

# The Orissa Escheats Act, 1979

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### Act 16 of 1979

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The Orissa Escheats Act, 1979 Orissa Act No. 16 of 1979 Statement of Objects and Reasons. - No uniform procedure is available at present for regulation, control and management of escheated property. The regulations in force, i.e., Bengal Wills and Intestacy Regulation, 1799, Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810, Madras Administration of Escheats Regulation, 1802 and Madras Endowment and Escheats Regulation, 1817 have not been extended to the ex-State areas. Consequently there is no written law relating to escheat in some of the ex-State areas whereas in others customs and usages largely govern the procedure in this regard. Therefore, the proposed legislation has been sponsored to have a uniform set of provisions throughout the State for determining as to whether or not a particular property has been escheated and for the regulation, control and management of escheated properties. The proposed legislation will also supersede the existing rules and regulations on the subject in force in different parts of the State. The present Bill seeks to achieve the above objective. Published vide Orissa Gazette Extraordinary No. 925/14.5.1979. For Statement of Objects and Reasons, see Orissa Gazette, Extraordinary No. 1285/19.9.1977 and for Report of the Select Committee, see Orissa Gazette Extraordinary No. 126/7.2.1979. An Act to provide for taking charge, management and disposal of property vested in the State by escheat, lapse or as bona vacantia and for matters incidental thereto Be it enacted by the Legislature of the State of Orissa in the Thirtieth Year of the Republic of India as follows :

### 1. Short title, extent, application and commencement.

(1) This Act may be called the Orissa Escheats Act, 1979. (2) It extends to the whole of the State of Orissa. (3) It applies to all property which according to the Constitution of India or any other law, has vested or shall vest in the State by escheat, lapse or as bona vacantia. (4) It shall come into force on such [date] [The Act came into force w.e.f. 1.1.1981, vide Orissa Gazette Extraordinary No. 38/12.1.1981.] as the State Government may, by notification, appoint in that behalf.

## **2. Definitions.**

- In this Act, unless the context otherwise requires-(a)"claimant" means a person claiming any interest in escheated property or any person [claiming any payment] [Substituted vide Orissa Act No. 14 of 1930.] out of it;(b)"Custodian of escheats" or "Custodian" means the Collector of the district and includes an Additional Collector or any officer appointed by the Government as custodian;(c)"deceased" means the person on whose death property has accrued to the State by escheat;(d)"escheated property" means any property to which this Act applies;(e)"Government" means Government of Orissa;(f)"person" means a natural or a juristic person and includes a firm or group of individuals by whatever name called;(g)"prescribed" means prescribed by rules made under this Act.

## **3. Prohibition of alienation etc.**

(1)All property to which this Act applies belongs to the State and no person who holds such property shall transfer, alienate, dispose of or encumber such property in any way.(2)Any transfer, alienation, disposition or encumbrance made or created in contravention of Sub-section (1) shall be void.

## **4. Superintendence by the Board of Revenue.**

(1)Subject to the general or special order of the Government, the Board of Revenue shall be the authority in whom vests the general superintendence over all escheated properties and over all officers and authorities, other than the Civil Courts functioning under this Act.(2)The Collector shall be the custodian of all escheated properties :Provided that the Government may appoint any other officer as custodian in addition to or in place of the Collector and fix his jurisdiction.

## **5. Information regarding escheated property.**

- All officers of the Revenue Department or Police Department or such other officers as may be directed by the Government, shall report to the Custodian all cases to which this Act applies when such cases come to their knowledge.

## **6. Taking charge.**

(1)When the Custodian, on any report or on his own information and after making such enquiry as may be prescribed, is satisfied that this Act applies to any property, he may take charge of such property.(2)The enquiry under Sub-section (1) shall be of a summary nature and for the purposes of such enquiry the Custodian may summon and examine on oath any person and may compel production of any document or thing.(3)Unless otherwise prescribed, charge may be taken in the following manner, namely :(a)in case of immovable property, a notice shall be served on the person, if any, in possession of the property and where such person refuses or evades notice or cannot be found, it shall be served by affixture on the property;(b)in case of movable property, the notice shall be served on the person, if any, in possession of the property or may be affixed at his place of

residence or business, if any.(4)Notwithstanding the provisions of Sub-section (3)-(a)the Custodian, when such action seems to him to be appropriate, publish the notice in any newspaper approved by the Board of Revenue or in the Official Gazette or by proclamation in the locality where the property is situate in the prescribed manner, and such publication shall be deemed to be sufficient for ail purposes; and(b)where the property is of a perishable nature the Custodian may, for reasons to be recorded in writing, dispense with the notice under Sub-section (3) or with the publication of the notice under Clause (a) and may dispose of the property by public auction and keep the proceeds in deposit and may deal with such deposit as if it were property taken charge of under this section.(5)On service of a notice under Sub-section (3) or on its publication under Sub-section (4)-(i)it shall be lawful for the Custodian to enter into possession and to assume the management of the property and also to make or cause to be made an inventory of the properties of the deceased;(ii)any person in possession of the property shall deliver the same to the Custodian ;(iii)no transfer of the property by sale, gift or otherwise shall be made nor shall any encumbrance be created in respect thereof ; and(iv)the Custodian shall have authority to realise the rents, profits and income of the property, to let it out, to grant a lease in respect thereof or to invest it in accordance with the rules framed in that behalf :Provided that notwithstanding anything contained in any other law for the time being in force, no right of any kind shall accrue to any person in respect of such property except those permitted by the Custodian.

## **7. General notice.**

- The Custodian, on taking charge of any property, shall publish in the prescribed manner, a general notice calling upon claimants, if any, to put forth their claims within six months from the date of publication of the notice.

## **8. Reference to Civil Court.**

(1)If any claims are received within the time aforesaid, the Custodian shall forward the case to a Civil Court of competent jurisdiction for a decision as to whether the property is escheated property or whether the property belongs to any claimant or claimants and shall keep the property in his charge.(2)The Government shall be made a party, in every such case.

## **9. Finding of Court as to escheat.**

- Where in any case arising under this Act or otherwise, the Civil Court finds that any property vests in the State by escheat or by lapse or as "bona vacantia" it shall make a declaration to that effect and may order delivery of the property to a Custodian and such order, if not complied with, may be executed by the Custodian as a decree.

## **10. Prohibition of interlocutory orders.**

- Notwithstanding anything contained in this Act or in any other law, when the Custodian has taken charge of any property, no Court shall, during the pendency of any suit or appeal, pass any

interlocutory order affecting in any way the custody and management by the Custodian.

## **11. Custodian to manage.**

- During the pendency of any proceeding before himself or in any Court, the Custodian shall hold and manage the property in the prescribed manner.

## **12. Filing of suits.**

- The Government or the Custodian may sue any person to recover any escheated property unlawfully held or alienated.

## **13. Declaration of escheat by the Custodian.**

(1) On the termination of proceedings under this Act or in any Civil Court the Custodian may make a declaration notified in the Official Gazette that the property has vested in the Government free from all encumbrances; and where the Civil Court decides that the property belongs to any claimant, the Custodian shall deliver the property to such claimant. (2) On the issue of a notification under Sub-section (1) Government may dispose of the escheated property in accordance with the law applicable thereto.

## **14. Power to make rules.**

(1) The State Government may make rules for carrying out the purpose of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for- (a) the manner of making an enquiry; (b) the manner of taking possession of any property; (c) the management of property; (d) the making of reports to the Custodian; (e) rendering assistance to the Custodian by any public officer; (f) the custody and disposal of all property including perishable property; (g) any other matter which is to be or may be prescribed. (3) Until rules are made under this section, the existing rules including the rules contained in Chapter XXII of the Bihar and Orissa Board's Miscellaneous Rules shall, in so far as they relate to matters in respect of which provision has been made in this Act, are not inconsistent with the provisions of this Act, apply and any reference in such rules to the District Judge shall be construed as reference to the Custodian.

## **15. Protection of action taken under this Act.**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder. (2) No suit or other legal proceeding shall lie against the State 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 anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

## 16. Penalties.

- Any person who contravenes the provisions of Section 3 or Clause (iii) of Sub-section (5) of Section 6, shall, on conviction, be liable to be punished with imprisonment which may extend to one year and with fine which may extend to two thousand rupees.

## 17. Repeal and saving.

(1) On and from the date this Act comes into force, the enactments specified in the Schedule so far as they are in force in the State of Orissa, shall be repealed to the extent mentioned in the third column thereof. (2) Notwithstanding such repeal, anything done, any action taken, any rules or orders made, or any notices or notifications issued in exercise of any power conferred by the said enactments shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if, this Act commenced on the date on which the said action, rules or orders were taken or made or the notices or notifications issued.

## Schedule

[See Section 17] Enactments repealed

Number and year	Short title	Extent of repeal
1	2	3
Bengal Regulation 5 of 1799	The Bengal Wills and Intestacy Regulation, 1799	The whole.
Bengal Regulation 19 of 1810	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810	Section 7 so far as relates to Escheats.
Madras Regulation 3 of 1802	The Madras Administration of Estates Regulation, 1810	The whole.
Madras Regulation 7 of 1817	The Madras Endowments and Escheats Regulation, 1817	Section 6.