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PART IVA.—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

## GOVERNMENT OF WEST BENGAL.

Legislative Department.

## NOTIFICATION.

No. 1155L.—5th May, 1953.—The Governor having been pleased to order under rule 48 of the

West Bengal Legislative Assembly Procedure Rules, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

## THE WEST BENGAL ESTATES ACQUISITION BILL, 1953.

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**THE WEST BENGAL ESTATES ACQUISITION BILL, 1953.**

**A**

**BILL**

*to provide for the State acquisition of estates, of rights of intermediaries therein and of certain rights of raiyats and under-raiyats.*

WHEREAS the Permanent Settlement made in May, 1793, Ben. Regn. has outlived its usefulness and has become unsuitable for the I of 1793. needs of a progressive society;

AND WHEREAS it is expedient in the public interest to provide for the State acquisition of estates, of the rights of intermediaries therein and of certain rights of *raiyats* and *under-raiyats*.

It is hereby enacted as follows:—

CHAPTER I.

**Preliminary.**

Short  
title  
and  
extent.

1. (1) This Act may be called the West Bengal Estates Acquisition Act, 1953.

(2) It extends to the whole of West Bengal except the areas described in Schedule I of the Calcutta Municipal Act, 1951, as deemed to have been amended under section 594 of that Act.

West Ben.  
Act  
XXXIII  
of 1951.

Defini-  
tions.

2. In this Act unless there is anything repugnant in the subject or context,—

- (a) "agricultural year" means the Bengali year commencing on the first day of Baisakh;
- (b) "agricultural land" means land used for purposes of agriculture or horticulture;
- (c) "charitable purpose" includes the relief of the poor, medical relief or the advancement of education or of any other object of general public utility;
- (d) "Collector" means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of the Collector under this Act;
- (e) "date of vesting" means the date mentioned in the notification under sub-section (1) of section 4;
- (f) "estate" or "tenure" includes part of an estate or part of a tenure;
- (g) "homestead" means a dwelling house together with any courtyard, compound, garden, outhouse, place of worship, library, guest-house, tanks, wells, privies, latrines, drains and boundary walls appertaining to or attached to such dwelling house and necessary for the use and enjoyment thereof and the lands underneath;
- (h) "incumbrance" in relation to estates and rights of intermediaries therein does not include the rights of a *raiyat*, an *under-raiyat* or non-agricultural tenant;
- (i) "intermediary" means a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a *raiyat* or a non-agricultural tenant;
- (j) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to earth;
- (k) "non-agricultural land" means land not used for the purpose of agriculture or horticulture;
- (l) "non-agricultural tenant" has the same meaning as in the West Bengal Non-Agricultural Tenancy Act, 1949;
- (m) "notified area" means a district or a subdivision in respect of which a notification has been duly published under section 4;

West Ben.  
Act XX  
of 1949.

*The West Bengal Estates Acquisition Bill, 1953.*

(Chapter I.—Preliminary.—Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Clauses 3—5.)

- (n) "one-crop land" and "two-crop land" mean respectively land capable of producing one crop or two crops during a year; and for the purpose of calculation, one acre of two-crop land shall be deemed to be equivalent to one and one quarter acre of one-crop land;
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "pucca building" means any masonry building together with the lands upon which such building stands and includes also land appurtenant to such building and anything permanently affixed to such land or growing thereon and necessary for the use and enjoyment of such building;
- (q) "religious purpose" means a purpose connected with religious worship, teaching or service, or any performance of religious rights;
- (r) "rent" includes any money recoverable under any enactment for the time being in force as if it were a rent;
- (s) expressions used in this Act and not otherwise defined have in relation to the areas to which the Bengal Tenancy Act, 1885, applies, the same meanings as in that Act and in relation to other areas meanings as similar thereto as the existing law relating to land tenures applying to such areas, permit.

VIII of  
1885.

Act to  
override  
other  
laws, etc.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or custom to the contrary.

CHAPTER II.

Acquisition of estates and of the rights of intermediaries therein.

Notifica-  
tion  
vesting  
estates  
and rights  
of inter-  
mediaries.

4. (1) The State Government may, from time to time, by notification declare that with effect from the date mentioned in the notification, all estates and the rights of all intermediaries in all estates, situated in any district or a subdivision, shall vest in the State free from all incumbrances.

(2) Every such notification shall be published in the *Official Gazette* and in at least two issues each of two newspapers circulating in West Bengal.

(3) The publication of such notification in the manner provided in sub-section (2) shall be conclusive evidence of the due publication of the notification and of notice to all persons affected by the notification.

(4) In the case of Government *khas mahals*, the declaration under sub-section (1) shall apply only to the rights of all intermediaries holding immediately or mediately under the Government.

Effect of  
notifica-  
tion.

5. Upon the due publication of a notification under section 4, on and from the date of vesting—

- (a) the estates and all rights of intermediaries in the estates, to which the declaration applies, shall vest in the State free from all incumbrances; in particular and without prejudice to the generality of the provisions of this clause, every one of the following rights which may be owned by an intermediary shall vest in the State, namely:—
  - (i) rights in sub-soil and in mines and minerals,
  - (ii) rights in *hats*, bazars, ferries, forests, fisheries, tolls and other *sairati* interests,
  - (iii) rights in any building or structure or part thereof, standing on the land comprised in the estate or in the interests;



*The West Bengal Estates Acquisition Bill, 1953.**(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Clause 6.)*

- (b) all grants of, and confirmation of titles to, estates and interests therein, to which the declaration applies and which were made in favour of intermediaries shall determine;
- (c) until further legislation is made in this behalf by the State Legislature, every *raiyat* or non-agricultural tenant, holding any land under an intermediary, shall hold the same directly under the State, as if the State had been the intermediary, and on the same terms and conditions as immediately before the date of vesting:

Provided that any such person who was holding any land rent-free or at a specially low rent shall be bound to pay such rent therefor as may be prescribed;

- (d) every *raiyat*, non-agricultural tenant or a lessee holding under an intermediary shall be bound to pay to the State his rent and other dues in respect of his land, accruing on and from the date of the vesting, and every payment made in contravention of this clause shall be void and of no effect.

Right of intermediary to retain certain properties.

6. (1) Notwithstanding anything contained in sections 4 and 5, an intermediary shall be entitled to retain as from the date of vesting,—

- (a) homesteads;
- (b) *pucca* buildings, situated within municipalities;
- (c) non-agricultural land in his *khas* possession, not exceeding fifteen acres in area, as may be chosen by him;
- (d) agricultural land, in his *khas* possession, not exceeding twenty-five acres in area of two-crop land or land equivalent thereto, as may be chosen by him, along with any tank used for the purpose of irrigation thereof;
- (e) tea gardens, orchards and fisheries;
- (f) mills, factories and workshops;
- (g) where the intermediary is a local authority,—land held for public purposes by such authority;
- (h) where the intermediary is a corporation or an institution established for an exclusively charitable or an exclusively religious purpose,—land held by such corporation or institution for such charitable or religious purpose;
- (i) where the intermediary is a Co-operative Society engaged in farming or a Company registered under the Indian Companies Act, 1913, engaged in farming,—agricultural land in the *khas* possession of such Society or Company, not exceeding in area the number of acres which the members of the Society or the Company would have been entitled to retain in the aggregate under clause (d) if each such member were an intermediary, and chosen by such Society or Company.

VII of  
1913.

(2) Until further legislation is made in this behalf by the State Legislature—

- (a) homesteads shall be held directly as a tenant under the State but without payment of any rent;
- (b) *pucca* buildings referred to in clause (b), non-agricultural lands referred to in clause (c), agricultural lands referred to in clauses (d) and (i), and lands referred to in clauses (g) and (h) of sub-section (1), shall be held directly as a tenant under the State, subject to the payment of such rent as may be prescribed;

*The West Bengal Estates Acquisition Bill, 1953.*

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Clauses 7—10.)

(c) tea gardens, orchards and fisheries referred to in clause (e), and mills, factories and workshops referred to in clause (f) of sub-section (1) shall be held directly under the State, subject to the payment of such rent and subject to such terms and conditions as may be prescribed:

Provided that if any tea garden, orchard, fishery, mill, factory or workshop was held under an intermediary under a lease to which the provisions of the Bengal Tenancy Act, 1885, or the West Bengal Non-Agricultural Tenancy Act, 1949, did not apply, such lease shall be held directly under the State as if the State had been the intermediary, and on the same terms and conditions as immediately before the date of vesting.

VIII of  
1885.  
West Ben.  
Act XX of  
1949.

Arrears of land revenue and cesses due from any intermediary.

7. All arrears of land revenue and cesses remaining lawfully due from any intermediary in respect of any estate which vests under section 5, shall after such date continue to be recoverable from such intermediary, and shall without prejudice to any other mode of recovery, be recoverable by deduction of the amount of such arrears from the money payable as compensation to such intermediary under this Act.

Arrears of rent due to an intermediary and decrees for such arrears.

8. All arrears of rent remaining lawfully due to any intermediary on the date of vesting from any person, in respect of any interest of such intermediary which vests under section 5, and all sums due from such person in respect of any decree for arrears of rent in respect of such interest, whether having the effect of a rent-decree or money-decree and whether obtained before or after the date of vesting, and the execution of which is not barred by limitation, shall continue to be recoverable by such intermediary and shall without prejudice to any other mode of recovery be recoverable by attachment of any money that may be payable as compensation to such person under this Act.

Collector to take charge of estates and rights of intermediaries vested in the State.

9. (1) Upon the publication of any notification under section 4, the Collector shall take charge of all estates and all interest of intermediaries which vest in the State under section 5.

(2) For the purpose as aforesaid, the Collector may, by a written order served in the prescribed manner, require any intermediary or any person in possession (*khas* or symbolical) of any such estate or of any such interest, to give up such possession by a date to be specified in the order (which shall not be earlier than sixty days from the date of service of the order) and to deliver by that date any documents, registers, records and collection papers connected with the management of such estate or of such interest which are in his custody and to furnish a statement in the prescribed form in respect of such estate or such interest.

(3) The Collector or any officer authorized by him in this behalf may take such steps or use such force, as may be necessary to enforce compliance with the order and may also enter any building or place for the purpose of taking possession of documents, registers, records or collection papers referred to in sub-section (2).

(4) Nothing in this section shall authorise the Collector to take *khas* possession of any estate or of any right of an intermediary therein, which may be retained under section 6.

Penalty for non-compliance of Collector's order.

10. (1) If any person on whom an order has been served under sub-section (2) of section 9, wilfully fails or neglects to comply with all or any of the directions given in such order within the time specified therein or within such further time as the Collector may allow or withholds any documents, registers, records or collection papers or wilfully furnishes any incorrect statement, it shall be lawful for the Collector, after giving such person an opportunity of being heard, to impose a fine upon such person. Such fine may extend to one thousand rupees or in the case of an intermediary five times the annual revenue and cess or rent of the estate or the interest concerned, as the case may be, whichever is greater.

(2) An appeal against any order of the Collector under sub-section (1), if preferred within sixty days of such order, shall lie to the prescribed authority and such authority shall dispose of the appeal according to the prescribed procedure.



*The West Bengal Estates Acquisition Bill, 1953.*

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Chapter III.—Assessment and payment of compensation.—Clauses 11—15.)

(3) The fine imposed under sub-section (1) or as confirmed or varied on any appeal therefrom shall be paid within sixty days of the order imposing the fine, or the order on appeal, as the case may be, and in default of such payment shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act  
111 of  
1913.

Payment  
of *ad-  
interim*  
compen-  
sation.

11. Every intermediary whose estate or interests have vested in the State and have been taken charge of by the Collector under section 9 shall be entitled to receive in cash, in respect of such estate or interests at such time and in such manner as may be prescribed, an *ad-interim* payment at the rate of one-third of the net annual income from such estate or interests to be calculated in the prescribed manner and all such payments shall be deemed to be part of the compensation payable to such intermediary under this Act and shall, at the time of payment of such compensation, be deducted from and adjusted against it.

Manage-  
ment  
of estates  
and  
interests of  
inter-  
mediaries  
vested in  
the State.

12. All estates and all interests of intermediaries therein, which have vested in the State under a notification under section 4 and which have been taken possession of by the Collector under section 9 shall be managed according to such rules as the State Government may from time to time make in this behalf:

Provided that the State Government may at any time, if it so thinks fit, entrust the management of such estates and such interests to any local body or agency on such terms and conditions, as it may, by general or special order, fix, and the local body or agency shall manage such estates and such interests in accordance with rules made by the State Government in this behalf.

## CHAPTER III.

**Assessment and payment of compensation.**

Prepara-  
tion of  
Compensation  
Assessment  
Roll.

13. (1) The Compensation Officer shall in respect of a notified area prepare a Compensation Assessment Roll as soon as possible after the publication of the notification.

(2) Such Compensation Assessment Roll shall contain particulars about the gross income and the net income of each intermediary from all his estates and interests within the notified area.

Separate  
treat-  
ment of  
each  
co-sharer  
inter-  
mediary  
for purpose  
of assess-  
ment and  
payment  
of com-  
pensation.

14. In preparing the Compensation Assessment Roll as aforesaid, each co-sharer intermediary shall be treated as if there had been a partition between such intermediary and other co-sharer intermediaries on the date of vesting:

Provided that all the interests of a co-sharer intermediary in all estates and interests situated in a notified area shall be treated together as constituting a single unit.

Gross  
income  
and net  
income.

15. (1) For the purpose of the preparation of the Compensation Assessment Roll for any notified area—

(a) the gross income of an intermediary shall be taken to consist of—

- (i) the aggregate of the rents payable or deemed to be payable to him for the previous agricultural year by his immediately subordinate tenants including the commuted value of rents in kind of such tenants determined in the prescribed manner and subject to the provisions of section 37;
- (ii) in respect of *khas* lands, the actual annual income of such land determined in the prescribed manner;
- (iii) the income derived during the previous agricultural year from *hats*, bazars, ferries, fisheries, tolls and other *sairati* interests;
- (iv) the income from forests calculated on the basis of the average annual income of twenty-five agricultural years immediately preceding the agricultural year in which the date of vesting falls; and

*The West Bengal Estates Acquisition Bill, 1953.*

(Chapter III.—Assessment and payment of compensation.—  
Clause 16.)

- (v) the annual income derived during the previous agricultural year from any other interest of such intermediary not expressly mentioned in sub-clauses (i) to (iv).
- (b) The net income of an intermediary shall be computed by deducting from his gross income the following, namely:—
- (i) any sum payable by such intermediary during the previous agricultural year as land revenue, cesses or rent, if any, to the State Government or to his immediately superior landlord, as the case may be, in respect of the interests to which his gross income relates;
- (ii) the average expenditure, if any, determined in the prescribed manner and at the prescribed rates based on gross income, incurred by such intermediary on account of the maintenance of any irrigation or protective works in respect of such interests;
- (iii) charges on account of management and collection at the following rates, namely:—

Amount of gross income.	Rate.
(A) Where the gross income does not exceed Rs.500.	Nil.
(B) Where the gross income exceeds Rs.500 but does not exceed Rs.2,000.	Five per centum.
(C) Where the gross income exceeds Rs.2,000 but does not exceed Rs.5,000.	Seven and a half per centum.
(D) Where the gross income exceeds Rs.5,000 but does not exceed Rs.10,000.	Ten per centum.
(E) Where the gross income exceeds Rs.10,000 but does not exceed Rs.15,000.	Twelve and a half per centum.
(F) Where the gross income exceeds Rs.15,000.	Fifteen per centum.

Provided that the deduction on account of clauses (ii) and (iii) shall not in the case of intermediaries whose gross incomes are specified in paragraphs (B) to (F) be less than the deductions on account of those clauses in the case of intermediaries whose gross incomes are specified in paragraphs (A) to (E) respectively.

(2) In the case of a recusant proprietor of a temporarily-settled estate, the *malikana* received by such proprietor in respect of the previous agricultural year shall be deemed to be the net income of such proprietor.

*Explanation.*—For the purposes of this section "previous agricultural year" means the agricultural year immediately preceding the agricultural year in which the date of vesting falls.

Assessment of compensation.

16. (1) After the net income has been computed under section 15, the Compensation Officer shall, for the purpose of preparing the Compensation Assessment Roll for the notified area, proceed to determine the amount of compensation payable to intermediaries in accordance with the following table, namely:—

TABLE.

Net income.	Amount of compensation payable.
For the first Rs.1,000 or less ..	Fifteen times the net income.
For the next Rs.2,000 ..	Thirteen times the net income.
For the next Rs.5,000 ..	Eleven times the net income.
For the next Rs.10,000 ..	Nine times the net income.
For the next Rs.25,000 ..	Seven times the net income.
For the next Rs.50,000 ..	Five times the net income.
For the balance of the net income	Four times the balance of the net income.



*The West Bengal Estates Acquisition Bill, 1953.**(Chapter III.—Assessment and payment of compensation.—  
Clauses 17—20.)*

Provided that where such net income is derived from interests which are held under a *bona fide* trust or other legal obligation for exclusively charitable or religious purposes without reservation of pecuniary benefit to any individual, the compensation payable for such interests shall be assessed as a perpetual annuity equal to such net income.

- (2) (a) Where an intermediary is the holder of a temporary interest, the compensation payable to such intermediary in respect of such interest shall be paid out of the compensation which would, but for the existence of such temporary interest, be payable to his immediate superior landlord, or
- (b) where the interest of an intermediary is subject to a usufructuary mortgage, the compensation payable to such intermediary shall be apportioned between him and his usufructuary mortgagee;

and the Compensation Officer shall apportion the compensation between the holder of such temporary interest and his immediately superior landlord or between such intermediary and his mortgagee in such proportion as may be just and fair having regard to the unexpired period of such temporary interest or the usufructuary mortgage.

Preliminary publication of Compensation Assessment Roll.

17. (1) After the amount of compensation has been determined in accordance with the provisions of section 16 and entered in the Compensation Assessment Roll, the Compensation Officer shall cause a draft of such roll to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of publication and shall dispose of such objections according to such rules as the State Government may make in this behalf.

(2) Separate draft Compensation Assessment Roll may be prepared and published under sub-section (1) for different villages or group of villages in a notified area.

Contents of the order of Compensation Officer.

18. The order of the Compensation Officer deciding an objection under sub-section (1) of section 17 or an order under sub-section (2) of section 24 shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

Appeals.

19. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Compensation Officer under sub-section (1) of section 17 or under sub-section (2) of section 24 to the Special Judge appointed under sub-section (2) of section 49.

(2) An appeal shall lie to the High Court from every order passed on appeal by a Special Judge under sub-section (1) on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.

Act V of 1908.

Final publication of the Compensation Assessment Roll.

20. (1) When all such objections have been disposed of, the Compensation Officer shall make such alterations in the draft Compensation Assessment Roll as may be necessary to give effect to any order passed on objections made under sub-section (1) of section 17 and shall cause the said roll as so altered to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official designation.

(2) The publication of the Compensation Assessment Roll under sub-section (1) shall be conclusive evidence that the said roll has been duly made under this Chapter and every entry in such roll so finally published shall, except as modified by any order on appeal under section 19, be final and conclusive evidence of the matters referred to in such entry.

*The West Bengal Estates Acquisition Bill, 1953.**(Chapter III.—Assessment and payment of compensation.—  
Clauses 21—24.)*

Correc-  
tion of  
bona  
fide  
mistakes.

21. A Compensation Officer may, on application or of his own motion at any time before payment of compensation under section 22, correct any entry in the Compensation Assessment Roll, which he is satisfied has been made owing to *bona fide* mistake:

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 19 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Manner  
of pay-  
ment of  
compen-  
sation.

22. (1) As soon as may be after the time within which appeals under section 19 may be made has expired, the Compensation Officer shall in the prescribed manner proceed to make payment of the compensation to the intermediaries who are entitled to such compensation in terms of the Compensation Assessment Roll together with interest at the rate of three per centum per annum on such compensation accruing from the date of vesting to the date of payment of the compensation, if in cash, or to the date of issue of the bonds, if in bonds:

Provided that no compensation shall be paid to an intermediary until the appeal, if any, made by such intermediary under section 19 has been finally disposed of.

(2) All sums payable as compensation to an intermediary not exceeding rupees five thousand in amount or one year's net income whichever is greater but not exceeding rupees fifty thousand in any case, shall be paid in cash and the balance, if any, shall be paid in bonds carrying interest at three per centum per annum with effect from the date of issue and payable in the prescribed manner in twenty equal annual instalments subject to any deduction from such payment of any sum which the Collector may order to be made under section 7 or any *ad-interim* payment made under section 11 or any other sum recoverable from such compensation under section 8 or under an order of attachment:

Provided that the State Government may at any time pay the commuted value of the annuity bond in one instalment.

(3) Notwithstanding anything contained in sub-section (2), the entire amount of the compensation in respect of any interests payable under the proviso to sub-section (1) of section 16 shall be payable in perpetual annuity bonds. Such bonds shall be deposited with the Collector of the district and such Collector shall make the annual payment in respect of such bonds to the trustee or other person entitled to the management of such interests.

Compen-  
sation  
due to  
persons  
incom-  
petent to  
alienate.

23. If any intermediary entitled to receive such compensation in respect of any interest be a person incompetent to alienate such interest the Compensation Officer shall keep the amount of compensation payable for such interest whether in cash or bonds in deposit with the Collector of the district and such Collector shall arrange to invest the cash and the proceeds of the bonds in the purchase of such Government or other approved securities as such Collector thinks fit and shall direct the payment of the income from such investment to the intermediary who would for the time being have been entitled to hold and enjoy such interests if they had not vested in the State and such bonds and securities shall remain so deposited until they are made over to any person or persons becoming absolutely entitled thereto:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation made under this Act to pay the same to the person lawfully entitled hereto.

Limits of  
amounts  
payable  
as com-  
pensation.

24. (1) Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment Roll as finally published under section 20, no intermediary shall be entitled to receive on account of compensation any amount in excess of the amount calculated on his total net income from all his interests held by him within the State at the rate specified in the table contained in section 16.

*The West Bengal Estates Acquisition Bill, 1953.*

(Chapter III.—Assessment and payment of compensation.—  
Chapter IV.—Mines and Minerals.—Clauses 25—28.)

(2) The Compensation Officer shall, before making any payment under section 22 of any compensation payable in terms of a Compensation Assessment Roll prepared for any notified area, ascertain from such intermediary in the prescribed manner if any amount has been paid to him on account of compensation in respect of any other notified area and adjust the payment by making any deduction he considers necessary:

Provided that—

- (a) no such deduction shall be made until a reasonable notice has been given to the intermediary to appear and be heard in the matter; and
- (b) any such order for deduction shall be subject to appeal as provided under section 19.

Extent of recovery of compensation money by attachment.

25. (1) No portion of the compensation payable to any intermediary in terms of any Compensation Assessment Roll finally published under section 20 in excess of fifty per centum thereof shall—

- (a) be liable to be deducted under an order of a Collector made under section 7, or
- (b) be liable to attachment at any one time in execution of decrees including decrees for arrears of rent.

(2) Where there are several orders of attachment and the aggregate of the sums to be attached under such orders exceeds the limit referred to in sub-section (1), the order shall be enforceable to the extent of such limit and the priority amongst them shall be decided in accordance with the principles laid down in section 73 of the Code of Civil Procedure, 1908:

Act V of 1908.

Provided that any sum which is required to be deducted under the order of a Collector under section 7 shall have priority before any order of attachment.

## CHAPTER IV.

## Mines and Minerals.

Provisions of Chapter IV to override other provisions of the Act.

26. The provisions of this Chapter shall have effect notwithstanding anything to the contrary elsewhere in this Act.

Right of intermediaries directly working mines.

27. All mines in a notified area which were in operation on the date of vesting and were on such date being worked directly by an intermediary shall be deemed to have been leased by the State Government to such intermediary on such terms and conditions as may be agreed upon between him and the State Government, or in default of any agreement as may be settled by the Mines Tribunal:

Provided that all such terms and conditions shall be in accordance with the provisions of any Central Act for the time being in force relating to the grant of mining leases.

Subsisting leases of mines or minerals.

28. (1) All leases of mines and minerals in a notified area subsisting on the date of vesting, shall with effect from such date be deemed to have been granted by the State Government to the holder of the said subsisting lease on the same terms and conditions as of the subsisting lease with the additional condition that, if in the opinion of the State Government, the holder of the lease had not, before the date of commencement of this Act, done any prospecting or development work, the State Government shall be entitled at any time before the expiry of one year from the said date to terminate the lease by giving three months' notice in writing:



*The West Bengal Estates Acquisition Bill, 1953.**(Chapter IV.—Mines and Minerals.—Clauses 29—32.)*

Provided that nothing in this sub-section shall be deemed to prevent any modifications being made in the terms and conditions of the said lease in accordance with the provisions of any Central Act for the time being in force regulating the modifications of existing mining leases.

(2) The holder of any such subsisting lease of mines or minerals shall not be entitled to claim any damages from the outgoing intermediary on the ground that the terms of the lease executed by such intermediary in respect of the said mines or minerals have become incapable of fulfilment by the operation of this Act.

Buildings  
and land,  
appurte-  
nant to  
mines.

29. Where a mine is deemed to have been leased by the State Government to an intermediary under section 27 or where a lease is deemed to have been granted by the State Government under section 28 to the holder of a subsisting lease, all buildings and lands not included in such lease, which vest in the State by the operation of this Act and are in the use or occupation of the lessee for purposes connected with the working or extraction of mines or minerals, including the lands upon which any works, machinery, tramways or sidings appertaining to the mines are situated, shall be deemed to have been leased with effect from the date of vesting by the State Government to such intermediary or lessee, subject to the payment of such fair and equitable ground rent as may be agreed upon between the State Government and the intermediary or lessee, or in default of agreement, as may be fixed by the Mines Tribunal.

Prepara-  
tion of  
Compensation  
Assessment  
Roll for  
mines  
and  
minerals.

30. The Compensation Officer shall in respect of a notified area prepare in the prescribed form and in the prescribed manner a Compensation Assessment Roll containing in respect of every intermediary directly working mines or receiving royalties on account of mines and minerals—

- (a) his gross income from mines worked directly by him and his net income deemed to have been received from such mines;
- (b) his gross income and net income from royalties on account of mines and minerals leased by him;
- (c) compensation at the rate specified in the table contained in section 16, on the basis of the net income; and
- (d) such other particulars as may be prescribed.

Calcula-  
tion of  
gross and  
net  
income  
from  
mines  
and  
minerals.

31. (1) For the purpose of clause (a) of section 30, the gross income of an intermediary from mines worked directly by him shall be the average annual income calculated on the basis of the annual returns filed by him for the assessment of cess or income-tax during the period of twelve agricultural years immediately preceding the agricultural year within which the date of vesting falls or any shorter period for which returns have been filed; and an amount equal to five *per centum* of such gross income shall be deemed to be the net income from such mines.

(2) For the purposes of clause (b) of section 30, the gross income of an intermediary from royalties on account of mines and minerals leased by him shall be the average annual gross income on account of royalties, other than any sum received by way of *salami* or premium, calculated on the basis of the annual returns filed by such intermediary for the assessment of cess or income-tax during the period of twelve agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which such returns have been filed, and the net income from royalties shall be computed by deducting from the gross income so determined the average of the income-tax payable thereon during the said period and the cost of collection at such rates as may be prescribed.

Compensation  
payable  
for mines  
and  
minerals.

32. (1) (a) If the amount of compensation determined under clause (c) of section 30 is agreed to by the intermediary, such amount shall be deemed to be the compensation payable in respect of the mines and minerals to the intermediary.

*The West Bengal Estates Acquisition Bill, 1953.**(Chapter IV.—Mines and Minerals.—Chapter V.—Preparation of Record-of-rights.—Clauses 33—36.)*

(h) If no such agreement is reached within such period as may be prescribed, the Compensation Officer shall refer the question of determination of the amount of compensation to the Mines Tribunal.

(2) Where in pursuance of the additional conditions mentioned in sub-section (1) of section 28, any lease of mines or minerals is terminated by the State Government, the lessee shall be entitled to such compensation for the premature termination of the lease as may be agreed upon between the State Government and the lessee, or in default of agreement, as may be determined by the Mines Tribunal.

Mines  
Tribunal.

33. (1) The Mines Tribunal appointed for the purposes of this Chapter shall consist of a Chairman who shall be an officer not below the rank of a District Judge and a member who shall be a Mining Expert. Both the Chairman and the Mining Expert shall be appointed by the State Government with the previous approval of the Central Government.

(2) The Tribunal shall follow such procedure as may be prescribed.

(3) In regard to any matter of compensation referred to the Tribunal by the Compensation Officer under section 32, the Tribunal at the commencement of the proceedings before it may require the State Government and the intermediary to state what in their respective opinions is the fair amount of compensation; and in giving its decision as to the amount of compensation to be paid, the Tribunal shall have regard to the provisions of section 31 and to the opinion of the Mining Expert, with regard to the extent of the mining operation carried on and of the minerals obtained and shall determine the amount of compensation to be payable to the intermediary at a rate which shall not exceed twenty times the net income, as may appear to the Tribunal to be fair and reasonable.

(4) In settling the terms and conditions of a lease by the State Government under section 27, the Tribunal shall have power to determine the extent of the property deemed to have been leased by the State and in so doing shall have regard to the reasonable requirements for the future development of the mining concern of the lessee.

(5) If there is a difference of opinion between the Chairman and the member in respect of any matter, the matter shall be referred to a Judge of the High Court to be nominated by the Chief Justice and the decision of such Judge shall be binding on the Tribunal and shall be final and conclusive.

Appeal  
against  
orders of  
the  
Tribunal.

34. An appeal, if presented within two months from the date of the order appealed against, shall lie against any order of the Tribunal to the High Court except in respect of matters of difference disposed of under sub-section (5) of section 33.

Payment  
of com-  
pensation  
for mines.

35. The provisions of section 22 shall apply *mutatis mutandis* in regard to the manner of payment of compensation for mines and minerals under this Chapter.

## CHAPTER V.

**Preparation of Record-of-rights.**

Prepara-  
tion of  
record-of-  
rights.

36. (1) The State Government may, for carrying out the purposes of this Act, make an order directing—

(a) that a record-of-rights be prepared in respect of any district, or subdivision, or

(b) that the record-of-rights prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, VIII of 1885, in respect of any district, or subdivision be revised,

by a Revenue Officer in accordance with the provisions of this Chapter and such rules as may be made in this behalf by the State Government.

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(Chapter V.—Preparation of Record-of-rights.—Clauses 37—41.)

(2) A notification in the *Official Gazette* of an order under sub-section (1) of this section shall be conclusive evidence that the order has been duly made.

(3) When an order is made under sub-section (1), the Revenue Officer shall record in the record-of-rights to be prepared or revised in pursuance of such order, such particulars as may be prescribed.

Commu-  
tation  
of rent  
in kind  
into  
money-  
rent.

37. (1) If any *raiyat* pays for a holding rent in kind or on the estimated value of a portion of the crop, the Revenue Officer shall, in the prescribed manner, determine the sum payable or deemed to be payable as money-rent and record such rent in the record-of-rights.

(2) In making the determination the Revenue Officer shall have regard to—

(a) the average money-rent payable by occupancy *raiyats* for land of a similar description and with similar advantages in the vicinity;

(b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available:

Provided that the sum to be paid so determined shall not exceed one-fourth of the value of the crop grown on such holding as may be estimated in the prescribed manner.

Asses-  
ment of  
rents of  
service  
tenancies.

38. In preparing or revising a record-of-rights under this Chapter, the Revenue Officer shall fix, in respect of every land held by a person who holds such land free of rent in consideration of some service to be rendered, a rent determined on the basis of the prevailing rate of rent paid by *raiyats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages and shall record such person in the record-of-rights as a *raiyat* liable to pay the rent so determined.

Effect  
of rents  
settled  
under this  
Chapter.

39. All rents determined under this Chapter, and entered in the record-of-rights shall be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act.

Draft  
and final  
publica-  
tion of  
the  
record-of-  
rights.

40. (1) When a record-of-rights has been prepared or revised as aforesaid, the Revenue Officer shall publish a draft of the record so prepared or revised in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of such publication.

(2) Any person aggrieved by an order passed by a Revenue Officer on any objection made under sub-section (1) may appeal to the prescribed Revenue authority in such manner and within such period as may be prescribed.

(3) When all such objections and appeals have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally frame the record and cause such record to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation.

(4) Every entry in the record-of-rights finally published under sub-section (3) shall, for the purposes of this Act, be conclusive evidence of the matter referred to in such entry.

Correc-  
tion of  
*bona fide*  
mistakes  
in record-  
of-rights.

41. Any Revenue Officer specially empowered by the State Government in this behalf may, on application or of his own motion within six months from the date of certificate of the final publication of the record-of-rights under sub-section (3) of section 40, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bona fide* mistake:

Provided that no such correction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.



*The West Bengal Estates Acquisition Bill, 1953.*

(Chapter V.—Preparation of Record-of-rights.—Chapter VI.—  
Special provisions for the acquisition of certain interests of  
raiyats and under-raiyats.—Clauses 42—46.)

Bar to  
jurisdic-  
tion of  
Civil  
Court in  
respect of  
certain  
matters.

42. After an order has been made under section 36 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of rent, possession of land, or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates, and if any such suit or application is pending before a Civil Court on the date of such order it shall abate.

Modifica-  
tion of  
the  
finally  
published  
record-of-  
rights.

43. As soon as may be after the Compensation Assessment Roll has been finally published under section 20 in respect of all estates situated in any area for which a record-of-rights has been prepared or revised and finally published under this Chapter, such record-of-rights shall be modified by eliminating therefrom all the interests of the intermediaries which have vested in the State and showing therein only the tenants who held directly under the State as a result of vesting of such interests in the State and one or more numbers to be borne on the revenue roll of the district shall be assigned by the Collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the State Government may make in this behalf and the Revenue Officer shall make a certificate that the record-of-rights have been so modified and shall date and subscribe the same under his name and official designation.

## CHAPTER VI.

Special provisions for the acquisition of certain interests of  
*raiyats and under-raiyats.*

Acquisi-  
tion of  
certain  
interests  
of *raiyats*  
and under-  
*raiyats.*

44. If the State Government is of opinion that it is expedient in the public interest to acquire in any notified area the rent-receiving interests of *raiyats* or under-*raiyats*, and also all *khas* cultivated lands of *raiyats* and under-*raiyats* in excess of the maximum holding, the State Government may by notification declare that such interests and such cultivated *khas* lands shall vest in the State as from the date specified in the notification free from all incumbrances other than the rights of cultivating *raiyats* or under-*raiyats*.

*Explanation.*—For the purpose of this Chapter—

- (i) the expression “rent-receiving interests of a *raiyat* or an under-*raiyat*” means the interests of a *raiyat* or under-*raiyat* who has sublet his holding whether in part or in whole;
- (ii) the expression “maximum holding” means an aggregate area of twenty-five acres of two-crop land or land equivalent thereto;
- (iii) “cultivating *raiyat* or under-*raiyat*” means a *raiyat* or an under-*raiyat* who has not sublet his holding in part or in whole.

Conse-  
quences  
of the  
declara-  
tion.

45. The provisions of Chapters II and III shall with such modifications as may be necessary, apply *mutatis mutandis* to the rent-receiving interests of *raiyats* or under-*raiyats* and lands in *khas* possession in notified areas in respect of which a notification has been issued under section 44, as if such interests and lands were interests of an intermediary.

Provisions  
for assess-  
ment and  
payment  
of com-  
pensation.

46. Every *raiyat* and under-*raiyat* whose rent-receiving interests of *khas* lands vest in the State shall be entitled to compensation in accordance with principles laid down in sections 23 and 24 of the Land Acquisition Act, 1894, so far as they may I of 1894.  
be applicable.

*The West Bengal Estates Acquisition Bill, 1953.**(Chapter VII.—Supplemental and Miscellaneous.—Clauses 47—53.)*

## CHAPTER VII.

## Supplemental and Miscellaneous.

Authori-  
ties  
for the  
purposes  
of the  
Act.

47. There shall be the following authorities for the purposes of this Act, namely:—

- (a) The Board of Revenue;
- (b) Special Judges;
- (c) Director of Land Records and Surveys;
- (d) Settlement Officers;
- (e) Assistant Settlement Officers;
- (f) Compensation Officers; and
- (g) Revenue Officers.

Delega-  
tion of  
powers  
by the  
State  
Govern-  
ment.

48. The State Government may, by notification in the *Official Gazette*, delegate any of the powers except the powers of making rules under section 53 to be exercised by the Board of Revenue subject to any reservations as may be specified in the notification.

Powers of  
Officers.

49. (1) The Board of Revenue shall, in respect of the whole of West Bengal, exercise the powers conferred and perform the duties imposed on it by this Act and by such rules as may be made thereunder.

(2) The State Government may appoint one or more officers not below the rank of a District Judge to be a Special Judge or Special Judges for the purposes of hearing appeals under section 19.

(3) All other officers named in section 47 shall exercise such powers and perform such duties under this Act or any rules made thereunder as may be conferred or imposed on them.

Power to  
enter  
upon  
land, to  
make  
survey,  
etc.

50. A Revenue Officer, subject to any rules made under this Act, may at any time enter upon any land with such officers or other persons as he considers necessary, and make a survey of the land or take measurements thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act or any rules made thereunder.

Power to  
compel  
produc-  
tion of  
state-  
ments and  
documents  
and to  
enforce  
attend-  
ance of  
witnesses.

51. (1) Subject to any rules made under this Act, a Revenue Officer may, for the purposes of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any interest whatsoever in any land at a time or place specified in the notice.

(2) Every person required to make or deliver a statement or produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

(3) For the purposes of an inquiry under this Act a Revenue Officer shall have power to summon and enforce the attendance of witnesses or of any person having any interest whatsoever in any land and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

Act XLV  
of 1860.

Protec-  
tion of  
action  
taken  
under  
the Act.

52. (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) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or any rules made thereunder or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to  
make  
rules.

53. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any section of this Act, are required to be prescribed or to be provided for by rules.

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**STATEMENT OF OBJECTS AND REASONS.**

The question of abolition of the Zemindari system has been agitated for many years in this country. The Land Revenue Commission which was set up in 1938 recorded its opinion by a majority that the Zemindari system was no longer suited to the conditions of the present time and it recommended that the interests of all classes of rent receivers should be acquired on reasonable terms so that the actual cultivators might become tenants holding directly under the Government. The Bengal Administration Enquiry Committee, 1945, which examined the question mainly from the administrative point of view expressed its opinion that the present system of land tenure was outmoded and was an obstacle to the maximum utilisation of the land and water resources of the country.

The Agrarian Reforms Committee also was of a similar opinion.

This Government has considered the problem in the light of the opinions referred to above and decided to bring forward the present Bill with the following objects, namely:—

- (1) to eliminate the interests of all Zamindars and other intermediaries by acquisition on payment of compensation;
- (2) to permit the intermediaries to retain possession of their *khas* lands up to certain limits and to treat them as tenants holding directly under the State;
- (3) to acquire the interests of Zamindars and other intermediaries in mines; and
- (4) to provide for certain other necessary and incidental matters.

S. K. BASU,  
*Member-in-charge.*

CALCUTTA:  
*The 4th May, 1953.*

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By order of the Governor,  
S. K. D. GUPTA,  
*Secy. to the Govt. of West Bengal.*