

The United Provinces Agricultural Tenants (Acquisition of Privileges) Act, 1949

UTTAR PRADESH

India

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Rule

THE-UNITED-PROVINCES-AGRICULTURAL-TENANTS-ACQUISITION-OF 1949

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The United Provinces Agricultural Tenants (Acquisition of Privileges) Act, 1949U.P. Act No X of 1949

020.

[10th August, 1949]As[Received the assent of the Governor on August 10, 1949 under Section 75 of the Government of India, Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947 and was published in the U.P. Gazette, Extraordinary, dated August 11, 1949].An Act to provide for payment by tenants with a view to facilitate the abolition of Zamindari and to provide for reduction of rent and protection from ejectment and for certain other matters.Whereas it is expedient to provide for payment by tenants with a view to facilitate the abolition of zamindari and to provide for reduction of rent and protection from ejectment and for certain other matters connected therewith.It is hereby enacted as follows:

1. Short title, extent and commencement.

(1)This Act may be called the United Provinces Agricultural Tenants (Acquisition of Privileges) Act, 1949.(2)It extends to the whole of [Uttar Pradesh] [Substituted by the ALO 1950 for the words "The United Province"] except the areas specified in the First Schedule of the United Provinces Tenancy Act, 1939, and the pargana of Kaswar Raja in the district of Banaras.(3)It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context -(a)"Assistant Collector" means a person authorized by the [State Government] [Substituted by the A.L.O. 1950 for "Provl. Govt."] to exercise the powers of an Assistant Collector under this Act;(b)"land", "holding", "rent", "arrears" of rent", "crops", "landholder", "agricultural year" "tenant", "tenant holding on special terms in Avadh" "ex-proprietary tenant", "occupancy tenant", "hereditary tenant", "revenue court" and "Commissioner" have the meanings assigned to them in the United Provinces Tenancy Act, 1939.

3. Tenants entitled to acquire the privileges.

- [(1) Whoever being-(a)a tenant holding on special terms in Avadh,(b)an ex-proprietary tenant,(c)an occupancy tenant,(d)a hereditary tenant, or(e)an occupier,(f)a sub-tenant referred to in sub-section (4) of Section 47 of the United Provinces Tenancy Act, 1939, of land (other than land specified in the Schedule) pays to the credit of the State Government an amount equal to (i)where it is paid in a lump sum, ten times, and(ii)where it is paid in instalments as laid down in sub-section (4), twelve times,the annual rent payable or deemed to be payable by him in respect of the holding shall, on an application made by him in that behalf to the Assistant Collector, be entitled to a declaration with effect from the date on which the amount of the first instalment, as the case may be, has been deposited, that he has become entitled to the privileges provided by or under this Act.] [Substituted by item 1 of Schedule IV of U.P. Act I of 1951][Explanation I. - Where a holding is jointly held by two or more tenants, the rent payable by any tenant shall, for the purposes of this Section, be deemed to be an amount proportionate to his share therein] [Substituted by Section 2 of U.P. Act VII of 1950]. [Explanation II.] [Added by Section 2 of U.P. Act VII of 1950] - For the purposes of this Section the expression (i)"Occupier" means an occupier [recoded in the record of rights for 1356 fasli] [Added by Item 2 of Schedule IV of U.P. Act I of 1951] of any land which on the date immediately preceding the date of declaration under Section 6 is not included in the holding of a premanent tenure-holder, permanent lessee in Avadh, tenant grove-holder rent free grantee, grantee at a favourable rate of rent [* * *] [The words "or which is not sir or khudkasht" omitted by Item 2 of Schedule IV of U.P. I of 1951], or which is not in the personal cultivation of a thekadar or a mortgagee, [or which is not sir or khudkaslu of a landlord, who on the said date is assessed in Uttar Pradesh to land revenue of Rs. 250 or less annually or where no land revenue is assessed to lesser amount of local rate than would be payable on land revenue of Rs. 250 annually] [Added by Ibid].(ii)"Hereditary tenant" includes a tenant of sir holding from a sir holder who, on the date immediately preceding the date of declaration under Section 6, is assessed in Uttar Pradesh to a land revenue exceeding Rs. 250 annually or where no land revenue is assesed, to a local rate exceeding the amount which would be assessed on a land revenue of Rs. 250 annually.](2)[Notwithstanding anything contained in sub-section (1), in the case of a holding held jointly by two or more tenants, anyone of them may pay the amount referred to in the said sub-section on behalf of all other tenants in the holding.] [Added by Section 2 of U.P. Act VII of 1950](3)[It shall be sufficient for the purposes of sub-section (1) if the applicant instead of paying the amount in cash makes an application to the Assistant Collector stating that the amount of any bond issued in favour of the applicant as balance of price of sugarcane supplied by him to a sugar factory may be treated as

deposit of the amount referred to in sub-section (1)] [Added by Item 3 of Schedule IV of U.P. Act I of 1951].(4)[In cases to which clause (ii) of sub-section (1) applies, the applicant may, if the application is made (a)before the first day of March, 1951, pay the amount in four equal instalments, that is to say-

First Installment Along with the application.

Second Installment June 30, 1951.

Third Installment February 28, 1952

Fourth Installment June 30, 1952.

(b)before the first day of July, 1951 but after the last day of February, 1951 pay the amount in three equal instalments that is to say

First Installment Along with the application.

Second Installment February 28, 1952.

Third Installment July 30, 1952.

(c)before the first day of March, 1952, but after the last day of June, 1951, pay the amount in two equal instalment that is to say-

First Installment Along with the application.

Second Installment June 30, 1952

Provided that the Assistant Collector may on the application of the applicant extend the date fixed for the payment of the second and subsequent instalments so, however that the date so extended shall not be later than the 30th day of June, 1952.] [The words "or which is not sir or khudkasht" omitted by Item 2 of Schedule IV of U.P. Act I of 1951][3-A. Acquisition of privileges by sub-tenants. [Added by Section 3 of U.P. Act VII of 1950] - (1) Where a part only of the holding belonging to a person mentioned in clauses (a) to (d) of sub-section (1) of Section 3 is held by a sub-tenant, such person may on payment of ten times the amount of rent payable for the remainder of the holding (such amount to be determined by the Assistant Collector) make an application under the said sub-section in respect of the remainder, and the provisions of Sections 4 to 7 shall apply to such application as if the remainder were a separate holding,(2)The provisions of sub-section (1.) of Section 3 shall have effect in the case of a sub-tenant also as if he was a tenant of the land held by him:Provided that no application shall be made thereunder except with the written consent of the land-holder and that the amount to be paid to the State Government shall be fifteen times the rent payable for the land by the land-holder or if the landholder so further agrees, ten times of such rent.Explanation. - The expression "rent payable" in sub-sections (1) and (2) means the rent as may be fixed by the Assistant Collector having regard to (i)the rent payable for the entire holding by the land-holder;(ii)the portion thereof held by the sub-tenant; and(iii)the nature and quality of such portion.(3)Where a declaration has been granted to a sub-tenant in accordance with Sections 3-A and 6, the land-holder shall be deemed, notwithstanding anything contained in any law or contract, to have surrendered such land and the sub-tenant to have become the hereditary tenant therefore liable to pay an amount on account of rent which shall be equal to the amount determined in accordance with the explanation to Section 3-A.][3-B. Acquisition of privileges by unrecorded co-tenants. [Added by Section 3 of U.P. Act VII of 1950]- (1) Any person claiming to be entitled as co-tenant of a holding along with the recorded tenants thereof but whose name is not recorded in the recorded-of-rights relating thereto may apply under Section 3 for a declaration in respect of the

whole holding or his share therein.(2)No application under sub-section (1) shall be granted unless the tenants whose names are recorded in the record-of-rights give their consent in writing .(3)If the application is allowed the Assistant Collector shall order the name of the applicant to be recorded as a co-tenant and all the provisions of Sections 4 to 16 shall apply to him as if he had been a tenant whose name was already entered in the record-of-rights].[3-C. Acquisition of privileges by recorded and unrecorded co-tenants jointly. [Added by Section 3 of U.P. Act VII of 1950] - (1) In the case of 151 holding belonging jointly to two or more persons as tenants but the name of some only of the tenants being entered in the record-of-rights the person recorded may, in the application, under section 3, request the Assistant Collector to grant the declaration in favour jointly of himself and such person.(2)The Assistant Collector shall thereupon issue a notice to such other person and if in reply to the notice such other person appears and consents that he is a tenant, he shall grant the declaration jointly in favour of both].

4. Determination of rent payable.

- [*] [The existing Section 4 was renumbered as sub-section (1) and a new clause (c) and sub-section (2) was added by Section 4 of U.P. Act VIII of 1950](1) For the purposes of this Act the amount of annual rent payable for any land shall be deemed to be -(a)where the applicant or his predecessor-in-interest was the tenant of the land in the Fasli year 1355, the rent payable for that year provided that, if the rent has been subsequently enhanced or abated under or in pursuance of a decree or order of a court the rent so enhanced or abated;(b)where he or his predecessor-in-interest was not a tenant of the land in the Fasli year 1355 but has been admitted to it by the land-holder on or after the first day of July, 1948, the rent agreed upon between him and the land-holder or the rent determined at hereditary rates applicable at the said date, whichever is higher;(c)where land is held but the rent has not been agreed or otherwise fixed the rent determined at hereditary rates applicable at the date aforesaid;(d)where rent is payable-in-kind, or based on an estimate or appraisal of the standing crop, or on rates varying with the crop sown or partly in one of such ways and partly in another or other such ways, the rent commuted in accordance with the law for the time being in force;(e)[where rent payable varies with the area or according to the custom of Balpanchat the rent equal to an amount which shall be average of the annual rent paid during the last ten years preceding the commencement of this Act.] [Added by Section 3 of U.P. Act VII of 1950](2)[Where the rent payable, or deemed to be payable, by a tenant is more than double the amount computed at hereditary rates applicable, the rent payable shall, for the purposes of sub-section (1) be such amount not exceeding double the amount aforesaid as the Assistant Collector may, determine to be just and proper].

5. Application for acquisition of privileges.

(1)The application under Section 3 shall be accompanied by-(a)a treasury challan showing that the applicant has duly deposited the amount referred to in the said Section ; and(b)an extract from the khatauni showing the plot or plots to which the application relates, the rent payable therefor and the class of tenants to which the applicant belongs.(2)The application shall contain such other particulars and be in such form as may be prescribed.

6. Grant of declaration.

(1) Where the application is in proper form and duly presented, the Assistant Collector may, if he thinks fit, examine the applicant or any other person considered necessary by him regarding the merits of the case or the details of the plot or plots in respect of which the declaration is asked for. (2) If the Assistant Collector is, after examination, if any, under sub-section (1), satisfied that the applicant is prima facie entitled to the declaration and the amount deposited by him is not less than ten times the [rent payable by him in respect of his share in the holding] [Added by Section 5 of U.P. Act VII of 1950], he shall grant (he same and in any case where the amount deposited is more than ten times rent aforesaid, direct the excess to be refunded. (3) If the Assistant Collector finds that the applicant is otherwise entitled to the declaration but (he amount deposited is less ten times the, 1[rent payable by him in respect of his share in (he holding), he shall infrom (he applicant (hat he may deposit the balance within the time allowed. (4) Where the balance has been deposited within the time allowed, the Assistant Collector shall grant the declaration. (5) Where the applicant fails to deposit the balance within the period allowed, the Assistant Collector may dismiss the application and direct that the amount, if any, deposited by the applicant be refunded to him. (6) In any case where the Assistant Collector is not satisfied that the applicant is a person belonging to any of the classes mentioned in Section 3, he shall dismiss the application and direct the refund of the amount deposited. (7) No application shall be rejected on the ground merely that it does not fulfil the requirements of clause (b) of sub-section (1) or sub-section (2) of Section 5, but the Assistant Collector shall grant the applicant an opportunity to comply with the same. (8) [In the case of a holding held jointly by two or more persons as tenants, the declaration shall -(a) where the amount has been deposited in accordance with sub-section (1) of Section 3, be granted in favour of the applicant only in respect of his proportionate share in the holding, and (b) where the amount has been deposited in accordance with sub-section (2) thereof, be granted in favour of all the co-tenants, jointly]. (9) Where in the case of a holding held jointly by two or more persons, anyone of them has paid the amount on behalf of other or others, such other or others shall upon the grant of the declaration under sub-section (8) be liable to pay the former their share of the same.

7. [Privileges consequent upon the grant of declaration] [Substituted by Section 6 of U.P Act VII of 1950] - [(1)] [Renumbered by item 5 of Schedule IV of U.P. Act I of 1951] Upon the grant of the declaration under Section 6, the applicant shall with effect from the date of payment under Section 3, or deposit under sub-section (4) of Section 6, as the case may be, be entitled to the following privileges, that is to say -

(a) The applicant shall, notwithstanding anything in the United Provinces Tenancy Act, 1939, not be liable to ejection in execution of any decree or order for ejection or any decree for payment of arrears of rent. (i) Where the amount has been deposited under sub-section (2) of Section 3, from the holding or any portion thereof. (ii) Where the amount has been deposited under sub-section (2) of Section 3, from the holding or such portion thereof as shall be proportionate to his share in the holding. (b) Notwithstanding anything contained in any law or contract, the applicant or if it is a case to which sub-section (2) of Section 3 applies, all the tenants jointly of the holding, shall in respect of

every instalment of rent falling due after the date aforesaid be liable pay on account of such instalment the amount which shall be equal to one-half of the amount payable, as the case may be, by the applicant or the tenants jointly and the balance shall be deemed, on the date on which the instalment falls due, to have been deposited by him or them with the State Government: Provided that in cases where the payment aforesaid is made on or before the 31st day of December, 1949 the benefit of this clause shall extend to instalments falling due between first day of October, 1949 and thirty-first day of December, 1949: Provided further that in case where the payment aforesaid is made between the first day of January, 1950 and the 18th day of February, 1950, the tenants shall be liable to pay on account of the instalment falling due between the first day of October, 1949 and thirty-first day of December, 1949 an amount equal to three quarters of the amount payable and the remainder alone shall be deemed to have been deposited with the State Government]. [Added by Section 5 of U.P. Act VII of 1950](c)The applicant shall, except as hereinafter excepted, be entitled, notwithstanding anything contained in the U.P. Tenancy Act, 1939, or any contract to bequeath by will or transfer by way of sale, simple mortgage or gift his interest in the holding or his share therein. Exception. - In cases falling under clause (ii) of sub-section (1) of Section 3, the privilege conferred by this clause shall not accrue until all the instalments have been paid in accordance with the said Section]. (2)The principles contained in the provisos to sub-section (1) shall apply in respect of any instalments falling due on or after January 1, 1950 subject to such "alterations, modifications or adaptation, as the State Government may notify). [7-A. Declaration not to affect the share or interest in the holding. [Add by item 6 of Schedule IV of U.P. Act I of 1951] - No person shall, by virtue of any declaration made under Section 6, be entitled to any larger share in the holding than to which he may have been otherwise entitled and notwithstanding the declaration the interest of any other tenant in the holding shall continue unaffected.][7-B. Recovery of the excess amount. - Where any person has, whether before or after the date of grant of declaration under Section 7, paid to his land-holder on account of rent of the land in respect of which the declaration has been granted an amount in excess of the amount which he was liable to pay under clause (b) of the said section he may apply to Assistant Collector for the recovery of the excess amount.]

8. Liability of the State Government for payment to the land-holder.

- [(1) The [State Government] [Substituted by the A.L.O. 1950 for "Provincial Government"] it shall be liable to pay to the person entitled to receive the amount deemed to have been deposited under clause (b) of Section 7 on an application made by him to the Assistant Collector under this Section or without such application suo moto in the manner prescribed. (2)Notwithstanding anything in any law, no suit or proceeding shall except as provided in this Act, lie in any court whether civil or revenue for the recovery of the said amount.

9. Procedure for payment to the land-holder.

(1)On receipt of the application mentioned in section 8 the Assistant Collector shall where the applicant is not the person specified in the application under Section 3 or where the Assistant Collector has reason to doubt the right of the application or receive the amount, cause a notice to be served free of charge on the person specified in the application under Section 3 and any other person who may prima facie appear to him to be entitled to the amount aforesaid. (2)After hearing

the person or persons who may appear to reply to the notice, the Assistant Collector shall pay the amount to the person who in his opinion is best entitled to it: Provided [that in any case where he cannot decide the right to the amount without determining questions of law or fact too intricate and difficult for determining in summary proceeding he may withhold the payment and direct the parties to establish their rights by taking proceeding in the proper court.

10. Discharge of liability of the State Government.

- The payment by the [State Government] [Substituted by the ALO 1950 for "Provincial Government"] of the amount deemed to be deposited under Section 7 in accordance with any order passed under Section 9 shall be full discharge of the liability of the [State Government] [Substituted by the ALO 1950 for "Provincial Government"] to make such payment to the person as may have a rightful claim but shall not prejudice the right in respect of such amount to which any other person may be entitled, by due process of law to enforce against the person to whom such payment is made:

11. Payments of interest.

- Notwithstanding anything contained in the United Provinces Tenancy Act, 1939 the [State Government] [Substituted by the ALO 1950 for "Provincial Government"] shall not be liable for the payment of any interest on any amount payable by it under the provisions of this Act.

12. Cancellation of the declaration.

(1) A declaration granted under Section 6 may, on the application of any person interested, be cancelled [or modified] [Instituted by Section 8 of U.P. Act VII of 1950] by the Assistant Collector for any of the case, namely: (a) that the declaration was obtained fraudulently by the making of a false suggestion, or by the concealment from the Assistant Collector of something material to the case; (b) that the declaration was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently; [Substituted by 3 of U.P. Act No. XXIII of 1951] (c) that a decree or order passed by a competent court in a suit or other proceeding with respect to the holding for which the declaration has been granted shows that the applicant under Section 3, 3-A, 3-B or 3-C was not entitled to the declaration under Section 6. (2) Where the declaration is cancelled under sub-section (1) the person who deposited the amount referred to in Section 3 shall be entitled to its refund: Provided that any amount paid in accordance with the provisions of this Act by the [State Government] [Substituted by the ALO 1950 for "Provincial Government"] as a result of the declaration shall be deducted from it. [12-A. Cancellation of the declaration in certain areas. [Added by item 7 of Schedule IV of U.P. Act 1 of 1951] - Where an area has ceased to be part of Uttar Pradesh in pursuance of the Provinces and States (Absorption of Enclaves) Order, 1950 and a declaration under Section 6 had before the date of the commencement of the said order been granted to a person in respect of the area or portion thereof the declaration shall with effect from the said date be deemed to have been cancelled and the provisions of sub-section (2) of Section 12 shall apply thereto as if it had been cancelled under sub-section (1) of the said Section], [12-B. Failure to pay the instalment. - Where a declaration under Section 6 has been granted on an application made under clause (ii) or sub-section (1) of Section 3

and the applicant has failed to pay any instalments on or before the due date or the date extended under the proviso to sub-section (4) of Section 3 the declaration shall with effect from the date of default stand cancelled and the provisions of sub-section (2) of Section 12 shall apply as if, the declaration had been cancelled under sub-section (i) thereof and the following further proviso had been added: Provided that an amount equal to 5 per cent of the amount of deposit shall be deducted as incidental charges).

13. Appeal.

(1) An appeal against an order passed by the Assistant Collector under sub-section (6) of Section 6 or Section 12 shall lie to the Commissioner and the order passed in appeal by the Commissioner shall be final.

14. Protection of public servants.--

No suit, prosecution or other proceeding shall lie without the previous sanction of the [State Government] [Substituted by the ALO 1950 for Provincial Government] against any person for any act done or purporting to be done under" this Act or any rule made thereunder.

15. Exemption from court-fees.

- Notwithstanding anything contained in the Court Fees Act, 1870, no court fee shall be payable on any application or other document or copies filed or produced in any proceedings under this Act.

16. Power to make rules.

---(1) The [State Government] [Substituted by the ALO 1950 for Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act. (2) Without prejudice to the generality of the foregoing power such rules may provide for --(a) The form of application under Section 3 and the manner of filing it; (aa) [the procedure to be followed in proceedings under Sections 3-A and 3-B] [Added by Section 9 of U.P. Act VII of 1950]; (b) the procedure to be followed in determining the rent under Section 4; (c) the granting of copies of extracts of khataunis for purposes of Section 5; (d) the procedure to be followed by the Assistant Collector in the proceedings, for the grant of declaration under Section 6; (e) the form of the declaration under Section 6; (f) the form of the application under Section 8 and the manner of its filing; (g) the procedure for hearing and disposal of the application under Section 9; (h) the procedure for payments to be made to the land-holder under Section 9; (i) the procedure to be followed in the proceedings relating to cancellation of the declaration under Section 12; (j) the procedure to be followed in appeals under Section 13; (k) the fees to be paid in respect of appeals and applications under this Act; (l) the transfer or proceedings from one authority or officer to another; (m) the delegation of powers conferred by this Act on any authority or officer; and (n) the matters which are to be and may be prescribed.

Schedule

(Section 3)(a) Land owned by the Central Government, [State Government] [Substituted by the ALO 1950 for "Provincial Government"] or any local authority; (b) Land held for a public purpose or a work of public utility or acquired under the Land Acquisition Act, 1894, the United Provinces Acquisition of Property (Flood Relief) Temporary Powers Act, 1948 or any other enactment relating to acquisition of land for a public purpose; or (c) Land comprised in any area included in or which has been or may hereafter be declared as a municipality or notified area under the provisions of the United Provinces Municipalities Act, 1916, or a Cantonment under the provisions of the Cantonment Act, 1924, or a town area under the provisions of the United Provinces Town Areas Act, 1914.