

The Rajasthan Colonisation Act, 1954

RAJASTHAN

India

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Act 27 of 1954

- Published on 24 December 1954
- Commenced on 24 December 1954
- [This is the version of this document from 24 December 1954.]
- [Note: The original publication document is not available and this content could not be verified.]

The Rajasthan Colonisation Act, 1954 Act No. 27 of 1954 Statement of Objects and Reasons. - Rajasthan Act 12 of 1984. - Section 13 of the Rajasthan Colonisation Act, 1954 provided that no tenant shall transfer by way, of sale, exchange, gift, will, mortgage or in any other manner including by sub-lease beyond 5 years, any right or interest vested in him by or under the said Act without the prior written consent of the State Government or an officer authorised by State Government in this behalf and any such transfer, sub-lease or charge made in transferee, if he has obtained possession, shall be ejected. Sub-section (1) of the said section was amended with effect from August, 1983 and the tenants in whom right or interest had vested under Section 15-AAA of the Rajasthan Tenancy Act, 1955 were also brought within the purview of Section 13 prospectively. It has been decided that all tenants in colony areas on whom khatedari rights have been granted or accrued should be restricted from transferring, charging or sub-letting beyond five years of such rights without the permission of State Government or an officer authorised in this behalf. Necessary amendments in Section 13 of the principal Act is, therefore, proposed to be made to that effect. Large number of transfers have taken place in violation of this mandatory provision of law. A new Section 13-A was, therefore, added for regularisation of such cases. The expression "khatedar tenant" used in this section had created a Wrong impression in the minds of tenants in Rajasthan Canal Project area that the said section was applicable to such persons who had acquired or were granted khatedari rights under Section 15-AAA of the Rajasthan Tenancy Act, 1955. It is intended to renew the misapprehension by amending Section 13-A so as to specify clearly that it applied and applies to only those tenants in whom khatedari rights had been vested by or under the Rajasthan Colonisation Act, 1954. Legal mechanism provided to regularise past cases of illegal transfers on payment of compounding fee by Section 13-A applied and applies only to such tenants and it is, therefore, being clearly and explicitly declared in the said section. Transfer of rights Or interest may be declared as valid by the Collector on an application, being made to him and on making payment of a compounding fee to the State Government by the transferor or the transferee within 270 days. The said period has expired. It came to the notice of the State Government that majority of transferors as transferees could not apply for getting the illegal transfers validated within the above period. Therefore, it is proposed to extend the period of making application from 270 days to 514 days. With regard to the compounding fee the affected persons represented to the Government that

it is excessive and requested for its reduction as well as for recovery in instalments. With a view to mitigating the financial hardship to such tenants or their transferees the Government reconsidered the matter and deemed it proper to reduce the compounding fee. The said fee is now being proposed to be fixed at Rs. 20,000/- per 25 bighas of irrigated land and Rs. 4,000/- per 25 bighas of barani/uncommand land or allotment price, whichever is less, and further the amount of the compounding fee is proposed to be made payable in four equal instalments. Further concession is proposed to be given to those tenants who make payment of the compounding fee in a lump sum by reducing 25% of the amount. Agreements to sell have also been included in the purview of the validation. Opportunity has also been taken to make some verbal changes and consequential amendments in Sections 13 and 13-A of the Rajasthan Colonisation Act, 1954. Since the Rajasthan Legislative Assembly was not in session and the circumstances existed which rendered it necessary to take immediate action in the matter, the Governor promulgated the Rajasthan Colonisation (Amendment) Ordinance, 1984 (Order 4 of 1984) on 5th May, 1984. This bill seeks to replace the said Ordinance.

(2) Rajasthan Act 16 of 1991.. - According to the provisions of Section 4 of the Rajasthan Colonisation Act, it was only the State Government which could withdraw a colony or any part of a colony from the operation of all or any of the provisions of the Act. Similarly, according to the provisions of clause (ii) of Section 2 of the Act, it was only the State Government which could declare an area to which the provisions of the Act would apply. In order to avoid delay in issuing orders for the aforesaid purposes, it was thought proper to authorise Collector for issuing such orders, although, only in so far as such orders related to the minor irrigation projects. For this purpose, the provisions of Section 4 of the Act had to be suitably amended, the definition of 'Colony' as given in clause (ii) of Section 2 had to be reworded and the definitions of major, medium and minor irrigation projects had to be inserted in Section 2 of the Act. Since the Rajasthan Legislative Assembly was not in session and the circumstances existed which rendered it necessary to take immediate action, the Governor of the State of Rajasthan promulgated the Rajasthan Colonisation (Amendment) Ordinance, 1991 (Ordinance No. 2 of 1991) on the 29th day of June, 1991, which was published in the Official Gazette on the 1st July, 1991. The Bill seeks to achieve the said objects and to replace the said Ordinance.

(3) Rajasthan Act 28 of 1995.. - A new Section 13-A was added in the Rajasthan Colonisation Act, 1954 in the year 1983 so as to validate the transfers etc. of certain rights or interests vested in a tenant by or under the said Act. Originally, a period of 180 days was allowed for making an application to the Collector for such validation. This section was, thereafter, amendment from time to time for extending the aforesaid period. By the Rajasthan Colonisation (Amendment) Act, 1987, a proviso was inserted in sub-Section (1) of Section 13-A, whereby the State Government was empowered to extend, by notification, the period ultimately so extended upto 30th June, 1987 for such further period not exceeding six months as was deemed fit. This period of six months was later on raised to a period of two years and six months by the Rajasthan Colonisation (Amendment) Act, 1989. This period of two years and six months was later on raised to a period of three years and six months by the Rajasthan Colonisation (Amendment) Act, 1990. This period of three years and six months was later on raised to a period of five years and six months by the Rajasthan Colonisation (Amendment) Act, 1992. Since it has been brought to the notice of the State Government that applications for validation of transfer etc. are still being made and are likely to be made still further, it is proposed that by inserting a new proviso to sub-Section (1) of Section 13-A of the Act, the State Government may be empowered to extend, by notification from time to time, the period beyond the aforesaid period of five years and six months for making such applications. It is

also proposed that on the applications received during the period extended beyond 31.12.92, the transfer, sub-lease or charge shall be declared valid only on the condition that the applicant shall, in addition to the compounding fee payable under sub-Section (1) of Section 13-A, be also liable to pay interest at the rate of eighteen percent per annum on the amount of compounding fee for the period from 1st January, 1993 to the date of application. Two new provisos are proposed to be inserted in sub-Section (1) of Section 13-A to provide for these proposals.(4) Rajasthan Act 5 of 2007.. - Section 7(4) of the Rajasthan Colonisation Act, 1954 provides for allotment of land but there is no provision to deal with contingency where the allottee dies after issuance of written order but before taking possession of land. In such a situation it is proposed to provide by inserting a new proviso that where the allottee dies after such written order has been passed but before taking possession of the allotted land, his spouse or in case the spouse is not alive his legal heirs dependent on him may take possession of the allotted land. This proviso is proposed to be inserted with effect from 8.8.1975. Under the provision of (Section 22) the Rajasthan Colonisation Act, 1954 the Collector is empowered to take action regarding unauthorized encroachment on land whereas under the provision of the Rajasthan Land Revenue Act, 1956 such powers are exercised by Tehsildar under Section 91 thereof. It is proposed for the sake of uniformity that under the Rajasthan Colonisation Act, 1954 also Tehsildar be authorised to take action against unauthorized occupants. Accordingly Section 22 of the Rajasthan Colonisation Act, 1954 proposed to be amended and consequential amendment is also proposed to be made in Section 25 thereof. Since the word "Tehsildar" has not been defined under the Rajasthan Colonisation Act, 1954, it is also proposed to insert the definition of the Tehsildar in Section 2 of the Act. This bill seeks to achieve the aforesaid objectives. [Published in the Rajasthan gazette (Raj-Patra), No. 132, part IV-A, Extraordinary, dated December 24, 1954] [Received the assent of His Highness the Rajpramukh on the 17th day of "December, 1954; Assent first published in Rajasthan Gazette (Rajpatra), No. 132, Part IV-A, Extraordinary, dated 24th December, 1954] [An Act to make better provision for the colonisation and administration of lands in [the State of Rajasthan.] [Substituted by Rajasthan Act No. 27 of 1957.] Be it enacted by the Rajasthan State Legislature in the fifth year of the Republic of India as follows:-

1. Short title and extent.

(1) This Act may be called the Rajasthan Colonisation Act, 1954. (2) [It extends to the whole of the State of Rajasthan.] [Substituted by Rajasthan Act No. 27 of 1957.]

2. Definitions.

- In this Act, unless the context otherwise requires-(i) "Collector" means the Collector of the district and includes-(a) any officer appointed by the State Government to perform all or any of the functions and exercise all or any of the powers of the Collector under this Act, and (b) any officer appointed before or after the commencement of this Act for purposes of colonisation; (ii) ["colony" means any area to which this Act shall, by notification in the Official Gazette, be applied by an order of the State Government, or in respect of minor irrigation projects, by an order of the Collector authorised by the State Government in this behalf;] [This clause was brought into force in West Banas Project area vide Notification No. F(87) Irg/62, dated February 1963, Published in Rajasthan Gazette, Part 1(b), dated 14.2.1963. It is substituted by Rajasthan Act No. 16 of 1991, w.e.f. 1.7.1991.]. (iii) [x x x]

[Omitted by Rajasthan Act No. 8 of 1962.](iv)"Improvement" means-(a)the construction and renovation of wells, tanks, bunds and water channels, and(b)the planting of trees and the draining, reclaiming, clearing, enclosing, levelling and terracing of land,but does not include such temporary works as are done by tenants or sub-tenants, without any special expenditure, in the ordinary course of agriculture;(v)["land" means land belonging to all or any of the following categories, namely:- [Substituted by Rajasthan Act No. 38 of 1958.](a)land as defined in clause (24) of Section 5 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955),(b)land acquired under the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953), for the purpose of Government or a local authority or an educational institution, while such land remains the property of Government or such local authority or educational institution, as the case may be,(c)land surveyed and recorded, whether before or after the commencement of this Act, as belonging to the Government or a local authority which is used for any public purpose such as a road,(d)land surveyed and recorded as aforesaid for the use of the community such as, gochar, cremation-ground, grave-yard, road or pathway,(e)land in the possession of Government or a local authority obtained by transfer or otherwise,(f)abadi land within the limits of a municipality or a panchayat circle or a village, town or city, vesting in the State Government, and(g)land within the abadi area vesting in a local authority or land recorded and set apart for the development of abadi or of mandis or for other public or municipal purposes, and includes benefits to arise out of such land and things attached to the earth or permanently fastened to anything attached to the earth;](vi)"land cultivated personally" with all its grammatical variations and cognate expressions, means land cultivated on one's own account-(i)by one's own labour, or(ii)by the labour of any member of one's family, or(iii)by servants on wages payable in cash or in kind (but not by way of a share in crops) or by hired labour under one's personal supervision or the personal supervision of any member of one's family or one's manager or agent:Provided that in the case of a person who is a widow or a minor or is subject to any physical or mental disability or is a member of the military, naval or air service of India or who, being a student of an educational institution recognised by the State Government is below the age of twenty-five years, land shall be deemed to be cultivated personally even in the absence of such personal supervision;](vi-a) "Major Irrigation Project" means the works constructed to use surface water for irrigation of a culturable commanded area of more than 10,000 hectares; [Inserted by Rajasthan Act No. 16 of 1991 [1.7.1991]](vi-b) "Medium Irrigation Project" means the works constructed to use surface water for irrigation of culturable commanded area of more than 2000 hectares but not more than 10,000 hectares;(vi-c) "Minor Irrigation Project" means the works constructed to use surface water for irrigation of culturable commanded area upto 2,000 hectares;](vii)"prescribed" means prescribed by or under this Act;](vii-a) "Project Officer" means an Officer appointed by the State Government to exercise the powers and perform the duties assigned to such officer under this Act;] [Added by Rajasthan Act No. 23 of 1974.](viii)"public purpose" includes fair and equitable distribution of agricultural land among the various landless tenants;](viii-a) "Tehsildar" means Tehsildar appointed under the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956) and includes any officer authorised by the State Government, by notification in the Official Gazette, to perform the functions and exercise the powers of the Tehsildar under this Act;] [Added by Rajasthan Act No. 5 of 2007, w.e.f. 31.5.2007 vide Notification No. F.2(6)Vidhi/2/2007, dated 1.6.2007- Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/PUI/page 295/H.241.](ix)"tenant" means any person holding land in a colony and includes his predecessors and successors-in-interest and transferees.

3. Application of Act.

- This Act shall apply to all lands in a colony.

4. Power to withdraw a colony from the operation of the Act.

- The State Government may at any time, by notification in the [Official Gazette] [Substituted by Rajasthan Act No. 27 of 1957.], withdraw a colony or any part of a colony from the operation of all or any of provisions of this Act. [The State Government may also authorise a Collector to exercise the aforesaid powers in respect of a minor irrigation project for whole colony area or any part thereof within the local limits of the district.] [Inserted by Rajasthan Act No. 16 of 1991 [1.7.1991.]]

5. Applicability of tenancy and land revenue laws.

(1) Except as otherwise provided in this Act, the laws relating to agricultural tenancies, land, the powers, duties, jurisdiction and procedure of revenue courts, the survey and record operations, the settlement and collection of revenue, rent and other demands and the partition of estates and tenancies, for the time being in force in a colony, shall, in so far as may be applicable, apply to tenancies held and to proceedings conducted under this Act. (2) Nothing in such laws shall, however, be so construed as to vary or invalidate any rule made, or any condition entered in any statement of conditions issued, by the State Government under this Act.

6. Investing Colonisation Officers with powers of Revenue Courts.

- The State Government may, by order published in the [Official Gazette] [Inserted by Rajasthan 16 of 1991 [1.7.1991].], invest any officer appointed for colonisation of the colony with all or any of the powers of a Revenue Court or officer, other than the Board of Revenue, for the purpose of trying and hearing all or any specified classes of [applications] [Inserted w.e.f. 5-8-1983 by Rajasthan Act No. 12 of 1983.], suits or appeals arising in a colony.

7. Issue of statement of conditions of tenancy.

(1) The State Government may grant land in a colony to any person on such conditions as may be prescribed. (2) The State Government may issue a statement or statements of the conditions on which it is willing to grant land in a colony [to any person.] [Substituted by Rajasthan Act No. 12 of 1983.] (3) Where such statements of conditions have been issued, the Collector may, subject to the control of the State Government, allot land to any person, to be held subject to such conditions contained in the statement issued under sub-Section (2) of this section as the Collector may, by written order, declare to be applicable to the case. (4) No person shall be deemed to be a tenant or to have any right or title in the land allotted to him until such a written order has been passed and he has taken possession of the land with the permission of the Collector, and after possession has been so taken, the grant shall be held subject to the conditions declared applicable thereto [:] [Substituted by Rajasthan Act No. 5 of 2007, w.e.f. 31.5.2007 = 2007 RSCS/Part II/page 295/H. 241.][Provided

that where the allottee dies after such written order has been passed but before taking possession of the allotted land, his spouse or in case the spouse is not alive his legal heirs dependent on him may take possession of the allotted land.] [Added by Rajasthan Act No. 5 of 2007, w.e.f. 31.5.2007 = 2007 RSCS/Part II/page 295/H. 241.]

8. Legal effect of conditions.

(1) Nothing contained in the Transfer of Property Act, 1882 (Act IV of 1882), shall apply to the grant of any tenancy under Section 7 or to any conditions imposed or any statement of conditions issued thereunder. (2) All conditions under or subject to which a grant of tenancy is made under Section 7 shall be valid and take effect according to their tenor, notwithstanding anything to the contrary contained in any rule or law.

9. [Rectangularisation of fields and carrying out and maintenance of land development works. [Substituted by Rajasthan Act No. 23 of 1974.]

(1) The Collector may direct all or any section of allottees or tenants to effect Rectangularisation of their fields. (2) For the purpose of carrying out land development works for optimum utilization of irrigation waters and/or the saving of land from damage, the Collector may—(i) direct the said allottees and tenants to carry out, at their own cost and as per plans and specifications approved by the Project Officer, land levelling work, reshaping of the fields, by division into rectangular bounded stripage each connected to a water course and drains excavation of water courses and drains, lining of water courses, soil treatment and land reclamation. Non-compliance of any of such directions shall be deemed to be a breach of the conditions imposed by this Act; (ii) direct the taking of temporary possession of land belonging to any section of allottees or tenants temporarily for a period not exceeding three months; and the tenant or allottee concerned shall be bound to surrender the said land and shall not be entitled to any compensation or a period of occupation extending upto three months. In case the development work is not completed within three months, the Collector may extend this period for another one month for valid reasons. The tenant or allottee concerned shall be entitled for such compensation as determined by the Collector for the period extending beyond three months; (iii) before taking proceedings for taking possession under clause (ii) cause to be served in the prescribed manner on the tenant or allottee concerned a notice specifying the land to be taken over and calling on him to hand over possession by a certain date or to appear and show cause why the possession of the land in question should not be taken for the purpose of carrying out the land development work; Where the tenant or allottee concerned:—(a) does not hand over possession nor make appearance in response to the notice issued as above; or (b) does not show any cause; or (c) makes any representation which is rejected after it has been considered and a personal hearing given to him if this had been desired, the Collector may proceed to take possession in any manner he deems fit; (iv) direct any section of allottees or tenants to exchange peacefully their land for land elsewhere as nearby as may be, equal in value to the land surrendered, such value being determined by the Collector, and to hold it on the same terms and conditions, the said terms and conditions to apply in like manner as if the land taken in exchange had been the land held originally. (3) In case of the land being in the possession of a sub-tenant or mortgagee, as the case may be, under a valid lease or deed, the tenant shall inform the Collector and

the provisions of sub-Section (1) and (2) shall apply to such subtenant or mortgagee as if he were a tenant but the ultimate liability for the payment of the cost of such development works shall in all cases be on the tenant. Such sub-tenant or mortgagee shall be entitled to the compensation, if any, payable to the tenant for the possession of land under clause (ii) of sub-Section (2) above: Provided that such sub-tenant shall be liable to pay a proportionately higher rent for the remaining period of the lease or such mortgagee shall be liable to account for at the time of assessing the re-payment of the debt about, as the case may be, for the increased income from the land after the land development works, in accordance with the rules framed by the State Government for this purpose. (4) If any allottee or tenant fails to comply with an order of the Collector under sub-Section (1) or clause (i) or clause (iv) of sub-Section (2), within a period of one month, the Collector shall have the right to get the work executed departmentally or through a Government approved agency and to recover the cost thereof as arrears of land revenue and shall also have the right to enforce temporary resumption, surrender or exchange of land, as the case may be. (5) In pursuance of the above mentioned land development programme, all officers and servants of the Government duly authorised in this behalf shall have the right to enter upon the land or any building thereon at all times and do all acts and things necessary for or incidental thereto for enforcing the execution of the said works or ascertaining that they have been duly carried out: Provided that no residential plot shall be so entered into except at a reasonable time and after a notice of not less than 24 hours.]

10. Reservation of area for common needs of village.

- The Collector may reserve in any specified locality such area as he may deem necessary for village site, grazing of cattle, roads and other common needs of the village and such reservation shall, on notification in the [Official Gazette] [Substituted by Rajasthan Act No. 27 of 1957.], be deemed to be for a "public purpose" as defined in the Rajasthan Land Acquisition Act, 1953.

11. False information by the tenant.

- If any person who, after the commencement of this Act, has been put in possession of land in a colony as a tenant, shall have given false information intending or having reason to believe that any officer of the State Government may be thereby deceived regarding his qualifications to become a tenant, he shall be deemed to have committed a breach of the conditions of his tenancy.

12. Exchange.

- Subject to any orders that he may receive from the [State Government] [Substituted w.e.f. 16-11-1961 by Rajasthan Act No. 8 of 1962.] the Collector may allow any tenant to exchange the whole or any part of his tenancy for other land in the colony and the land so taken in exchange shall, in the absence of any special condition to the contrary to be recorded in writing by the Collector, be deemed to be held on the conditions and subject to the obligations on which the land so given in exchange was held.

13. [Transfer of rights. [Substituted by Rajasthan 23 of 1974.]

- [(1) No tenant shall without the previous consent in writing of the State Government or an Officer of the State Government authorised by it in this behalf, to be given on the fulfilment of such conditions as may be prescribed, transfer his rights or interest in land by way of sale, mortgage, exchange or gift or shall create a charge thereon or shall sub-let the same for more than five years except by way of exchange under Section 12 or by way of mortgage or charge to the State Government or to a Bank for the purpose of obtaining financial assistance from any of them:][Provided that the State Government may exclude any area or class of tenants from the operation of sub-Section (1).] [Added by Rajasthan 12 of 1989 [7.9.1988].](2)A transfer or sub-lease made or charge created in contravention of sub-Section (1) shall be void and if the transferee, sub-lessee or, as the case may be, the charge holder has obtained possession of the land transferred, sub-let or, as the case may be, charged or of any part thereof, he shall, after an opportunity of being heard has been given to him and to the transferor, be liable to be ejected therefrom under the orders of the Collector and such land shall be resumed by the Collector to the State Government.Explanation. - For the purpose of sub-Section (1) of this section-(a)The expression "Bank" shall have the same meaning as is assigned to it by clause (b) of Section 2 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 (Rajasthan Act 22 of 1974) and shall include Land Development Banks specified in Section 84 of the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965) and such other bank or financial institution which the State Government may, by notification in the Official Gazette, specify as a Bank for such purpose: and(b)The expression "financial assistance" shall have the same meaning as is assigned to it by clause (f) of Section 2 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 (Rajasthan Act 22 of 1974).]

13A. [Validation of certain transfers and declaration of consent to transfer.] [Inserted by Rajasthan Act 12 of 1983 (5.8.1983); Substituted by Rajasthan Act 12 of 1984 (4.5.1984).]

(1)Notwithstanding anything contained in Section 13, or in any other provisions of this Act or in the rules made or statement of conditions issued thereunder, but subject to Section 42 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), where any transfer or sub-lease has been made or any charge has been created by a tenant in whom khatedari rights have vested by or under this Act in contravention of sub-Section (1) of Section 13 at any time before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, such transfer, sub-lease or charge may, on an application being made to the Collector in this behalf in such form as may be prescribed and within [1425 days of such commencement i.e. upto 30.6.1987] [Substituted by Rajasthan 2 of 1987 [3.1.1987].] by the transferor, lessor or as the case may be, the person creating the charge or by the purported transferee, sub-lessee or, as the case may be, charge holder or by any subsequent purported transferee, sub-lessee or, as the case may be, charge holder, be declared, after holding such enquiry as he deems proper, as valid by him subject to any of such persons as aforesaid making payment to the State Government [by way of compounding fee] [Substituted by Rajasthan 2 of 1987 [3.1.1987].], in the case of irrigated land of an amount of Rs. 20,000/- per 25 bighas and in the case

of barani or uncommand land of an amount of Rs. 4,000/- per 25 bighas or of an amount equal to the allotment price of the land prescribed by the State Government in the statement of conditions issued under sub-Section (2) of Section 7 or in any rule made under this Act and in force on such commencement, whichever is less [in four equal installments as follows:-

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| (a) in the case of an application made upto 31.12.1984: | the first, second, third and fourth installments shall be payable respectively on 31.12.1984, 30.6.1985, 31.12.1985 and 30.6.1986; |
| in the case of an application made after 31.12.1984 but before the date of publication in the Official Gazette of the Rajasthan Colonisation Ordinance, 1986 i.e. before 3.1.1987: | the first installment shall be payable within fifteen days from the date of such publication and the second, third and fourth installments shall be payable respectively within fifteen days, six months and one year from the date of the order of the Collector; and |
| (c) in the case of an application made on or after the date of such publication: | the first installment shall be payable along with the application and the second, third and fourth installments shall be payable within the periods specified for such installments in clause (b): |

Provided that the State Government may, on being satisfied that it is necessary or expedient to do so, extend by notification the period beyond 30th June 1987, not exceeding [five years and six months] [Substituted by Rajasthan 2 of 1987 [3.1.1987].], upto the day as deemed fit]:[Provided further that where] [Substituted by Rajasthan 2 of 1987 [3.1.1987].] any of the aforesaid persons pays to the State Government the entire compounding fee in one lump sum along with his application and within the period specified in this sub-section, the amount of compounding fee payable by him shall be deemed to be 25% less than that provided therein.[Provided also that the State Government may, on being satisfied that it is necessary or expedient to do so in the public interest, extend by notification the period beyond 31st December, 1992 upto the day as deemed fit:Provided also that on the applications received during the period extended under the preceding proviso the transfer, sub-lease or charge shall be declared valid only on the condition that the applicant shall, in addition to the compounding fee payable under this sub-section, be also liable to pay interest at the rate of eighteen per cent per annum on the amount of the compounding fee for the period from 1st January, 1993 to the date of application.] [Inserted vide Notification No. F. 2(29) Vidhi/2/95, dated 22.11.95-Rajasthan Gazette, Extraordinary, Part IV-A, dated 22.11.95, page 129(1) = 1996 RSCS/Part II/page 30/H. 5.][1-A] Where an allottee, in whom khatedari rights have not been vested, even after seven years of allotment, under condition 9 of General Colony Conditions, has transferred the land allotted to him or any right therein, in contravention of sub-Section (1) of Section 13 of this Act, before the commencement of the Rajasthan Colonisation (Amendment) Ordinance, 1988 (Ordinance No.9 of 1988), the Collector, on receiving an application from the allottee and the purported transferee in this behalf, in the prescribed form, within 297 days of the commencement of the Rajasthan Colonisation (Amendment) Ordinance, 1988 (Ordinance No.9 of 1988) or within such period, as may be extended by the Government from time to time, may, subject to the provisions of Section 42 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act No.3 of 1955), declare such transfer valid after holding such enquiry as he deems proper subject to payment of all dues of the State Government by the transferee and also subject to the payment of a sum of Rs.

50,000/- per 25 bighas to the State Government in case of irrigated or command land and a sum of Rs. 10,000/- per 25 bighas in case of barani or uncommand land in four half yearly equal installments. Such transferee, shall thereafter be entitled to khatedari rights under the Rajasthan Tenancy Act, 1955 (Rajasthan Act No.3 of 1955): Provided that where any of the aforesaid person pays to the State Government the entire compounding fee in one lump-sum alongwith his application and within the period specified in this sub-section, the amount of compounding fee payable by him shall be deemed to be 25% less than provided therein. Explanation. - For the purposes of this sub-section, - (a) "allottee" means the person to whom land has been allotted on price under the rules made under this Act; and (b) "dues" in relation to the land allotted, shall include unpaid price of such land and such other dues as are required under law to be paid by the allottee.] (2) Where on account of transfer, sub-lease or charge having been made by a tenant in whom khatedari rights have vested by or under this Act in contravention of sub-Section (1) of Section 13, the Collector has passed an order for ejectment of the purported transferee, sub-lessee or, as the case may be, the charge holder or of any subsequent purported transferee, sub-lessee or, as the case may be, the charge holder under sub-Section (2) of said section or for resumption of the tenancy of such tenant under clause (ii) of Section 14, but any of such persons or such tenant as aforesaid has not actually been ejected from the land transferred, sub-let or, as the case may be, charged and the tenancy has not actually been resumed before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, such tenant or any of such persons as aforesaid may, at any time within [1425 days of such commencement i.e. upto 30.6.1987 or within the period extended by the State Government under the first proviso to sub-Section (1)] [Substituted by Rajasthan 2 of 1987 [3.1.1987].], apply to the Collector for declaring the transfer, sublease or, as the case may be, the charge by such tenant as valid under and in accordance with sub-Section (1) and upon such declaration having been made, any of such persons as aforesaid shall not be liable to be ejected and the tenancy of such tenant shall not liable to be resumed and the order of ejectment or resumption of tenancy as the case may be, passed by the Collector shall be deemed to have been withdrawn. (3) Notwithstanding any judgment, decree, order, direction or permission of any court, officer or authority, all cases, in which previous consent in writing of the Collector was not obtained under sub-Section (1) of Section 13 by a tenant in whom khatedari rights have vested by or under this Act for transferring or subletting such rights or, as the case may be, charging the same but subsequent consent as aforesaid for such transfer, sub-letting or, as the case may be, charge had been obtained by him from the Collector or from any court, officer or authority or in which clause (i) of Section 14 was applied by any of them to such transaction before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, shall be re-opened by the Collector and shall be decided afresh by him in accordance with this section after giving notice to the transferor, lessor, as the case may be, the person creating the charge, the purported transferee, sub-lessee or, as the case may be, the charge holder and to every subsequent purported transferee, sub-lessee or, as the case may be, the charge holder. (4) Where compounding fee has been paid in accordance with this section, no action shall be taken or proceeded further against the purported transferee, sub-lessee or, as the case may be, charge holder and no penalty shall be imposed on, and no resumption of tenancy shall be made of, the tenant in whom khatedari rights have vested by or under this Act, either under sub-Section (2) of Section 13 or under Section 14, as the case may be, for the breach of the same condition of tenancy and arising due to the same contravention as aforesaid. (5) Where a tenant mentioned in sub-Section (1) or his purported transferee, sub-lessee or, as the case may be, charge

holder or any subsequent purported transferee, sub-lessee or, as the case may be, charge holder has already obtained a declaration under that sub-section or under sub-Section (2) or sub-Section (3) after making payment to the State Government of the amount of compounding fee under this section as it stood prior to its substitution by the Rajasthan Colonisation (Amendment) Act, 1984, so much amount of the compounding fee paid as is in excess of the amount of such fee specified in the proviso to sub-Section (1) shall be refunded to such tenant or, as the case may be, to any of such persons who made the payment.(6)Where,-(a)any tenant in whom khatedari rights in land have vested by or under this Act has, before the commencement of the Rajasthan Colonisation (Amendment) Act, 1983, contracted to transfer for consideration such rights, or(b)any tenant to whom khatedari rights in land have accrued before such commencement had, before accrual of such rights to him, contracted to transfer for consideration rights vested in him by or under this Act by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty, and the transferee has, before such commencement, in part performance of the contract taken possession of the land or any part thereof, or the transferee, being already in possession, continued in possession in part performance of the contract and has done some act in furtherance of the contract, and the transferee has paid the whole or part of the consideration to the transferor, then the transferor or any person claiming under him and the transferee or either of them may make an application in such form as may be prescribed on or before the last day upto which an application can be made under sub-Section (1) to the Collector for declaration that the consent required of the Collector under sub-Section (1) of Section 13 to transfer such rights be deemed to have been granted and if Collector after making such enquiry as deemed fit, is satisfied that the conditions specified in this section and such other conditions as may be prescribed are fulfilled, he shall, subject to the transferor or the transferee making payment to the State Government of the amount calculated as the rate and in the manner specified in sub-Section (1) by way of compounding fee, by order in writing declare that such consent to transfer such rights shall be deemed to have been granted to the transferor or any person claiming under him and upon such declaration being granted, the transferor shall, notwithstanding the fact that consent of the Collector was not obtained by him as required by sub-Section (1) Section 13, be competent to transfer validly the land contracted to be transferred and in the event of the transferor refusing to do so or his whereabouts being not known, the transferee shall be competent to have the contract to transfer specifically enforced in accordance with the provisions of law relating to specific performance of contract for the time being in force.

14. Penalty for breach of conditions.

- When the Collector is satisfied that a tenant in possession of land in a colony has committed a breach of the conditions of his tenancy, he may, after giving the tenant an opportunity to appear and state his objection,-(i)impose on the tenant a penalty not exceeding [two thousand rupees,] [Substituted by Rajasthan Act No. 12 of 1983.] or(ii)order the resumption of the tenancy:Provided that, if the breach is capable of rectification, the Collector shall not impose any penalty or order the resumption of the tenancy, unless he has issued a written notice requiring the tenant to rectify the breach within a reasonable time, not being less than one month to be stated in the notice and the tenant has failed to comply with such notice.

15. Power of re-entry and provision as to compensation in certain cases.

- Where an order resuming the tenancy has been passed under Section 14, the Collector may order immediate re-entry upon and taking possession of the land, subject to the payment of compensation, to be fixed by the Collector, for uncut and ungathered crops and for the improvements, if any, that may have been made by the tenant: Provided that, if the tenancy be allotted to any other person, the amount of compensation, if any, paid to the out-going tenant shall be recoverable by the Collector from the incoming tenant.

16. Provision for re-entry on and compensation for buildings on sites allotted for residential purposes.

- In any case where a tenant has been allotted a site for residential purposes in consideration of his tenancy, and such tenancy has been resumed under the provisions of Sections 14 and 15 of this Act, the Collector may order re-entry upon and taking possession of such site: Provided that the Collector shall fix and pay to the said tenant reasonable compensation for, or allow him to remove, any buildings or improvements made by him on such site.

17. Saving of certain tenancies and conditions.

- Nothing in Section 14 or Section 15 or Section 16 shall apply to-(a)[x x x] [Omitted by Rajasthan Act No. 23 of 1974.] (b) any breach of a condition regarding arboriculture included in any statement of conditions other than a statement pertaining to tree planting tenants.

18. Sums due to [State Government] [Substituted by Rajasthan Act No. 27 of 1957.] to be recoverable as arrears of land revenue.

- All sums due to the State Government in respect of a tenancy granted under the provisions of this Act or of the rules made and conditions issued thereunder and all sums due on account of fines, confiscations, costs and penalties shall be recoverable as if they were arrears of land revenue.

19. Power to abrogate conditions.

- The State Government may, at any time, by notification in the [Official Gazette] [Substituted by Rajasthan Act No. 27 of 1957.] abrogate any of the limitations and obligations imposed upon tenants as part of the conditions of their tenure.

20. Special conditions applicable to certain Khatedar tenants.

- Notwithstanding anything contained in any law or in any statement of conditions issued under this Act, a tenant who has previously to the commencement of this Act acquired rights in any land to which this Act for the time being applies, shall in respect of such land be bound by the conditions set out in the Schedule to this Act.

21. Certain animals not liable to attachment or sale.

- No animal maintained in accordance with any prescribed statement of conditions shall be liable to attachment or sale in execution of any decree.

22. [Un-authorised occupation of land and re-entry. [Substituted by Rajasthan Act No. 23 of 1974.]

(1) Any person who occupies or continues to occupy any land in a Colony to which he has no right or title or without lawful authority shall be regarded as a trespasser, and may be summarily evicted therefrom by the [Tehsildar] [Inserted by Rajasthan 12 of 1989 [7.9.1988].] at any time at his own motion or upon the application of an aggrieved person at whose disposal such land has been placed; and any crops, trees and buildings or any other constructions, erected or anything deposited on such land shall, if not removed within such reasonable time as the [Tehsildar] [Substituted by Rajasthan Act No. 5 of 2007 vide Notification No. F. 2(6) Vidhi/2/2007, dated 1.6.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/P. 295/H. 241 for the word: 'Collector'.] may from time to time fix for the purpose, be liable to be forfeited to the State and to be disposed of as the [Tehsildar] [Substituted by Rajasthan Act No. 5 of 2007 vide Notification No. F. 2(6) Vidhi/2/2007, dated 1.6.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/P. 295/H. 241 for the word: 'Collector'.] may direct: Provided that the [Tehsildar] [Substituted by Rajasthan Act No. 5 of 2007 vide Notification No. F. 2(6) Vidhi/2/2007, dated 1.6.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/P. 295/H. 241 for the word: 'Collector'.] may, in lieu of ordering the forfeiture of any such building or other construction, order the demolition of the whole or any part thereof. (2) [Such trespasser shall further be liable to pay, for each agricultural year during the whole or any part whereof he has been in such unauthorised occupation of the land, a penalty which may extend to fifty times the annual rent, or assessment, as the case may be, for the first act of trespass. In the case of each subsequent act of trespass, he shall, by the order of the [Tehsildar] [Substituted by Rajasthan Act No. 4 of 1976.], be liable to commitment to civil prison for a term which may extend to three months and to pay penalty to the extent as aforesaid. The amount of such penalty shall be recovered as an arrear of land revenue.] (3) Before taking proceedings for eviction under sub-Section (1), the [Tehsildar] [Substituted by Rajasthan Act No. 5 of 2007 vide Notification No. F. 2(6) Vidhi/2/2007, dated 1.6.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/P. 295/H. 241 for the word: 'Collector'.] shall cause to be served on the person reported to be occupying or continuing to occupy land without lawful authority, a notice specifying such land and calling on him to appear and show cause why he should not be evicted therefrom. (4) In any of the following cases, namely-(i) where the trespasser neither vacates the land nor makes appearance in response to the notice issued under sub-Section (3); or (ii) where in response to such notice the trespasser does not vacate the land and makes appearance but-(a) does not show any cause; or (b) makes any representation which is rejected after such enquiry and hearing as may be necessary in the circumstances of the case; the [Tehsildar] [Substituted by Rajasthan Act No. 5 of 2007 vide Notification No. F. 2(6) Vidhi/2/2007, dated 1.6.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/P. 295/H. 241 for the word: 'Collector'.] shall, unless in the case covered by clause (ii) above the trespasser undertakes

to vacate the land within a week's time and vacates it within such time, order the removal of the trespasser from such land and shall remove, or depute any person to remove him therefrom and take possession thereof.]

23. Penalties.

- If any person without permission of an officer of the grade to be specified by the State Government:- (a) clears or breaks up for cultivation or cultivates any land which is not included in any tenancy or allotted residential enclosure or which has been set apart for the common purposes of a town or village community or section of the same or for a road, canal or water course; or (b) erects [any building or any other structure for any purpose whatsoever] [Inserted by Rajasthan Act No. 38 of 1958.] on any such land; or (c) fells or otherwise destroys standing trees on such land; or (d) otherwise encroaches on any such land; or (e) makes an excavation or constructs a water channel on any such land, he shall, on complaint made by order of or under authority from the Collector, be punished on conviction by a Magistrate with a fine not exceeding Rs. 500/-. Explanation. - The felling of trees planted by a tenant on any village road or water course traversing his holding is not an offence under this section.

24. Additional powers of Collector in regard to offences.

- When the Collector is satisfied that an act punishable under section 23 has been committed, he may in lieu of proceedings against the offender under that section or after conviction of the offender under that section- (i) in the case of an offence under section 23 (a), confiscate the crops growing on any land cultivated in contravention of this Act, or if the crops have been cut recover such sum as he may assess as the value thereof from the offender; (ii) in the case of an offence under section 23 (c) recover such sum as he may assess as the value of the tree or trees destroyed; (iii) in the case of an offence under section 23 (b), (d) or (e), cause the building or other encroachment to be demolished or removed or the excavation or channel to be filled up, and levy the cost of so doing from the person responsible for such act.

25. Jurisdiction of Civil Court barred as regards matters arising under the Act.

- A Civil Court shall not have jurisdiction in any matter which the [Collector or Tehsildar is empowered] [Substituted by Notification No. F. 2(6)Vidhi/2/2007, dated 31.5.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/page 295/H. 241 for the expression: 'Collector is empowered'.] by this Act to dispose of and shall not take cognizance of the manner in which the [State Government or Collector or Tehsildar] [Substituted by Notification No. F. 2(6)Vidhi/2/2007, dated 31.5.2007-Rajasthan Gazette, Extraordinary, Part IV-A, dated 1.6.2007, page 5(1). = 2007 RSCS/Part II/page 295/H. 241 for the expression: 'State Government or Collector'.] or any officer exercises any power vested in it or in him by or under this Act.

26. Public servants indemnified for acts done under this Act.

- No suit shall lie against the State Government or any public servant for anything done in good faith under this Act.

27. Legislation of orders passed previously to the Act.

- Any act hitherto done or order passed by the State Government or by any officer appointed for colonisation of a colony or by any other officer within any area to which this Act may be applied, which is not contrary to the provisions of this Act, shall be deemed to have been done or passed under this Act.

28. Power to make rules.

- The State Government may, by notification in the [Official Gazette] [Substituted by Rajasthan Act No. 27 of 1957.] make rules generally for carrying into effect the provisions and purposes of this Act and in particular for all matters which are required by this Act to be prescribed or which may be prescribed thereunder.

29. Rules etc. subject to rescission or modification by resolution of State Legislature.

- Every rule made, and every statement of conditions or notification issued, by the State Government under any provision of this Act shall be laid before the House of the State Legislature at the Session thereof next following and shall be liable to be rescinded or modified by a resolution of that House; and the rescission or modification so made shall, after publication by notification in the [Official Gazette] [Substituted by Rajasthan Act No. 27 of 1957.], be deemed to have come into force.

30. [[Omitted by Rajasthan Act No. 27 of 1957.]

x x x]The ScheduleConditions applicable to holders of Khatedari rights in land since before the commencement of the Act.

1. Exceptions of channels and rights to minerals. - The Stale Government hereby absolutely except and reserves to itself out of and in respect of the land held by a tenant in Khatedari rights since before the commencement of this Act-

(i)all grounds situated in the said land or any part thereof already marked out, excavated or otherwise utilised for distributory channels, and(ii)all existing rights to and over all mines and minerals, coals, gold-washings, earth-oil and quarries in or under the said land or any part thereof, together with all easements hereto enjoyed by the State Government in respect of the said land or

any part thereof. It likewise except and reserves the right of the public to use existing thoroughfares traversing the said land or any part thereof including a width of five feet on either side of survey base line, and also any lines of road which, though not yet made, have been marked out upon the ground or which may be planned in future during colonisation and consolidation operations.

2. Power of the Government to enter to search minerals etc. - The tenant shall at all times permit the officers of the State Government to enter and do all acts and things that may be necessary and expedient for the purpose of searching for, working, getting or carrying away any such mines and minerals, coals, gold washings, earth-oil and quarries, and for the full enjoyment of the ground and of the rights hereinbefore reserved to the State Government to and over all mines and minerals, coals, gold-washings, earth-oil, quarries and easements in or under the said land and all parts thereof.

3. Compensation for damage by entry. - The State Government shall pay the tenant compensation for all damage occasioned by the exercise of the rights reserved itself in clauses (1) and (2) and such compensations shall be assessed by the Collector, and if the tenant is not satisfied with the finding of the Collector, he may appeal to the [revenue appellate authority] [Substituted by Rajasthan Act No. 8 of 1962.] whose order shall be final.

4. Demarcation of boundaries. - The tenant shall duly comply with such directions as the Collector shall from time to time issue requiring him to construct boundary marks on the limits of the said land or any part thereof and shall keep them, when erected, in good repairs to the satisfaction of the Collector.

5. Settlement of disputes. - In the event of any dispute arising between the State Government and the tenant as to the property and rights hereby reserved to the State Government or as to any matter in any way relating thereto, or as to any of the conditions of the tenancy, or as to any matter or thing connected therewith, the said dispute shall be referred to the [Board] [Substituted by Rajasthan Act No. 8 of 1962.] whose decision shall be final and conclusive between the State Government and the tenants.