

Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960

UTTARAKHAND

India

Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960

Act 13 of 1960

- Published on 1 January 1960
- Commenced on 1 January 1960
- [This is the version of this document from 1 January 1960.]
- [Note: The original publication document is not available and this content could not be verified.]

Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960(U.P. Act No. 13 of 1960)Last Updated 20th December, 2019Authoritative English text of the Kumaun Tata Uttarakhand Zamindari Vinash Tetha Bhoomi Vyawastha Adhanyam, 1960Received the Assent of the President on September 10, 1960, under Article 201 of the Constitution of India and was published in the Uttar Pradesh Gazette Extraordinary, dated September 17, 1960. Published in the Uttar Pradesh Gazette Extraordinary, dated September 17, 1960: An act to provide for the acquisition of the rights, title and interest of persons between the State and the tiller of the soil in certain areas of the Kumaun and Garhwal Divisions and for the introduction of land reforms therein. Whereas it is expedient to provide for the acquisition of right, title and interests of persons between the State and the tiller of the soil in certain areas of the Kumaun Division and in Garhwal Division and for the introduction of land reforms therein; It is hereby enacted as follows in the Eleventh Year of the Republic of India

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960; (2) [It extends to the whole of Kumaun and Uttarakhand Divisions except—(a) the areas in which the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, was in force, with or without any exception or modifications, on the day immediately before the commencement of this Act, (b) the villages of the Tarai and Bhabar Government Estates in the district of Nainital, (c) the Bhabar villages in the Tarai and Bhabar sub-division of district Nainital, which are settled with

intermediaries, and(d)the villages, other than does mentioned in clause (d) of section 2 included in Garhwal Bhabar Government Estates in the district of Garhwal.](3)[This section and Section 2 shall come into force at once and the remaining sections shall, except in the areas mentioned in section 2, where they shall come into force in the manner provided therein, come into force on such date as the State Government may, by [notification published in the official Gazette, appoint and different dates may be appointed for different provisions of this Act.] [Provisions of Section 3 to 56 of this Act enforced, with effect from June 19, 1965, in the districts of Garhwal and Chamoli vide Notification No. 21321-A-10 (8)/65, dated June 14, 1965, published in Part 1-A of the U.P. Government Gazette of June 19, 1965 w.e.f. 30.6. 1969 and in the district of Tehari Garhwal and Uttar Kashi vide Noti. No. 31781A-69, dated June 30, 1969]] [Subs for sub-section (2), as follows, by section 33 of U.P. Act XII of 1965: '(2) It shall extend to the whole of the kumanu and Garhwal Divisions except the area of the District Naini Tal to which the U.P. Zamindari Abolition and Land Keforms Act, 1990 applies']

2. Modification of the Act in its application to Government estates, etc.

- This State Government may, by notification in the official Gazette, apply the whole or any provision of this Act subject to such exceptions or modifications not effecting the substance as it may consider necessary to-(a)any estate or part thereof owned by the Central Government, State Government or any local authority or Cantonment Board;(b)[any urban area as defined in the U.P. Urban Areas Zamindari Abolition and Land Reforms Act, 1956;] [Provisions of Section 3 to 56 enforce, with effect from June 30, 1966, in the urban areas situate in the districts of Garhwal, Almora, Pithoragarh an din the district of Naini Tal [excluding the area thereof specified specified in clause (a), (b) and (c) of sub-section (2) of Section 1 of U.P. Act XVII of 1960], vide Notification No. 475(5)I-A-10(8)-1965, dated June 30, 1966, published in the U.P. Gazette, Extraordinary dated June 30, 1966](c)[***] [Clause (c), as follows omitted by Section 34 of U.P. Act XII of 1965; '(c) any of the Bhabar village in the Taral and Bhabar Sub-Division of Naini Tal District which are settled with Zamindars; and](d)village Mawakot (patti Motadhak) Balbharput alias Gosikhata Patti Sukhras), Dhara alias Dharaon, Jhirna Malla and Kothi Rao (Patti Garbwal Bhabhar) in the Garbwal District:Provided that when this act, or any of its provisions are so applied to such areas with or without exceptions or modifications, so much of any existing law asin inconsistent with this Act or the provisions so applied or with any modification made therein shall be deemed to have been repealed:[Provided further that a notification under this sub-section in respect of any estate or part thereof owned by the Central Government shall not issue except in consultation with the Government.] [The provisions of the Act applied subject to the notification specified in the Schedule appended to Notification No. U.O. 419/I-A-Rev/ C-459-1965, dated June 30, 1968, published in the U.P. Gazette Extraordinary, dated June 30, 1968]

3. Definitions.

- In this Act unless there is anything repugnant in the sub-section or context-(1)"Collector" includes an Assistant Collector of the First Class empowered by the State Government by a notification in the official Gazette to discharge all or any of the functions of a Collector under this Act;(2)"Compensation Commissioner" means the Compensation Commissioner referred to in Section 50;(3)"Compensation Officer" means the Compensations officers appointed under section

50;(4)"existing law means the law in force in Kumaun and Garhwal Divisions on the date immediately preceding the date of commencement of this sections and includes any ordinance, order, bye-law, rule, regulation notification, custom or usage having the force of law,(5)Gunth or Sadabrat grant shall include grant or other similar assignment of land revenue in favour of a temple or diety or a religious or charitable institution made by the State Government or any of its predecessor Government and which was in operation on the date immediately preceding the date of notification under section4;(6)"hissedar" shall have the meaning assigned to it in the existing law relating to land tenure applicable to Kumaun and Garhwal Divisions and includes the following:(i)Guzaredars of pargana Askot,(ii)Holders of fee simple estates,(iii)maharaja of Tehri in respect of land held by him as khudkasht on the date of merger of Tehri-Garhwal, as defined in the Tehri-Garhwal (Administration) Order, 1949, in Uttar Pradesh,(iv)Sakalana Muafidars in Tehri-Garhwal (in respect of land held by them as their Khudhashi on the date of surrender of their proprietary and Mudfidar rights in 1948);(v)the Muafidars of Padyargarn in Tehri-Garhwal,(vi)a Maurusidar or a halband Muafidar in Tehri-Garhwal or Uttar Kashi in respect of that part of his land of which is held by a Khaikar;(vii)a Jagirdar or a soldier's settlement estate, and(viii)an allottee of land in the Dunagiri Colonization area in the Almora District who has purchased hissedari rights before the appointed date.(7)"Khaikar" shall have the meaning assigned to it in the existing law relating to land tenures applicable to Kumaun and Garhwal Divisions and includes a Maurusidar or a halbandi Muafidar in Tehri-Garhwal or Uttar Kashi in respect of that part of his land which is not held by a khaikar;(8)"Khaikarl land" means land held by a khaikar and includes "Gaon Sanjait"(9) ["Kumaun Division" [Inserted by U.P. Act No. 35 of 1974] means the districts of Naini Tal, Almora and Pithoragarh;](9A) ['Garhwal Division' [Subs, by U.P. Act No. 30 of 1975] means the districts of Tehri-Garhwal, Garhwal, Uttar Kashi and Chamoli;](10)"land" means land held or occupied for purposes connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming but shall not include a forest;(11)"mine" shall have the meaning assigned to it in the U.P. Zamindari Abolition and Land Reforms Act, 1950;(12)"prescribed" means prescribed by rules made under this Act;(13)"previous agricultural year" means the agricultural year immediately preceding that in which, the appointed date falls;(14)"State Government" means the Government of Uttar Pradesh;(15)"thekedar" means lessee of the rights in khaikari land of a hissedar;(16)words and expressions, "cess", "fee simple estate", "Gaon Sanjait", "Gharpadhan", "Grove", "Grove land", "Grove-holder", "land revenue", "Pradhan", "Pandhanchari land", "rent", "sirtan", "thokdar", and "thkdari land" used in this Act shall have the meaning assigned to them in the existing law relating to land tenures applicable to Kumaun and Garhwal Division [****] [The words 'and' omitted by Section 35 of U.P. Act XII of 1965];(17)words and expressions "Assistant Collector", "Assistant Collector Incharge of a sub-division", and "mehal", used in this Act shall have the meaning assigned to them in the U.P. Land Revenue Act, 1901, as applicable to Kumaun and Garhwal Divisions.[;and](18)[references to the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 and to the U.P. Land Revenue Act, 1901 or to rules framed thereunder shall be construed respectively as references to the said Acts or rules as amended from time to time, and references to enactments relating to acquisition of land for a public purpose shall be construed as references to those enactments as amended from time to time in their application to Uttar Pradesh.] [Added by Section 35 of U.P. Act XII of 1965]Chapater II Acquisition and Modifications of Existing Rights in Land

4. Acquisition and modifications of existing rights in land.

(1)As soon as may be after the commencement of this chapter, the State Government may be notification published in the official Gazette declare that as from a date to be specified therein (referred to in this Act as the appointed date)-(a)the rights, title and interests of hissedar in respect of khalkari land shall cease and vest, except as hereinafter provided, in the State free from all encumbrances, and(b)without prejudice to the provisions of clause (a) a tenure-holder in Kumaun or Uttarakhand shall in the land held by him as such possess the rights, title and interest (with the modifications or liabilities) provided by or under this Act.(2)It shall be lawful for the State Government, if it so considers necessary, to issue, from time to time, the notification referred to in sub-section (1) in respect only of such district or part of district in the Kumaun and Garhwal Divisions as may be specified and all the provisions of sub-section (1) shall be applicable to and in the case of every such notification.

4A. [Vesting of interest of hissedar in the forest land. [Ins by U.P. Act 15 of 1978 w.e.f. November 30. 1977]

- With effect from January, 1, 1978 the rights, title and interest of every hissedar in respect of forest land shall cease and shall vest in the State Government free from all encumbrances, and the provisions of this Chapter and Chapter V shall mutatis mutandis apply to a forest land as they apply to a khaikari land.]

5. Consequence of acquisition or modification under Section 4.

- When a notification under Section 4 has been published in the official Gazette, then, notwithstanding anything contained in any contract or document or in any other law for the time being in force and save as otherwise provided in this Act, the consequences as hereinafter set-forth shall, as from the beginning of the appointed date, ensue with respect to the area to which the notification relates (hereinafter called the notified area) namely:-(a)all rights, title, and interest of the hissedar in the khaikari land and its sub-soil in the notified areas including rights, if any, in mines and minerals shall cease and be vested in the State of Uttar Pradesh free from all encumbrances;(b)all grants and confirmations of title of or to khaikari land in the notified area, or of or to any right or privilege in respect of such land or its land revenue shall, whether liable to resumption or not determine;(c)all Gunths or Sadabars at grants in respect of khaikari land in the notified areas other than grants relating to the land revenue of khaikari or non-khaikari land, shall determine;(d)(i)all rents, cesses, and local rates payable in respect of the khaikari land for any period after the appointed date which, but for acquisition of rights, title and interest of the hissedar therein, would be payable to the hissedar, shall vest in and be payable to the State Government and not to the hissedar, and any payment made in contravention of this clause shall not be valid discharge of the persons liable to pay the same;(ii)where under an agreement or contract made before the appointed date any rent, cess or local rate for any period after the said date has been paid to or compounded or released by a hissedar, the same shall, notwithstanding the agreement or contract, be recoverable by the State Government from the hissedar and may, without prejudice to

any other mode of recover, be realized by deducting the amount from compensation money payable to such hissdar under Section 25;(c)all arrears of revenue, cesses or order dues in respect of any khaikari land so acquired and due from the hissdar for any period prior to the appointed date shall continue to be recoverable from such hissdar and the same may, without prejudice to any other mode of recovery be realized by deducting the amount from the compensation money payable to such hissdar under Section 25(f)the rights, title, and interests of the hissdar in the khaikari land so acquired shall not be liable to attachment of sale in execution of any decree or other process of any court, civil or revenue, and any attachment existing at the appointed date or any order for attachment passed before such date shall, subject to the provisions of Section 73, of the Transfer of Property Act, 1882, cease to be in force;(g)no claim or liability enforceable or incurred before the appointed date by or against the hissdar for any money which is charged on or is secured by a mortgage of the khaikari land shall, except as provided in Section 73 of the Transfer of Property Act, 1882, be enforceable against such land;(h)(i)every mortgage with possession not being a mortgage made by khaikar thereof, existing on any khaikari land on the date immediately preceding the appointed date shall, to the extent of the amount seared on such land, be deemed, without prejudice to the rights of the State Government under Section 4, to have been substituted by a simple mortgage;(ii)notwithstanding anything contained in the mortgage deed or any other agreement, the amount declared due on a simple mortgage substituted under sub-clause (i) shall carry such rate of interest and from such date as may be prescribed;(i)all suits and proceedings of the nature to be prescribed pending in any court at the appoint date and all proceedings upon any decree or order passed in such suit or proceeding previous to the appointed date shall be stayed;(j)a thekedar shall cease to have any rights, title and interest in any khaikari land but where any such land was in his personal cultivation on the date immediately preceding the appointed date, he shall, with effect from the appointed date, become sirtan thereof, liable to pay rent to the landholder; and(k)except as hereinafter provided all mahals and their sub-divisions in a notified area existing on the date immediately preceding the appointed date and all engagement for the payment of land revenue or rent by a hissedur or order tenure-holder as such shall determine and cease to be in force.

6.

(1)Nothing contained in this Chapter shall in any way affect the right of any person-(i)to continue to work any mines comprised in any land in the notified area which shall be governed by the law for the time being in force;(ii)being a bhumidhar, sirdar or asami of any land to continue to enjoy any easement or any similar right for the more beneficial enjoyment of the land, as he was enjoying on the date immediately proceeding the date of vesting;(iii)to recover any arrears of rent, or order dues which accrued before the appointed date and the same shall, notwithstanding anything contained in this Act, be recoverable as heretofore by the person entitled thereto;(iv)[***] [Clause (iv) of sub-s. (1) and sub-s (2) shall be deemed to have been omitted w.e.f. Jan. 1, 1978 by U.P. Act 15 of 1978](v)to continue ot receive as heretofore any amount payable to him or any institution in pursuance of any Gunth or Sadabaral grant:Provided that no decree for any arrear of rent or order for ejectment in default of an arrear of rent shall be executed ejectment of the judgement debtor from his holding.(2)[***] [Clause (iv) of sub-s. (1) and sub-s (2) shall be deemed to have been omitted w.e.f. Jan. 1, 1978 by U.P. Act 15 of 1978]

7. Private wells, trees in abadi and buildings to be settled with the existing owners or occupiers thereof.

- All wells, trees in abadi, and all buildings situate on any khaikari land in the notified area hereinbefore acquired belonging to or held by a hissedar; khaikar or any other person, whether residing in the village or not, shall continue to belong to or be held by such hissedar, khaikar or person, as the case may be, and the site of the wells or the buildings with the area appurtenant thereto shall be deemed to be settled with him by the State Government on such terms and conditions as may be prescribed. Explanation. - For the purposes of this section the treatment shall be given to the words "baoli", "chhal", "Naula" "Nauli" and similar expression as to the word "well".

8. Settlement of certain lands with the hissedars and khaikars as bhumidhars.

- A khaikar in respect of the khaikari land held by him as such and a hissdar in respect of (a) his land other than khaikari land, and (b) such portion of the Goon Sanjait land, not exceeding his share therein, as was in his personal cultivation or held as grove land in 1366-F, shall, with effect from the appointed date, be called bhumidhar of the land and shall, subject to the provisions of this Act, be entitled to take and retain possession thereof.

9.

So much of Goon Sanjait as is held by a hissdar on the appointed date in excess of the land of which he has become a bhumidhar under clause (b) of Section 8, or to which he is entitled under Section 7, shall be deemed to be vacant land and the hissdar shall be liable to ejectment therefrom in the manner prescribed.

10. Sirtans to be Asamis.

- Every person who, on the date immediately preceding the appointed date, was (a) a sirtan holding from a hissedar; or (b) a sirtan holding from a khaikar; or (c) a mortgagee in actual possession of land mentioned in Section 8; or (d) lessee of the rights of a hissedar in non-khaikar land and a lessee or sub-lessee mentioned in Section 34 of the Tehri-Garhwal Bhumi Sambandhi Adhikar Niyams, 1941 of the rights of a khaikar or those of a maursuidar in non-khaikari land having any land in his personal cultivation as such; or (e) recorded as occupant of land held by a hissedar or a khaikar as such in the last revision of records made under Chapter IV of the U.P. Land Revenue Act, 1901; shall be called asami of the land and shall, subject to the provisions of this Act, be entitled to take or retain possession thereof.

11. Collector to take over land and interest vested in the State.

- Upon the publication of the notification under Section 4 it shall be lawful for the Collector or any officer appointed by him in this behalf (a) to take charge of any khaikari land and of all interest

vested in the State under the provisions of this Chapter, and to take or cause to be take such steps and use or cause to be used such force as may, in the opinion of the Collector or the officer so appointed, be necessary for this purpose;(b)to enter upon any khaikari land acquired under the provisions of this Chapter 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 such land or part 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, and seize and take possession of such books, accounts and other documents.

12. Hissedar entitled to receive compensation.

- Every hissedar whose rights, title or interest are acquired under Section 4, shall be entitled to receive and be paid compensation as hereinafter provided.

13. Presumption regarding entries in the record-of-rights.

- Subject to the provisions of Section 14 every entry in the record-of-rights prepared or revised under the provisions of the U.P. Land Revenue Act, 1901, as applicable to Kumaun and Garhwal Division and in force in the previous agricultural year, shall for purposes of assessment and payment of compensation under this Act be deemed to describe correctly, the rights, title and interests of the hissdar in the khaikari land acquired under Section 4:Provided that any modification, alteration or correction made in the record-of-right, whether before or after the appointed date, under the provisions of the United Provinces Land Revenue Act, 1901, as applicable to Kumaun and Garhwal Division or as consequence of any decree or order of any Court, shall be taken into account by the Compensation Officer.

14. Correction of clerical error or arithmetical mistake in the record-of-right.

- Notwithstanding anything contained in the United Provinces Land Revenue Act. 1901, as applicable to Kumaun and Garhwal Divisions or any other law for the time being in force, if the Compensation Officer is satisfied that a clerical or arithmetical mistake or error apparent on the face of the record exists in the record-of-rights for the previous agricultural year, he may either on his own motion or on the application of any person interested, correct the same.

15. Right to establish claim in the Civil Court.

- Nothing in Section 13 and 14 shall affect the right of any person to establish his claim in respect of khaikari land acquired under section 4 by a suit or other proceeding in the Court having jurisdiction.

16. Pending suit or proceeding regarding entries in the record-of-rights.

- Where any suit or proceeding is pending on the appointed date, or is instituted on or after the said date, before any Civil or Revenue Court in which the correctness of any entry in the record-of-rights mentioned in Section 13 is challenged or is directly or indirectly in dispute, any party to the suit or proceeding may file a certified copy of the plaint or the objection before the Compensation Officer, but he shall not, by reason merely thereof be deemed to have become a party to the proceeding before the Compensation Officer.

17. Plaint or objection to form part of the record of compensation proceedings.

- The copy of the plaint of objection filed under Section 16 shall form part of the record of proceedings pending before the Compensation Officer who shall cause the fact of the dispute with such particulars as may be prescribed to be entered in the Compensation Assessment Roll prepared under Section 18.

18. Compensation statement in respect of khaikari land.

(1) For purposes of assessment and payment of compensation for acquisition of rights, title and interests of the hissedar in respect of khaikari land the Compensation Officer shall prepare a compensation statement showing-(a) the name or names of the hissedar; (b) area of khaikari land which has been acquired under section 4; (c) annual rental income of the hissdar from the khaikari land; and (cc) [in the case of a private forest, the average annual income therefrom which shall be computed on the basis of the income from such forest for a period of twenty agricultural years immediately preceding the date of vesting;] [Inserted by U.P. Act 15 of 1978 w.e.f. Nov. 30. 1977.] (d) such other particulars as may be prescribed. (2) The annual rental income shall consist of-(a) the rent payable by the khaikar-(i) in cash; or (ii) where the rent is not payable in cash, the cash value of rent as commuted and determined in the manner prescribed; or (iii) where no rent is payable or determined, the rent determined in the manner prescribed; (b) rental value of the share of the hissedar in the Geon Sanjait land, excluding the land referred to in clause (b) or Section 8, computed with reference to rent payable by a khaikar in the manner prescribed.

19. Compensation to the hissedar.

- [(1) The compensation payable to a hissedar under Section 12 shall be-(a) in the case of khaikari land, thirty times of the amount arrived at after deducting the land revenue, cesses and local rates payable by such hissedar from the rental income referred to in sub-section (2) of Section 18; (b) in the case of a private forest, eight times of the amount of average annual income from such forest;] [Substituted by U.P. Act 15 of 1978 w.e.f. Nov. 30. 1977.] (2) Where the interest of a hissdar is held by a thekedar, the total compensation payable both to the hissedar and the thekedar in respect of their rights, title and interest acquired under Section 4 shall be an amount to be calculated on the principles contained in sub-section (1) of the rental income mentioned in the compensation

statement of the hissedar:(3)The Compensation Officer shall apportion the amount calculated under sub-section (2) between the hissedar and the thekedar having regard to-(a)the premium, if any, paid at the commencement of the theka or the lease;(b)the terms and conditions of the theka;(c)loss, if any, caused to the thekedar as a result of the determination of the theka;(d)the rental income and average annual income of the khaikari land and the private forest under the theka;](e)the amount payable annually by the thekedar;(f)the fact that the rights of the hissedar which are being acquired were held by him in perpetuity while the rights of the thekedar are of a limited character; and(g)such other matters as may be prescribed.

20. Preliminary publication of statement.

- The compensation statement prepared under section 18 shall be published in the manner prescribed and a copy thereof shall also be sent to the hissedar concerned.

21. Filing of objections.

- Person interested, or the State Government may, in the manner prescribed, file before the compensation Officer an objection upon such statement within a period of three months from the date of its publication.

22. Disposal of objection.

(1)Except as provided in sub-section (2), the Compensation Officer shall after hearing the parties, if necessary, on the objections filed under Section 21, dispose of the objections in the manner prescribed.(2)Where an objection filed under sub-section (1)-(a)is that the land is not khaikari land, the Compensation Officer shall frame an issue to that effect and send it for disposal to the Assistant Collector-in-Charge of the sub-division;(b)involves a question of title and such question has not already been determined by a competent Court, the Compensation Officer, shall refer the questions for determination to the District Judge.Explanation. - Whether a person was or was not khaikar on any particular date shall not be deemed to raise a question of title within the meaning of this clause.(3)The District Judge shall determine the question referred to him under clause (b) of sub-clause (2) in the manner prescribed and his decision thereon shall be final.

23. Appeal to the Collector.

- Notwithstanding anything contained in any law, any person aggrieved by the order of the Compensation Officer deciding the objection under Section 22 is so far as it relates to the amount of compensation may appeal to the Collector who shall decide the appeal in the manner prescribed and the decision of the Collector shall be final.

24. Final publication of the statement.

(1) Where no objection has been filed in regard to the compensation statement published in pursuance of Section 20 or where such objection is filed and has been finally disposed of, the statement shall, where necessary, be amended, altered or modified. The Compensation Officer shall sign the statement and affix his seal thereto. (2) The statement so signed and sealed shall become final. (3) A Copy of the final statement shall be supplied free of charge to the hissedar concerned.

25. Payment of compensation.

(1) Except as provided in sub-section (4) the compensation mentioned in the compensation statement, referred to the Section 24 shall be paid in cash in one lump sum or in annual instalments not exceeding ten as may be prescribed. (2) There shall be paid by the State Government on the compensation mentioned in sub-section (1) interest at the rate of two and a half percentum per annum. (3) The compensation shall be paid to the hissedar whose name is entered in the final compensation statement and where the hissedar dies before it is paid to him, it shall be paid to his legal representatives as determined by one Compensation Officer in the manner prescribed. (4) The provisions of Section 69 and 70 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act 1 of 1951), shall mutandis apply to the payment of compensation under this Act. Explanation. - For the purposes of this section, "hissedar" includes a thekedar.

26. Acquisition of land held by assami for a bhumidhar.

(1) A hissedar; who has become a bhumidhar under Section 8, may, within one year from the appointed date, apply in the manner prescribed to the Assistant Collector in charge of the sub-division for resumption of land adjoining his residential house and held by his asami. (2) In an application for resumption of land under sub-section (1), all hissedars of the land owning housed adjacent thereto, who have become bhumidhars thereof under Section 8, shall be joined as parties. (3) (a) a bhumidhar not seeking resumption under the foregoing provisions shall not be entitled to do so in any future proceedings. (4) In deciding an application under sub-section (1) regard shall be had to the following principles- (a) resumption of only so much land, not exceeding 2.5 nalis, shall be allowed as may be considered essential for the beneficial enjoyment of the residential house of the bhumidhar seeking resumption; (b) no resumption of land shall be allowed to a bhumidhar who is already possessed of an area of 2.5 nalis or more adjoining his residential house, or whose the asami whose land is proposed to be resumed has an area of 2.5 nalis or less; (c) not more than so much land shall be allowed to be resumed by a bhumidhar which, after including the area already held adjacent to his residential house, will exceed an area of 2.5 nalis; (d) where an asami has his residential house either adjoining or within the land proposed to be resumed the bhumidhar shall be allowed to resume only so much of his land as may be left after earmarking an area of 2.5 nalis for the asami; (e) not more than a total area of 2.5 nalis shall in any case, be allowed to be resumed in favour of one or more bhumidhars seeking resumption; and (f) such other principles as may be prescribed. (5) An Assistant Collector in charge of sub-division shall, where he allows resumption of land, award compensation, which shall be paid to the asami by the bhumidhar claiming resumption, at three times the rent payable by the asami in respect of the

land resumed together with such other amount as may be determined in the manner prescribed on account of trees owned or improvements made by the asami if any.(6)Where any portion of the holding of an asami is resumed under the provisions of this section the Assistant Collector in charge of the sub-division shall determine the rent payable by him in respect of the remaining portion of his holding in such manner as may be prescribed.

27. [[The provisions of Chapter VI of U.P. Act 1 of 1951 adapted, vide Schedule 1 of Notification No. U.O. 119/1-A-10(2)- 1965, dated June 19, published in Part 1-A of U.P. Gazette, dated June 26, 1965]

(1)The provisions of Chapter. VI of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (U.P Act 1 of 1951); and of the rules framed thereunder shall, mutatis mutandis apply to the area to which the notification under Section 4 relates; but the State Government may be order published in the official Gazette make such adaptations, modifications and alterations or exceptions, not affecting the substance, as may in its opinion appear necessary and any such adaptation, modification, alteration or exception shall not be questioned in any court of law.](2)Every such order shall have the effect from the date of commencement of this Chapter.

28.

Where under the provisions of this Act any land has been settled by the State with any class of tenure-holders, the settlement shall be deemed to have been in respect of the surface rights as heretofore.

Chapter III

Acquisition of Bhumidhari Rights By Asamis

29. Asami entitled to purchase bhumidhari rights.

(1)Subject to the provisions of sub-section (3), an assami belonging to the class mentioned in any of the clauses (a), (b), or (e) of section 10 shall within a period of one year from the appointed date be entitled to purchase and acquire, in accordance with the provisions of this Chapter, bhumidhari rights in the land held by him as such.(2)An asami referred to in sub-section (1) shall not be liable to ejection till the specified date mentioned in sub-section (1) of Section 35.(3)Nothing in sub-section (1) shall apply to an asami-(a)Where the bhumidhar; or if there are more than one bhumidhar; all of them were, on the date on which application is made under Section 31 person or persons belonging to any one or more of the classes mentioned in sub-section (1) of Section 157 of the U.P. Zamindari Abolition and Land Reforms, Act, 1950 (U.P. Act 1 of 1951), as modified in its application to Kumaun and Garhwal divisions, or(c)where the land falls in any of the categories mentioned in Section 45, or(c)where the land is grove land.Explanation. - In this section "land" includes a share in land or a plot or plots.

30. Rate for purchase of bhumidhari rights.

- The price at which an asami shall be entitled to purchase bhumidhari rights in the land held by him shall be twenty-five times the rent payable-(a)in cash, or(b)where in rent is not payable in cash, the cash value or rent as commuted and determined in the manner prescribed, or(c)where no rent is payable or determined, the rent determined in the manner prescribed.

31. Application for purchase of bhumidhari rights.

(1)An application for the purchase of bhumidhari rights in accordance with the provisions of this Act, shall be made in writing in the prescribed form by the asami to an Assistant Collector;(2)The application under sub-section (1) shall be accompanied by an extract from the khatauni (muntakhib) showing the plot or plots to which the application relates and the rent payable thereof and shall contain such other particulars as may be prescribed.

32. Enquiry on application.

(1)Where the application is in proper form and duly presented, the Assistant Collector shall cause to be made in respect of it such enquiries as may be prescribed.(2)If on enquiry under sub-section (1), the Assistant Collector is satisfied that the application is prima facie entitled to purchase the bhumidhari rights, he shall determine the amount to be paid by the application for the purchase of bhumidhari rights and communicate the same to the applicant.

33. Notice to the bhumidhar.

- Where the applicant offers to pay the amount, the Assistant Collector shall cause a notice to be served in manner prescribed on the bhumidhar inquiring whether he accepts the offer and agrees to sell the bhumidhari rights to the applicant on payment of the amount determined under sub-section (2) of Section 32.

34. Sale and purchase of bhumidhari rights.

(1)Where the bhumidhar accepts the offer and agrees to sell bhumidhari rights the Assistant Collector shall forthwith fix the date, time and place at which the sale shall be effected and issue notice accordingly.(2)On the date fixed under sub-section (1) the applicant shall pay the amount determined under Section 32 of the bhumidhar and the Assistant Collector shall in the manner prescribed then cause the sale of bhumidhari rights to be effected and also grant a sale certificate in the prescribed form accordingly.(3)If the bhumidhar does not appear in reply to the notice or appears but does not agree to sell or when called upon by the Assistant Collector, the applicant fails to pay the amount determined under Section 32, the Assistant Collector shall dismiss the application.(4)Notwithstanding anything contained in any law for the time being in force no stamp duty shall be payable on the sale certificate granted under sub-section (2).

35. Acquisition of rights, title and interests of a bhumidhar in lands held by assami.

(1) At any time after the expiry of the period of one year from the appointed date the State Government may, by notification published in the official Gazette, declare that as from a date to be specified therein, the rights, title and interests of the bhumidhar in the land which, on the date immediately preceding the said date, was held by an assami other than an assami referred to in clauses (c) and (d) of Section 10 and sub-section (3) of Section 29, shall as from the beginning of the date so specified (hereinafter called the specified date) cease and vest, except as hereinafter provided, in the State free from all encumbrances. (2) It shall be lawful for the State Government, if it so considers necessary, to issue, from time to time, the notification referred to in sub-section (1) in respect only of such area or areas as may be specified and all the provisions of sub-section (1) shall be applicable to and in the case of every such notification.

36. Consequences of acquisition of rights, title and interests under Section 35.

- When a notification under Section 35 of has been published in the official Gazette, than, notwithstanding anything contained in Chapter II of this Act, but save as otherwise provided in this Act, the following consequences shall ensue in the area to which the notification relates (hereinafter called the notified area), namely:-(a) every person who, on the date immediately preceding the specified date was an assami referred to in clauses (c) and (d) of Section 10 and sub-section (3) of Section 29 shall, with effect from the specified date become sirdar of the land referred to in Section 35 (hereinafter called the notified land), and held by him as such and shall have all the rights and be subject to all the liabilities conferred and imposed upon sirdars by or under this Act: (b) every person, who, on the date immediately preceding the specified date, was an assami of the land referred to in clauses (c) and (d) of Section 10 and sub-section (3) of Section 29, shall, subject to the provisions of this Act, be entitled to retain possession thereof as such; (c) the provisions of clauses (a), (b), (c), (d), (e), (f), (g), (h), and (i) of Section 5 and Section 6 shall mutatis mutandis apply as if for the expression "hissedar" "khaikari land", "appointed date", the expression "bhumidhar", "notified land" and "specified date", have respectively been substituted.

37. Bhudidhar entitled to receive compensation.

- Every bhumidhar whose rights, title or interest in the land referred to in Section 35 are acquired under the said section shall be entitled to receive and be paid compensation as hereinafter provided.

38. Compensation statement for bhumidhari land.

(1) For purposes of assessment and payment of compensation for acquisition of rights, title and interest of a bhumidhar, the Compensation Officer shall prepare a compensation statement showing-(a) the name or names of the bhumidhar; (b) area of land which has been acquired under Section 35; (c) annual rental income of the bhumidhar from the land acquired under Section 35;

and(d) such other particulars, as may be prescribed.(2) The annual rental income shall consist of the rent payable by the asami-(i) in cash, or(ii) where the rent is not payable in cash, the cash value of rent as commuted and determined in the manner prescribed, or(iii) where no rent is payable or determined, the rent determined in the manner prescribed.

39. Assessment of compensation.

- The amount payable as compensation to a bhumidhar under Section 37, shall be equal to twenty times the rent referred to in Section 30.

40. Payment of compensation.

- After the preparation of the compensation statement under Section 38, the provisions of Section 30 to 25 shall, mutatis, mutandis, apply and compensation to the bhumidhar shall be paid as provided in Section 25.

Chapter IV

Land Management

41. [Superintendence, management and control of land (U.P. Act 1 of 1951). [Provisions of Chapter VII of U.P. Act 1, 1951 adapted vide Schedule 1 of Notification No. U.O. 119/1-A- 10(2)-1965, dated June 19, 1965, published in Part 1-A of U.P. Gazette, dated June 26,1965]

- The provisions of Chapter VII of the U.P. Zamindari Abolition and Land Reforms Act, 1950, and of the Rules made there under, shall mutatis mutandis apply to the areas to which the notification under section 4 relates and to such land things (including forests and uncultivated land not belonging to any tenure-holder) as may be prescribed; but the State Government may, by order published in the official Gazette, make such adaptation, modification, alteration or exception, not affecting the substances, as may in its opinion appear necessary and any such adaptation, modification, alteration or exception shall not be question in any Court of Law.](2) Every such order shall have effect from the date commencement of this Chapter.

42. Classes of tenures.

- There shall be for purposes for this Act the following classes of tenure-holders, namely:-(a)[bhumidhar with transferable rights; [Subs, by U.P. Act 8 of 1997 (w.e.f. January 28, 1977)](b)bhumidhar with non-transferable rights;](c)asami.

43. [Bhumidhar with transferable rights. [Subs. by U.P. Act 8 of 1997 (w.e.f. January 28, 1977)]

- Every person belonging to any of the following classes not being a person referred to in Section 44, shall be called a bhumidhar with transferable rights and shall have all the rights and be subject to all the liabilities conferred or imposed upon such bhumidhars by under this Act, namely:-(a)every person who was a bhumidhar immediately before the date of commencement of the Uttar Pradesh Land Laws (Amendment), Act, 1977;(b)every persons who is the purchase of the rights of such a bhumidhar under section 34, either before or the after the said date;(c)every person who, immediately before the said date was a sirdar referred to in clause (a) of Section 36;(d)every person who is any other manner acquires on or after the said date the rights of such a bhumidhar under or in accordance with the provisions of this Act.]

44. [Bhumidhar with non-transferable rights. [Subs. by U.P. Act 8 of 1977 (w.e.f. January 28, 1977)]

- Every person belonging to any of the following clause shall be called a bhumidhar with the non-transferable rights and shall have all the rights and be subject to all the liabilities conferred or imposed upon such bhumidhars by or under this Act, namely:-(a)every person who was a sirdar under clause (a) of Section 44, as is stood immediately before the date of commencement of the Uttar Pradesh Land Laws (Amendment) Act, 1977;(b)every person who is any other manner acquires on or after the said date the rights of such a bhumidhar under or in accordance with the provisions for this Act;(c)every person who is or has been allotted any land under the provisions of the Uttar Pradesh Bhoodan Yagna Act, 1952.]

45. Lands is which [bhumidhari] rights shall not accrue.

- Notwithstanding anything contained in Section 44 [bhumidhari] rights shall not accrue in-(a)pasture lands or lands covered by water and used for the purpose of growing water crops or land in the bed of a river and used for casual or occasional cultivation;(b)such tracts of shifting or unstable cultivation as the State Government may specify by notification in the Gazette.(c)land declared by the State Government by notification in the Gazette to be intended or set apart for taungya-plantation; and(d)land held and occupied for a public purpose or a work of public utility, and declared as such by the State Government or acquired under the Land Acquisition Act, 1894 the U.P. Land Acquisition (Rehabilitation of Refugees) Act, 1948, the U.P. Acquisition of Property (Flood Relief) (Temporary Powers) Act, 1948, or any other enactment other than this Act, relating to acquisition of land for a public purposes.Explanation. - The expression "taungya plantation" mans the system of afforestation in which the plantation of trees is, in the earlier stages, done simultaneously with the cultivation of agricultural crops which ceases when the trees so planted begin to form a canopy rendering the cultivation of agricultural crop impossible.

46. Asami.

- Every person belonging to any of the following clauses shall be called an asami and shall have all the rights and be subject to all the liabilities conferred or imposed upon asamis by or under this Act, namely:-(a)every person who becomes an asami under Section 10 or who, on the date immediately preceding the appointed date, was a sirtan or occupant of the land described in Section 45;(b)every person who, in accordance with the provisions of this Act, is admitted by a bhumidhar or sirdar as a lease of land comprised in his holding;(c)every person who on or after the appointed date is admitted by the Gaon Sabha or by the person entitled, as a lessee of land described in Section 45; and(d)every person who in any other manner acquires the rights of an asami under or in accordance with the provisions of this Act or any other Act.

47. [Application of the provisions of Chapter VIII and X of U.P. Act 1 of 1951. [The provisions of Sections 134 to 139, 142 to 146, 152 to 195, 197 to 211-A, 212-B, 212-C, 213 to 230, 232 and sections 241 to 294 of U.P. Act 1 of 1951 adapted, vide Schedule 1 of Notification No. U.O. 119/1-A-10(2)-1965, dated June 19, 1965, published in Part-1-A of Gazette, dated June 26, 1965]

(1)The provisions of Sections 134 to 139, 142 to 146, 152 to 195, 197 to 211-A, 212-B, 212-C, 213 to 230, 232 and sections 241 to 294 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 and of the rules framed under Section 230 and 294 of the said Act, 1950 and of the rules framed under Section 230 and 294 of the said Act shall mutatis mutandis apply to the area to which the notification under Section 4 relates, but the State Government may, by order published in the official Gazette, make such adaptation, modification, alteration, or exception shall not be in any court of law;][Provided that Sections 242 of the said Act shall, in relation to such area, apply with the following modification:-(i)one and a half acres of land in areas to which this Act applies shall count as one acre;(ii)in a district where there are no hereditary rates, the reference to 'hereditary rates' shall be construed as a reference to 'village land revenue rates';(iii)in relation to any district in which the maximum hereditary rates or village land revenue rates do not exceed rupee one per acre, the words 'rupees five' and 'rupees ten' in clause (i) of the proviso to sub-section (2) of the said Section (2) of the said Section 245 shall be substituted by the words 'rupees three' and 'rupees five' respectively and the words 'rupees ten' and 'rupees twenty' in clause (ii) thereof shall be such substituted the words 'rupees six' and 'rupees ten' respectively.](2)Every such Order and have effect from the date of commencement of this Chapter.(3)[The State Government may, by a subsequent notified order, supersede or modify and order issued under sub-section (1) wholly or partly, and any such suppression or modification may be made retrospectively to a date not earlier than the date of the order issued under that sub-section.] [Inserted by U.P. Act 15 of 1976, w.e.f. Nov. 30, 1977]

48. Application of the U.P. Land Revenue Act, 1901.

(1)Subject to the provisions of sub-section (2) and (3), of the U.P. Land Revenue Act, 1901, as applied to the Kumaun and Garhwal Divisions shall stand repealed with effect from the appoint date.(2)[The provisions of [the U.P. Land Revenue Act, 1901 (U.P. Act III of 1901) as amended from

time of time in its application to the areas to which a notification under Section 4 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act 1 of 1951), relates and the rules made or orders issued from time to time thereunder] [The provisions of U.P. Act III of 1901, as amended from time to time in its application to the area to which a notification under Section 4 of U.P. Act 1 of 1951, adapted vide notification No. 2532/1-A- 317-1960, dated June 21, 1965, published in Part 1-AH of Gazette, dated June 26, 1965] shall mutatis mutandis apply to the area to which the notification under Section 4 relates but the State Government, may, by order published in the official Gazette, make such adaptations, modification, alterations or exceptions not affecting the substance as may in its opinion appear necessary and any such adaptation, modification, alteration or exception shall not be questioned in any court of law.] [Inserted by U.P. Act 35 of 1976, w.e.f. June 15, 1976](3)Every such order shall have effect from the date of commencement of this Chapter.

49.

An asami to whom clause (e) of Section 10 applies may within 18 months from the specified date, apply to the Assistant Collector-in-Charge of the sub-division for putting him in possession of land of which he is the asami

Chapter V Miscellaneous

50. Appointment of officers.

(1)The State Government may for purposes of this Act appoint-(i)Assistant Compensation Commissioner, and(ii)Compensation Officers.(2)The Compensation Commissioner appointed under Section 319 of the U.P Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act 1 of 1951), shall be the Compensation Commissioner for Kumaun and Garhwal Divisions.

51. Powers and duties.

(1)The Compensation Commissioner and the Assistant Compensations Commissioners shall perform such duties and exercise such powers of supervision and superintendence over the work of Compensation Officers as may be prescribed.(2)The Compensation Officer shall exercise the powers and perform the duties conferred or imposed upon him by or under this Act or the rules framed thereunder.[Provided that every such order shall have effect in relation to a forest land from such date as may be specified by the State Government in this behalf.] [Inserted by U.P. Act 15 of 1978, w.e.f. Nov. 30, 1977]

52. [Application of provisions of certain sections of Chapter XII of U.P. Act 1 of 1951 to Kumaun and Uttarakhand". [The provisions of Section 321 to 331-A, 333 to 336, 338 and 341 to 344 of U.P. Act 1 of 1951 adapted vide Schedule 1 of Notification No. U.O. 119/1-A-10(2)-1965, dated June 19, 1965,

published in Part 1 of the U.P. Gazette, dated June 26, 1965]

(1)The provision of Section 321 of 331-A, 333 to 336, 338 and 341 to 344 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act 1 of 1951), and of the rules framed under Section 344 of the said Act shall mutatis mutandis apply to Kumaun and Garhwal Division but the State Government, by order published in the official Gazette, make such adaptation, modification, alteration or exception not affecting the substance as may in its opinion appear necessary and any such adaptation, modification, alteration or exception shall not be questioned in any court of law.](2)Every such order shall have effect from the date of commencement of this Chapter.

53. Orders made under Sections 47, 48 or 52 to be laid before the State Legislature.

- An order made under Section 47, 48 or 52 shall be laid for not less than fourteen days before the State Legislature as soon as may be after it is so made and shall be subject to such modification as the Legislature may make during the session in which they are so laid.

54. Repeals.

(1)Where immediately before the commencement of Chapter 1 of this Act there is in force in Kumaun and Garhwal Division any law relating to land tenure so much or such law as is inconsistent with the provisions of this Act shall, with effect from the date and to the extent to which this Act comes into force under and in accordance with the provisions of sub-section (3) of Section 1, stand repealed and the provisions of Section 6 and 24 of the U.P. General Clauses Act, 1904, shall apply to the law so repealed as if it had been an enactment repealed by an U.P. Act.(2)In particular and without prejudice to the generalities of the foregoing clauses, the following enactment shall be and are hereby repealed in their application to the areas to which this Act applies with effect from the appointed date-(i)the U.P. Agriculturists Relief Act, 1934;(ii)the U.P. Regulation of Remissions Act, 1938;(iii)the U.P. Land Utilization Act, 1947;(iv)the Tehri-Garhwal Bhumi-Sambandhi Adhikar Niyams, 1941;(v)the Kumaun Tenancy Rules framed under the Scheduled Districts Act of 1874, and(vi)the Kumaun Agricultural Land (Miscellaneous Provisions) Act, 1954;Provided that where under this Act any interpretation has to be made, action taken or thing done in accordance with the provisions of the Kumaun, Agricultural Land (Miscellaneous Provisions) Act, 1954, or the Tehri-Garhwal Bhumi-Sambandhi Adhikar Niyams, 1941, the same may be made, taken or done as if it has not been repealed by this Act.

55. Power to remove difficulties.

(1)Whereas difficulties may arise in relation to the transition from the provisions of the existing law to the provisions of this Act:The State Government may, for the purpose of facilitating the said transition, by order-(a)direct that this Act or any provisions of the U.P. Land Revenue Act, 1901, applicable to the Kumaun and Garhwal Divisions or any other enactment relating to land tenure shall, during such limited period and in such areas, as may be specified in the Order, have effect,

subject to such adaptations and modifications may be so specified;(b)make such other temporary provisions for the purpose of removing any such difficulties as aforesaid as may be specified in the Order.(2)No Order shall be made under this section in respect of any area after expiration of two years from the appointed date.(3)Any Order shall be made under this section shall be laid before both Houses of the State Legislature as soon as may be after it is made.

56. Powers to make rules.

(1)The State Government may make rules for the purpose of carrying into effect the provisions of this Act.(2)Without prejudice to the generality of the foregoing powers, such rules may provide for-(a)the proceedings prior to the vesting of land and interests under Section 4;(b)the disposal of suits and proceedings stayed under Section 5;(c)the matters relating to the taking over of lands and interests under Section 11;(d)the manner and the form in which the compensation statement shall be prepared under Section 18;(e)the matters which are to be and may be prescribed.(3)The power to make rules given by this Act shall be deemed to include the powers to provide for-(i)imposing limits of time within which things to be done for the purposes of the rules must be done, with or without powers to any authority therein specified to extend limits imposed;(ii)the procedure to be followed in application, suits or other proceeding under this Act, in cases for which no specified provisions has been made herein;(iii)the duties of any officer or authority having jurisdiction under this Act and the procedure to be followed by such officer or authority;(iv)the time within which applications and appeals and applications under this Act, in cases for which no specific provision in that behalf has been made herein;(v)the fees to be paid in respect of suits, appeals and applications under this Act, in cases for which no specific provision in that behalf has been made herein;(vi)the application of the provisions of the Limitations Act, 1963, to suits, applications, appeals and proceedings under this Act;(vii)the delegation of powers conferred by this Act on the State Government or any other authority, officer or person; and(viii)the transfer of proceedings from one authority or officer to another.(4)[All rules made under this section shall be as soon as may, after they are made, be laid before each Houses of the State Legislature, while it is in session, for a total period of not less than thirty days comprised in its one session or tow or more successive sessions and shall unless some later date is appointed, take effect from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may during may during the said period agree to make so however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done thereunder.] [Subs, by U.P. Act No. 30 of 1975]