

The Jammu and Kashmir Big Landed Estates Abolition Act, 2007 (1950 A. D.)

JAMMU & KASHMIR

India

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Act 17 of 2007

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The Jammu and Kashmir Big Landed Estates Abolition Act, 2007 (1950 A. D.) Act No. 17 of 2007 [Promulgated by Shree Yuvaraj under section 5 of the Jammu and Kashmir Constitution Act, 1996, and published in the Government Gazette dated 1st Kartik, 2007.] An Act to provide for the Abolition of Big Landed Estates and their transfer to actual tillers. Whereas no lasting improvement in agricultural production and efficiency is possible without the removal of intermediaries between the tiller of the soil and the State ; And whereas for the achievement of this objective it is expedient to provide for the abolition of such proprietors as own big landed estates and to transfer the land held by them to the actual tillers. Now, therefore, in exercise of the powers vested under section 5 of the Jammu and Kashmir Constitution Act, 1996, read with the Proclamation issued by His Highness and published in the Extraordinary issue of the Government Gazette dated the 7th Har, 2006, Shree Yuvaraj Karansinghji Bahadur is pleased to enact as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Jammu and Kashmir Big Landed Estates Abolition Act, 2007. (2) [It shall extend to the State of Jammu and Kashmir and shall also apply to the lands owned or held by or on behalf of Maharaja Hari Singh.] [Sub-section (2) of section 1 substituted by Act No. III of 1955.] (3) It shall come into force from the date it is published in the Government Gazette.

2. Definitions

- In this Act, unless there is anything repugnant in the subject or context, -(a) "land" means land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes-(i) the sites of building and other structures on such land ;(ii) trees standing on such land ;(iii) areas covered by or fields floating over water ;(iv) sites of

jandars and gharats ; and(v)[forest lands and wooded wastes] [Clause (v) inserted by Act No. XV of 2008.] ;but does not include the site of any building in town or village, abadi or any land appurtenant to such building or site ;(b)"proprietor" means a person owning the land, and includes-(i)an inferior land-owner ;(ii)a person who is recorded as qabiz in respect of the holding of ghair-hazir or ghair-qabiz in the revenue record ; and(iii)the successor-in-interest of a proprietor :[provided that in case of land owned by a joint Hindu family only the father with his male lineal descendants in the male line of descent shall, where he is alive on the date this Act comes into force, be deemed to be the person owning the land ;] [Proviso to clause (b) added by Act No. XXXV of 2011.](c)"prescribed" means prescribed by rules made under this Act ;(d)"tiller" means a person who tills land with his own hands, and with reference to the land held by a proprietor has, on the date of the commencement of this Act, been in cultivating possession of such land and includes a tenant who, after 1st Baisakh, 2004, has been ejected otherwise than in due course of law or has ceased to cultivate the land owing to reasons beyond his control ; but does not include-(a)a trespasser ;(b)a servant who is paid in cash or kind for his services ;(c)a person who is not the actual beneficiary ; and(d)a hired labourer ; and(e)words and expressions not defined in this Act shall have the meaning assigned to them in the Jammu and Kashmir Land Revenue Act, 1996, the Jammu and Kashmir Tenancy Act, 1980, and the Code of Civil Procedure, 1977.

3. Act not to apply to certain lands.

- Nothing in this Act shall apply to-(a)any land which is occupied as the site of a town or village and is not assessed to land revenue ;(b)any revenue-paying land occupied, used or transferred after the Samvat year [1990] [Substituted by Act No. XV of 2008 for '1950'.] for building purposes situate in an area declared as a municipality or notified area under the provisions of the Jammu and Kashmir Municipal Act for the time being in force, or a cantonment under the provisions of the [Jammu and Kashmir Cantonment Act, 1991,] [Now Cantonments Act 1924.] or a town area under the provisions of the Jammu and Kashmir Town area Act for the time being in force, or in an area in which a town planning scheme is sanctioned under the Jammu and Kashmir Town Planning Act, 1997, or in such villages in the vicinity of a city or town as are specified by the Government ; and(c)any land owned by the State or any department of the State or any local body or a Co-operative Society registered under the provisions of the [Jammu and Kashmir Co-operative Societies Act, 1993] [Now Jammu and Kashmir Co-operative Societies Act, 1960.], other than land which was owned by a person declared as an enemy agent and has since been forfeited to the Government under the Enemy Agents (Confiscation of Property) Ordinance, 2004.

4. Extinction of the right of ownership in certain lands.

(1)Notwithstanding anything contained in any law for the time being in force, the right of ownership held by a proprietor in land other than land mentioned in sub-section (2) [as according to the village records] [Inserted by Act No. XXI of 2009.] shall, subject to the other provisions of this Act, extinguish and cease to vest in him from the date this act comes into force :[Provided that the right of ownership held by a proprietor in land covered by sub-clause (v) of clause (a) of section 2 shall extinguish and cease to vest in him from the date the [Big Landed Estates Abolition (Amendment) Act, 2008] [Proviso to section 4 (1) added by Act No. XV of 2008.], is published in the Government

Gazette, and such proprietor shall have the right to exchange such land with the unit of land for which he has exercised his right of selection under clause (a) of sub-section (2)].(2)Extinction of the right of ownership under sub-section (1) shall not apply to-(a)unit of land not exceeding 182 kanals including residential sites, Bedzars and Safedzars ;(b)Kah-Krisham areas, Araks, Kaps and [such lands including those used for raising fuel or fodder, as are un-culturable] [Substituted by Act No. XV of 2008 for 'unculturable wastes including those used for raising fuel or fodder'.] ; and(c)orchards :Provided that the Government may dispose of the land mentioned in clause (b) in such manner as may be recommended by the Committee that shall be set up for this purpose.(3)Every proprietor, and in case of a proprietor who is an evacuee as defined in the Jammu and Kashmir State Evacuees (Administration of Property) Act, 2006, the Custodian shall have the option, subject to the provisions of section 14, to select the land mentioned in clause (a) of sub-section (2).

5. Transfer of land to tillers.

(1)Ownership rights of such land of a proprietor of which the right of ownership is extinguished under section 4 and of land (other than orchards) that was owned by a person declared as an enemy agent and has since been forfeited to [the Government] [Substituted by Act No. XXXV of 2011 for 'His Highness'.] under the Enemy agents (Confiscation of Property) Ordinance, 2004 shall be transferred to the tiller of such land to the extent of their actual possession in Kharif 2007 :Provided that no tiller shall, with the land so transferred and that which he already owns, possess more than 160 kanals in ownership right :Provided also that no land shall be transferred to such tiller as are not State Subjects as defined in the Judicial Department Notification No. 1-L/84, dated the 20th April, 1927 :Provided also that no land shall be transferred to such tiller of the land owned by a proprietor who is an evacuee as defined in the Jammu and Kashmir State Evacuees' (Administration of Property) Act, 2006, as was not a tenant of such land [immediately] [Inserted by Act No. XXXV of 2011 for 'His Highness'.] prior to Rabi, 2004.(2)[The tiller, to whom land is transferred under sub-section (1) shall ; be liable to pay in respect of such land-(a)land revenue and other dues for the time being in force [xxx] ;(b)revenue already assessed on fruit trees including walnut ;(c)revenue on fruit trees (including walnut) not hitherto assessed to revenue or those planted after the last settlement at the following rate, namely :-(i)in the province of Kashmir and the Districts of Ladakh and Gilgit, at the Bachh rate of the same kind of trees in the neighbouring village or if that is not available at such rate as may be fixed by the Revenue Minister ; and(ii)in the Province of Jammu at the rate of four annas per tree of the following classes only :-mango, apple, walnut, orange and pear :Provided that no revenue shall be payable for such trees already assessed to revenue separately or in Bachh as have been cut by the expropriators before the commencement of this Act.The provisions of this sub-section shall be deemed to have effect from the date on which the Jammu and Kashmir Big Landed Estates Abolition Act, 2007, came into force] [Sub-section (2) substituted by Act No. XXXV of 2011 for 'His Highness'.].(3)The transfer of ownership under sub-section (1) shall not affect the joint liability of the entire estate or of the land holders thereof, for the revenue payable after such transfer in respect of the land in cases where under section 54 of the Land Revenue Act, 1996, such liability exists.(4)[The land revenue to the payment of which the lands transferred shall be liable, shall be reckoned a village revenue rates and where no such rates by classes of soil are available or where such rates are found to be lower than those obtaining in any of the village or villages

adjourning the village in which the lands so transferred are situate, at such rates as may be sanctioned by the Revenue minister, and shall be deemed as if it were fixed under chapter VI of the land Revenue Act, 1996, and as if the land so transferred had been settled with the tillers to whom lands are transferred :Provided that the village revenue rates sanctioned by the Revenue Minister shall in no case exceed the highest Bachh rates adopted during the last Settlement for the same classes of soil in the villages within the Assessment Circle in which the lands so transferred are included.] [Sub-section (4) substituted by Act No. XV of 2008.](5)[Nothing in this section shall preclude the Government, at any time to revise the quantum of land transferred to the tillers, and when such revision is made the land left with or transferred to the tillers shall be deemed, as if it had been transferred under the provisions of this section and to which all the provisions of this Act shall apply.] [Sub-section (5) substituted by Act No. XXXV of 2011.](6)Notwithstanding anything contained in sub-section (1) or any other provisions of this Act-(1)a person who possessed a right of occupancy in land, of which the right of ownership is extinguished, shall be granted in ownership right an unit of-(a)one-fourth in the Province of Kashmir and in the Districts of Ladakh and Gilgit ; and(b)one-third or twenty kanals, whichever is great in the Jammu Province ;of such land subject to the following conditions, namely :-(i)if there were more than one person having a right of occupancy as co-sharers in such land and a portion thereof was in the cultivating occupation of any such co-sharer or co-sharers, the ownership right shall, to the extent of such unit, be granted to all the co-sharers [severally] [Substituted by Act No. XX of 1972 for 'jointly'.] and in the area exceeding such unit to the cultivating co-sharer or co-sharers exclusively and the remaining land, if any, shall be transferred to the tillers to the extent of their actual possession in Kharif, 2007 ;(ii)where occupancy tenants of grade B were personally cultivating such land and occupancy tenants of grade A were non-cultivating, the right of ownership shall, to the extent of such unit, be granted equally to the occupancy tenants of both grades and in the area exceeding such unit to the cultivating, occupancy tenants or tenants exclusively and where the occupancy tenants of grade A and grade B were both non-cultivating, the right of ownership shall, to the extent permissible, be granted equally to tenants of both classes and in the area exceeding that unit to the tillers to the extent of their actual possession in Kharif, 2007 ;(2)where land, of which the right of ownership is extinguished, was held jointly by proprietors one or more than one of whom are evacuees as defined in the Jammu and Kashmir State Evacuees' (Administration of Property) Act, 2006, it shall be transferred to the tillers in the following order, namely :-(a)firstly, to the extent of the share of the evacuee proprietor or proprietors, to those who also held such land in cultivating possession as tenants during Rabi, 2004 ;(b)secondly, to the extent of the share of the non-evacuee proprietor or proprietors, to those who began cultivation after Rabi, 2004, priority being determined by the comparative antiquity of cultivating possession (after Rabi, 2004):Provided that where the share of land from which, an evacuee proprietor is expropriated, be less than what is held in cultivating possession by tillers, who were also in cultivating possession as tenants during Rabi, 2004, the land, from which a non-evacuee proprietor is expropriated, shall be transferred to such tillers as were also in cultivator possession during Rabi, 2004 and to whom no land is transferred from out of the expropriated land of the evacuee proprietor, and the remaining land, if any, shall be transferred to such tillers, as have been entered in cultivating possession after Rabi, 2004, on the basis of comparative antiquity of cultivating possession- (after Rabi, 2004) ;(3)the provisions of clause (2) shall apply mutatis mutandis to such land (of which the right of ownership is extinguished) as was held jointly by an evacuee proprietor and a proprietor declared as an enemy agent, whose land was forfeited under the

Enemy Agent (Confiscation of Property) Ordinance, 2004.

6. Lands of which there are no tillers.

(1)(a)All lands of which the right of ownership is extinguished under section 4 and which are not in the cultivating possession of, or cannot, under the provisions of section 5, be transferred to any tiller [or which are transferred to any tiller but are lying vacant on the date this Act comes into force, and are not brought under cultivation owing to circumstances beyond his control within a period of 3 years from such date] [Inserted by Act No. XXXV of 2011.] ; and(b)all lands which were owned by persons declared as enemy agents and have since been forfeited to [the Government] [Substituted by Act No. XXXV of 2011 for 'His Highness'.] under the Enemy Agents (Confiscation of Property) Ordinance, 2004, and are not in the cultivating possession of, or cannot, under the provisions of section 5 be transferred to any tiller, shall vest in the State from the date of the commencement of this Act.(2)The lands mentioned in sub-section (1) may be utilised in such manner as the Government decide, or the Government may, in respect of the lands mentioned in clause (a) of sub-section (1), permit the ex-proprietor to retain possession of the land, subject to such terms and conditions as are settled by the Revenue Minister, or an officer authorised by him in this behalf.(3)The permission to retain Possession as contemplated by sub-section (2) shall create no right or title in such land, and notwithstanding anything contained in any enactment for the time being in force, the Revenue Minister, or an officer authorised by him in this behalf, may fix any rent for the use and occupation of such land :Provided that such rent shall in no case be less than the land revenue assessed at village rates plus cesses and other dues that were paid by such expropriator immediately before the date the right of ownership of such land was extinguished.

7. Description of lands owned by a proprietor.

- For purposes of sub-section (1) of section 4, the land owned by a proprietor shall include-(i)lands of any class held or acquired in ownership by the proprietor ;(ii)[partible Shamilat lands held by the proprietor] [Substituted by Act No. XXXV of 2011 for 'Shamilat land held by the proprietor'.] to the extent of his share, whether amalgamated with and entered in his ownership holding as a result of portion or entered in his name under an undivided Shamilat holding ;[Explanation. - "partible Shamilat land" means such land as is capable of being partitioned and excludes such Shamilat as is used for common purposes of the villagers, such as grazing ground, graveyard, cremation ground, kuhls, thoroughfares and land under mosques and temples ;] [Explanation added by Act No. XXXV of 2011.](iii)lands mortgaged with or without possession or leased out by the proprietor ;(iv)lands owned by the proprietor which have been transferred or let in farm under the provisions of the Jammu and Kashmir Land Revenue Act, 1996, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear which had accrued in respect of such lands ; and(v)lands which after the date of the commencement of the Land Alienation (Temporary Powers) Restriction Ordinance, 2005, in the Kashmir Province and after the date of the commencement of the Jammu Province Land Alienation (Temporary Powers) Restriction Ordinance, 2006, in the Province of Jammu, have without any valid authority, been transferred by the proprietor by sale, gift, bequest, [x x x] [Words 'partition will' deleted by Act No. XV of 2008.] family settlement or exchange made for the purpose of consolidation of holdings :[Provided that such exchanges as have been acted upon

and are agreed to by the parties, shall notwithstanding anything contained in the Ordinances aforementioned and in section 138 of the Transfer of Property Act, 1977, be deemed to be valid transfers :] [Proviso added deleted by Act No. XV of 2008.][Provided further that every transfer or other disposition of land, whether by act of parties or otherwise [made before 1st Kartik, 2007] [Substituted by Act No. XXI of 2009 (second proviso was added by Act No. XV of 2008).], but not earlier than 1st Baisakh, 2005, shall be deemed to be void and shall be deemed to be void and shall not be given effect to, if, for reasons to be recorded in writing, an Assistant Collector of the 1st class, acting under the provisions of this Act, considers such transfer or disposition not to have been made bona fide or to have been made with a view to defeat the provisions of this Act.]

8. Disputes relating to the description or the area of the aggregate land.

(1) If a proprietor or teller were to dispute the correctness of description on or the area of any land referred to in section 7 held by him he may, within two months of the date of the commencement of this Act, prefer an application on a court-fee stamp of Rs. 2 to such officer as is appointed by the Revenue Minister in his behalf and file with it all the relevant record on which he relies in support of his claim. (2) The officer so appointed shall, after such enquiry as he deems necessary, record his decision in the case.

9. [Consequences of transfer. [Section 9 substituted by Act No. XXXV of 2011.]

- Notwithstanding anything contained in any contract or in any law for the time being in force, and save as otherwise provided in this Act, the consequences as hereinafter set forth shall ensue in respect of land, of which the right of ownership is extinguished under section 4, namely :-(a) all rights, title and interest of the proprietor in respect of such land including trees, wells (other than private wells), tanks, ponds, water channels or khuls and pathways, except right in any water-mill or jandar, shall cease and be vested upon transfer, under section 5 in the tiller, or in the State, as the case may be, free from all encumbrances ;(b) all arrears of revenue, cesses or other dues under any enactment or Government order or rule for the time being in force and all outstanding Taccavi loans due from the proprietor in respect of such land shall be remitted ;(c) all grants, rights privileges and interests made or created by the proprietor or existing otherwise, in respect of such land or its land revenue, except assignments of land revenue for religious purposes made by the State, shall terminate ;(d) all suits and proceedings in respect of such land pending in any Court on the date of the commencement of this Act and all proceedings taken upon any decree or order passed in any such suit or proceedings shall abate and the right or title claimed in any such suit or proceedings shall be determinable under the provisions of section 16 of this Act :][Provided that nothing herein contained shall affect the right of any person, being a proprietor of any land, to continue to enjoy any right of way for the beneficial enjoyment of the land, as he was enjoying on the date immediately preceding the date of such transfer or vesting.] [Proviso to section 9 added by Act No. IX of 1956.]

10. Lands mortgaged or leased out by the proprietor.

- Notwithstanding anything hereinbefore contained, when any land, of which the right of ownership is extinguished under the provisions of section 4, is found to have been mortgaged or leased by the proprietor, it shall subject to the other provisions of this Act, be transferred to the tiller in the following manner :- (a) in case such land is in the personal cultivation of the tiller who is also a mortgagee or a lessee, it shall vest in him in ownership right free from other encumbrances, if any, and the mortgage or lease, as the case may be, shall terminate ; and (b) in case such land is not in the personal cultivation of the mortgagee or the lessee it shall be transferred to the tillers thereof in ownership right free from all encumbrances, and the encumbrances on such land shall be shifted to the estate of which the ownership right of the proprietor is left intact under sub-section (2) of section 4, as if the same land had been mortgaged or leased by the proprietor to the mortgagee or the lessee, as the case may be, [to such extent and in such manner as is determined under the provisions of sections 10-A, 10-B and 10-C.] [Added by Act No. XXI of 2009.]

10A. [Power of Collector to determine the equity of the mortgage. [Section 10-A added by Act No. XXI of 2009.]

(1) Subject to the provisions of section 10 of this Act it shall be lawful for the Collector to make the mortgage in one of the following forms- (a) if the mortgage was already a usufructuary mortgage, in the same form of mortgage by which the mortgagor delivers to the mortgagee possession of such portion of the land as will leave a reasonable margin of subsistence with the mortgagor according to the productive capacity of such land as also his financial conditions, and authorises him to retain such possession and receive the rents and benefits of the land in lieu of interest and towards payment of the principal as determined by the Collector on the condition that after expiry of the term as may be determined by the Collector but which shall not exceed the term already agreed upon in the mortgage-deed or if the term agreed on exceeds 21 years, on the expiry of 21 years from the date on which the possession of the land was transferred, the mortgage shall be extinguished and the land shall be re-delivered to the mortgagor ; or (b) if the mortgage was already without possession, in the same form of mortgage subject to the condition that if the mortgagor fails to pay principal and interest, as determined by the Collector, the mortgagee may apply to the Collector to place him in possession for such term, not exceeding 21 years as the collector considers to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due, not exceeding the amount claimable as simple interest at such rate and for such period as the Collector thinks reasonable ; or (c) if the mortgage was already a written up usufructuary mortgage, in the same form of mortgage by which the mortgage retains possession with himself and recognises the mortgagee as his landlord subject to the payment of such rent as may be agreed upon, not exceeding double the amount of the land revenue assessed on the tenancy plus the rates and cesses chargeable thereon and for such term as may be determined by the Collector to be equitable, the mortgagor having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor, except on the grounds provided in the Jammu and Kashmir Tenancy Act, 1980. (2) If in the case of a mortgage in form (c) the mortgagor is ejected or relinquishes or abandons cultivating occupation of the land, the mortgage shall take effect

as a usufructuary mortgage in form (a) for such term, not exceeding 21 years, from the date of the ejectment, relinquishment or abandonment, and for such sum of money as the Collector may consider to be reasonable.(3)The Collector, if he makes the mortgage in the form provided in sub-section (1) (b), shall have the power to eject the mortgagor and to place the mortgagee in possession.(4)In the case of mortgages made under this section-(i)no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent ;(ii)if the mortgage is in form (a) or form (b), then at the end of the fixed period of possession the mortgage debt shall be extinguished ;(iii)the mortgagor may redeem his land at any time during the currency of the mortgage on payment of the mortgage debt or in the case of a mortgage in form (a) or form (b) of such proportion of the mortgage debt as the Collector determines to be equitable ;(iv)in the case of a usufructuary mortgage the mortgagee shall not be deemed to bind himself personally to repay the mortgage money ; and(v)if a mortgagor who has applied to the Collector under sub-section (3) proves to the satisfaction of the Collector that he has paid the mortgage debt as the Collector has determined to be equitable or deposits with the Collector the amount of such mortgage debt or of such proportion thereof, the redemption of the land shall be deemed to have taken place and the Collector shall eject the mortgagee, if in possession, and as against the mortgagee place the mortgagor in possession.]

10B. [Power of the Collector to determine the equity of the lease. [Section 10-B and 10-C added by Act No. XXI of 2009.]

- Subject to the provisions of section 10 of the Act, the lease shall operate in respect of such portion of the land as will leave a reasonable margin of subsistence with the lessor according to the productive capacity of such land as also his financial conditions and for such amount and for such term, not exceeding the term already agreed upon in the lease-deed or if the term agreed on exceeds 21 years, not exceeding 21 years as may be determined by the Collector.

10C. Power of the Collector to eject mortgagee or lease after the expiry of the term of the mortgage or lease.

- If a mortgagee or lessee holding possession under a mortgage under section 10-A or under a lease under section 10-B remains in possession after the expiry of the term for which he is entitled to hold under his mortgage or lease, the Collector may, on his own motion, or on the application of the person entitled to possession, eject such mortgagee or lessee and place the person so entitled in possession.]

11. Lands transferred or let in form in default of payment of land revenue.

(1)When any land of which the right of ownership is extinguished under the provisions of section 4, is found to have been transferred or let in farm under the provisions of the Jammu and Kashmir Land Revenue Act, 1996, for the recovery of an arrear of land revenue or of a sum recoverable as "such an arrear which had accrued in respect of that land, it shall, if the transferee or the lessee be a tiller in actual cultivating possession of such land, be transferred to him in ownership right subject

to the payment by such tiller of any arrears of land revenue or any dues of sums which he may be liable to pay in accordance with the conditions upon which the land was so transferred or let in farm to him.(2)If such transferee or lessee is not in actual cultivating possession of land it shall, subject to payment to him of such compensation as is determined by an officer specially authorised by the Revenue Minister in this behalf, be transferred in ownership right to the actual tellers thereof.(3)Compensation under sub-section (2) shall be payable by the tillers to whom land is transferred in ownership right in such manner as may be prescribed.

12. Authority to implement transfer.

- [(1)] [Existing section 12 numbered as sub-section (1) by Act No. XXI of 2009.] At any time after the commencement of this Act it shall be lawful for the Revenue Minister or any officer appointed by him in this behalf-(a)to take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of the Revenue Minister or the officer so appointed, be necessary to implement the transfer of land to tillers as provided, in section 5 or the vesting in the State of the ownership of lands as provided in sub-section (1) of section 6 ;(b)to enter upon and search any land, building or other place forming part of any land transferred under the provisions of this Act and make a survey or take measurement thereof or do any other act which he considers necessary for carrying out the purposes of this Act ;(c)to require any person to produce to such authority as may be specified, any books, accounts or other documents relating to any land or pat thereof and to furnish to such authority such other information as may be specified or demanded ; and(d)if the books, accounts and other documents are not produced as required, to enter upon any land, building or other place and seize and take possession of such books, accounts and other documents.(2)[If in implementing the transfer of land under sub-section (1) any tiller has been put in possession of land mutated in his ownership or the possession on such land vested in the State has been removed, any subsequent possession on such land by the ex-proprietor or any person, except under an order of a competent Court or authority, shall be unlawful and shall confer no right or title upon the occupier, and the Revenue Minister or any person appointed by him in this behalf, may, on an application presented to him or suo moto, eject such proprietor or such other person and restore possession of such land to the rightful person.] [Sub-section (2) added by Act No. XXI of 2009.]

13. Private wells, water-mills and buildings to belong to the existing owner thereof.

- All private wells, water-mills, jandars and all buildings situate within the lands transferred under the provisions of section 5 or vested in the State under the provisions of section 6, belonging to or held by the proprietor whether residing in the village or not, shall continue to belong to or be held by such proprietor and he shall also be entitled to all easements with respect of enjoyment thereof :[Provided that notwithstanding anything contained in this Act, where a water-mill or jandar is held in possession by any person other than the proprietor, it shall be transferred in ownership right to such person subject to the following conditions, namely :-(a)that such water-mill or jandar was held in possession by such person on 1st of Kartik, 2007 ;(b)if the structure of such water-mill or jandar has been built by the proprietor at his own cost, the cost thereof as ascertained by a revenue officer

not below the rank of a Tehsildar shall be paid to him by such person before the transfer ; and(c)if such water-mill or jandar has been included by the proprietor within his unit of 182 kanals or retained by him as un-culture-able land under the provisions of clause (a) of sub-section (2) of section 4, he shall be given an option of selecting an equal area from out of the village khalsa, and such khalsa area will be transferred to him in ownership right.]

14. Demarcation of land left with, proprietors.

- [(1)] [Section 14 numbered as sub-section (1) by Act No. XV of 2008.] An Assistant Collector of the 1st Class or any other officer not below the rank of a Tehsildar authorised by the Revenue Minister in this behalf shall, as soon as may be after this Act comes into force, serve a notice on the proprietor, and in the case of a proprietor who is an evacuee as defined in the Jammu and Kashmir State Evacuees' (Administration of Property) Act, 2006, on the Custodian to select the land mentioned in clause (a) of sub-section (2) of section 4 and intimate to him the khasra numbers and the area thereof within such period as may be specified, and shall-(a)if such proprietor complies with the notice, direct that the land so selected be immediately demarcated on spot ; and(b)in case such proprietor fails to comply with the notice, himself reserve the land for such proprietor, and the land so reserved shall be deemed as if it had been selected by such proprietor himself.(2)[The order passed under sub-section (1) shall be communicated to such proprietor.] [Substituted by Act No. XV of 2008 for the last sentence of original section 14.](3)[The selection of land and demarcation by the proprietor under sub-section (1) shall not affect any right of easement which is essential for the enjoyment of land transferred in ownership right to a tiller and to which the ex-proprietor had been entitled if such transfer had not been made to the tiller.(4)Nothing in this section shall be construed to take away the right of a tiller to any building belonging to him and situate on the unit of land selected by the proprietor.] [Sub-sections (3) and (4) added by Act No. XXI of 2009.]

15. Procedure for making records.

- The transfer of land under section 5 [or the vesting of land in the State under section 6] [Inserted by Act No. XXXV of 2011.] shall be recorded in the same manner in which the acquisition of any interest in land is recorded under Chapter IV of the Land Revenue Act, 1996.

16. Determination of disputes.

(1)If during the making, revision or preparation of any record or in the course of any enquiry under this Act a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a revenue officer not below the rank of an Assistant Collector of the 1st class may, of his own motion, or on the application of any party interested, and after such enquiry, as he thinks fit, determine the entry to be made as to that matter.(2)If in any such dispute the revenue officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by enquiry [who is the person who has remained in actual possession for a longer duration within the period between Rabi, 2005, and 1st Kartik, 2007] [Substituted by Act No. XV of 2008 for 'who is the person best entitled to the property'.], and shall by order direct that person be put in possession thereof, and an entry in accordance with that order

be made in the record or register.(3)[Any order passed under section 15 or this section shall, subject to the other provisions of this Act, be deemed to be the final determination of the right or title in respect of land about which an entry is to be made in the record or register.] [Sub-section (3) inserted by Act No. XXXV of 2011.]

17. Presumption regarding entries in the records of rights and annual records.

- Subject to the provisions of sections 18 and 19, every entry in the record of rights or annual record prepared or revised under the provisions of the Land Revenue Act, 1996, shall, unless the contrary is proved, be deemed to describe correctly the rights, title and interest of every proprietor in the land to which it relates :Provided that any modification, alteration or correction made in the record-of-rights or annual record, whether before or after the date of the commencement of this Act under the provisions of the Land Revenue Act, 1996, or as a consequence of any decree or order of any Court, shall be taken into account.

18. Correction of clerical error or arithmetical mistake in the records.

- Notwithstanding anything contained in the Land Revenue Act, 1996, or any other law for the time being in force, if a revenue officer not below the rank of an Assistant Collector of the 1st class is satisfied that a clerical or arithmetical mistake or error apparent on the face of the record exists in the record-of-rights or in an annual record, he may, either on his own motion or on the application of any person interested, correct the same.

19. Application for correction of records.

(1)Notwithstanding anything contained in the Land Revenue Act, 1996, or any other law for the time being in force, any person who claiming to be entitled, as proprietor, to any interest in any land, disputes any entry in the record-of-rights or in an annual record or claims any omission therefrom, may, within three months from the date of commencement of this Act, apply in writing to revenue officer not below the rank of a [Collector] [Substituted by Act No. III of 2008 for 'an Assistant Collector of the first class'.] for the modification, correction and alteration of the entries in the record-of-rights or in any annual record by entering his name therein or omitting the name of any person therefrom or otherwise.(2)The revenue officer before whom the application under sub-section (1) is presented shall, after notice to the persons whose names exist in the record-of-rights or in any annual record and to any other person to whom notice in his opinion should be given, hear or dispose of the application in the prescribed manner, determine the nature and extent of the interest of the applicant and modify, correct or alter the record-of-rights or the annual records accordingly.

20. Interest of a proprietor or tiller not transferable and relinquishment by a proprietor or tiller.

- [(1) Except as otherwise provided in this Act and except where transfer is made in favour of Government, a [Local body, State Land Development Bank or Land Development Bank established under the provisions of the Jammu and Kashmir Co operative Societies Act, 1960, or a co-operative society registered under the said Act, or a Panchayat constituted under the Jammu and Kashmir Village Panchayat Act, 1958] [Sub-section (1) of section 20 substituted by Act No. XXXI of 1956. (For earlier amendments see Act No. XV of 2008 and Act No. XXXV of 2011.)], no tiller to whom land shall be transferred under the provisions of section 5 shall transfer such land or any interest therein :] [Proviso to section 13 added by Act No. XXI of 2009.][Provided that the transfer of land or any interest therein for building purposes within the limits of a Municipality, Town Area, a Notified Area, or a Cantonment Area or an area in which a Town Planning Scheme is sanctioned under the Jammu and Kashmir Town Planning Act, Svt. 1977, or in such villages in the vicinity of a city or town as may be notified by the Government, may be made with the permission in writing of the Revenue Minister.] [Proviso added after sub-section (1) of section 20 by Act No. XXXI of 1960.](2)(a)A proprietor, or a tiller, to whom land has been transferred under the provisions of section 5, may at any time apply in writing to the Revenue Minister for permission to relinquish all or any of the land held by him in ownership right in favour of the State.(b)The Revenue Minister may, after such enquiry as he may deem necessary, accept such application and notwithstanding any law for the time being in force in this respect, relinquishment of rights in such land and transfer thereof in favour of the State shall have effect from the beginning of the year next following.

20A. [Prohibition of transfer of land to non-State Subjects. [Section 20-A added by Act No. XXI of 2009.]

(1)Transfer of land in favour of any person who is not State Subject as defined in the Judicial Department Notification No. I-L/84, dated the 20th April, 1927, is prohibited except to an extent of four kanals required for residential purposes in the immediate vicinity of a town or a village, or in areas which are being or are likely to be developed as health resorts or trade or commercial centres and are declared as such by the Government by a notification in the Government Gazette :[Provided the transferee has obtained an Ijazatnama under the Ijazatnama Rules sanctioned under Council Order No. 804 of 1935.](2)Notwithstanding anything contained in any law for the time being in force, no right or title can accrue to a non-State-Subject by prescription in respect of such land as "has not been otherwise lawfully acquired by him.]

20B. [Prohibition of transfer in respect of Kah-Krisham, Araks, Kaps and other area. [Section 20-B inserted by Act No. XXXI of 1956.]

- Transfer of Kah krisham land, Arks Kaps and such lands including those used for raising fuel or fodder as are unculturable or any interest therein shall be prohibited and no documents relating to the transfer of such land shall be admitted to registration.]

21. Transfer in contravention of the Act.

- Transfer of any holding or part thereof in contravention of the provision of this Act shall be void.[22. Omitted.] [Section 22 and 23 omitted by Act No. XV of 2008.][23. Omitted.] [Section 22 and 23 omitted by Act No. XV of 2008.]

24. Extinction of the interest of a proprietor or tiller.

- If a proprietor, or a tiller, to whom land has been transferred under the provisions of section 5-(a)dies intestate leaving no heir entitled to inherit, or(b)transfers his land or part thereof, or any interest therein contravention of the provisions of this Act, or(c)being a tiller sublets [except for reasons beyond his control] [Inserted by Act No. XXXV of 2011.] for two successive harvests the land so transferred to him,his right of ownership in the land held by him or part thereof shall be extinguished and such land or part thereof shall escheat to Government.

25. Limit of the holding of a proprietor.

- Save as otherwise provided for in this Act, no proprietor shall at any time hold more than 182 kanals of land [excluding land mentioned in clauses (b) and (c) of sub-section (2) of section 4] in ownership right and no tiller to whom land has been transferred under the provisions of section 5, shall at any time hold more than 160 kanals of land in ownership right and any interest or right in land devolving upon such proprietor or tiller by custom or under any law for the time being in force shall, to the extent that it exceeds 182 kanals [excluding land mentioned in clauses (b) and (c) of sub-section (2) of section 4] or 160 kanals, as the case may be, be extinguished and shall escheat to Government.

26. [Payment of annuity but no compensation. [Section 26 substituted by Act No. XXI of 2009.]

- No compensation shall be paid in respect of land from which expropriation has taken place under this Act, but for the period hereinafter mentioned, the Government shall pay annuity to the ex-proprietors in the following manner, namely :-(a)for Kharif, 2007 - Rabi, 2008, an amount of $\frac{3}{4}$ th of the land revenue per annum on the land from which expropriation has taken place ; and(b)for Kharif, 2008, at the rate of $\frac{2}{3}$ rd of such land revenue calculated for Kharif harvest :Provided that the amount so payable shall not in any case exceed a sum of Rs. 3,000 per annum :Provided further that no such amount shall be payable in respect of any area held or appropriated by the proprietor from land recorded as Shamilat Deh.][27. Omitted.] [Section 27 omitted by Act No. 1 of 1955.]

28. Powers of revenue officers.

- Unless where the class of the revenue officer by whom any function is to be discharged is specified in this Act, the Government may, by notification, determine the function to be discharged under this

Act, by any class of revenue officers.

29. [[Section 29 omitted by Act No. XXXV of 2011 (for earlier amendment see Act No. XV of 2008).]

Omitted.]

29A. [Termination of the right of non-cultivating tenure-holders in lands left with the proprietors. [Sections 29-A and 29-B added by Act No. XV of 2008.]

- The Government may, in respect of the land of which the right of ownership is not extinguished under the provisions of this Act, 1996, the Government may revise the land revenue assessed on orchards and seed farms above 4 kanals :Provided that such revenue shall not exceed the highest assessment rates of arable land in the State.][29C. Omitted.] [Section 29-C omitted by Act No. XXXV of 2011. (For its insertion see Act No. XXI of 2002).]

30. [Appeal and Revision. [Section 30 substituted by Act No. XIII of 1956.]

(1)Save as otherwise provided by this Act, an appeal from an original order of a revenue officer shall lie as follows, namely :-(a)to the Collector when the order is made by an Assistant Collector of either class ;(b)to the [Commissioner] when the order is made by a Collector or Commissioner in appeal.(2)No appeal shall lie from an order made by a Collector or [Commissioner] [Now Divisional Commissioner.] in appeal.(3)The Financial Commissioner or [Commissioner] [Now Divisional Commissioner.] may call ; for the record of any case pending before disposed of by any revenue officer subordinate to him.(4)If in any case in which a [Commissioner] [Now Divisional Commissioner.] has called for the record he is of the opinion that the proceedings taken or the order made should be modified or reversed, he shall report that case with his report thereon for the orders of the Financial Commissioner.(5)The Financial Commissioner may, in any case called for by him under sub-section (3) or reported to him under sub-section (4), pass such order as he thinks fit.(6)Whenever it is made to appear to the Government that a case decided by the Financial Commissioner involves a substantial question of law or a question of public interest, it may, call for the record of the case and pass such order thereon as it thinks fit.(7)The period of limitation for an appeal under sub-section (1) shall be 60 days from the date of the order appealed against :Provided that in the District of Ladakh, Gilgit, Rajouri, Poonch and Doda and the Niabat of Amas in the Reasi Tehsil of Udhampur District, twice the period of limitation prescribed for appeal under this section shall be allowed.(8)Notwithstanding anything contained in this Act, all appeals and revision applications pending before the Revenue Minister on the, [date of commencement of the Jammu and Kashmir Land Revenue and Allied Laws (Amendment) Ordinance, 1956, shall be disposed of by him.] [Date of commencement of the Ordinance is 2nd February, 1956.]

30A. [Persons by whom appearances and applications may be made before and to revenue officers. [Section 30-A added by Act No. XV of 2008.]

- In the matter of appearances before a revenue officer and applications to and acts to be done before him, under this Act, the provisions of section 16 of the Land Revenue Act, 1996, shall apply :Provided that when an appellate or re-visional authority is holding office in a province other than the one to which an appeal or revision pertains, such appeal or revision may be presented before a revenue officer for transmission of the case of the appellant or the applicant, as the case may be, to such appellate or re-visional authority.]

31. General application of Land Revenue Act.

- Save as otherwise expressly provided in this Act, the provisions of the Land Revenue Act, 1996, shall, so far as may be, apply to all the proceedings taken under this Act, [and the Government or the Revenue Minister shall also be competent to review in accordance with that Act an order passed by it or him, as the case may be] [Omitted and added by Act No. VII of 1973, Section 2.].

32. Bar to jurisdiction of Civil or Revenue Courts.

- No suit or other proceedings shall lie in any Civil or Revenue Court in respect of any order or concerning any matter which is subject of any proceedings taken [under this Act.] [Substituted by Act No. XXXV of 2011 for 2011 for 'under sections 4, 5, 6, 8, 10, 11, 14, 26, 27 and 29 of this Act'.]

33. Protection of action taken under this Act.

(1)No suit, prosecution or other proceeding shall lie without the previous sanction of the Government against any person for any act done or purporting to be done under this Act or any rule made thereunder.(2)No officer or servant of the-Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith and in the course of execution of the duties, or the discharge of functions, imposed by or under this Act.(3)No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provisions of this Act or by any anything in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

34. Power of the Revenue Minister in case any difficulty arises.

- If any difficulty arises as to the implementation of or in adjusting the right and liabilities of proprietors or tillers under any of the provisions of this Act, the Revenue Minister may, by order, do or authorise doing of anything not inconsistent with this Act which appears to him to be necessary for the removal of any such difficulty.

35. Power of the Government to delegate authority.

- The Government may, by notification in the Government Gazette, delegate any of its functions or powers under this Act to the Revenue Minister or any other officer of the Government specified in such notification.

36. Transfer of land in the interest of development or otherwise.

- The Government may authorise the revenue Minister to permit transfer of land in areas which are being or are likely to be developed as health resorts or trade or commercial centres in accordance with rules that shall be made in this behalf.

37. Powers of revenue officers.

- A revenue officer under this Act, shall have the same powers as a Civil Court to enforce the attendance of witnesses, to call for documents, to take evidence or oath, to issue commission and to punish contempt.

38. Penalty.

(1) If any person in any proceeding under this Act—(a) intentionally makes any false statement during the course of such proceeding ; [or] [Inserted by Act No. XV of 2008.] (b) intentionally produces before any Revenue Officer any false document ; or (c) files a statement which is false or incorrect to his knowledge ; he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to Rs. 1,000, or with both. (2) Notwithstanding anything contained in the Code of Criminal Procedure, no court shall take cognisance of any offence under this section unless a complaint in this behalf is made by the officer before whom such proceedings were taking place.

39. Power to issue instructions.

- The Revenue Minister may, for the guidance of the revenue officers, from time to time, issue executive instructions relating to all matters to which the provisions of this Act apply, provided that such instructions shall be consistent with the provisions of this Act and the rules made thereunder.

40. Power to make rules.

(1) The Government may make rules for carrying into effect the provisions of this Act. (2) Without prejudice to the generality of the foregoing powers such rules may provide for—(a) the establishment, constitution and the terms of reference of the Committee appointed under proviso to sub-section (2) of section 4 and the manner in which the recommendation made by such committee may be implemented ; (b) the adjustment of lands transferred to the tillers to the extent of 160 kanals under sub-section (1) of section 5 ; (c) [Omitted ;] [Clause (c) of section 40 (2) omitted by Act No. 1 of 1955.

(For earlier amendment see Act No. XXXV of 2011).](d)the revision of quantum of land transferred to tillers under sub-section (5) of section 5 ;(e)the manner in which lands vested in the State may be utilised and the terms and conditions on which lands may be occupied by the ex proprietors under sub-section (2) of section 6 ;(f)the manner in which applications under section 8 may be made and disposed of ;(g)the adjustment of remission of land revenue and Taccavi arrears and the disposal of suits and proceedings stayed under section 9 ;(h)the determination and the method of payment of compensation under sub-section (3) of section 11 ;(i)the manner in which the provisions of section 12 may be carried into effect ;(j)the manner in which notice may be issued and other proceeding taken [under section 14] [Substituted by Act No. XV of 2008 for 'under section 12'.] ;(k)the procedure for and the manner in which permission may be granted to a proprietor or a tiller to transfer or relinquish land under section 20 ;(l)the manner of determining and the method of payment of annuity to proprietor under section 26 ;(m)the determination of the class of lands which may be improved by the [Land Development Fund] [Substituted by Act No. XV of 2008 for 'Land Development Cess'.] under section 27 and the manner in which the Land Development Fund may be constituted, operated upon and utilised ;(n)[the manner in which the right or interests of non-cultivating tenure-holders may be terminated under section 29-A] [Clause (n) substituted by Act No. XXXV of 2011.] ;(o)the matters which are to be and may be prescribed ; and(p)the matters required generally for carrying out the purpose of this Act.(3)All rules made under this Act shall be published in the Government Gazette, and shall unless some later date is appointed, come into force on the date of such publication.

41. Repeal.

- The Land Alienation (Temporary Powers) Restriction Ordinance, 2005, and the jammu Province Land Alienation (Temporary Powers) Restriction Ordinance, 2006 shall be repealed.

42. Legalisation of orders passed previous to the Act.

- Any act done or order passed by the Government or by any revenue officer on or after 13th July, 1950, which is not contrary to the provisions of this Act, shall be deemed to have been done or passed under this Act.