, as the case may be, in the manner prescribed;(b)no suit or other legal proceeding in respect of any land in such areas shall be entertained in any court, and in calculating period of limitation applicable to such suits and proceedings such period shall not be counted :Provided that nothing in this clause shall apply to any proceedings under Section 48(E) of the Bihar

Tenancy Act, 1885 (Act VIII, 1885) and to the proceedings relating to the recording of the titles of Bataidars;(c)every proceeding for the correction of records and every suit and proceeding in respect of declaration of rights or interest in any land lying in the area or for declaration or adjudication of any other right in regard to which proceedings can or ought to be taken under this Act, pending before any court or authority whether of the first instance or of appeal, reference or revision, shall on an order being passed in that behalf by the court or authority before whom such suit or proceeding is pending stand abated:Provided that if the State Government empowers any other officer appointed under this Act to dispose of any proceeding relating to survey settlement operations under the provisions of chapter X of the Bihar Tenancy Act, 1885 (Bihar Act VIII of 1885), or chapter XII of the Chota Nagpur Tenancy Act, 1908 (Bengal Act VI, 1908) or Santhal Parganas Settlement Manual, 1872 (Regulation 3, 1872) and transfer such proceeding to such officer or disposal, then the proceeding shall not abate or shall not be considered to have been abated:Provided also that no such order shall be passed without giving to the parties notice by post or in any other manner that may be convenient and after giving them an opportunity of being heard:Provided further that such abatement shall be without prejudice to the rights of the persons affected to agitate the right or interest in the said suits or proceeding before the appropriate consolidation authorities under and in accordance with the provision of this Act and the rules made thereunder:Provided that the State Government may, by notification in the Official Gazette exempt any such proceeding, suit, appeal, reference or revision, or any class of them, if in its opinion their abatement is not in public interest, and is not necessary for the purposes of this Act:Provided further that nothing in this section shall apply to any proceedings under [Sections 144 to 148 of Chapter X of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (Bihar Act 28 of 1975)], Section 48E of the Bihar Tenancy Act, 1885 (Act VIII of 1885) and the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Act XII of 1962).]

4A. [Cancellation of notification under Section 3. [Inserted by Act 27 of 1975.]

(1)It shall be lawful for State Government at any time to cancel the notification made under Section 3 in respect of the whole or part of the area specified therein.(2)Where a notification has been cancelled in respect of any unit under sub-section (1) such area shall, subject to the final orders relating to the correction of land record, if any, passed on or before the date of such cancellation, cease to be under consolidation operations with effect from the date of the cancellation.]

5. [No transfer without sanction. [Substituted by Act 27 of 1975.]

- [(1) After the date of publication of preparation of register of lands and statement of principles under sub-section (1) of Section 10 no person shall transfer any land in the notified area by way of sale, gift, exchange or partition without the previous sanction of the Consolidation Officer and if the sanction is granted, such transfer or partition, as the case may be, shall be, subject to the rights and liabilities attached to the land under the scheme of consolidation prepared with respect to that area.](2)[The provision of sub-section (1) shall take effect from the date of the notification under sub-section (1) of Section 3 has been issued.] [Added by Bihar Act, 35 of 1982.]

5A. [Temporary exemption from the provisions of Section 5(1). [Inserted by Act 35 of 1982.]

- On being satisfied that the preparation of the scheme of consolidation in any unit or units, after publication of register of land and statement of principles under sub-section (1) of Section 10 is likely to take time and enforcement of the provision of sub-section (1) of Section 5 shall cause hardship to raiyats or under raiyats of such unit or units, it will be lawful for the Director of Consolidation to exempt such unit or units, from the operation of the provisions of sub-section (1) of Section 5 for a specified period and such exemption shall be notified in the unit concerned by a general notice.]

6. Procedure for sanction.

(1)A person intending to transfer or partition any land shall make an application for sanction under Section 5 in the prescribed form and containing the prescribed particulars together with notices of the intended transfer or partition in the prescribed form and the process fees prescribed for the service thereof on the parties named in the application as well as for affixing copies thereof on the land, in the office of the Consolidation Officer and in such other places as may be prescribed.(2)The Consolidation Officer shall fix a date for hearing and cause the notices specifying the date so fixed to be served on the parties named in the petition by registered post or in such other manner as may be prescribed and shall also cause copies of the notice to be affixed on the land and other places referred to in sub-section (1).(3)On the date fixed for hearing or on any adjourned date, the Consolidation Officer shall, after hearing the parties and after such enquiry as may be necessary, pass such orders as he thinks fit:Provided that the Consolidation Officer shall not refuse sanction for transfer or partition of any land, except on any one or more of the following grounds, namely:-(a)the prescribed particulars have not been furnished;(b)the transfer or partition is likely to interfere with the consolidation proceedings or to create a fragment; and(c)the transfer or partition will be against any provision of this Act or any provision of the tenancy law for the time being in force in the notified area:Provided further that sanction shall not be granted for the transfer of any land to any person, if after such transfer the total area of land held by him will exceed the maximum area that may be held by such person under any law for the time being in force in the notified area.(4)[Any person aggrieved by an order of the Consolidation Officer, under sub-section (3), may within thirty days of such order, prefer an appeal to the Assistant Director of Consolidation and such appeal shall be heard and disposed of in the prescribed manner and the decision of the Assistant Director of Consolidation, therein, shall be final.] [Substituted by Act 27 of 1975.]

7. Constitution of Village Advisory Committee.

- [(1) In each unit comprised in the notified areas the Assistant Consolidation Officer shall set up a Village Advisory Committee which shall consist of the members of the Executive Committee of the Gram Panchayat of the village:Provided that where more than one village is included in a Gram Panchayat the Village Advisory Committee shall consist, of those members of Executive Committee who are residents of the villages concerned and such other raiyats and under raiyats as the Assistant

Consolidation Officer may appoint: Provided further that where no such Gram Panchayat has been established the Village Advisory Committee shall consist of such persons as the Assistant Consolidation Officer may appoint in consultation with the raiyats and under raiyats of the village concerned: Provided also that where a Gram Sabha has been duly constituted under the Bihar Gramdan Act, 1965, the Village Advisory Committee shall consist also of the members of the Executive Committee of the Gram Sabha: Provided also that the Assistant Consolidation Officer may, where necessary, appoint any landless labourer of the village and any land holder of the village holding land not in excess of 5 acres to be a member of the Village Advisory Committee.] [Substituted by Act 27 of 1975.] (2) The number of persons to be appointed by the Consolidation Officer and the manner of appointment under the proviso to sub-section (1) shall be such as may be prescribed.

8. [Preparation of up-to-date record-of-rights before consolidation. [Substituted by Act VII of 1970.]

(1) Save as provided in sub-section (2) as soon as may be after the publication of a notification under section 3, an up-to-date record-of-rights, in respect of all lands comprised in the notified area, together with a map shall be prepared in accordance with the provisions of Chapter X of the Bihar Tenancy Act, 1885 (Act VIII of 1885), or as the case may be, Chapter XII of the Chota Ngpur Tenancy Act, 1908 (Bengal Act VI of 1908) or the Santhal Parganas Settlement Regulation, 1872 (Regulation III of 1872; [or the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (Bihar Act 28 of 1975)]: Provided that the State Government may, by rules made in this behalf, make such modifications in the provisions of the said Acts and Regulations as may be necessary for the expeditious preparation of the record-of-rights. (2) Where in respect of lands comprised in the notified area, map and record-of-rights have been prepared and preliminarily or finally published under the provisions of Chapter X of the Bihar Tenancy Act, 1885 (Act VIII of 1885), or as the case may be, Chapter XII of the Chota Nagpur Tenancy Act, 1908 (Bengal Act VI of 1908) or the Santhal Parganas Settlement Regulation, 1872 (Reg. III of 1872) within [twenty] [Substituted for 'five' by Act 27 of 1975.] years preceding the date of publication of the notification under section 3, such map and record-of-rights shall be deemed to be up-to-date map and record-of-rights prepared under sub-section (1).]

8A. [Partition of joint holdings. [Inserted by Act 27 of 1975.]

(1) The Assistant Consolidation Officer or the Consolidation Officer may, either on an application or of their own motion, partition joint holdings. (2) The partition of joint holdings shall be effected on the basis of shares: Provided that where the raiyats concerned agree, it may be effected on the basis of specific plots.]

9. [Preparation of register of lands.] [Substituted by Bihar Act VII of 1970, again substituted by Bihar Act 27 of 1975.]

(1)When the record-of-rights and map have been or are deemed to have been brought up-to-date there shall be determined, the valuation of each plot after taking into consideration the opinion of the Village Advisory Committee, or such raiyats as may be available and after taking into consideration its productivity, location and availability of irrigation facilities, if any.(2)There shall be prepared in the prescribed form-(i)a register of lands belonging to raiyats which shall contain the following particulars, namely-(a)the name of the raiyat;(b)the areas and the serial numbers of the plots of land held by the raiyat;(c)classification of each plot according to its produce;(d)the areas and serial numbers of the plots of land held by [under raiyats,] [Substituted by Bihar Act 35 of 1982.] if any having right of occupancy therein;(e)the areas and serial numbers of the plots of land held by [under raiyats,] [Substituted by Bihar Act 35 of 1982.] if any, having no right of occupancy therein;(f)the valuation of each plot;(g)the valuation of all structures, trees, bamboo clumps, wells and other improvements existing in the plots for the purposes of calculating the amount thereof;(h)any other particulars that may be prescribed.(ii)a register of lands reserved for public purposes which shall contain the following particulars, namely:-(a)the public purpose for which any such land has been reserved or which it serves;(b)the area and boundary of such land, and(c)any other particulars that may be prescribed.

9A. [Preparation of statement of principles. [Inserted by Bihar Act 27 of 1975.]

- The Assistant Consolidation Officer shall prepare after considering the opinion of the Village Advisory Committee and such raiyats as may be available in respect of each unit under consolidation operations, a statement in the prescribed manner (hereinafter called the statement of principles) setting forth the principles to be followed in carrying out the consolidation operations in the unit. The statement of principles shall also contain the following:-(a)details of areas, as far as they may be determined at this stage, to be earmarked for expansion of habitation including areas for habitation of Scheduled Castes, Scheduled Tribes and landless persons in the unit, and for such other public purposes as may be prescribed;(b)the basis on which the raiyats will contribute land for expansion of habitation and for other public purposes; and(c)details of land to be earmarked for public purposes.]

10. [Publication of registers of lands and statement of principles and objections thereon. [Substituted by Bihar Act 27 of 1975.]

(1)The registers prepared under sub-section (2) of Section 9 and the statement of principles prepared under Section 9A shall be published in the manner prescribed and shall remain published for not less than 30 days.(2)Any person may, within 45 days of the date of the publication of the register under sub-section (1) file before the Assistant Consolidation Officer, objection in respect thereof, disputing the correctness and nature of entries in the records or in the statement of principles.(3)The Assistant Consolidation Officer shall, after hearing the persons interested and after such enquiries as may be necessary, decide the objection, settle the disputes or correct the mistakes, as far as may be, by way of compromise between the parties appearing before him and pass orders on the basis of such compromise.(4)All cases which are not disposed of by the Assistant

Consolidation Officer under sub-section (3), all cases relating to valuation of plots and all cases relating to valuation of structures, tree, bamboo-clumps, wells or other improvements for calculating the amount thereof, and its apportionment amongst co-owners, if there be more owners than one, shall be forwarded by the Assistant Consolidation Officer to the Consolidation Officer who shall dispose of the same in the manner prescribed.(5)Where objections have been filed against the statement of principles under [sub-section (2) of Section 10] the Assistant Consolidation Officer, after affording opportunity of being heard to the parties concerned and after taking into consideration the view of the Village Advisory Committee, shall submit his report to the Consolidation Officer who shall dispose of the objections in the manner prescribed.(6)Any person aggrieved by an order of the Assistant Consolidation Officer or Consolidation Officer under [sub-sections (3), (4) or (5)] [Substituted by Bihar Act 35 of 1982.] may, within 30 days of such order, file an appeal before the Assistant Director of Consolidation, whose decision, except as otherwise provided by or under this Act, shall be final.(7)The Consolidation Officer shall and the Assistant Director of Consolidation may, where necessary, before deciding an objection or an appeal, make local inspection of the unit, after giving due notice to the parties concerned and the Village Advisory Committee.]

10A. [Bar to objection. [Section 10A inserted by Act 27 of 1975.]

- No question in respect of any entry made in the map or registers prepared under Section 9 or the statement of principles prepared under Section 9A relating to the consolidation area, which might or ought to have been raised under Section 10 but has not been raised, shall not be raised or heard at any subsequent stage of the Consolidation proceeding.]

10B. [Decision of matters relating to charges and transaction affecting rights or interest recorded in revised records. [Section 10B inserted by Act 27 of 1975.]

- [(1) All matters relating to changes and transfers affecting any rights or interests recorded in the register of land published under sub-section (1) of Section 10 for which cause of action had not arisen when proceedings under Sections 8 and 9 were started or were in progress may be raised before the Consolidation Officer within thirty days of cause of action, but not later than the date of notification under Section 26A or under sub-section (1) of Section 4A.](2)The provisions of Sections 8 and 9 shall mutatis mutandis apply to the hearing and decision of any matter raised under sub-section (1) as if it were a matter raised under the aforesaid section.]

10C. [Re-publication of register of lands, etc. in certain cases. [Section 10C and 10D inserted by Act 35 of 1982.]

- After expiry of the specified period of exemption as provided in Section 5A, but before the publication of the draft scheme of consolidation under sub-section (1) of Section 12, the register of lands prepared under sub-section (2) of Section 9 and the statement of principles prepared under section 9A and published under sub-section (1) of Section 10 and corrected under sub-sections (3),

(4), (5) and (6) of Section 10, pertaining to the units concerned shall be re-published in the manner prescribed and any person may within twenty days of such re-publication file before the Assistant Consolidation Officer objection in respect thereof disputing the correctness and nature of entries in the register of lands or in the statement of principles, if cause of action for such objections has arisen after publication of the register of lands and the statement of principles under sub-section (1) of Section 10.

10D. Special power of Dy. Director regarding re-publication of register of lands, etc.

- On being satisfied that in the register of lands published under sub-section (1) or corrected under sub-sections (3), (4), (5) or (6) of Section 10, a substantial number of raiyats or under raiyats for sufficient and unavoidable reasons could not avail of the opportunity to place their claims under sub-section (2) of Section 10 of the Deputy Director of Consolidation for reasons to be recorded in writing may order the re-publication of the register of lands or the statement of principles or both again in the manner prescribed. Any person may within twenty days of such re-publication file before the Assistant Consolidation Officer objections in respect thereof disputing the correctness and nature of entries in the register of lands or in the statement of principles or in both, notwithstanding the provisions of Section 10A.]

10E. [Disputes decided not to be re-opened on re-publication of register of lands, etc. [Section 10E inserted by Act 35 of 1982.]

- The provisions of sub-sections (2), (3), (4), (5), (6) and (7) of Section 10 shall mutatis mutandis apply to the objections of any matter raised under Sections 10-C and 10-D but the dispute which has been decided earlier in accordance with the provisions of sub-sections (3), (4), (5) or (6) of Section 10 shall not be re-opened on re-publication of the register of lands or the statement of principles or both.]

11. [Preparation of draft scheme. [Substituted by Act 27 of 1975.]

(1)As soon as may be, after the objections, if any, made under sub-section (2) of Section 10 have been disposed of, the Assistant Consolidation Officer shall visit the village concerned on a date of which previous notice shall have been given in the prescribed manner and after considering the advice of the Village Advisory Committee and such raiyats as may be available, prepare the draft scheme for consolidation of holdings in the notified area: Provided that if the Assistant Consolidation Officer does not accept the advice of the Village Advisory Committee or of the raiyats on any matter, he shall, before preparing the draft scheme refer such matter for decision to the Assistant Director of Consolidation whose order thereon shall be final.(2)The Village Advisory Committee and the Assistant Consolidation Officer shall in preparation of a scheme of consolidation, keep the following factors in view, namely:-(a)the rights and liabilities of a raiyat as recorded in the register of lands prepared under Section 9 or secured in the lands allotted to him, subject to the deductions, if any, made on account of the contribution to public purposes under this

Act;(b)the valuation of plots allotted to a raiyat subject to deductions, if any, made on account of the contribution for public purposes under this Act, is equal to the valuation of the plot originally held by him:Provided that except with the permission of the Assistant Director of Consolidation, the area of the holding or holdings allotted to a raiyat shall not differ from the area of his original holding or holdings by more than 25 percent of the latter;(c)the amount determined under the provisions of this Act, or the rules framed thereunder is awarded for the following:-(i)for trees, bamboo-clumps, wells, structures and other improvements, originally held by him and allotted to another raiyat, and(ii)for land contributed by the raiyat for public purposes;(d)every raiyat is, as far as possible, allotted a compact area of the plots where he holds the largest part of his holdings:Provided that no raiyat may be allotted more chaks than three except with the approval in writing of the Deputy Director of Consolidation;(e)every raiyat is, as far as possible allotted the plot on which exists his private source of irrigation or any other improvement, together with an area in the vicinity equal to the valuation of the plots originally held by him;(f)every raiyat is, as far as possible, allotted chaks in conformity with the process of rectangulation in rectangular units; and(g)subject to rules made in this behalf by the State Government, the lands held by an under raiyat is consolidated:Provided that the land allotted under the scheme to an under raiyat in lieu of any land held by him before the confirmation of the scheme shall form part of the new holding allotted under the scheme to the raiyat under whom the under raiyat originally held the land.(3)For the purpose of sub-section (1), it shall be lawful for the Assistant Consolidation Officer-(i)to declare that any land specifically assigned for any public purposes ceases to be so assigned and to assign any other land for such public purposes:Provided that it shall not be lawful for the Assistant Consolidation Officer to direct that any land specifically assigned for cremation ground or other religious purposes shall cease to be so assigned unless it is approved by the Village Advisory Committee;(ii)to assign additional land for public purposes; and(iii)to direct that any area out of the land set apart for public purposes shall be used for the construction of houses for landless labourers.(4)In addition to the particulars contained in the register prepared under Section 9 (which shall be attached to the scheme) the scheme shall specify-(i)the description and area of the new holdings proposed to be allotted to a raiyat and the valuation thereof;(ii)the description and area of land proposed to be set apart for extension of habitation and other public purposes;(iii)the description and area of land, if any, proposed to be set apart for the construction of houses for landless labourers;(iv)the rent payable for the existing holding;(v)the rent proposed to be fixed for the new holding;(vi)the encumbrances, if any, to any plot comprised in the existing holding of any raiyat;(viii)the encumbrances, if any, to be transferred or attached to any plot of land comprised in the holding proposed to be allotted to a raiyat;(viii)any other particulars that may be prescribed.(5)There shall be appended to the map prepared under Section 8 another map showing the position of the plots allotted to each raiyat and those reserved for public purposes after consolidation.(6)Where additional lands are allotted for public purposes such lands shall be contributed by the raiyats in proportion to the market value of their lands:Provided that no land shall be contributed under this sub-section by a raiyat who holds land equal to or less than the prescribed area.Explanation. - The State Government shall be deemed to be a raiyat in respect of the lands belonging to the State Government.]

12. [Publication of draft scheme. [Substituted by Act 27 of 1975.]

- After the draft consolidation scheme has been prepared, the Assistant Consolidation Officer shall publish the scheme in the Unit and give a general notice that all the raiyats may obtain relevant extract of the scheme free of cost.(2)Subject to the provisions contained in Section 10A, any person, whose right or interest is substantially prejudiced or affected by the draft consolidation scheme or who disputed the propriety and correctness of the entries in the draft consolidation scheme or the extracts furnished therefrom, may within 30 days of the date of publication of the draft consolidation scheme file an objection before the Assistant Consolidation Officer stating-(i)the nature of his interest or right in or over any land;(ii)the manner in which such interest or right is likely to be adversely affected; and(iii)the amount and particulars of his claim to the amounts, if any, for such interest or right;Provided that no claim for the amount on account of the extension or diminution of any interest or right in or over any road, street, lane, path, channel, drain, tank, pasture or other land reserved for public purposes shall be entertained.]

12A. [Disposal of objections. [Inserted by Act 27 of 1975.]

(1)All objections received by the Assistant Consolidation Officer shall as soon as may be, after the expiry of the period specified in Section 12 be submitted by him to the Consolidation Officer who shall dispose of the same, in the manner hereinafter laid down, after notice is given to the parties concerned and the Village Advisory Committee.(2)Any person aggrieved by the order of Consolidation Officer under sub-section (1) may, within thirty days of the date of the order, file an appeal before the Assistant Director of Consolidation whose decision shall, except as otherwise provided by or under this Act, be final.(3)The Consolidation Officer shall, before deciding the objection and the Assistant Director of Consolidation may, before deciding any appeal, make local inspection of the plots in dispute after giving notice to the parties concerned and the Village Advisory Committee.]

12B. [Revision of the Draft Consolidation Scheme. [Inserted by Act 27 of 1975.]

- The Consolidation Officer or the Assistant Director of Consolidation, as the case may be, on being satisfied that material injustice is likely to be caused to a number of raiyats or under raiyats in giving effect to the draft consolidation scheme as prepared by the Assistant Consolidation Officer or as subsequently modified by the Consolidation Officer, as the case may be, and that a fair and proper allotment of land to the raiyats or the under raiyats of the unit is not possible without revising the draft consolidation scheme or getting a fresh one prepared, it shall be lawful, for reasons to be recorded in writing for-(i)the Consolidation Officer, to revise the draft consolidation scheme' after giving to the raiyats or under raiyats concerned a reasonable opportunity of being heard or to remand the same to the Assistant Consolidation Officer with such directions as the Consolidation Officer may consider necessary; and(ii)the Assistant Director of Consolidation, to revise the draft consolidation scheme after .giving to the raiyats or under raiyats concerned a reasonable opportunity of being heard, or to remand the same to the Assistant Consolidation Officer, or the

Consolidation Officer, as the Assistant Director of Consolidation may think fit, with such directions as he may consider necessary.]

13. [Submission of scheme to the Director of Consolidation. [Substituted by Act 27 of 1975.]

(1)The Assistant Director of Consolidation shall confirm the draft consolidation scheme-(a)if no objections are filed within the time specified in Section 12; or(b)where such objections are filed after such modification or alterations, as may be necessary, in view of the order passed under sub-sections (1) to (4) of Section 12A.(2)The draft consolidation scheme so confirmed shall be published in the unit, and except as otherwise provided by or under this Act, shall be final.(3)(i)Where the allotments made under Section 11 are not modified under Section 12A and are confirmed under sub-section (1), the entries contained in the extracts issued under sub-section (1) of Section 12, shall, except as provided by or under this Act, be treated as final allotment orders for the raiyats and under raiyats concerned.(ii)Extracts of the scheme showing allotment to the raiyats concerned as confirmed under sub-section (1) shall be issued by-(a)the Consolidation Officer where the allotments are not modified; and(b)the Assistant Director of Consolidation, where the allotments have been modified, and the same shall, except as otherwise provided by or under this Act, be the final allotment orders for raiyats and under raiyats concerned.]

14. [Possession and accrual of the amount for trees, etc. [Substituted by Act 27 of 1975.]

(1)The Consolidation Officer shall fix the date with effect from which the final consolidation scheme shall come into force and shall, notify the same in the unit in the prescribed manner.(2)On and after the said date a raiyat or an under raiyat shall be entitled to possession of the plots allotted to him.(3)Every raiyat or under raiyat getting tree, bamboo-clumps, wells and other improvements existing on the plots allotted to him in pursuance of the enforcement of the final consolidation scheme shall, on getting possession, be liable for payment to the former raiyat thereof amount to be determined in the manner prescribed for the trees, bamboo-clumps, wells and other improvements existing on the plots allotted to him.]

15. Certificate of transfer.

(1)The Consolidation Officer shall grant to every raiyat to whom a holding has been allotted in pursuance of a scheme of consolidation a certificate in the prescribed form containing the prescribed particulars. Such certificate shall be conclusive proof of the title of such raiyat to such holding and he shall be liable for payment of such rent as may be specified in the certificate.(2)[A similar certificate of transfer shall be granted to every under raiyat, whether having a right of occupancy or not in any land allotted to him in pursuance of the scheme and the certificate shall be conclusive proof of the title of such under raiyat to such land and he shall be liable to payment of such rent and to such person as may be specified in the certificate.] [Substituted by Act 27 of 1975.]

16. Confirmed scheme to be treated as finally published record-of-rights.

- When certificates of transfer have been granted to the raiyats and under-raiyats under Section 15, the scheme confirmed under Section 13 shall, in supersession of the up-to-date record-of-rights prepared under Section 8, shall be deemed to be the record-of-rights prepared and finally published under Chapter X of the Bihar Tenancy Act, 1885 (VIII of 1885), or as the case may be, Chapter XII of the Chota Nagpur Tenancy Act, 1908 (Bengal Act VI of 1908), or the Santhal Parganas Settlement Regulation, 1872 (Reg. III of 1872).

17. Rights of raiyats after consolidation to be same as before.

- A raiyat shall have the same rights in the land allotted to him in pursuance of the scheme of consolidation as he had in his original holding.

17A. [Right to possession of new holdings. [Inserted by Act 27 of 1975.]

(1) If all the raiyats affected by the scheme of consolidation confirmed under Section 13, agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession from the date fixed under sub-section (1) of Section 14. (2) If all the raiyats as aforesaid do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under sub-section (2) of Section 13 and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled with standing crops, if any, and for so doing, shall have all the powers including the power to punish for contempt and such other powers as are exercisable by a Civil Court in execution of a decree for delivery of possession of immoveable property: Provided that the right of a raiyat to enter into possession of any holding under sub-section (1), or to be put in possession of any holding under sub-section (2), shall be subject to the right of any under raiyat to whom any land comprised in such holding may have been allotted under the scheme of consolidation: Provided further that delivery of possession shall not affect the right of person from whom possession is transferred to tend and gather the crops standing on such chaks or land or part thereof on the date of delivery unless the Assistant Consolidation Officer decides, for reasons to be recorded, that possession over the crops also shall be delivered: Provided also that the person tending and gathering standing crop in accordance with the second proviso, shall be liable to pay to the person who has been allotted the chak or lands amount for the use of the land at such rate and in such manner as may be prescribed. (3) On the expiry of six months from the date on which a raiyat or an under raiyat becomes entitled to enter into possession of the chak or the lands allotted, whether before or after coming into force of the Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1973 or on the expiry of six months from the date of the coming into force of that Act, whichever is later, the raiyat or the under raiyat, as the case may be, shall, unless possession has been delivered earlier, be deemed to have entered into actual physical possession of the allotted chak or land: Provided that the fact that a raiyat or under raiyat has thus entered into possession shall not affect the right of the person from whom possession is deemed to have been transferred to tend and gather the crops standing on the chak or lands or part thereof on the date of expiry of the

period of six months aforesaid.]

18. Transfer of encumbrances.

- [(1) If any holding included in a scheme of consolidation which has come into operation under Section 14 is subject to any lease, mortgage or other encumbrance, shall, with effect from the date on which possession is delivered or entered into under Section 17A, be deemed to be transferred and attached to the holding under the scheme to the raiyat or to such of it as the Consolidation Officer may direct and shall cease to have any effect against the holding from which it is so transferred.] [Substituted by Act 35 of 1982.](2) If the holding to which a lease, mortgage or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall, subject to the provisions of Section 20, be entitled to the payment of such compensation by the raiyat of the former holding as the Consolidation Officer may determine; and such compensation shall be a first charge on the compensation payable to the raiyat under this Act.(3) Notwithstanding anything contained in Section 14, any lessee or mortgagee or other encumbrancer entitled to possession, may, if necessary, be put in possession of the holding or part of the holding, as the case may be, to which his lease or mortgage or other encumbrance has been transferred under sub-section (1).

19. [Payment of amount. [Substituted by Act 27 of 1975.]

(1) Where possession over standing crops is also delivered under Section 17, the Assistant Consolidation Officer shall determine, in the manner prescribed, the amount payable in respect of such crops by the raiyat or under raiyat who has been put in possession.(2) Any person aggrieved by an order under sub-section (1) may within 30 days of the date of the order prefer an appeal before the Consolidation Officer whose decision thereon shall be final.]

20. [Recovery of amount. [Substituted by Act 27 of 1975.]

(1) Where a raiyat from whom amount is recoverable under this Act fails to pay the sum within the period prescribed therefor, the person entitled to receive it, may in addition to any other mode of recovery open to him apply to the Collector, within such time as may be prescribed, for recovery on his behalf of the amount due to him as if it were an arrear of land revenue payable to the Government.(2) Where any amount payable under this Act, is not paid whether in whole or in part, within three months of the date of obtaining possession under Section 17 interest at the rate of six per centum per annum shall be charged on the amount so payable.]

21. No instrument necessary to effect transfer.

- No instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and no instrument, if executed, shall require any stamp duty or registration.

22. Application of certain laws barred.

- The provisions of any other law for the time being in force, imposing restrictions on, or providing for the payment of landlord's registration fee for the transfer of any land, shall not apply to transfers involved in carrying out any scheme of consolidation of holdings under this Act.

23. Loans to assist consolidation.

- For carrying out any of the purposes of this Act, a loan may be granted under the Land Improvement Loans Act, 1883 (XIX of 1883) or the Agriculturists' Loans Act, 1884 (XII of 1884), to a raiyat or an under raiyat having a right of occupancy in the land held by him.

24. Cost of consolidation proceedings.

- The cost of consolidation proceedings shall be assessed in the prescribed manner and shall be recoverable in whole or in part as the State Government may determine from the raiyat whose holdings are effected by the scheme of consolidation: Provided that the amount so recovered shall not exceed four rupees per acre.

25. [Reduction of land revenue on account of consolidation of land for public purpose. [Substituted by Act 27 of 1975.]

(1) Where as a result of contribution for public purposes under the provisions of Section 11, the area of the original total holding of raiyat is reduced, the rent, payable for the holding shall be reduced in the same proportion as the area so contributed bears to the original total area of the holding and the reduced rent shall be shown in the draft consolidation scheme. (2) A raiyat aggrieved by the reduction made under sub-section (1) may, within 15 days of the date of publication of the draft consolidation scheme under section 12, file an objection before the [Assistant Director] of Consolidation whose order thereon shall be final.]

26. [Amount payable for land contributed by raiyats for public purposes. [Substituted by Act 27 of 1975.]

(1)(a) Every raiyat, any part of whose holding has been contributed for public purposes under this Act, shall be paid for the land so contributed, amount equal to four times the annual rent reduced under Section 25. (b) In case of trees, bamboo-clumps, wells and other improvements falling within the land so contributed, the amount payable shall be determined in accordance with the provisions of Section 14. (2) The amount payable to a raiyat shall, after adjustment of the cost of operation under this Act, if any, be paid to him in cash. (3) Where any land, in respect of which any amount is paid under sub-section (1) is in the occupation of an under raiyat, there shall be paid to the under raiyat out of the amount payable to the raiyat an amount equal to 50 percent of such payment in respect of the right, title and interest of the under raiyat therein.]

26A. [Close of the consolidation operations. [Inserted by Act 27 of 1975.]

(1)As soon as may be, after fresh maps and records have been prepared and certificates of transfer have been issued to the raiyats under the scheme, the State Government shall issue notification in the Official Gazette stating that the consolidation operations have been closed in the unit:Provided that the issue of notification under this section shall not affect the powers of the State Government to fix, distribute and recover the cost of operation under this Act.(2)Notwithstanding anything contained in sub-section (1), any order passed by a court of competent jurisdiction in cases or writ filed under the provisions of the Constitution of India, or in cases or proceedings pending under this Act on the date of issue of the notification under sub-section (1), shall be given effect to by such authorities as may be prescribed and the consolidation operations shall for that purpose be deemed to have not been closed.]

27.

[x x x x] [Omitted by Act 27 of 1975.]

28. State Government or local authority not to acquire land so as to leave fragment.

- When a scheme of consolidation has been confirmed under Section 13, no land in any notified area shall be acquired by the State Government or any local authority so as to leave a fragment.

29. Special provisions for voluntary consolidation.

- [Two or more raiyats having lands in an area which is not a notified area may, with the permission of the Collector of the district, consolidate their holdings voluntarily and the provisions of Sections 21 and 22 shall apply to any transfer involved in such consolidation.] [Substituted by Act 27 of 1975.]

29A. [Recognition of consolidation scheme prepared by tenants. [Inserted by Act 27 of 1975.]

(1)The Consolidation Officer may recognise a consolidation scheme in respect of a village, within a consolidation area, prepared voluntarily by the tenants of the village, where he is satisfied that it conforms to the broad principles of consolidation under this Act and has the support of all the tenants concerned and is otherwise fair to all concerned.(2)The consolidation scheme recognised under sub-section (1) shall be deemed to have been prepared and confirmed under the provisions of this Act, and shall be enforced thereunder.]

Chapter III

[* * *] [Words 'Determination of Standard areas and' omitted by

Act 27 of 1975.] Treatment of Fragments

30.

[Omitted] [Omitted by Act 27 of 1975.]

31. [Transfer of fragments. [Substituted by Act 27 of 1975.]

(1)Notwithstanding the provisions of any law for the time being in force, no person shall transfer whether by sale, gift or exchange any part of a plot which part is a fragment situate in a consolidated area except to a raiyat who has a plot continuous to the land sought to be transferred:Provided that if the transfer is of the entire plot which is a fragment it may be in favour of any raiyat:Provided further that there will be no bar to mortgage or transfer to a society or bank registered or deemed to be registered under the Bihar and Orissa Cooperative Societies Act, 1935 (B. & O. Act VI of 1935) or the State Bank of India or a bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Act 5 of 1970) or a company or a corporation owned by, or in which not less than fifty per cent of share capital is held by State Government or the Central Government or partly by the State Government and partly by the Central Government, for raising loan for agricultural purposes.(2)No decree or order shall be passed by any Court in respect of any land included in any consolidation holding so as to create or leave a fragment.]

Chapter IV

Miscellaneous

32. Transfer of lands prohibited.

- The transfer of any land or fragment contrary to the provisions of this Act shall be void; and the owner of any land, so transferred shall be liable to pay such fine, not exceeding two hundred and fifty rupees, as the Collector of the district may, subject to the general orders of the State Government, direct.

33. Power of officers to enter upon land for survey and demarcation.

- The Director of Consolidation or the Consolidation Officer or any person acting under his orders may at any time, enter upon any land other than a dwelling house, with such officers or other persons as he considers necessary and make a survey or take measurements thereof or do any other act which he considers to be necessary for carrying out any of his duties under this Act.

33A. [Correction of clerical or arithmetical errors. [Inserted by Act 27 of 1975.]

- Notwithstanding anything contained in any other law for the time being in force, if the Consolidation Officer or the Assistant Director of Consolidation is satisfied that a clerical or arithmetical error apparent on the face of the record exists in any document prepared under any provision of this Act, he shall either on his own motion or on the application of any person interested, correct the same.]

34. Delegation of powers.

(1)The State Government may, by notification in the Official Gazette, delegate any of its powers or functions under this Act to any officer not below the rank of a Collector.(2)The Director of Consolidation may, with the sanction of the State Government, delegate any of his powers or functions under this Act to any officer not below the rank of a Deputy Collector.(3)[Where powers are to be exercised or duties are to be performed by any authority under this Act or the rules made thereunder, such powers or duties may also be exercised or performed by an authority superior to it.] [Inserted by Act 27 of 1975.]

35. [Revision and Reference. [Substituted by Act 27 of 1975.]

- The Director of Consolidation may of his own motion or on the application of any party or on reference being made by any subordinate authority, call for and examine the record of any case decided or proceedings taken by such authority for the purpose of satisfying himself as to the regularity of the proceeding; or as to the correctness, legality or propriety of any order passed by such authority in the cases or proceedings, and may after allowing the parties concerned an opportunity of being heard, make such order in the case or proceedings as he thinks fit.]

36. Appeal and Revision.

- Except as provided in this Act, no appeal or revision shall lie from any order passed under this Act.

37. [Bar of jurisdiction of Civil Courts. [Substituted by Act 27 of 1975.]

- No Civil Court shall entertain any suit or application to vary or set aside any decision or order given or passed under this Act with respect to any other matter for which a proceeding could or ought to have been taken under this Act.]

37A. [Authorities under the Act to be deemed courts of competent jurisdiction. [Inserted by Act 27 of 1975.]

- Notwithstanding anything to the contrary contained in any other law for the time being in force, the Director of Consolidation, the Deputy Director of Consolidation, the Assistant Director of

Consolidation, the Consolidation Officer and the Assistant Consolidation Officer shall be deemed to be courts of competent jurisdiction while hearing objections or appeals or deciding disputes under this Act.]

37B. [Authorities under this Act to have powers and privileges as are vested in a Civil Court in certain matters. [Inserted by Act 27 of 1975.]

(1)The Director of Consolidation, the Deputy Director of Consolidation, the Assistant Director of Consolidation, the Consolidation Officer and the Assistant Consolidation Officer shall have all such powers, rights and privileges while hearing any matter in dispute as are vested in a Civil Court in respect of the following matters, namely:-(a)the enforcing of the attendance of witnesses and examining them on oath, affirmation or otherwise and issuing a commission to examine witnesses;(b)compelling any person for the production of any document;(c)punishing the persons guilty of contempt.(2)A summon signed by such officer may be substituted for and shall be equivalent to any formal process capable of being issued in any action by a Civil Court for enforcing the attendance of witnesses and compelling the production of any document.]

38. Protection of action taken under this Act.

(1)No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.(2)No suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

39. Provisions of this Act to prevail over other Acts.

- The provisions of this Act shall have effect, notwithstanding anything to the contrary contained in any other law for the time being in force.

40. Power to make rules.

(1)The State Government may, after previous publication, make rules, not inconsistent with this Act for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the State Government may make rules providing for all or any of the following matters:-(a)the manner of publication of notices;(b)the manner of giving notices to persons affected or interested;(c)the manner in which the Consolidation Officer shall consult the Village Advisory Committee;(d)the manner in which a person may be evicted from any land;(e)the manner in which compensation recoverable from any person shall be deposited by him;(f)the guidance of the Consolidation Officer in respect of the transfer of a lease, mortgage or other encumbrance;(g)the manner in which the area and assessment (including water-rates, if any) of each reconstituted holding shall be determined;(h)the appointment of guardians of minors whose interests may be

affected by consolidation proceedings;(i)the procedure to be followed in filing applications and appeals and in hearing and disposing of such applications and appeals;(j)the fees to be payable on applications and memoranda of the appeals;(k)the guidance of the Village Advisory Committee, the Consolidation Officer and other persons in all proceedings under this Act; and(l)any other matter which is to be, or may be prescribed.(3)All rules made under this section shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid.

NotificationsNo. A/T-1051/57-7445 R-dated 18/19th September, 1957. - In exercise of the powers conferred by sub-section (4) of Section 2 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act XXII of 1956) the Governor of Bihar is pleased to appoint the Director of Land Records and Surveys, Bihar, to be the Director of Consolidation, Bihar, to discharge all or any of the functions of the Director Consolidation under the said Act.