

- (2) On and from the date of the notification under sub-section (1),-
- (a) all properties, funds and dues which immediately before the said date were vested in or were realisable by the Corporation shall vest in and be realisable by the Government;
 - (b) all liabilities which, immediately before the said date were enforceable against the Corporation shall be assumed by, and be enforceable against the Government; and
 - (c) for the purpose of completing the execution of any scheme or project sanctioned under this Ordinance which has not been fully executed by the Corporation and of realising properties, funds and dues referred to in clause (a), the functions of the Corporation shall be discharged by the Government.

THE SCHEDULE

(See section 38)

MODIFICATIONS IN THE LAND ACQUISITION ACT 1894 (HEREINAFTER REFERRED TO AS THE SAID ACT.)

1. After clause (g) in section 3 of the said Act, the following shall be deemed to have been *added*, namely:-

Amendment of
section 3

- (h) "Corporation" means the Bangladesh Agricultural Development Corporation established under the Bangladesh Agricultural Development Corporation Ordinance, 1961;
- (i) "net income" means the income from the land after deducting therefrom the ordinary expenses of cultivation, land revenue, rent and rates; and
- (j) "rates" has the same meaning as in the Basic Democracies Order, 1959.

2. Section 11 of the said Act shall be deemed to have been amended in the following manner, namely:-

Amendment of
section 11

- (a) in clause (ii), the word "and" at the end shall be *deleted*; and

(b) in clause (iii), *for* the full-stop at the end, a semi-colon and word “and” shall be *substituted*, and thereafter the following new clause (iv) shall be *added*, namely:-

“(iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation, as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector:

Provided that the Collector may disallow, wholly or in part, cost incurred by any person, if he considers that the claim made by such person for compensation is extravagant.”

Amendment of section 15

3. In section 15 of the said Act, *for* the word and figures “23 and 24”, the figures, a comma and the word and letter “23, 24 and 24-A” shall be deemed to have been *substituted*.

Amendment of section 17

4. *For* section 17 of the said Act, the following shall be deemed to have been *substituted*, namely:-

“17. (1) In cases where the Corporation considers it expedient to take possession of the land at any time before an award under section 11 of the said Act has been made, it shall notify this fact in writing to the Collector intimating in addition the date by which the land is required by it. The Collector shall after causing a notice to this effect to be served on the person interested take possession of the land and transfer it to the Corporation in whom it shall vest absolutely free from all encumbrances subject to its liability to pay any amount which may be incurred on account of acquisition.

(2) The Collector shall at the time of taking possession of land offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them on account of dispossession and not excepted in section 24 or 24-A; and, in case such offer is not accepted, the value of such crop or trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.”

5. After section 17 of the said Act the following shall be deemed to have been *inserted*, namely:-

Transfer of land
to Corporation

“17A. In every case referred to in section 16 the Collector shall, upon payment or tender of compensation for acquisition, make over charge of the land to the Corporation and the land shall thereupon vest in the Corporation, subject to the liability of the Corporation to pay any further compensation or costs which may be incurred on account of its acquisition.”

6. (1) The words “or the Corporation” shall be deemed to have been *added* between words “award” and “may” in sub-section (1) of section 18 of the said Act.

Amendment of
section 18

(2) The full-stop at the end of sub-section (1) of section 18 of the said Act shall be deemed to have been *substituted* by a comma, and thereafter the words and full-stop “or the amount of costs allowed.” shall be deemed to have been *added*.

7. After the words “amount of compensation”, in clause (c) of sub-section (1) of section 19 of the said Act, the words “and of costs (if any)” shall be deemed to have been *inserted*.

Amendment of
section 19

8. (1) After the words “amount of compensation” in clause (c) of section 20 of the said Act, the words “or costs” shall be deemed to have been *inserted*.

Amendment of
section 20

(2) After the word “Collector” in clause (c) of section 20 of the said Act, the words “and the Corporation” shall be deemed to have been *inserted*.

(3) The existing section 20 shall be deemed to be sub-section (1) of that section and thereafter the following new sub-sections (2) and (3) shall be deemed to have been *added*, namely:-

“(2) The Corporation or any person to whom a notice is issued under clause (b) or (c) of sub-section (1) may support the award and may also make any cross objections which could have been made by an application for reference, provided such objection is filed within one month from the date of service of the notice under this section or within such further time as the Tribunal may see fit to allow.

- (3) The provisions of the Code of Civil Procedure, 1908, relating to cross objections filed under that Code shall, so far as may be, apply to the cross objections filed under this Act."

Amendment of
section 23

9. (1) In clause first and clause sixthly of sub-section (1) of section 23 of the said Act, for the words, figures, brackets and comma "at the date of the publication of the notification under section 4, sub-section (1)" and the words and figure "the time of the publication of the declaration under section 6" shall be deemed to have been *substituted* by the words, letters, and figures "on 1st September, 1961" at both the places.

(2) Sub-section (2) of section 23 of the said Act shall be deemed to have been *deleted*.

(3) At the end of section 23 of the said Act, the following new sub-section (3) shall be deemed to have been *added*, namely:-

"(3) For the purpose of clause "first" of sub-section (1) of this section the market value of the land shall be determined on the basis of the average net income of that land for the five years preceding 1st September, 1961:

Provided that if in any of these years that land or any portion of it has not been cultivated, the net income of such land or portion in that year shall be taken to be three times the land revenue or rent assessed thereon, or, if no land revenue or rent has been so assessed, three times the lowest rate of land revenue or rent assessed on neighbouring land:

Provided further that in respect of land which is situated in a town or village *abadi* or land which is attached to a house, manufactory, or other building and is reasonably required for the enjoyment and use of the house, manufactory, building, or the market value shall be the market value according to the use to which the land was being put on the 1st September, 1961."

Amendment of
section 24

10. For clause seventhly of section 24 of the said Act, the following shall be deemed to have been *substituted* namely:-

"Seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with

reference to which the market value is to be determined, unless it is proved that these were necessary to keep the land in a fit state to command the profits accruing on the said date and were made in good faith and not in contemplation of proceedings for compulsory acquisition".

11. After section 24 of the said Act, the following new section 24-A shall be deemed to have been *inserted*, namely:-

Insertion of new
section 24-A

"24A. Further provisions for determining compensation- In determining the amount of compensation to be awarded for any land acquired for the Corporation under the Bangladesh Agricultural Development Corporation Ordinance, 1961, the Court shall also have regard to the following provisions, namely:-

- (1) when any interest in any land acquired under this Act, has been acquired after the date with reference to which the market value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;
- (2) if, in the opinion of the Court, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, less the estimated cost of putting it into such condition or state; and
- (3) if, in the opinion of the Court, any building which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building, less the cost of demolishing the building."

12. (1) In sub-section (1) of section 25, the words "or be less than the amount awarded by the Collector under section 11" shall be deemed to have been *deleted*.

Amendment of
section 25

(2) The following shall be deemed to have been *added* as sub-section (4) of section 25, namely:-

“(4) The Court shall be competent to award an amount less than that awarded by the Collector, if, after consideration of any reference or cross objection, it is of the opinion that the amount awarded by the Collector is excessive.”

Amendment of
section 31

13. (1) After the words “the compensation” in sub-section (1) of section 31 of the said Act, and after the words “the amount of the compensation” in sub-section (2) of that section, the words “and costs (if any)” shall be deemed to have been *inserted* at both the places.

Insertion of new
section 48-A

14. After section 48 of the said Act, the following new section 48-A shall be deemed to have been *inserted*, namely:-

“48A. Compensation to be awarded when land not acquired within three years- (1) If within a period of three years from the date of the publication of the notification under section 34 of the Bangladesh Agricultural Development Corporation Ordinance, 1961, in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall, unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay.

(2) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.”

Amendment of
section 49

15. After sub-section (1) of section 49 of the said Act, the following shall be deemed to have been *inserted*, namely:-

“(1a) For the purpose of sub-section (1), land which is held with and attached to a house and is reasonably required for the enjoyment and use of house shall be deemed to be a part of the house.”

Amendment of
section 50

16. In sub-section (2) of section 50 of the said Act, the words “or the Bangladesh Agricultural Development Corporation” shall be deemed to have been *added* between the words “concerned” and “may” and the proviso to this sub-section shall be deemed to have been *deleted*.

Deletion of
section 54

17. Section 54 of the said Act shall be deemed to have been *deleted*.
