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EAST BENGAL ACT XXVIII OF 1951.¹

**THE EAST BENGAL STATE ACQUISITION AND
TENANCY ACT, 1950.)**

(As modified up to the 27th May, 1957.)

[16th May, 1951.]

An Act to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in East Bengal and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith.

WHEREAS it is expedient to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in East Bengal and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith;

It is hereby enacted as follows:—

PART I.

CHAPTER I.

Preliminary.

Short title
and extent.

1. (1) This Act may be called the East Bengal State Acquisition and Tenancy Act, 1950.

(2) It extends to the whole of East Bengal.

Definitions.

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

(1) “cesses” include local rates levied under the Assam Local Rates Regulation, 1879;

Assam
Regn. III
of 1879.

(2) “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility;

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 6th April 1948; for Report of Select Committee, see *Dacca Gazette, Extraordinary*, dated the 16th August, 1949, Part IVA, page 547; for proceedings in Assembly see proceedings of the meetings of the East Bengal Legislative Assembly held on the 7th April, 1948, 16th to 17th, 21st to 26th, 28th to 30th November, 1st to 3rd, 5th to 10th, 12th to 13th, 15th to 17th and 19th December, 1949, 7th to 10th and 13th to 16th February, 1950.

* The Act was extended to the partially excluded areas of Mymensingh district with effect from the 16th May, 1951, vide notification No. 4342 L.R., dated the 30th April, 1951, published in the *Dacca Gazette, Extraordinary*, dated the 16th May, 1951, Part I, page 400.

(Section 2.)

(3) "Collector" means the Collector of a district and includes a Deputy Commissioner and such other officers as may be appointed by the Provincial Government to perform all or any of the functions of a Collector under this Act;

(4) "Commissioner" means the Commissioner of State Purchase appointed under sub-section (1) of section 48;

(5) "company" has the same meaning as in the Companies Act, 1913; Act VII of 1913.

(6) "complete usufructuary mortgage" means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage;

(7) "consolidation", used with respect to holdings means the redistribution of all or any of the areas of land comprised in the holdings for the purpose of rendering separate holdings more compact by reducing the total number of separate plots;

(8) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or the Bengal Co-operative Societies Act, 1940; Act II of 1912.
Ben. Act XXI of 1940.

(9) "cultivating *raiyat*" or "cultivating under-*raiyat*" means a *raiyat* or an under-*raiyat*, as the case may be, who holds land by cultivating it either by himself or by members of his family or by servants or by *bargadars* or by or with the aid of hired labourers or with the aid of partners;

¹[(9a) 'Director of Land Records and Surveys' includes Additional Director of Land Records and Surveys;]

(10) "encumbrance", in relation to any estate, tenure, holding, tenancy or land, means any mortgage, charge, lien, sub-tenancy, easement or other right or interest created by the holder thereof on such estate, tenure, holding, tenancy or land or in limitation of his own interest therein;

(11) "estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government *khas mahals* and revenue-free lands not entered in any register; and also includes the following in the district of Sylhet:—

- (i) any land subject either immediately or prospectively to the payment of land revenue for the discharge of which a separate engagement has been entered into;

¹This new clause was added by E. B. Ordinance III of 1956, s. 3.

of 1951.]

(Section 2.)

- (ii) any land subject to the payment of, or assessed with, a separate amount as land revenue although no engagement has been entered into with the Government for that amount;
- (iii) any land which is, for the time being, included under one entry in the Deputy Commissioner's register of revenue-free estates as well as revenue-free lands which are not so included in such register;
- (iv) any land, being the exclusive property of Government, of which a separate entry has been made in the general register of revenue-paying and revenue-free estate mentioned in Chapter IV of the Assam Land and Revenue Regulation, 1886;

Assam
Regn. I
of 1886.

(12) "*haat*" or "*bazar*" means any place where persons assemble daily or on particular days in a week primarily for the purposes of buying or selling agricultural or horticultural produce, livestock, poultry, hides, skins, meat, fish, eggs, milk, milk-products or any other articles of food or drink or other necessities of life, and includes all shops of such articles or manufactured articles within such place;

(13) "*holding*" means a parcel or parcels of land or an undivided share thereof, held by a *raiya*t or an under-*raiya*t and forming the subject of a separate tenancy;

(14) "*homestead*" means a dwelling house with the land under it, together with any courtyard, garden, tank, place of worship and private burial or cremation ground attached and appertaining to such dwelling house, and includes any out-buildings used for the purpose of enjoying the dwelling house or for purposes connected with agriculture or horticulture and such lands within well defined limits, whether vacant or not, as are treated to be appertaining thereto;

(15) "*khas* land" or "land in *khas* possession", in relation to any person, includes any land let out together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(16) "land" means land which is cultivated, uncultivated or covered with water at any time of the year, and includes ¹[benefits to arise out of land,] houses or buildings and also things attached to the earth, or permanently fastened to anything attached to the earth;

(17) "non-agricultural tenant" means a tenant who holds land for purposes not connected with agriculture or horticulture, but does not include a person holding land together with any building standing thereon and necessary adjuncts thereto under a lease other than a lease in perpetuity;

(18) "notification" means a notification published in the *Official Gazette*;

¹These words and comma were inserted by E. B. Act V of 1953, s. 3.

(Section 2.)

(19) "prescribed" means prescribed by rules made under this Act;

(20) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(21) "registered" means registered under any Act for the time being in force for the registration of documents;

(22) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

(23) "rent-receiver" means a proprietor or a tenure-holder, and includes a *raiya*, an under-*raiya* or a non-agricultural tenant whose land has been let out and also the immediate landlord of a person who holds any land free of rent in consideration of some service to be rendered, but does not include a person in respect of such of his lands, as has been let out, together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(24) "Revenue-officer" includes any officer whom the Provincial Government may appoint to discharge all or any of the functions of a Revenue-officer under this Act or any rules made thereunder;

(25) "signed" includes "marked", when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to;

(26) "succession" includes both intestate and testamentary succession;

(27) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person:

Provided that a person who, under the system generally known as "*adhi*", "*barga*", or "*bhag*", cultivates the land of another person on condition of delivering a share of the produce to that person, is not a tenant, unless—

(i) such person has been expressly admitted to be a tenant by his landlord in any document executed by him or executed in his favour and accepted by him, or

(ii) he has been or is held by a Civil Court to be a tenant;

(28) "tenure" means the interest of a tenure-holder or an under-tenure-holder;

(29) "village" means the area defined, surveyed and recorded as a distinct and separate village in any survey made by, or under the authority of, the Government, and, where no such survey has been made, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village;

(30) "year" or "agricultural year" means the Bengali year commencing on the first day of *Baisakh*; and

of 1951.]

(Sections 2—3.)

(31) all words and expressions used in Parts I, II, III and IV of this Act, but not defined in this Act, and used in the Bengal Tenancy Act, 1885, or in the Sylhet Tenancy Act, 1936, have the same meanings as in those Acts in the respective areas to which those Acts apply.

VIII of
1885.
Assam
Act XI of
1936.

PART II.

CHAPTER II.

Special provisions for the acquisition of the interests of certain rent-receivers.

Acquisition of the interests of certain rent-receivers and consequences thereof. 3. (1) At any time after the commencement of this Act, it shall be lawful for the Provincial Government to acquire, by notification in the *Official Gazette*, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date),—

(i) all interests of such of the rent-receivers as may be specified in the notification, in their respective estates, ¹[*taluks*, tenures, holdings or tenancies], as the case may be, in any district, part of a district or local area, and

(ii) all interests of all rent-receivers whose properties are, for the time being, under the management of the Court of Wards under the Court of Wards Act, 1879, in their respective estates, ¹[*taluks*, tenures, holdings or tenancies], as the case may be,

Ben. Act
IX of
1879.

including all their interests in all sub-soil and rights to minerals in such estates, ¹[*taluks*, tenures, holdings or tenancies].

(2) Subject to the provisions of sub-sections (2), (3), (4) and (5) of section 20, the Provincial Government may also, simultaneously with or at any time after the publication of a notification under sub-section (1) in respect of the interests of any rent-receiver in any estate, ²[*taluk*, tenure, holding or tenancy], acquire, by notification in the *Official Gazette*, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date), ³[all or any of the lands in his *khas* possession of which he shall not be entitled to retain possession under the said section and so much of the lands in his *khas* possession as has been acquired under this sub-section and has not vested in the Provincial Government under clause (a) of sub-section (4), shall vest absolutely in the Provincial Government free from all incumbrances].

¹These words and commas were substituted for the words "*taluks* or tenures" by E. B. Act VI of 1952, s. 3.

²These words and commas were substituted for the words "*taluk* or tenure" by section 3, *ibid*.

³These words and commas were substituted for the words and commas "all or any of the lands in his *khas* possession, in such estate, *taluk*, tenure, holding or tenancy, of which he shall not be entitled to retain possession under the said section" by E. B. Act XII of 1954, s. 3.

(Section 3.)

¹[(2a) In a notification issued under this section, rent-receivers may be specified or described by name, or by reference to areas wherein they have interests, or in such other manner as the Provincial Government may determine.]

(3) The notification referred to in sub-section (1) or sub-section (2) shall be in such form and shall contain such particulars as may be prescribed.

(4) On and from the date specified in a notification under sub-section (1),—

~~(a)~~ all interests of the rent-receivers in the estates, ²[*taluks*, tenures, holdings or tenancies] specified in the notification, including their interests in all lands in their *khas* possession, and interests in all sub-soil and rights to minerals, in such estates, ²[*taluks*, *tenures*, holdings or tenancies] and also including the interests of any such rent-receiver in any building or part of a building standing on any such land and used primarily as office or *cutchery* for the collection of rent of any estate, ³[*taluk*, tenure, holding or tenancy], shall vest absolutely in the Provincial Government free from all encumbrances⁴***:

Provided that nothing in this clause shall apply to any building within the homestead of the rent-receiver concerned;

(b) all arrears of revenue or rent and all cesses, together with interest, if any, payable thereon, remaining lawfully due to the Collector on the notified date in respect of any interest acquired under sub-section (1) shall, after the said date, continue to be recoverable from the person by whom they were payable and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears, cesses and interest from the compensation money payable to such person under section 58, when so ordered by the Collector;

(c) all arrears of rent and all cesses, together with interest, if any, due thereon, in respect of any period previous to the notified date payable to a rent-receiver in respect of any interest acquired under sub-section (1) which have not been barred by limitation shall, on and from the said

¹This new sub-section was added by E. B. Ordinance III of 1956, s. 4.

²See foot-note¹ on page 5.

³See foot-note² on page 5.

⁴The words "other than sub-tenancies" were omitted by E. B. Ordinance III of 1956, s. 4.

of 1951.]

(Section 3.)

date, vest in, and be recoverable by, the Provincial Government and shall, without prejudice to any other mode of recovery, be recoverable, from the persons by whom they were payable, by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;

- (d) all amounts recoverable by the Provincial Government from a rent-receiver under the Bengal Embankment Act, 1882, which remain outstanding on the notified date, whether on account of arrear dues or dues under future instalments under the said Act, in respect of any interest acquired under sub-section (1), shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrear and future instalments from the compensation money payable to such rent-receiver under section 58 in respect of such interest, when so ordered by the Collector; Ben. Act II of 1882.
- (e) all tenants holding lands in such estates, ¹[*taluks*, tenures, holdings or tenancies] directly under the rent-receivers specified in the notification under sub-section (1) shall become tenants directly under the Provincial Government and shall pay rent at the existing rate, in respect of the rent-paying lands so held by them, to the Provincial Government and not to anybody else;
- (f) all such rent-receivers shall be entitled to hold as tenants directly under the Provincial Government such of their *khas* lands as has not been acquired under sub-section (2) and shall be liable to pay to the Provincial Government, the rent determined for such lands under section 5;
- (g) an arrear of rent payable under clauses (e) and (f) ²[may, without prejudice to any other mode of recovery,] be recoverable under the Bengal Public Demands Recovery Act, 1913; Ben. Act III of 1913.
- (h) a transferable tenure coming ³[in whole] directly under the Provincial Government under clause (e) shall be deemed to be a tenure as defined in section 1 of the Bengal Land Revenue Sales Act, 1868. Ben. Act VII of 1868.

¹See foot-note¹ on page 5.

²These words and commas were substituted for the word "shall" by E. B. Act VI of 1952, S. 4.

³These words were inserted by section 4, *ibid*.

(Sections 3, 3A and 4.)

(5) The outgoing rent-receivers, whose interests have been acquired under this section, shall be entitled to compensation as provided in this Act.

Service of
notice for
furnishing
return
before noti-
fication.

¹[3A. For the purpose of acquisition, under section 3, of the interest of any rent-receiver in any estate, *taluk*, tenure, holding or tenancy or of the lands in his *khas* possession, the Revenue-officer may, at any time before the publication of a notification under sub-section (1) or sub-section (2) of that section in respect of such interest or lands, cause a notice to be served on such rent-receiver in the prescribed manner, directing him to furnish, within such time, not being less than sixty days from the date of service of the notice, as may be specified therein, a return in the prescribed form showing all or any of the following particulars, as may be required by such notice:—

- (i) the total area and description of all the estates, *taluks*, tenures, holdings and tenancies held by him and the annual revenue or rent and cesses payable by him in respect thereof to the Provincial Government or to his immediate superior landlord, as the case may be;
- (ii) the names of the villages, thanas and districts in which the lands of the estates, *taluks*, tenures, holdings and tenancies are situated, together with a list of collection papers relating thereto, for a period not exceeding five years immediately preceding;
- (iii) the area, description and classification of all lands in his *khas* possession with the names of villages and thanas in which they are situated;
- (iv) the names of all co-sharers having joint collection with him, with their respective shares in such estate, *taluks*, tenures, holdings and tenancies; and
- (v) such other information as the Revenue-officer may deem necessary.]

Service of
notice to
furnish
returns, etc.,
and penalty
for non-
compliance.

4. (1) As soon as may be after the publication of a notification under sub-section (1) of section 3, ²[the Revenue officer may] cause a notice to be served in the prescribed manner on every rent-receiver specified in such notification other than a rent-receiver whose properties are under the

¹This new section was inserted by E. B. Act. VI of 1952, s. 5.

²These words were substituted for the words "the Revenue-officer shall" by E. B. Ordinance III of 1956, s. 5

of 1951.]

(Section 4.)

management of the Court of Wards under the Court of Wards Act, 1879, directing him to furnish,—

Ben. Act
IX of
1879.

(a) a return in the prescribed form showing—

(i) the total area and description of the estate, ¹[*taluk*, tenure, holding or tenancy] in respect of which his interests are acquired by the said notification and the annual revenue or rent and cesses payable by him in respect thereof to the Provincial Government or to his immediate superior landlord, as the case may be,

(ii) the names of the villages with thanas and districts in which the lands of the estate, ¹[*taluk*, tenure, holding or tenancy] are situated and the total annual demand of rent and cesses of each village with a list of collection papers in support of the demand,

(iii) the area and description of the lands in his *khas* possession, and

(iv) the names of all co-sharers having joint collection with him, with their respective shares in such estate, ¹[*taluk*, tenure, holding or tenancy], and

(b) such other information, papers or documents as the Revenue-officer may deem necessary,

and to hand over all papers of his *sherista* relating to the estate, ¹[*taluk*, tenure, holding or tenancy], to such officer and within such time, not being less than sixty days from the date of service of the notice, as may be specified in such notice :

²[Provided that it shall not be necessary for a rent-receiver to furnish such of the particulars as, in the opinion of the Revenue-officer, have already been correctly furnished by him pursuant to a notice under section 3A.]

(2) The officer taking delivery of the papers mentioned in sub-section (1) shall grant a receipt for the papers handed over to him.

¹See foot-note² on page 5.

²This proviso was added, after substituting a colon for the full-stop at the end of sub-section (1) of section 4, by E. B. Act VI of 1952, s. 6.

(Section 4.)

(3) All co-sharers having joint collection shall be jointly and severally liable to comply with the directions given in ¹[a notice under sub-section (1) of this section or section 3A] so far as they relate to any estate, ²[*taluk*, tenure, holding or tenancy] held by them jointly.

(4) If any person, on whom a notice has been served under ³[sub-section (1) of this section or section 3A], wilfully fails to comply with all or any of the directions contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, or wilfully furnishes any incorrect information or suppresses any information, paper or document, in respect of any estate, ²[*taluk*, tenure, holding or tenancy],—

(a) he shall be liable to a fine, to be imposed by the Revenue-officer after giving the defaulting person an opportunity of being heard, which may,—

(i) in the case of a revenue-paying estate or a rent-paying ²[*taluk*, tenure, holding or tenancy], extend to five times the annual revenue of the estate or the annual rent of the ²[*taluk*, tenure, holding or tenancy], as the case may be, and

(ii) in the case of a revenue-free estate or a rent-free ²[*taluk*, tenure, holding or tenancy], extend to such amount not exceeding two thousand five hundred rupees as the Revenue-officer may fix in his discretion; and

(b) in addition, he may be deprived of the benefit of the *ad interim* payment as provided in section 6, if so ordered by the Revenue-officer.

(5) (i) If any rent-receiver, on whom a notice has been served under sub-section (1), fails to hand over the papers of his *sherista* relating to any estate, ²[*taluk*, tenure, holding or tenancy] in accordance with the direction contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, the Revenue-officer or any other person authorised by him, may, with such assistance, if any, as he thinks necessary, enter upon any land or building, where the Revenue-officer has reason to believe that such papers may be found, and seize and take possession of such papers as he may consider essential for the management of such estate, ²[*taluk*, tenure, holding or tenancy]:

Provided that the Revenue-officer or such other person shall not enter upon any enclosed courtyard or garden attached to a building except with the consent of the inmate

¹This expression was substituted for the expression "such notice" by E.B. Act VI of 1952, s.6.

²See foot-note² on page 5.

³This expression was substituted for the expression "sub-section (1)" by E.B. Act VI of 1952, s.6.

(Sections 4—5.)

or occupier thereof, or if such consent is refused, except after giving such inmate or occupier at least two hours' notice in writing of his intention to do so:

Provided further that an inventory of the papers taken possession of by the Revenue-officer or such other person under this sub-section shall be furnished to the rent-receiver concerned by the Revenue-officer.

(ii) The provisions of this sub-section shall apply without prejudice to the provisions of sub-section (4).

(6) Any rent-receiver, who has handed over the papers of his *sherista* relating to any estate, ¹[*taluk*, tenure, holding or tenancy] to an officer of the Provincial Government under sub-section (1), or any person interested in such an estate, ¹[*taluk*, tenure, holding or tenancy], shall be entitled to inspect such papers in the prescribed manner and to get copies of any such paper on payment of the prescribed fees.

✓
Determination
of rents of
khas lands
of rent-re-
ceivers.

²[5. As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue Officer shall determine, according to the principles laid down in sections 23, 24, 25, 26, 27 and 28, the rent of every parcel of lands in the *khas* possession of all rent-receivers specified in such notification and comprised in the estates, *taluks*, tenures, holdings or tenancies to which such notification relates.]

1 See foot-note 2 on page 5.

²This section was substituted for the former section 5 as amended by section 7 of E.B. Act VI of 1952, by E.B. Act XII of 1954, s.4. The said former section 5 as amended by section 7 of E.B. Act VI of 1952 read as follows:—

Determination
of rents of
khas lands of
rent-receivers.

"5. As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue-officer shall determine the rent of every parcel of land in the *khas* possession of all rent-receivers specified in such notification in the estates, *taluks*, tenures, holdings or tenancies to which such notification relates—

- (i) if such land be agricultural land, on the basis of the prevailing rate of rent paid by occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, and
- (ii) if such land be non-agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to—
 - (a) the rent generally paid to the Provincial Government or to any other landlord for non-agricultural lands with similar advantages or of a similar description in the vicinity,
 - (b) the market value of the land immediately before the publication of such notification, and
 - (c) the rent which would be payable if the rate were fixed at not more than one *per centum* of such market value :

Provided that if any such land forms part of a holding or tenancy, the rent for such land shall be determined in accordance with the principles of section 27.

Explanation.—For the purposes of this section, "land" does not include any building or structure standing thereon."

(Section 6.)

*Ad interim
payment.*

6. (1) A rent-receiver, whose interests in any estate, ¹[*taluk*, tenure, holding or tenancy] are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such 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 income on account of the demands of rent and cesses for any period after the notified date collected from such estate, ¹[*taluk*, tenure, holding or tenancy], as the case may be, in respect of such interests in the year to which such payment relates.

(2) A rent-receiver, whose *khas* land is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of five *per centum* of the amount of compensation payable for such land under sub-section (1) of section 39 and the provisions of sub-sections (2), (3) and (4) of that section shall apply *mutatis mutandis* in the matter of determination of such amount.

(3) For the purposes of sub-section (1), the net income from any estate, ¹[*taluk*, tenure, holding or tenancy] for any year shall be computed by deducting from the gross collections, made by the Provincial Government in such year from such estate, ¹[*taluk*, tenure, holding or tenancy] on account of the demands of rents and cesses for any period after the notified date due to the interests acquired under sub-section (1) of section 3, the following:—

(i) an amount equivalent to the sums which were or are determined to have been payable annually for such interests immediately before the notified date on account of revenue or rent and cesses to the Provincial Government or to the immediate superior landlord, as the case may be;

²[(ii) an amount equivalent to the amount of the taxes on such collections that would have been assessable, at the average rates, under the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922, had not the provisions of section 3 been applied;]

(iii) the expenditure, if any, incurred for the maintenance of any irrigation or protective works in such estate, ¹[*taluk*, tenure, holding or tenancy] if the outgoing rent-receiver was legally bound to maintain them; and

Ben. Act
IV of
1944.
Act No.
XI of
1922.

¹See foot-note² on page 5.

²This clause was substituted for the original clause (ii) by E.B. Act VI of 1952, s.8. The said original clause (ii) read as follows:—

“(ii) an amount equivalent to the amount of the tax that would have been payable under the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922, in respect of such collections, had not the provisions of section 3 been applied ;”

Ben Act. IV
of 1944.
Act XI
of 1922.

(Sections 6—6A.)

(iv) collection charges not exceeding twenty *per centum* of the gross collections.

¹[*Explanation*.—In this sub-section, “average rates” mean the average rates of taxes at which assessment was made for the last time, before the notified date, under the provisions of the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922.]

Ben. Act
IV of
1944.
Act No.
XI of
1922.

(4) In determining the amounts of deductions under sub-section (3), the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

²[(5) Nothing in this section shall apply to any estate, *taluk*, tenure, holding, tenancy or land held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust.]

Ad interim
payment in
respect of
trust proper-
ties.

³[6A. (1) A rent-receiver, whose interest in any estate, *taluk*, tenure, holding or tenancy held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust, are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such interests at such time and in such manner as may be prescribed, an *ad interim* payment, as follows :—

(i) an annuity equivalent to so much of the net income of the estate, *taluk*, tenure, holding or tenancy as has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual;

(ii) for the portion of the net income, if any, of the estate, *taluk*, tenure, holding or tenancy, remaining after deduction of the annuity under clause (i), a sum calculated at the rate of three *per centum* of the amount of compensation payable for such portion of the net income under sub-section (1) of section 37.

(2) The amount of annuity referred to in clause (i) of sub-section (1) shall be determined in the same manner as is prescribed for the assessment of perpetual annuity under sub-section (3) of section 37, and the provisions of sub-section (4) of section 58 and sub-section (4) of section 59 shall apply in the matter of payment of such amount.

(3) For the purpose of clause (ii) of sub-section (1), the net income shall be determined in the manner provided in sub-sections (3) and (4) of section 6.

¹This explanation was added by E. B. Act VI of 1952, s. 8.

²This new sub-section was added by section 8, *ibid*.

³This section was inserted by section 9, *ibid*.

(Sections 6A—10.)

(4) A rent-receiver, whose *khas* land, held under *wakf*, *wakf-al-aulad*, *debutter* or any other trust, is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of three *per centum* of the amount of compensation payable for such land under sub-section (1) of section 39, and the provisions of sub-sections (2), (3) and (4) of that section shall apply *mutatis mutandis* in the matter of determination of such amount.]

Appeals:

7. Any person aggrieved by an order of the Revenue-officer under sub-section (4) of ¹[section 4 or section 5, or by an order of the Revenue-officer determining the amount of any *ad interim* payment under section 6 or section 6A] may, within a prescribed period and in the prescribed manner, present an appeal in writing to a prescribed superior Revenue Authority; and the decision of such Authority and also, subject only to such decision, an order of the Revenue-officer passed under the said section and sub-sections shall be final.

Payment and recovery of fines imposed under this Chapter.

8. The fine imposed under this Chapter shall be paid, by the person fined, in the prescribed manner within sixty days from the date of the order of the Revenue-officer imposing the fine or, when an appeal is presented against such order under section 7, within sixty days from the date of the disposal of such appeal; and in default of such payment the amount of such fine shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Restriction on transfer.

9. (1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of publication of a notification under sub-section (1) of section 3, no rent-receiver specified in such notification shall; except with the previous permission of a prescribed authority, transfer his rights and interests in any estate, ²[*taluk*, tenure, holding or tenancy], to which such notification relates, by private sale, gift, will, mortgage, lease or any contract or agreement, or transfer any land in his *khas* possession by any such means.

(2) Any transfer made in contravention of the provisions of sub-section (1) shall be null and void.

Exemption of *ad interim* payments from attachments.

10. Notwithstanding anything contained in the Code of Civil Procedure, 1908, and the Bengal Public Demands Recovery Act, 1913, any amount payable to an outgoing

Act V of
1908.
Ben. Act
III of
1913.

¹These words, figures, comma and letter were substituted for the words, figures, brackets, and comma "section 4, section 5 or sub-section (1) or (2) of section 6" by E. B. Act VI of 1952, s. 10.

²See foot-note ² on page 5.

of 1951.]

(Sections 10—12.)

rent-receiver under sub-section (1) or (2) of section 6¹[or sub-section (1) or (4) of section 6A] shall not be liable to attachment in execution of any decree or order of a Civil Court or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, other than a decree or certificate for the recovery of arrears of revenue, rent or cesses due in respect of the estate, *taluk*,²[tenure, holding, tenancy or land] to which such payment relates.

Ben. Act
III of
1913.

PART III.

³CHAPTER III.

Special provisions regarding lands held in lieu of service.

Acquisition
of occupancy
rights.

11. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, any person who holds under another person any land, for agricultural or horticultural purposes or for the purposes of his homestead, free of rent in consideration of some service to be rendered under the system locally known as *Nankar*, *Chakran* or the like shall, on and from the date of commencement of this Act, acquire a right of occupancy in all such lands so held by him subject to the payment of a fair and equitable rent to the person under whom he holds such lands and the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, as the case may be, so far as they apply to occupancy *rai-yats*, shall apply to him.

VIII of
1885.
Assam
Act XI
of 1936.

(2) The fair and equitable rent, referred to in sub-section (1), shall mean such rent not exceeding the prevailing rate of rent paid by the occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages as may be agreed upon between such tenant and his landlord or, in the absence of such agreement, as may be determined by the Collector on the application of such tenant or the landlord.

Removal of
the home-
stead of a
tenant in cer-
tain cases.

12. (1) Notwithstanding anything contained in section 11, where such tenant has his homestead within the homestead of his landlord, either he or the landlord may, ⁴[within six months from the date of commencement of this Act], apply to the Civil Court having jurisdiction to entertain a suit for the possession of such land, for an order directing the removal of the homestead of such tenant.

¹The words, figures, brackets and letter within square brackets were inserted by E. B. Act VI of 1952, s. 11.

²The words and commas within square brackets were substituted for the words "tenure or land" by section 11, *ibid*.

³As to the protection of Service Tenants from eviction and giving them the benefit of Chapter III of the E. B. State Acquisition and Tenancy Act, 1950 (E. B. Act XXVIII of 1951) see the East Bengal Service Tenants (Protection) Act, 1952 (E. B. Act IX of 1952), sections 3 and 4.

⁴For the purpose of sub-section (1) of section 4 of the East Bengal Service Tenants (Protection) Act, 1952 (E. B. Act IX of 1952), the expression "within six months from the date of commencement of this Act" shall be deemed to have been substituted by the expression "within three months from the date of commencement of the East Bengal Service Tenants (Protection) Act, 1952."

(Sections 12—13.)

(2) When an application is made under sub-section (1), the Court, after giving the parties an opportunity of being heard and after taking such evidence and making such enquiries as it thinks fit, if satisfied that the homestead of the tenant is situated within the homestead of the landlord, shall make the order applied for:

Provided that the Court, if it finds that the total quantity of cultivable land held by such tenant as an occupancy *raiyyat*, whether by virtue of section 11 or otherwise, besides the homestead to which the application relates, is less than five standard bighas, shall assess such reasonable compensation to be paid to such tenant by the landlord as would, in the opinion of the Court, cover the cost of removal of the homestead of the tenant to a new site, the cost of reconstruction of a similar homestead, the cost of the land required for such construction and such other incidental expenses as the Court thinks fit; and it shall not make an order for such removal until the landlord deposits in the Court the amount of compensation so assessed for payment to the tenant, or the tenant admits before the Court in writing that he has received the amount from the landlord out of Court.

(3) An order under sub-section (2) shall be deemed to be a decree for ejectment against such tenant; and no appeal shall lie against such order.

Restoration
of agricultural
land in
certain
cases.

13. (1) If a person has been ejected after the 7th day of April, 1948, otherwise than by a decree or order of a Civil Court or an order of the Collector or of any Revenue-officer empowered by the Collector, from any agricultural or horticultural land held by him free of rent in consideration of some service to be rendered under any system referred to in sub-section (1) of section 11, such person may, within six months from the date of commencement of this Act, apply to the Collector for the restoration of such land to him.

(2) When an application has been made under sub-section (1), the Collector, after giving the parties an opportunity of being heard and taking such evidence and making such enquiries as he thinks fit, if satisfied that the applicant was so ejected after the said date from such land so held by him, shall pass an order restoring such land to the applicant with effect from such date not being later than the first day of the agricultural year next following the date of the order as the Collector thinks fit.

(3) If the person in possession of such land does not give up its possession to the applicant with effect from such date, the Collector shall, on the application of such applicant, eject such person and place such applicant in possession of such land:

Provided if such person be a person other than the landlord, he shall get reasonable compensation, as determined by the Collector, from the landlord.

of 1951.]

(Sections 13—17.)

(4) When any agricultural or horticultural land is restored to a person under this section, the provisions of section 11 shall apply to such land.

Appeal.

14. Any person who is aggrieved by an order of the Collector under sub-section (2) of section 11 or under sub-section (2) of section 13, may prefer an appeal to the District Judge having jurisdiction over the area within thirty days from the date of such order; and the decision of the District Judge having jurisdiction over the area, on such appeal, shall be final.

Miscellaneous.

15. An application under sub-section (2) of section 11, sub-section (1) of section 12 or sub-section (1) of section 13 shall be in such form and contain such particulars as may be prescribed, and shall be accompanied by a process fee of the prescribed amount.

Saving as to certain lands.

16. Nothing in this Chapter shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

PART IV.

CHAPTER IV.

Preparation of Record-of-rights.

Preparation of record-of-rights.

17. (1) The Provincial Government may, with a view to acquisition under the provisions of this Act of the interests of all rent-receivers within any district, part of a district or local area and of such other interests in land therein as are liable to be acquired under the provisions of this Act, and with a view to the assessment of compensation payable for all such interests including the interests which have already been acquired under Chapter II, make an order directing—

(a) that a record-of-rights be prepared in respect of such district, part of a district or local area, or

(b) that the record-of-rights, last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, in respect of such district, part of a district or local area, be revised,

VIII of 1885.

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

(2) If any order has been made under section 101 of the Bengal Tenancy Act, 1885, [or under section 117 of the Sylhet Tenancy Act, 1936,] for the preparation of a record-of-rights in respect of any district, part of a district or local area, but the preparation of such record-of-rights has not been completed or such record-of-rights has not been finally published at the time when an order is made under sub-section (1) for the preparation or revision of a record-of-rights in respect of such district, part or area, then on the

VIII of 1885.
Assam Act XI of 1936.

¹The words, commas and figures within square brackets were inserted by E. B. Ordinance III of 1956, s. 6.

(Sections 17—19.)

making of an order under the said sub-section, all further proceedings relating to the preparation of the record-of-rights under the said Act shall be stayed; and such record-of-rights shall be prepared in accordance with the provisions of this Chapter and with such rules as may be made in this behalf by the Provincial Government:

Provided that any proceedings in respect of the preparation of such record-of-rights commenced under Chapter X of the Bengal Tenancy Act, 1885 ¹[or under Chapter IX of the Sylhet Tenancy Act, 1936], and undertaken prior to the publication of the draft of such record-of-rights under section 103A of the ²[Bengal Tenancy Act, 1885, or under section 119 of the Sylhet Tenancy Act, 1936, as the case may be,] shall, for the purposes of the preparation of such record-of-rights under this Chapter, be deemed to have been commenced and undertaken under this Chapter.

VIII of
1885.
Assam
Act XI of
1936.

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

Particulars
to be record-
ed in the
record-of-
rights.

18. When an order is made under section 17, 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.

Draft and
final publi-
cation of the
record-of-
rights.

19. (1) When a record-of-rights has been prepared or revised so as to contain or include therein the particulars referred to in section 18, the Revenue-officer shall publish a draft of the record-of-rights 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 not below the rank of an Assistant Settlement Officer 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 Provincial Government may make in this behalf, the Revenue-officer shall finally frame the record and shall cause such record to be finally published in the prescribed manner and the publication shall be conclusive evidence that the record has been duly prepared or revised under this Chapter.

(4) When a record-of-rights has been finally published under sub-section (3), the Revenue-officer shall, within such time as the Board of Revenue may fix in this behalf, 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 title.

¹The words, comma and figures within square brackets were inserted by E.B. Ord. III of 1956, s. 6.

²The words, commas and figures within square brackets were substituted for the words "said Act" by section 6, *ibid.*

of 1951.]

(Section 20.)

Lands to be retained in the possession of rent-receivers, cultivating *raiya*s, cultivating under-*raiya*s and non-agricultural tenants.

20. (1) On the acquisition of the interests of rent-receivers in any area under Chapter V, no rent-receiver, cultivating *raiya*, cultivating under-*raiya* or non-agricultural tenant shall be entitled to retain possession of any of his *khas* lands in such area except as provided in sub-section (2).

(2) A rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant shall be entitled to retain, as a tenant under the Provincial Government, possession of—

- (a) lands covered by his homestead or any other building belonging to him with necessary adjuncts thereto, other than such building or part of a building outside his homestead as is used primarily as office or *cutchery* for the collection of rents of any estate, *taluk* or tenure and may be decided to be acquired by the Provincial Government;
- (b) lands in his *khas* possession of the following classes, namely:—
 - (i) lands used for agricultural or horticultural purposes including tanks;
 - (ii) lands which are cultivable or which are capable of cultivation on reclamation, and
 - (iii) vacant non-agricultural lands:

Provided that the aggregate quantity of all lands of the classes referred to in the clauses (a) and (b) in the whole province so retained in possession by a rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant shall not exceed one hundred standard bighas or an area determined by calculating at the rate of ten standard bighas for each member of his family, whichever is greater. In addition, he shall be entitled to retain an area of land equal to the area actually covered by his homestead or ten standard bighas, whichever is less.

Explanation.—For the purpose of clause (a), lands covered by buildings do not include *hats* or *bazars*.

(3) Allotments of lands, of which a rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant is entitled to retain possession under clause (b) of sub-section (2), shall be made by the Revenue-officer according to the choice of such rent-receiver, cultivating *raiya*, cultivating under-*raiya* or non-agricultural tenant or, where no such choice is exercised within a prescribed period, according to the rules to be made in this behalf by the Provincial Government.

(Section 20.)

(4) Notwithstanding anything contained in sub-section (2), a rent-receiver, a cultivating *raiyat* or a cultivating under-*raiyat* or a group of rent-receivers, cultivating *raiya*s or cultivating under-*raiya*s who has or have undertaken large scale farming on a co-operative basis or otherwise by the use of power driven mechanical appliances, or large scale dairy farming may, if he is or they are certified in that behalf by the prescribed Revenue Authority, retain possession of and hold such quantity of lands in excess of the limit specified in the said sub-section as may be specified in the certificate granted by such Revenue Authority:

Provided that such a certificate shall be subject to revisions by the said Revenue Authority at such intervals as may be fixed in this behalf by the Provincial Government.

(5) (i) Nothing in sub-sections (1), (2) and (3) of this section shall apply—

(a) to any land held for the purpose of the cultivation and manufacture of tea, or to any land held by a company for the cultivation of sugar-cane for the purpose of manufacture of sugar by that company, or

(b) to any land covered by buildings or structures and necessary adjuncts thereto as are used for the purpose of any large scale industry with such other lands as are used for growing raw materials therefor, or

(c) to so much of the lands held under *debutter*, *wakf*, *wakf-al-al-aulad* or any other trust as is exclusively dedicated and the income from which is exclusively applied to religious or charitable purposes without reservation of pecuniary benefit for any individual.

(ii) Where, under any *debutter*, *wakf*, *wakf-al-al-aulad* or any other trust, the income from the lands covered by such trust is partly dedicated for religious or charitable purposes and partly reserved for the pecuniary benefit of any individual, only such portion of the lands, as may be selected in accordance with the rules to be made in this behalf by the Provincial Government, shall come within the purview of sub-clause (c) of clause (i).

Explanation.—For the purpose of sub-section (2) of this section—

(a) a rent-receiver, cultivating *raiyat*, cultivating under-*raiyat* or non-agricultural tenant shall be deemed to include a group of them who are members of the same family; and

being relaxed?

as that the rule not apply to the aggr. economy, some exception to this rule were made for

of 1951.]

(Sections 20—23.)

- (b) a family shall, when used in relation to a rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant, be deemed to consist of such rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant and all persons living in the same mess with and dependant upon such rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant, but does not include any servant or hired labourer living in the same mess.

Payment of rent for land retained in possession.

21. All lands, of which a rent-receiver, a cultivating *raiyyat*, a cultivating under-*raiyyat* or a non-agricultural tenant retains possession under section 20, shall be held on payment of such fair and equitable rent as may be determined under the provisions of this Act.

All land to be liable to fair and equitable rent determined under this Act after the acquisition of the interests of rent-receivers.

22. Notwithstanding anything contained in any other law for the time being in force or in Chapter II of this Act or in any entry made in the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, all lands in any district or part of a district or local area in respect of which a record-of-rights is prepared or revised under this Chapter shall, after the acquisition under Chapter V of the interests of rent-receivers within such district, part or area, be subject to the payment of fair and equitable rent determined in accordance with the provisions of this Chapter; and the rent so determined shall be entered in the record-of-rights so prepared:

VIII of 1885.

¹[Provided that it shall not be necessary to determine, under this Chapter, the rent of any land, the rent of which has already been determined under section 5 and the rent so determined shall be deemed to be fair and equitable rent determined in accordance with the provisions of this Chapter.]

Determination of fair and equitable rents of *khas* lands.

✓ 23. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the rent of every parcel of land in the *khas* possession of a proprietor or tenure-holder, including a proprietor or tenure-holder whose interests have been acquired under Chapter II, within the area to which such record relates—

- (i) if such land be agricultural land, on the basis of the prevailing rate of rent paid by occupancy *raiyyats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, and

¹This proviso was inserted, after substituting a colon for the full stop at the end of section 22, by E.B. Act XII of 1954, s. 5.

(Sections 23—24.)

- (ii) if such land be non-agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to—
- (a) the rent generally paid to the Provincial Government, or to any other landlord for non-agricultural lands with similar advantages or of a similar description in the vicinity,
 - (b) the market value of the land immediately before the publication of the notification under section 17, and
 - (c) the rent which would be payable if the rate were fixed at not more than one *per centum* of such market value,

whether or not such proprietor or tenure-holder is entitled to retain possession of such parcel of land under section 20:

¹[Provided that in any estate, *taluk* or tenure, where a land revenue settlement was made within the last fifteen years, the rate of rent adopted as fair and equitable in such settlement may be taken to be the prevailing rate of rent within the meaning of this section.]

Explanation.—For the purposes of this section “land” does not include any building or structure standing thereon.

Determina-
tion of fair
and equitable
rents of
rai-yats and
under-*rai-yats*.

✓ 24. (1) In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall, subject to the provisions of sub-sections (2), (3) and (4), presume the rent, payable in respect of any land held by a *rai-yat* or an under-*rai-yat* in the area to which such record relates at the time of preparation or revision of such record, to be fair and equitable.

(2) Where the rent so payable in respect of any such land by a *rai-yat* is in the opinion of the Revenue-officer unfair or inequitable, he may reduce such rent ²[to what is considered by him as fair and equitable, but not below] the prevailing rate of rent paid by the occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

¹This proviso was substituted for the original proviso by section 6 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952. The original proviso ran as follows :—

“Provided that it shall not be necessary to determine, under this section, the rent of any land, the rent of which has already been determined under section 5 ; and the rent so determined shall be deemed to be the fair and equitable rent determined in accordance with the provisions of this Chapter.”

²The words and comma within square brackets were substituted for the words “on the basis of” by section 7 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

(Sections 24—25.)

¹[(3) Where the rent payable for any land by an under-*raiyat* is, in the opinion of the Revenue-officer, unfair or inequitable, he may reduce such rent to an amount not exceeding the fair and equitable rent payable by an occupancy *raiyat* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, increased by fifty *per centum*.]

(4) If any *raiyat* or under-*raiyat* pays, in respect of any land referred to in sub-section (1), rent either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways, the Revenue-officer shall commute such rent to a fair and equitable money-rent at an amount not exceeding one-tenth of the total value of the annual gross produce of such land, obtained by multiplying the normal annual yield of that land, determined in the manner prescribed, by the average price of each kind of produce prevailing in the preceding twenty years, excluding the years in which such prices were abnormal:

²[Provided that the Revenue-officer shall, at the time of commuting such rent to a fair and equitable money-rent, allow for the superior landlord of such *raiyat* or under-*raiyat* a margin of profit of not less than twenty-five *per centum* and not more than fifty *per centum* of the rents payable by the superior landlord of such *raiyat* or under-*raiyat*]
³[when such superior landlord pays rents either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways].

Determina-
tion of fair
and equita-
ble rents of
non-agricul-
tural tenants.

✓ 25. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the fair and equitable rent of all non-agricultural lands held by non-agricultural tenants other than a tenure-holder in accordance with the provisions of section 23 so far as they apply to non-agricultural lands:

Provided that when any such tenant holds any such land immediately under any person other than a proprietor or a tenure-holder, the Revenue-officer shall presume the

¹This sub-section was substituted for the original sub-section (3) by section 7 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952. The original sub-section (3) ran as follows :—

“(3) Where the rent payable for any land by an under-*raiyat* is at the time of the preparation or revision of the record-of-rights under this Chapter found to exceed by more than fifty *per centum* the fair and equitable rent payable in respect of such land by the person under whom such under-*raiyat* holds such lands, the Revenue-officer shall fix the rent of the land so held by such under-*raiyat* at a rate not exceeding the rate of rent of such person by more than fifty *per centum*.”

²This proviso was added, after substituting a colon for the full stop at the end of sub-section (4) of section 24, by section 7 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

³These words were added at the end of the proviso to sub-section (4) of section 24 by E. B. Ordinance III of 1956, s. 7.

(Sections 25—28.)

existing rent payable by such tenant for such land to be fair and equitable unless it exceeds by more than fifty *per centum* the fair and equitable rent payable in respect of such land by such person; and if it so exceeds, the Revenue-officer shall fix the rent of such land so held by such tenant at a rate not exceeding the rate of the fair and equitable rent payable for such land by such person by more than fifty *per centum*.

Assessment
of rent for
rent-free
land.

✓ 26. (1) Where any land is held by a *raiyat* or an under-*raiyat* free of rent the rent for such land shall be determined on the basis of the prevailing rate of rent paid by the occupancy *raiyyats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

(2) Where any non-agricultural land is held by a tenant free of rent, the rent for such land shall be determined in accordance with the provisions of section 23 so far as they apply to non-agricultural lands.

Creation of
separate
holdings or
tenancies in
certain cases.

27. Where a rent-receiver other than a proprietor or tenure-holder holds only a portion of a holding or tenancy in his *khas* possession, such portion shall be constituted into a separate holding or tenancy and assessed to rent separately, and in making such assessment, the Revenue-officer shall have regard to the rent of the original holding or tenancy, the proportionate area and value of the new holding or tenancy and the provisions of this Chapter for the determination of fair and equitable rent of a holding or tenancy of that class.

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Assessment
of rents of
service
tenancies.

28. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall fix, in respect of every land held within any area to which such record relates by a person who has been found on evidence produced before him to be entitled to hold 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 occupancy *raiyyats* 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*:

Provided that nothing in this section shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

¹The proviso to section 27 added by section 12 of E. B. Act VI of 1952 was omitted by E. B. Act XII of 1954, s. 8. The said proviso ran as follows :—

“Provided that it shall not be necessary to assess, under this section, the rent of any land, the rent of which has already been determined under the proviso to section 5 ; and the rent so determined shall be deemed to be the fair and equitable rent assessed in accordance with the provisions of this section.”

of 1951.]

(Sections 29—31.)

Effect of
rents settled
under this
Chapter.

29. (1) All rents determined under this Chapter and entered in the record-of-rights finally published under section 19, shall, subject to the provisions of section 53, be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act.

(2) No suit shall be brought in any Civil Court in respect of the determination of any rent to the determination of which the provisions of this Chapter apply or in respect of the omission to determine any such rent.

Bar to juris-
diction of
Civil Court.

30. (1) After an order has been made under section 17 directing the preparation or revision of a record-of-rights in respect of any area, no Civil Court shall entertain any suit or application for the alteration of rent or determination of the status of any tenant or the incidents of any holding or tenancy in such area; and if any such suit or application relating to such area is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Explanation.—Suit in this sub-section includes an appeal.

(2) No suit shall be brought in any Civil Court in respect of any order directing the preparation or revision of records-of-rights under this Chapter or in respect of framing, publication, signing or attestation of such record or any part of it.

(3) No suit, appeal or proceeding in a Civil Court or High Court in respect of any land, nor any order passed in such suit, appeal or proceeding, shall operate as a bar in any way to the preparation or revision of records-of-rights or of Compensation Assessment-rolls in accordance with the provisions of this Act.

Preparation
of Compens-
ation Assess-
ment-roll on
the basis of
the existing
record-of-
rights.

31. (1) The Provincial Government may, instead of proceeding under section 17, by notification in the *Official Gazette*, order that a Compensation Assessment-roll be prepared under Chapter V in respect of any particular district, part of a district or local area, on the basis of the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, ¹[or Chapter IX of the Sylhet Tenancy Act, 1936,] without any revision or after revising or recording only such particulars in such record as may be specified in such notification.

VIII of
1885.
Assam
Act XI of
1936.

(2) When an order is made under sub-section (1), the Revenue-officer shall revise or record such particulars, if any, in accordance with such rules as may be made in this behalf by the Provincial Government and settle fair and equitable rents according to the principles laid down in sections 23, 24, 25, 26, 27 and 28, and shall then correct such record-of-rights so as to incorporate therein the particulars, if any, so revised or recorded and the fair and equitable rents so settled.

¹The expression within square brackets was inserted by E. B. Act VI of 1952, s. 13.

(Sections 31—34.)

(3) A record-of-rights corrected under sub-section (2) shall be deemed to have been duly revised and finally published under this Chapter.

¹[(4) When an order is made under sub-section (1) in respect of any area, sections 105, 105A and 106 of the Bengal Tenancy Act, 1885, or sections 121, 122 and 123 of the Sylhet Tenancy Act, 1936, as the case may be, shall cease to apply to such area, and applications, suits or proceedings under those sections, pending on the date of such order, shall not be further proceeded with and shall abate.]

Act VIII.
of 1885.
Assam
Act XI
of 1936.

CHAPTER V.

Assessment of compensation and acquisition of interests of rent-receivers and of certain other interests.

Interpreta-
tion.

32. In this Chapter, a rent-receiver, proprietor or tenure-holder includes a rent-receiver, proprietor or tenure-holder, as the case may be, whose interests have been acquired under Chapter II.

Order for the
preparation
of a Compensa-
tion
Assessment-
roll.

33. As soon as may be after a record-of-rights in respect of any district, part of a district or local area has been prepared or revised and finally published under Chapter IV, the Revenue-officer shall prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of all rent-receivers within such district, part or area and the compensation to be paid in accordance with the provisions of this Act to all persons whose interests are acquired under this Chapter or under Chapter II, together with such other particulars as may be prescribed, shall be specified:

²[Provided that it shall not be necessary to prepare, under this Chapter, a Compensation Assessment-roll in respect of any property acquired under Chapter II, in respect of which a Compensation Assessment-roll has been prepared under Chapter VA.]

Separate
treatment of
proprietors,
tenure-hold-
ers and other
rent-receivers
in assessment
and payment
of compensa-
tion.

34. In preparing such Compensation Assessment-roll every proprietor, tenure-holder or other rent-receiver collecting rents in respect of any estate, tenure, holding or tenancy or part of any estate, tenure, holding or tenancy comprised within the area to which such roll relates shall, irrespective of whether he collects such rents separately or jointly with others, be treated separately for the purpose of assessment and payment of compensation under this Chapter:

¹This sub-section was added by E.B. Act VI of 1952, s. 13.

²This proviso was added, after substituting a colon for the full-stop at the end of section 33, by section 14, *ibid*.

of 1951.]

(Sections 34—35.)

Provided that in the case of a Hindu undivided family governed by the *Mitakshara* law, all rent-receivers included in such family shall be treated jointly for such purpose:

¹[Provided further that when more than one proprietor, tenure-holder or other rent-receiver jointly hold rent-receiving interests and the total net income of such interests does not exceed five hundred rupees, such proprietors, tenure-holders or other rent-receivers may be treated jointly for the purpose of assessment of compensation under this Chapter.]

35. (1) For the purpose of preparation of the Compensation Assessment-roll under this Chapter—

(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants—

(i) in the case of the interests acquired under Chapter II, for the agricultural year immediately preceding the notified date, and

(ii) in other cases, for the agricultural year immediately preceding that in which the record-of-rights is finally published under Chapter IV,

and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under Chapter IV for such of his *khas* lands as he retains possession of under section 20:

Provided that in the case of ²[a tenure-holder or] a *raiyat* or an under-*raiyat* or a non-agricultural tenant referred to in sections 24, 25, 27 and 28, the rent fixed or determined for any land under the provisions of the said sections and entered in the record-of-rights finally published under Chapter IV shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such ³[tenure-holder or] *raiyat* or under-*raiyat* or non-agricultural tenant to his immediately superior landlord;

(b) the net income of a rent-receiver shall be computed by deducting from his gross assets the following:—

(i) the sums which were or are calculated as payable by such rent-receiver for such year as land revenue or rent and cesses to the Provincial Government or to his immediate landlord, as the case may be, in respect of the lands to which the gross assets relate;

¹This further proviso was inserted, after substituting a colon for the full-stop at the end of the existing proviso, by section 9 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

²The words within square brackets were inserted by E. B. Ordinance III of 1956, s. 8.

³The words within square brackets were inserted by section 8, *ibid*.

Calculation
of gross
assets and
net income
of rent-
receivers.

(Sections 35—37.)

- (ii) the sum which was or is calculated as payable by such rent-receiver in respect of such assets for such year as tax under the Bengal Agricultural Income-tax Act, 1944; Ben. Act. IV of 1944.
- (iii) the sum which was or is calculated as payable by such rent-receiver in respect of his income from non-agricultural lands included in such assets for such year as tax under the Income-tax Act, 1922; Act XI of 1922.
- (iv) the average annual expenditure, if any, incurred by such rent-receiver on account of maintenance of any irrigation or protective works in such lands; and
- (v) collection charges not exceeding twenty *per centum* of the gross assets.

(2) In calculating the sums referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) or determining the expenditure and charges referred to in sub-clauses (iv) and (v) of the said clause, the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

Net income of a recusant proprietor.

36. Notwithstanding anything contained in section 35, in the case of a recusant proprietor of a temporarily settled private estate, the *malikana* payable to such proprietor in the agricultural year referred to in sub-clause (i) or sub-clause (ii) of clause (a) of sub-section (1) of section 35, as the case may be, shall be deemed to be the net income of such proprietor computed under section 35.

Rate of compensation for rent-receiving interests.

37. After the net income has been computed under sections 35 and 36, the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers shall be determined as follows:—

(1) in the case where the rent-receiver is a proprietor of an estate, a holder of a permanent tenure or tenancy or a *raiyyat* or an under-*raiyyat*, the compensation payable in respect of the acquisition of the interests of such rent-receiver shall be determined on the basis of his total net income from rent-receiving interests in the Province in accordance with the following table, namely:—

Amount of the total net income in the Province.	Rate of compensation payable.
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(a) Where the net income so computed does not exceed Rs. 500.	Ten times such net income.
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(b) Where the net income so computed exceeds Rs. 500 but does not exceed Rs. 2,000.	Eight times such net income or the maximum amount under item (a) above increased by the excess of the net income over the maximum net income under item (a) above, whichever is greater.
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(Section 37.)

<i>Amount of the total net income in the Province.</i>	<i>Rate of compensation payable.</i>
(c) Where the net income exceeds Rs. 2,000 but does not exceed Rs. 5,000.	Seven times such net income or the maximum amount under item (b) above increased by the excess of the net income over the maximum net income under item (b) above, whichever is greater. 1
(d) Where the net income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Six times such net income or the maximum amount under item (c) above increased by the excess of the net income over the maximum net income under item (c) above, whichever is greater. 6
(e) Where the net income exceeds Rs. 10,000 but does not exceed Rs. 25,000.	Five times such net income or the maximum amount under item (d) above increased by the excess of the net income over the maximum net income under (d) above, whichever is greater. 5
(f) Where the net income exceeds Rs. 25,000 but does not exceed Rs. 50,000.	Four times such net income or the maximum amount under item (e) above increased by the excess of the net income over the maximum net income under (e) above, whichever is greater. 4
(g) Where the net income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000.	Three times such net income or the maximum amount under item (f) above increased by the excess of the net income over the maximum net income under (f) above, whichever is greater. 3
(h) Where the net income exceeds Rs. 1,00,000.	Two times such net income or the maximum amount under item (g) above increased by the excess of the net income over the maximum net income under (g) above, whichever is greater. 2

(2) in the case where the rent-receiver is the holder of a temporary tenure or of any other tenancy of a temporary duration, the compensation payable to such rent-receiver in respect of the acquisition of the interest of such rent-receiver shall be paid out of the compensation payable under this Chapter to the immediately superior landlord of such rent-receiver for the acquisition of the interests of such superior landlord; and the Revenue-officer shall apportion the compensation between the holder of such temporary tenure or tenancy and his immediately superior landlord subject to

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(Sections 37—39.)

rules made under this Act; and in making the apportionment the Revenue-officer shall take into consideration the unexpired period of the temporary tenure or tenancy; and

(3) in the case where the net income or any portion of the net income in respect of any estate, tenure, holding or tenancy wholly or partly held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust or legal obligation has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual, the compensation payable for the acquisition of the interests of any rent-receiver in respect of the net income or the portion of the net income so dedicated and applied shall, instead of being assessed under clause (1), be assessed in the prescribed manner as a perpetual annuity equal to such net income or portion of the net income, as the case may be.

Preparation of Compensation Assessment-roll in respect of a rent-receiver having interests in more than one area.

38. If a rent-receiver holds rent-receiving interests in more than one area, the amount of compensation payable for the acquisition of such interests shall be calculated and the Compensation Assessment-rolls in respect of such interests shall be prepared in accordance with such rules as may be made in this behalf by the Provincial Government.

Rates of compensation for *khas* lands.

39. (1) Compensation to be payable to a rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant, in respect of the acquisition of lands in his *khas* possession which he is not entitled to retain under section 20, shall be determined in accordance with the following table:—

Class of lands.

Rate of compensation payable.

- | | |
|--|---|
| (a) For lands used for agricultural or horticultural purposes including tanks. | Five times the net annual profit from such lands. |
| (b) For lands on which <i>hats</i> or <i>bazar</i> are held. | Five times the net annual profit from such <i>hats</i> or <i>bazars</i> . |
| (c) For lands which are cultivable or which are capable of cultivation on reclamation— | |
| (i) lands bearing any profit; | Five times the net annual profit from such lands or ten times the annual <i>raiya</i> rent for an equal area of cultivated land in the neighbourhood which the Revenue-officer may select as appropriate for the purpose, whichever is greater. |
| (ii) lands not bearing any profit. | Rupees ten per acre. |

(Section 39.)

Class of lands.

Rate of compensation payable.

- | | |
|--|--|
| <p>(d) For lands which consist of forest, jungle, watercourses or marshy tracts with or without private rights of fishery therein, and sandy <i>chars</i> or other uncultivable lands other than lands, such as roads, pathways, common burial or cremation grounds, rivers, <i>khals</i> and watercourses, which the public may use by natural or customary right or right of easement.</p> | <p>Five times the net annual profit from such lands.</p> |
| <p>(e) For vacant non-agricultural lands.</p> | <p>Five times the annual letting value of the lands to be determined in the prescribed manner.</p> |
| <p>(f) For lands with buildings—</p> | |
| <p>(i) lands; ..</p> | <p>Five times the annual letting value of the land to be determined in the prescribed manner.</p> |
| <p>(ii) buildings. ..</p> | <p>The actual cost of construction less depreciation both to be determined in the prescribed manner.</p> |

(2) Any dispute regarding classification of lands for the purposes of sub-section (1) shall be referred to the prescribed Revenue Authority whose decision thereon shall be final.

(3) For the purpose of items (a) and (c) of sub-section (1), the net annual profit from land shall be determined in the following manner:—

- (a) the gross value of the annual produce of the land shall be calculated first by multiplying the normal annual produce of the land, determined in the prescribed manner, by the average price of each kind of produce during the 10 years immediately preceding the year in which the assessment roll is prepared;
- (b) the net annual profit shall be computed by deducting from the gross value of the annual produce of the land, the following:—
 - (i) the sum determined in the prescribed manner as the cost of cultivation which shall not exceed fifty *per centum* of the gross value of the annual produce of the land;

Easement

(Sections 39—40.)

- (ii) the sum which is calculated as payable by the rent-receiver or cultivating *raiyyat* or cultivating under-*raiyyat* or non-agricultural tenant annually as land revenue or rent and cesses in respect to the land;
- (iii) the sum which was or is calculated as payable by such rent-receiver or cultivating *raiyyat* or cultivating under-*raiyyat* in respect of the income from such lands as taxes under the Bengal Agricultural Income-tax Act, 1944; and Ben. Act IV of 1944.
- (iv) the sum which was or is calculated as payable by such a rent-receiver or non-agricultural tenant in respect of the income from the lands as taxes under the Income-tax Act, 1922. Act XI of 1922.

(4) For the purposes of items (b) and (d) of sub-section (1), the net annual profit shall mean the net annual profit as determined by the Revenue-officer in accordance with the rules made in this behalf by the Provincial Government.

(5) Where the land, held by a cultivating *raiyyat* or a cultivating under-*raiyyat* or a non-agricultural tenant, for which compensation is payable under sub-section (1), is subject to a mortgage, the compensation payable under the said sub-section to such cultivating *raiyyat* or cultivating under-*raiyyat* or non-agricultural tenant shall be apportioned between such *raiyyat* or under-*raiyyat* or tenant and his mortgagee; and the Revenue-officer shall apportion such compensation in accordance with rules made in this behalf under this Act; and in making the apportionment the Revenue-officer shall, in the case where the mortgage is an usufructuary mortgage, take into consideration the unexpired period of such mortgage.

Preliminary
publication
of Compensation
Assessment-roll.

40. (1) After the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers and of the acquisition of the *khas* lands of rent-receivers, cultivating *raiyyats*, cultivating under-*raiyyats* and non-agricultural tenants, which are to be acquired under this Chapter or have been acquired under Chapter II, has been determined in accordance with the provisions of sections 37, 38 and 39, the Revenue-officer shall prepare the Compensation Assessment-roll under section 33; and when such roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period which shall not be less than thirty days and shall receive and consider any objection 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 Provincial Government may make in this behalf:

of 1951.]

(Sections 40—43.)

¹[Provided that no objection shall be made under this section—

(i) by any person who does not claim any title to any compensation entered in the draft Compensation Assessment-roll, or

(ii) to the amount of any rent entered in such roll which has been determined under section 5 or under Chapter IV or under sub-section (2) of section 46A.]

(2) Separate draft Compensation Assessment-rolls may be prepared and published under sub-section (1) for different villages or groups of villages in the district, part of a district or local area or for one or more persons having interests in different areas in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV.

Appeal to
superior
Revenue
Authority.

41. An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer under sub-section (1) of section 40 to the prescribed superior Revenue Authority; and such superior Revenue Authority shall consider and dispose of such appeals in accordance with rules made in this behalf by the Provincial Government.

Final publi-
cation of the
Compensa-
tion Assess-
ment-roll.

42. When all such objections and appeals have been disposed of, the Revenue-officer shall make such alterations in the draft Compensation Assessment-roll as may be necessary to give effect to any orders passed on objections made under sub-section (1) of section 40 or on appeals preferred under section 41 and shall cause the said roll as so altered to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the Compensation Assessment-roll has been duly made under this Chapter, and every entry in the Compensation Assessment-roll so finally published shall, except as hereinafter provided, be final and conclusive evidence of the matter referred to in such entry and also of the nature of the interests of the rent-receivers, the true area of the land and the apportionment of the compensation among the persons claiming interest therein.

Certificate
and presump-
tion as to
bli-
cation of
Compen-
sation Assess-
ment-roll.

43. (1) When a Compensation Assessment-roll has been finally published under section 42, the Revenue-officer shall within such time as the Commissioner may by general or special order require, 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 title.

(2) After the final publication under section 42 of the Compensation Assessment-roll in respect of any village or group of villages or local area, the Provincial Government

¹This proviso was inserted, after substituting a colon for the full-stop at the end of sub-section (1) of section 40, by section 10 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

(Sections 43—44.)

shall also by notification declare that a Compensation Assessment-roll has been finally published for such village or group of villages or local area, as the case may be, specifying in such notification the date of such final publication; and such notification shall be conclusive proof of such publication and of the date thereof.

Acquisition and vesting of the interests of proprietors, tenure-holders and other rent-receivers and of certain *khas* lands in the Provincial Government and the consequences thereof.

44. Notwithstanding anything contained in any other law for the time being in force or in Chapter II of this Act or in any contract, but subject to the provisions of clauses (a), (b), (c) and (d) of sub-section (4) of section 3 ¹[and sub-section (3) of section 46E], on the publication of a notification in the *Official Gazette* under sub-section (2) of section 43, declaring that a Compensation Assessment-roll has been finally published, the following consequences shall ensue, namely:—

(1) all the interests of all the proprietors in their respective estates, of all the tenure-holders in their respective tenures and of all other rent-receivers in the holdings or tenancies respectively let out by such rent-receivers within the area to which such roll relates or in such parts of such estates, tenures or holdings, or tenancies, as the case may be, as are within such area including the interests of all such proprietors, tenure-holders and other rent-receivers in all lands comprised in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area which are in the *khas* possession of such proprietors, tenure-holders and other rent-receivers and the interests of all such rent-receivers in all sub-soil including any rights to minerals in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area other than the interests which have already been acquired under Chapter II ¹[or sub-section (3) of section 46E] shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances but subject to the rights of such proprietors, tenure-holders and other rent-receivers specified in clause (2);

(2) each proprietor, tenure-holder and other rent-receiver, whose interests in any estate, tenure or holding or tenancy or in any part of any estate, tenure or holding or tenancy, as the case may be, within the area to which such roll relates, are acquired under this Act, shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be entitled to retain possession of and hold, subject to the

¹The words, figures, brackets and letter within square brackets were inserted by E.B. Ordinance III of 1956, s.9.

(Section 44.)

provisions of this Act, as a tenant directly under the Provincial Government all lands of which he is entitled to retain possession under Chapter IV and, be liable to pay rent for such lands to the Provincial Government;

(3) the interests of all cultivating *raiya*s, cultivating under-*raiya*s and non-agricultural tenants in all lands held by such *raiya*s, under-*raiya*s and non-agricultural tenants within the area to which such roll relates in excess of the lands of which such *raiya*s, under-*raiya*s or non-agricultural tenants are entitled to retain possession under Chapter IV, including the interests in the sub-soil of all lands so held in excess and all rights to minerals therein ¹[other than the interests which have already been acquired under any other provision of this Act] shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances;

(4) all cultivating *raiya*s, cultivating under-*raiya*s and other tenants holding lands, within the area to which such roll relates, immediately before the first day of the agricultural year next following the date of such publication of such notification, shall, with effect from the first day of the said agricultural year, ²[if they have not already become tenants directly under the Provincial Government under any other provision of this Act,] become tenants directly under the Provincial Government and shall have the right to continue to hold, subject to the provisions of this Act, as tenants under the Provincial Government, such of those lands as have not vested in the Provincial Government under item (3) ³[or under any other provisions of this Act] and shall be liable to pay rent to the Provincial Government in respect of the lands so continued to be held;

(5) all arrears of revenue and all cesses together with interest, if any, payable thereon, other than the arrears, cesses and interest referred to in clause (b) of sub-section (4) of section 3, remaining lawfully due on the first day of the agricultural year next following the date of such publication of such notification in respect of any estate within the area to which such roll relates shall, after the first day of the said agricultural year, continue to be recoverable from the outgoing proprietor by whom they were payable, and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears and cesses and interest from the compensation money payable to such proprietor under this Act, when so ordered by the Collector;

¹The words within square brackets were inserted by E.B. Ordinance III of 1956, s.9.

²The words and comma within square brackets were inserted by section 9, *ibid*.

³The words within square brackets were inserted by section 9, *ibid*.

(Sections 44—45.)

(6) all amounts, recoverable by the Provincial Government from a rent-receiver under the Bengal Embankment Act, 1882, which remain outstanding on the first day of the agricultural year next following the date of such publication of such notification and are not already covered by clause (d) of sub-section (4) of section 3, whether on account of arrear dues or dues under future instalments under the Bengal Embankment Act, 1882, shall, without prejudice to any other mode of recovery, be recoverable by deduction of the amount of such arrear and future instalments from the compensation money payable to such rent-receiver in respect of the interests or lands to which such outstanding amounts relate, when so ordered by the Collector;

Ben. Act
II of
1882.

Ben. Act
II of 1882.

(7) all arrears of rent and all cesses, together with interest, if any, due thereon, in respect of any period previous to the first day of the agricultural year next following the date of such publication of such notification, which have accrued due in respect of any tenure, holding or land to which such roll relates, and which have not been barred by limitation or have not already vested in the Provincial Government under clause (c) of sub-section (4) of section 3, shall, on and from the first day of the said agricultural year, vest in and be recoverable by the Provincial Government and shall, without prejudice to any other mode of recovery, be recoverable from the persons by whom they were payable by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;

(8) with effect from the first day of the agricultural year next following the date of such publication of such notification, the *ad interim* payments under section 6, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of *ad interim* payments made under sub-section (1) or (2) of the said section in respect of any such interests or lands, less an amount calculated at the rate of three *per centum per annum* on the amount of compensation assessed for such interests or lands in such roll from the date from which such *ad interim* payments for such interests or lands became payable under sub-section (1) or (2) of that section till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation.

Proclamation
by the Revenue-
Officer.

45. As soon as may be after the publication of a notification in the *Official Gazette* under sub-section (2) of section 43, the Revenue-officer shall cause to be published,

7

(Sections 45—46A.)

in the prescribed manner, in the area to which the Compensation Assessment-roll in respect of which such notification is published relates, a proclamation in the local vernacular—

- (a) explaining the consequences which as provided in section 44 have ensued on such publication of such notification, and
- (b) directing all persons in such area, who will become tenants under the Provincial Government with effect from the first day of the agricultural year next following the date of such publication of such notification, to pay rent to the Provincial Government and not to anybody else.

Printing and distribution of record-of-rights.

46. (1) After the Compensation Assessment-roll or Compensation Assessment-rolls in respect of all estates, tenures and interests of rent-receivers in holdings or tenancies comprised within a district, or part of a district or local area, in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV, has or have been published, such record-of-rights shall be modified by eliminating therefrom the entire chain of interests of rent-receivers and showing therein only the tenants who will come directly under the Provincial Government as a result of the acquisition of such interests; 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 Provincial Government may make in this behalf; and the record-of-rights so modified shall be reprinted.

(2) Copies of the record-of-rights so reprinted shall be distributed free of cost to the tenants of the areas to which such record-of-rights relates in such manner as may be prescribed.

¹CHAPTER VA.

Special provisions for preparation of Compensation Assessment-rolls in respect of properties acquired under Chapter II.

Preparation of Compensation Assessment-roll in special cases.

✓ 46A. (1) The Provincial Government may, instead of proceeding under section 17 or section 31, by notification in the *Official Gazette*, order that a Compensation Assessment-roll be prepared in respect of the properties of any rent-receiver acquired under section 3 on the basis of the returns, papers and documents furnished or taken possession of under sections 3A and 4.

¹Chapter VA (containing sections 46A, 46B, 46C, 46D and 46E) was inserted by E. B. Act VI of 1952, s. 15.

(Sections 46A—46C.)

(2) When an order is made under sub-section (1), the Revenue-officer shall verify such returns, papers and documents in the prescribed manner and make such corrections therein as may be necessary, and settle fair and equitable rents of all tenants ^{1***}immediately subordinate to such rent-receiver according to the principles laid down in sections 24, 25, 26 and 28.

(3) The Revenue-officer shall, after taking action under sub-section (2), prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of such rent-receiver and the compensation to be paid to him in accordance with the provisions of this Act, together with such other particulars as may be prescribed, shall be specified.

Bar to jurisdiction of Civil Court.

46B. After an order has been made under section 46A, no Civil Court shall entertain any suit or application for the alteration or determination of rent of any land for which fair and equitable rent is required to be settled under sub-section (2) of that section; and if any such suit or application is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Application of the provisions of sections 34 to 43 in the preparation of Compensation Assessment-roll under Chapter VA.

46C. In the matter of preparation and publication of a Compensation Assessment-roll under this Chapter,—

- (a) the provisions of sections 34, 38 and 40 to 43 shall apply so far as they are applicable;
- (b) the provisions of sections 37 and 39 shall apply in whole; and
- (c) the provisions of section 35 shall apply subject to the following amendment, namely:—

for clause (a) of sub-section (1) of section 35, the following clause shall be deemed to have been *substituted*, namely:—

“(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants for the agricultural year immediately preceding the notified date, and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under section 5 for such of his *khas* lands in that estate or tenure as he chooses to retain possession of under section 20:

¹The words “except tenure holders” inserted by section 11 of E. B. Act. XII of 1954 were omitted by E. B. Ordinance III of 1956, s. 10.

of 1951.]

(Sections 46C.—46E.)

Provided that in the case of ¹[a tenure holder or] a *raiyat* or an under-*raiyat* or a non-agricultural tenant, the rent determined for any land, under sub-section (2) of section 46A, according to the principles of sections 24, 25 and 28, shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such *raiyat*, under-*raiyat* or non-agricultural tenant to his immediately superior landlord;”.

Net income of a recusant proprietor under Chapter VA.

46D. Notwithstanding anything contained in clause (c) of section 46C, in the case of a recusant proprietor of a temporarily settled private estate, the *malikana* payable to such proprietor in the agricultural year immediately preceding the notified date shall be deemed to be the net income of such proprietor computed under the said clause.

Consequences of final publication of Compensation Assessment-roll under Chapter VA.

46E. Notwithstanding anything contained in Chapter II, on the publication of a notification under sub-section (2) of section 43, declaring that a Compensation Assessment-roll prepared under this Chapter; has been finally published,—

- (1) all tenants who became tenants directly under the Provincial Government under clause (e) of sub-section (4) of section 3 shall, with effect from the first day of the agricultural year next following the date of publication of such notification, pay to the Provincial Government rent for the lands held by them at the rates determined under this Chapter;
- (2) with effect from the first day of the agricultural year next following the date of such publication of such notification, the *ad interim* payments under section 6 or section 6A, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of *ad interim* payments made under sub-section (1) or (2) of section 6 in respect of any such interests or lands, less an amount calculated at the rate of three *per centum per annum* on the amount of compensation assessed for such interests or lands in such roll from the date from which such *ad interim* payments for such interests or lands became payable under sub-section (1) or (2) of section 6 till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation;

¹These words were inserted by E. B. Ordinance III of 1956, s. 11.

(Sections 46—48.)

¹[(3) with effect from the first day of the agricultural year next following the date of such publication of such notification, the interest of a rent-receiver in all lands in his *khas* possession of which he is not entitled to retain possession under section 20 and for which compensation has been assessed in such Compensation Assessment-roll shall, if not already acquired under sub-section (2) of section 3, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all incumbrances.]

CHAPTER VI.

Authorities for the preparation of Compensation Assessment-roll.

Revenue and Judicial authorities. 47. There shall be the following authorities for the purposes of this Part of this Act:—

- (a) the Commissioner of State Purchase;
- (b) the Director of Land Records and Surveys;
- (c) Settlement Officers and Assistant Settlement Officers;
- (d) other Revenue-officers;
- (e) Special Judges.

Appointments and powers. 48. (1) The Commissioner of State Purchase shall be appointed by the Provincial Government.

(2) The Commissioner of State Purchase shall, in respect of the whole of East Bengal, exercise the powers conferred and perform the duties imposed on him by this Act and by such rules as may be made under this Act. He shall also exercise general powers of superintendence and control over the Director of Land Records and Surveys and through him over all other officers subordinate to him.

(3) The Director of Land Records and Surveys shall exercise such powers and perform such duties of a Revenue-officer under this Act or any rules made thereunder as may be conferred or imposed on him.

(4) The Provincial Government may appoint one or more persons who has or have exercised the powers of a District Judge or a Subordinate Judge to be a Special Judge or Special Judges for the purposes of hearing appeals which may be preferred to him or them under the provisions of this Act and of inquiring into disputes as to the title to receive any compensation under a Compensation Assessment-roll finally published under section 42 or as to the apportionment of any compensation referred to him under section 60.

¹This new clause was added, after substituting a semi-colon for the full stop at the end of sub-section (2) of section 46E, by E. B. Act XII of 1954, s. 12.

of 1951.]

(Sections 49—50.)

Revision of
Compensation
Assessment-roll.

¹[49. The Commissioner, or any officer not inferior in rank to that of a Collector of a district empowered in this behalf by the Commissioner, or a Settlement Officer so empowered, may, on application, direct the revision of any Compensation Assessment-roll or any portion of such roll and any record-of-rights or any portion of record-of-rights on the basis of which such roll has been prepared, at any time during the preparation of such roll and may direct such revision on an application made within three months from the date of final publication of such roll and may also, of his own motion, direct such revision at any time before payment of compensation, but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under sub-section (4) of section 52 or under section 53:

Provided that no such direction shall be issued unless not less than fifteen days' notice has been given to the parties concerned to appear and be heard in the matter.]

Correction
by Revenue-
officers of
bona fide
mistakes.

50. A Revenue-officer may, on application or of his own motion at any time before payment of compensation in accordance with a Compensation Assessment-roll under section 58, correct any entry in the record-of-rights prepared or revised and finally published under Chapter IV in respect of any area to which such Compensation Assessment-roll relates, or any entry in such Compensation Assessment-roll, if he is satisfied that such entry has been made owing to a *bona fide* mistake or correction of such entry is necessary as a result of succession to or transfer of the interest of a rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant whose name appears in such roll as a person entitled to compensation:

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 51 or section 53 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

¹This section and the proviso to it were substituted for the original section 49 as amended by E. B. Act V of 1955, and the proviso thereto, by E. B. Ordinance III of 1956, s. 12.

The original section 49 as amended by E. B. Act V of 1955 and the proviso thereto read as follows:—

“49. The Commissioner, or any officer not inferior in rank to that of a Collector of a district, or a Settlement Officer, empowered in this behalf by the Commissioner may, on application or of his own motion, direct the revision of any Compensation Assessment-roll or any portion of such roll at any time during the preparation of such roll or within three months from the date of final publication of such roll but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under section 53 or under sub-section (4) of section 52:

Provided that no such direction shall be issued unless not less than 15 days' notice has been given to the parties concerned to appear and be heard in the matter.”

(Sections 51—52.)

Appeal to the
Special Judge

51. (1) Any person, aggrieved by an order of the superior Revenue Authority under section 41 or of the Commissioner or other officer under section 49 may present an appeal against such order within sixty days from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates or of the order appealed against, whichever is later, to the Special Judge appointed under sub-section (4) of section 48.

(2) When a Revenue-officer refers under section 60 to any Special Judge any dispute which has arisen as to the title of any person to receive any compensation payable under the Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, such Special Judge shall inquire into such dispute and decide the same; and such decision shall, subject to the provisions of section 52, be final.

Statement of
case by
Special Judge
to the High
Court.

52. (1) Any party aggrieved by an order of the Special Judge may, within sixty days from the date of such order by application in the prescribed form accompanied, when the application is made by any party other than the Provincial Government, by a fee of fifty rupees, require the Special Judge to refer to the High Court any question of law arising out of such order; and the Special Judge shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that, if in the exercise of the powers under sub-section (2) the Special Judge refuses to state a case which he has been required by any party other than the Provincial Government to state, such party may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw the application; and if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Special Judge refuses to state the case on the ground that no question of law arises, the party who made such application may, within sixty days from the date on which such party is served with notice of the refusal, apply to the High Court; and the High Court may, if it is not satisfied of the correctness of the decision of the Special Judge, require the Special Judge to state the case and to refer it; and on receipt of any such requisition the Special Judge shall state the case and refer it accordingly.

(3) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the High Court may refer the case back to the Special Judge to make such additions thereto or alterations therein as the High Court may direct in that behalf.

of 1951.]

(Sections 52—56.)

(4) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Special Judge who shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(5) When a reference is made to the High Court, the costs shall be in the discretion of the Court.

Appeal to the
Special Judge

53. Any person aggrieved by an order of the Revenue Authority under sub-section (2) of section 19 passed on appeal filed in respect of the determination of rent or recording of possession of any land, or by an entry made in a record-of-rights under sub-section (2) of section 31 relating to the determination of rent or recording of possession of any land ¹[or by an order settling fair and equitable rent of any land under sub-section (2) of section 46A], may present an appeal against such order or entry, within three months from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates, to the Special Judge appointed under sub-section (4) of section 48. The decision of the Special Judge on such an appeal shall, notwithstanding anything contained in section 52, be final.

Correction of
the Compensation
Assessment-
roll.

54. The Revenue-officer shall make such alterations in the records-of-rights or the Compensation Assessment-roll as may be necessary to give effect to any direction issued by the Commissioner or other officer under section 49 or an order made by a Special Judge under section 51 or section 53 or under sub-section (4) of section 52 or to any final order or decree of a Civil Court or High Court passed in any suit, appeal or proceeding declaring title to and, or possession of any land.

Application
of the Civil
Procedure
Code to
appeals
before and
enquiries by
a Special
Judge.

55. The provisions of the Code of Civil Procedure, V of 1908, 1908, shall, as far as may be, apply to all appeals presented to a Special Judge under sub-section (1) of section 51 or under section 53 and to all inquiries held by him under sub-section (2) of section 51.

Bar to raising
of certain
issues.

56. No party to a suit, appeal or proceeding in a Civil Court or High Court in respect of any land shall, notwithstanding anything elsewhere contained in this Act, be entitled to raise before a Revenue-officer, Revenue Authority, Special Judge or the Commissioner or any other officer under section 19, 40, 41, 49, 51, 53 or 60 any issue in respect of such land, which is substantially in issue in such suit, appeal or proceeding.

¹The expression within square brackets was inserted by E. B. Act VI of 1952, s.16.

(Sections 57—58.)

CHAPTER VIII.

Payment of Compensation.

Limits of,
and amount
payable as,
compensation.

57. (1) Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment-roll as finally modified under section 54, no rent-receiver shall be entitled to receive on account of compensation for the acquisition of his rent-receiving interests any amount in excess of the amount calculated on his total net income from all his rent-receiving interests in all estates, tenures, holdings and tenancies held by him within the Province at the rate applicable to such net income under section 37.

(2) When a rent-receiver holds rent-receiving interests in different areas, the Revenue-officer shall, before making payment under section 58 of the compensation payable to him under a Compensation Assessment-roll as finally modified under section 54 for the acquisition of his rent-receiving interests in any such area, ascertain in the prescribed manner if any amount has been paid to such rent-receiver on account of compensation for the acquisition of his rent-receiving interests in any other area or areas in excess of the amount admissible under sub-section (1) and, if any such excess payment is found to have been made, deduct the amount of such excess from the amount of the compensation payable to him under such roll for the acquisition of such interests:

Provided that no such deduction shall be made until a reasonable notice has been given to the rent-receiver to appear and be heard in the matter:

Provided further that an appeal, if presented within thirty days from the date of the order making such deduction, shall lie against such order to the prescribed superior Revenue Authority whose order thereon shall be final.

(3) When any amount is deducted under sub-section (2) from the amount of any compensation payable to a rent-receiver under a Compensation Assessment-roll for the acquisition of his rent-receiving interests, the balance, if any, remaining after such deduction shall, for the purpose of section 58, be deemed to be the compensation payable to such rent-receiver in respect of such interests in the terms of the said roll.

Manner of
payment of
compensation.

58. (1) When the time within which appeals under section 51 or under section 53 may be made in respect of any entry in or omission from a Compensation Assessment-roll has expired and, where any such appeal has been made under section 51, the time within which a reference may be made to the High Court under section 52 with regard to any order made by the Special Judge in relation to such appeal has also expired and all references made under section 52 in relation to all such appeals have been disposed of

(Section 58.)

and all orders under sub-section (4) of that section arising out of such references have been passed and, where any appeal has been made under section 53, such appeal has been disposed of, the Revenue-officer shall proceed to make payment to the proprietors, tenure-holders and other rent-receivers, and to any groups of proprietors, tenure-holders or other rent-receivers and to the cultivating *raiyats*, cultivating under-*raiyats* and other persons, who are shown in such Compensation Assessment-roll as finally modified under section 54 to be entitled to compensation, of the compensation payable to them in the terms of the said roll after deducting from the amount of any compensation so payable any amount which has been ordered by the Collector to be so deducted under clause (b), (c) or (d) of sub-section (4) of section 3 or clause (5), (6) or (7) of section 44 and also any amount to be deducted from such compensation under clause (8) of section 44 ¹[or clause (2) of section 46E] ²[or section 76B] and any amount recoverable from such compensation under Chapter X:

Provided that if a rent-receiver applied for scaling down his debts under Chapter X of this Act, only half of the total amount of compensation payable to him under a Compensation Assessment-roll, less any amount to be deducted under clause (b), (c) or (d) of sub-section (4) of section 3 or clause (5), (6), (7) or (8) of section 44 ¹[or clause (2) of section 46E] ²[or section 76B], shall be paid to him and the payment of the other half shall be withheld until such application is disposed of and all debts recoverable from compensation money under that Chapter are recovered in accordance with the provisions of sub-section (7) of section 71:

Provided further that no compensation payable to any person under a Compensation Assessment-roll for any land with building shall be paid till the Provincial Government takes *khas* possession of such land and building.

(2) The amount of compensation so payable shall be paid in cash or in bonds or partly in cash and partly in bonds. The bonds shall be non-negotiable and payable in not more than forty annual instalments to the person named therein or his successor-in-interest and shall carry interest at three *per centum per annum* with effect from the date of issue.

(3) If any person, entitled to receive such compensation in respect of any estate, tenure or holding or part thereof or any land, had no power to alienate such estate, tenure, holding, part or land, or if there be any dispute as to the

¹These words, figures, brackets and letter were inserted by E.B. Act VI of 1952, s.17.

²These words, figures and letter were inserted by E.B. Ordinance III of 1956, s.13.

(Sections 58—59.)

title to receive the compensation or as to the apportionment of it, the Revenue-officer shall keep the amount of compensation, or the bonds in which it is to be paid, in deposit with the Collector of the district:

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

(4) Notwithstanding anything contained in sub-sections (2) and (3), an annuity referred to in clause (3) of section 37 shall be paid to the Commissioner of Wakfs in the case of a *wakf* or *wakf-al-al-aulad* and to a trustee to be appointed in this behalf by the Provincial Government in any other case.

Money or bonds deposited in respect of estates, tenures, holdings or lands belonging to persons incompetent to alienate.

59. (1) If the amount of any compensation paid in bonds or in cash is deposited with the Collector of the district under sub-section (3) of section 58 and it appears to the Collector that the estate, tenure or holding or part thereof or any land in respect of which such amount has been awarded as compensation was held by any person who had no power to alienate the same, the Collector shall, where the amount is deposited in cash, order such amount to be invested in the purchase of such Government or other approved securities as the Collector thinks fit and shall direct the payment of the interest of such bonds or interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the interest in such estate, tenure, holding or part thereof or other land, as the case may be, if such interest had not vested in the Provincial Government under section 3 or section 44, and such bonds or securities shall remain so deposited until—

(a) they are made over to any person or persons becoming absolutely entitled thereto; or

(b) they are mature.

(2) If, when such bonds or securities are mature, there is no person or persons absolutely entitled thereto, the Collector shall direct the investment of the proceeds of such bonds or securities in the purchase of such Government or other approved securities as the Collector thinks fit; and the provisions of sub-section (1) shall apply to such investment and to the interest and other proceeds arising from such investment as they apply to the investment made under sub-section (1) of the amount of compensation deposited in cash with the Collector under sub-section (3) of section 58 and the interest and other proceeds arising out of such investment.

(3) In all cases of moneys, bonds and other securities deposited to which this section applies, the Collector of the

(Sections 59—60A.)

district shall order the costs of the following matters including therein all reasonable charges and expenses incidental thereto, to be paid by the Provincial Government, namely:—

- (a) the cost of such investments as aforesaid;
- (b) the cost of the orders for the payment of the interest or other proceeds of securities upon which such moneys are for the time being invested or of such bonds or other securities, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

(4) When any annuity is paid as compensation under sub-section (4) of section 58 to the Commissioner of Wakfs, the Commissioner of Wakfs shall pay the same to the *Mutawalli* or other person or persons who would for the time being have been entitled to the possession of the wakf property in respect of which such compensation has been awarded; and when any amount is paid as compensation under the said sub-section to a trustee appointed in this behalf by the Provincial Government, such trustee shall pay the same to the *Shebait* or other person or persons who would for the time being have been entitled to the possession of the trust property in respect of which such compensation has been awarded; and all costs for the payment of every such annuity under this sub-section shall be paid by the Provincial Government:

Provided that the Commissioner of Wakfs or the Trustee may withhold the payment of the whole or any portion of such annuity until he is satisfied that the amount of annuity paid in the preceding year under sub-section (4) of this section has been spent for the purpose for which such amount was paid.

Dispute as to title or apportionment.

60. If any dispute arises as to the title of any person to receive any compensation payable under a Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, the Revenue-officer may refer such dispute to the Special Judge appointed under sub-section (4) of section 48 to enquire into such disputes for decision.

Certain sections not applicable to future acquisition.

¹[60A. The provisions of clause (c) of sub-section (4) of section 3, clause (7) of section 44 and sections 61 to 68 shall not apply in the case of acquisition of rent-receiving interests on or after the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.]

¹This section was added by E. B. Ordinance III of 1956, s. 14.

(Sections 61—64.)

CHAPTER IX.

Provisions relating to arrears of revenue, rent and cesses.

Definition of
arrears.

61. For the purpose of clause (c) of sub-section (4) of section 3 or clause (7) of section 44, the expression "arrears" shall include the arrears in respect of which suits were pending on the date or day, as the case may be, referred to in the said clauses or in respect of which decrees, whether having the effect of a rent-decree or money-decree, were obtained before the said date or day and have not been satisfied and are not barred by limitation and shall also include the costs allowed by such decrees.

Payment and
realisation of
arrears.

62. (1) All arrears of rent and all cesses and interest, which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3, or under clause (7) of section 44, shall be payable to the Provincial Government and not to anybody else; and no payment made in contravention of this sub-section shall be valid.

(2) Subject to the provisions of sections 63, 64 and 65, all such arrears of rent and cesses and interest and all arrears of revenue and all cesses and interest referred to in clause (b) of sub-section (4) of section 3 or in clause (5) of section 44 ¹[may, without prejudice to any other mode of recovery,] be recoverable by the Revenue-officer under the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Provision re-
garding pend-
ing suits and
proceedings.

63. If ²[any suit by a rent-receiver or rent-receivers] for the recovery of any arrears which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 or any proceeding in execution of a decree for the recovery of any such arrears is pending before any Civil Court on the date or day, as the case may be, referred to in the said clauses, such suit or proceeding, ³[where such rent-receiver was the sole landlord or such rent-receivers constituted the entire body of co-sharer landlords,] shall not be further proceeded with and shall be deemed to have been withdrawn, and any such decree may be executed as if it were a certificate filed under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Realisation
of arrears
in respect of
lands held
by tenants
under Gov-
ernment.

⁴64. (1) A certificate or decree for the recovery of any arrears of rent to the recovery of which the provisions of this Chapter apply shall not, in the case where the certificate or judgment-debtor is a tenant under the Provincial Government and where the arrears covered by such certificate or

¹These words and commas were substituted for the word "shall" by E. B. Act VI of 1952, s. 18.

²These words were substituted for the words "any suit or proceedings" by section 19, *ibid.*

³These words and comma and the comma preceding them were inserted by section 19, *ibid.*

⁴The original section 64 was numbered as sub-section (1) of the same section by section 20, *ibid.*

of 1951.]

(Sections 64—67.)

decree relate to any ¹[holding or land] held by such tenant, be executed by arresting the certificate or judgment-debtor and detaining him in the Civil prison or by the attachment and sale of any movable or immovable property other than the ¹[holding or land] to which such arrears relate.

²[(2) If the holding or land to which such arrears relate has, before the execution of such certificate or decree, been sold in execution of any other decree or certificate, such arrears shall, notwithstanding anything contained in any other law for the time being in force, be a charge on such holding or land.]

Sale of lands held by tenants under Government for arrears.

65. Where any certificate or decree is executed under this Chapter by the attachment and sale of any land which is held by the certificate or judgment-debtor as a tenant under the Provincial Government, such sale shall, ³[in areas where Part V applies,] be subject to the provisions of section 90.

Power to grant instalments and stay execution.

66. It shall be competent for the Certificate Officer in executing any certificate or decree under this Chapter to order the payment of the amount of such certificate or decree to be made by the certificate or judgment-debtor by instalments within a period not exceeding three years from the date of such order and to stay the execution of the certificate or decree for such period:

Provided that in default of payment of any instalment, the certificate or decree may be executed for the whole of the outstanding balance thereof.

Payment to outgoing rent-receivers

67. The Provincial Government shall pay to an outgoing rent-receiver to whom any arrears of rent and cesses and interest which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 were due immediately before the date or day, as the case may be, referred to in the said clauses a sum equivalent to fifty *per centum* of ⁴[such arrears excluding interest], as computed in the manner prescribed, by way of compensation within a period not exceeding four years from the said date or day in such manner and in such instalments as may be prescribed:

⁵[Provided that before making such payment, the Provincial Government may, after giving the outgoing rent-receiver an opportunity of being heard, deduct from such sum any debts and dues payable to Government by such rent-receiver.]

¹These words were substituted for the word "land" by E.B. Act VI of 1952, s. 20.

²This new sub-section was added by section 20, *ibid*.

³These words, figure and comma, and the comma preceding them were inserted by section 21, *ibid*.

⁴These words were substituted for the words "such arrears and interest" by section 22, *ibid*

⁵This proviso was added, after substituting a colon for the full stop at the end of section 67, by section 22, *ibid*.

(Sections 68—68A.)

Computation of the period of limitation.

68. Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery under this Chapter of any arrears which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44, a period of ¹[twenty-four] months on and from the date or day, as the case may be, on which such arrears have so vested under the said clauses and, where a suit or proceeding referred to in section 63 filed for the recovery of any such arrears was pending before any Civil Court, also the period for which such suit or proceeding was so pending, shall be excluded.

²[CHAPTER IXA.]*Special provisions relating to arrears of rent.*

Procedure for realisation of arrears of rent by an outgoing rent-receiver.

68A. (1) Notwithstanding anything contained in any other law for the time being in force or elsewhere in this Act, no suit shall lie in any Civil Court for the recovery, by any rent-receiver whose interests in any estate, *taluk*, tenure, holding or tenancy or any part thereof have become vested in the Provincial Government under section 3 or section 44, of any arrears of rent and cesses due to such rent-receiver from his tenant in respect of such interests for any period prior to the date of vesting and, instead, such rent-receiver shall follow the procedure laid down in this section for the recovery of such arrears:

Provided that nothing in this sub-section shall apply to any suit instituted by any such rent-receiver for the recovery of any such arrears which is pending in any Court on the date of vesting of such interests and, subject to the provisions of section 68B, such suit shall be proceeded with and disposed of in accordance with the law which was applicable at the time of its institution.

(2) Any such rent-receiver may make a requisition in writing in the prescribed form and in the prescribed manner and within the prescribed period for the recovery of such arrears to such Revenue-officer as the Provincial Government may appoint for the purposes of this Chapter to perform the functions of a Certificate Officer under the Bengal Public Demands Recovery Act, 1913, and every such requisition shall be accompanied by the prescribed fee.

Ben. Act
III of
1913.

(3) On receipt of such requisition, the said Revenue-officer shall proceed in accordance with the provisions of the Bengal Public Demands Recovery Act, 1913, and the rules made thereunder and all proceedings before such Revenue-officer for the recovery of such arrears shall proceed at the instance of such rent-receiver and at his cost and responsibility and not otherwise:

Ben. Act
III of
1913.

¹This word was substituted for the word "twelve" by E. B. Act V of 1953, s. 4.

²This Chapter containing sections 68 A and 68B was added by E. B. Ordinance III of 1956, s. 15

of 1951.]

Provided that no such certificate in the case where the certificate-debtor is a tenant under the Provincial Government shall be executed by arresting such tenant and detaining him in the civil prison or, where the arrears of rent and cesses in respect of which the certificate has been signed relate to any land in the *khas* possession of such tenant, by the attachment and sale of any movable or immovable property other than such land:

Provided further that where any such certificate is executed by the attachment and sale of any land which is held by the certificate-debtor as a tenant under the Provincial Government, such sale shall be subject to the provisions of section 90:

Provided further that it shall be competent to the said Revenue-officer in executing any such certificate to order the payment of the amount of such certificate to be made by the certificate-debtor by instalments within a period not exceeding four years from the date of such order and to stay the execution of the certificate for such period.

Execution of decrees for arrears of rent obtained by an outgoing rent-receiver.

68B. (1) When a decree for arrears of rent and cesses referred to in sub-section (1) of section 68A has been passed, whether before or after the date on which the interests of a rent-receiver have vested in the Provincial Government under section 3 or section 44, in any suit instituted before the said date by such rent-receiver for the recovery of such arrears, such decree shall, notwithstanding anything contained in any other law for the time being in force, be executed in the manner provided in this section and not otherwise.

(2) Every such decree-holder may apply in the prescribed manner and within the prescribed period to the Revenue-officer referred to in sub-section (2) of section 68A for the execution of such decree and such Revenue-officer shall, on receipt of such application, if satisfied that the decree is not barred by limitation, execute such decree as if it were a certificate under the Bengal Public Demands Recovery Act, 1913 and the provisions of sub-section (3) of section 68A shall apply to the execution of such decree.

Ben. Act
III of
1913.

(3) Where any proceedings in execution of a decree referred to in sub-section (1) is pending in any Court on the date on which the interests of such decree-holder have become vested in the Provincial Government under section 3 or section 44, such execution proceedings shall abate and such decree-holder may apply for the execution of such decree in the manner provided in sub-section (2).]

(Sections 69—70.)

CHAPTER X.

Provisions relating to indebted rent-receivers.

Bar to execution of certain decrees and orders for the recovery of certain debts of rent-receivers.

69. (1) After the commencement of this Act, no Civil Court shall entertain any suit or execute any decree or order against any property of any rent-receiver, for the recovery of any debt which is liable to be scaled down under section 70, until all the interests of such rent-receiver which are liable to be acquired under this Act have been so acquired and compensation in respect of the acquisition of all such interests have been paid or deposited under section 58:

¹[Provided that if any rent-receiver fails to apply for the scaling down of his debts within the period mentioned in sub-section (1) of section 70, the provision of this sub-section shall cease to apply to his debts on the expiry of the said period.]

(2) Notwithstanding anything contained in any other law for the time being in force, in calculating the period of limitation applicable to a suit or an application for the execution of a decree or order, the time during which the institution of such suit or the execution of such decree or order is barred under sub-section (1) shall be excluded.

(3) The amount of any debt recoverable under any decree or order the execution of which is barred under sub-section (1) shall be deemed to be reduced, if any such debt has been scaled down under section 70, by the amount by which such debt has been so scaled down.

Scaling down of debts and recovery thereof.

70. (1) After the interests of a rent-receiver in a district, part of a district or local area have been acquired under this Act, the debts incurred by such rent-receiver before the 7th day of April, 1948, other than arrears of revenue, rent or cesses and other than debts and dues payable to the Provincial or Central Government or to a Co-operative Society ²[and also other than loans advanced for financing tea industry], shall, notwithstanding anything contained in any other law for the time being in force, be scaled down in the following manner, if the rent-receiver has applied in the prescribed manner for scaling down his debts to the Revenue-officer authorised under sub-section (1) of section 71 within 3 months of the publication under section 42 of the Compensation Assessment-roll in respect to his interests or lands which have been acquired first under section 3 or section 44:—

(a) in the case of a debt secured by a mortgage or charge on the interests of a rent-receiver which have been acquired under the provisions of this

¹This proviso was added, after substituting a colon for the full stop at the end of sub-section (1) of section 69, by E. B. Ordinance III of 1956, s. 16.

²These words were inserted by E. P. Act IV of 1956, s. 2.

of 1951.]

(Section 70.)

Act, the debt shall be scaled down proportionately to the reduction in the net income suffered by such a rent-receiver as a result of the acquisition of the interests concerned;

- (b) in the case of a debt secured by a mortgage or charge partly on the interests of a rent-receiver which have been acquired under this Act and partly on other properties which have not been so acquired under this Act, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, as calculated in the manner prescribed, from the interests mortgaged or charged which have been acquired bears to the net annual income from the properties mortgaged or charged which have not been so acquired; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction of the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned;
- (c) in the case of a debt not secured by any mortgage or charge on any interest or property, whether immovable or movable, of the rent-receiver, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, calculated in the manner prescribed, from the interests, which have been acquired under this Act, bears to the net annual income of the rent-receiver from the properties which have not been so acquired and from other sources; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction in the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned:

Provided that no portion of the debt of any rent-receiver shall be scaled down if the total of the debts apportioned under clauses (a), (b) and (c) on the interests or lands of the rent-receiver acquired under this Act be less than one-fourth of the total amount of the compensation money payable under this Act to such rent-receiver:

Provided further that the debts liable to be scaled down under this section shall not be scaled down to an amount less than one-fourth of the total amount of such compensation money.

(Section 70.)

¹[(1a). Notwithstanding anything contained in sub-section (1), a rent-receiver, in respect of whose interest the Compensation Assessment-roll has been published under section 42 on or before the 15th day of March, 1955, may apply in the manner and to the officer laid down in that sub-section for scaling down his debts referred to therein within three months from the coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.]

E. B. ord.
III of
1956.

(2) If any rent-receiver holds lands and other immovable properties, including those which will not be acquired under this Act, in different areas, then, notwithstanding anything contained in this section, action shall not be taken for the scaling down of the debts under this section until a Compensation Assessment-roll or Compensation Assessment-rolls in respect of all such areas has or have been prepared under ²[this Act] and finally modified under section 54.

(3) The extent of reduction in the net income of a rent-receiver referred to in clauses (a), (b) and (c) of sub-section (1) shall be determined in accordance with the rules made in this behalf by the Provincial Government.

(4) The net annual income referred to in clauses (b) and (c) of sub-section (1) from the properties which have not been acquired under this Act and the income from other sources shall be calculated in accordance with the rules made in this behalf by the Provincial Government.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract,—

- (a) no creditor shall be entitled to recover in respect of any debt referred to in clause (a) of sub-section (1) any sum in excess of the debt as scaled down under that sub-section; and the liability of the rent-receiver for the balance of the debt shall be extinguished;
- (b) no creditor shall be entitled to recover from the rent-receiver, in respect of the part of any debt which has been apportioned under clauses (b) and (c) of sub-section (1) to the interests of the rent-receiver which have been acquired under this Act, any sum in excess of the amount to which such part of the debt has been scaled down under clauses (b) and (c) of sub-section (1); and the liability of the rent-receiver for the balance of such part of the debt shall be extinguished:

¹This new sub-section was added by E. B. Ordinance III of 1956, s. 17.

²These words were substituted for the word and figure "Chapter V" by E. B. Act VI of 1952, s. 23.

of 1951.]

(Sections 70—71.)

Provided that the aggregate of all debts of a rent-receiver so reduced under clauses (a), (b) and (c) of sub-section (1) shall be recoverable only from the compensation money payable for the acquisition of all his interests under this Act, and shall be limited to and shall not exceed half of the total compensation money so payable:

Provided further that no portion of the debt of a rent-receiver apportioned under clause (b) or (c) of sub-section (1) on his properties which have not been acquired, and no portion of his debt secured entirely by a mortgage or charge on such properties, shall be recoverable from any compensation money payable to such rent-receiver under this Act; and

(c) subject to the first proviso to clause (b), in the matter of recovery of debts from compensation money, the debts secured by the mortgage or charge on the interests of the rent-receiver in any land or other immovable property shall have preference in the sequence in which such mortgage or charge was created over the debts not so secured; and any amount available after payment of the debts so secured shall be rateably distributed for payment of the debts not so secured.

¹[*Explanation.*—For the purpose of this section, the lands retained by a rent-receiver under the provisions of section 20 shall be deemed as not acquired under the Act.]

Provincial Government to authorise Revenue-officer to take action under section 70.

71. (1) It shall be competent to the Provincial Government to authorise any Revenue-officer to scale down the debts of rent-receivers in any area under section 70 and to take other actions required or permitted by that section.

(2) A Revenue-officer, authorised under sub-section (1), shall publish in the prescribed manner a notice calling upon every creditor to submit to him within a prescribed period and in a prescribed form a statement showing all debts of the nature referred to in sub-section (1) of section 70 owed to him by the rent-receivers in such area whose interests have been acquired under section 3 or section 44 and who have applied under sub-section (1) of section 70 for scaling down their debts and such other particulars as may be prescribed.

(3) A creditor who has failed to submit under sub-section (2), within the period referred to therein, the statement of any debt of the nature referred to in sub-section (1)

¹This explanation was added by E. P. Act IV of 1956, s. 2.

(Sections 71—73.)

of section 70, the liability of the debtor to pay such debt shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be extinguished.

(4) After the expiry of the period referred to in sub-section (2), the Revenue-officer shall examine the statements of debts and other particulars submitted under that sub-section and shall, after giving the creditors and the debtors an opportunity of being heard and making such enquiries as he deems fit, make necessary modification in such statements.

(5) After a statement of debts has been examined and necessary modifications made therein under sub-section (4), the Revenue-officer shall proceed to scale down all debts shown in such statement as so modified in accordance with the provisions of section 70 and to take other actions in respect of such debts required or permitted by that section and in doing so and taking all other actions required or permitted by this Chapter the Revenue-officer shall follow such rules relating to procedure and other matters as may be made in this behalf by the Provincial Government.

(6) An appeal, if presented within a prescribed period, shall lie against an order passed by a Revenue-officer under this section to a Special Judge appointed under sub-section (4) of section 48; and the decision of the Special Judge and subject only to such decision an order of the Revenue-officer shall be final.

(7) A debt recoverable under this Chapter from the total compensation money payable to the debtor under a Compensation Assessment-roll or Compensation Assessment-rolls shall be so recoverable in the manner prescribed.

CHAPTER XI.

Miscellaneous.

Bar to jurisdiction of Civil Courts in certain matters.

72. Save as expressly provided in this Part, no suit shall be brought in any Civil Court in respect of the preparation, signing and publication of a Compensation Assessment-roll or any part thereof under Chapter V¹ [or Chapter VA] or in respect of any entry in or omission from such roll or in respect of any order passed under Chapters V to X concerning any matter which is or has already been the subject of any application made or proceedings taken under those Chapters.

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

73. A Revenue-officer, subject to any rules made under this Act, may at any time between the hours of sunrise and sunset enter upon any land with such officers or servants as he considers necessary, and make a survey 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.

¹These words, figure and letter were inserted by E. B. Act VI of 1952, s. 24.

of 1951.]

(Sections 74—75B.)

Power to compel production of Statements and documents.

74. (1) Subject to 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 estate, tenure, holding or land at a time or place specified in the notice.

(2) Every person required to make or deliver a statement or to 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 Pakistan Penal Code.

Act XLV of 1860.

Power to enforce attendance of witnesses and production of documents.

75. For the purposes of any enquiry under this Act, a Revenue-officer shall have power to summon and enforce the attendance of witnesses or of any person having an interest in any estate, tenure, holding or 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 Civil Court under the Code of Civil Procedure, 1908.

Act V of 1908.

Prohibition of subletting.

1[75A. (1) On and from the date of publication of a notification under sub-section (3) of section 17 or under sub-section (1) of section 31, no person shall sublet any land in his *khas* possession in the area to which such notification relates.

(2) Any subletting made in contravention of sub-section (1) shall be null and void ²[and the land so sublet shall be forfeited to the Provincial Government.]

³[(3) Any person may, at any time, apply to the Provincial Government for the acquisition of any of his *khas* lands under sub-section (2) of section 3 on payment of compensation at the rate prescribed for such land in section 39.]

Fees for application for enquiry.

4[75B. An application for fresh enquiry during the preparation or revision of records-of-rights or preparation of Compensation Assessment-rolls under this Act shall be accompanied by such fee as may be prescribed.]

¹This section was inserted by E. B. Act XII of 1954, s. 13.

²These words were added by E. P. Act IV of 1956, s. 3.

³This sub-section was substituted for the former sub-section (3) by section 3, *ibid*. The former sub-section (3) read as follows:—

“(3) Nothing in sub-sections (1) and (2) shall apply to the subletting of any land purchased by a landlord in execution of a rent decree or surrendered or abandoned under the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, when such land is sublet at a rent not more than the rent which was payable for such land by the outgoing tenant.”

⁴This new section was added by E. B. Ordinance III of 1956, s. 18.

(Sections 76—76A.)

Settlement
and use
of land
vested in the
Provincial
Government.

76. (1) Except as otherwise expressly provided in this Act, any land which vests in the Provincial Government under any of the provisions of this Act shall be absolutely at the disposal of the Provincial Government; and the Provincial Government shall be competent to make settlement of such land in accordance with such rules as it may make in this behalf or to use or otherwise deal with such land in such manner as it thinks fit:

Provided that no land shall be settled with a person unless he is a person to whom transfer of land can be made under section 90:

Provided further that in making settlement of any cultivable land preference shall be given to an applicant for settlement who cultivates land by himself or by the members of his family and holds a quantity of cultivable land which, added to the quantity of cultivable land, if any, held by the other members of his family, is less than three acres.

(2) No Civil Court shall entertain any application or suit concerning any matter relating to the settlement, by any officer of the Provincial Government, of any land under sub-section (1).

Explanation.—For the purposes of this section, the definition of “family” as given in the explanation under section 20 shall apply *mutatis mutandis*.

Creation of
separate
estate and
apportion-
ment of
revenue.

¹[**76A.** Notwithstanding anything contained in any other law for the time being in force or in any contract,—

(1) when the interests of a rent-receiver or rent-receivers in a share or part of any estate have been acquired by the Provincial Government under sub-section (1) of section 3 or clause (1) of section 44, nothing in the Bengal Land Revenue Sales Act, 1859 or in Chapter V of the Assam Land and Revenue Regulation, 1886, shall apply to such share or part, and the remaining share or part of such estate shall be deemed to constitute a separate estate for the purpose of the aforesaid Act or Regulation, as the case may be; and

Ben. Act
XI of
1859.

Assam
Regn. I
of 1886.

(2) the land-revenue and cesses payable for the parent estate shall be apportioned, between the acquired share or part and the separate estate constituted under clause (1), according to the following principles, namely:—

(a) when an acquired share consists of a separate account or separate accounts, the land-revenue and cesses of such separate estate shall be equivalent to the difference between

¹This new section was added by E. B. Act XII of 1954, s. 14.

of 1951.]

(Sections 76A—77.)

the land-revenue and cesses payable for the parent estate and the land-revenue and cesses fixed for the acquired separate account or accounts;

(b) when an acquired share does not consist of a separate account, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the share comprised in the separate estate bears to the parent estate;

(c) when an acquired share consists of a specific portion of the land of an estate having no separate account or when a part of an estate is acquired, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the area of the land comprised in the separate estate bears to the area of the entire land comprised in the parent estate;]

¹[(3) When the interests in a portion of a tenure, holding or other tenancy have been acquired under this Act and such portion consists of a definite share, the rent of such tenure, holding or tenancy shall be apportioned between the acquired and unacquired portions according to such share, but when it does not consist of a definite share, the Revenue-officer may apportion the rent of such tenure, holding or tenancy between the acquired and unacquired portions on the basis of the area or value as may appear to him fair and equitable.]

Recovery of advance rent or bid money realised by outgoing rent-receivers.

²[76B. When the Revenue-officer is satisfied that a rent-receiver, whose interests have been acquired under this Act, has realised any amount on account of the rent or bid money or consideration money in respect of any such interests for any period subsequent to such acquisition, he may recover such amount or any part thereof from such rent-receiver as a public demand.]

Protection of action taken under this Act.

77. (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.

¹This new clause was added, after substituting a semi-colon for the full stop at the end of clause (2) of section 76A, by E. B. Ordinance III of 1956, s. 19.

²This new section was added by section 20, *ibid*.

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(Sections 77—78.)

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Provincial 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 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.

78. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of Parts II, III and IV 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 following matters, namely:—

- (a) the forms of the notifications referred to in sub-section (3) of section 3 and the particulars which such notifications shall contain;
- (b) the manner of service of the notice and the form of the return referred to in sub-section (1) of section 4;
- (c) the time and manner of receiving an *ad interim* payment referred to in sub-sections (1) and (2) of section 6;
- (d) the determination of the amounts of deductions referred to in sub-section (4) of section 6;
- (e) the manner of and the period for filing appeals referred to in section 7;
- (f) the manner of recovery of fines referred to in section 8;
- (g) the authority referred to in sub-section (1) of section 9;
- (h) the form of the applications referred to in section 15, the particulars which such applications shall contain and the amounts of process fees which shall accompany such applications;
- (i) the manner of preparing or revising a record-of-rights under section 17 and the procedure to be followed and the powers to be exercised by Revenue-officers in preparing or revising such record-of-rights;
- (j) the particulars to be recorded in the record-of-rights to be prepared or revised under section 17;
- (k) the manner and period of publication of the draft record-of-rights under sub-section (1) of section 19;
- (l) the Revenue Authority to whom, the manner in which and the period within which an appeal under sub-section (2) of section 19 may be preferred;

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- (m) the disposal of objections and appeals under section 19;
- (n) the manner of publication of the record-of-rights under sub-section (3) of section 19;
- (o) the period for exercise of choice under sub-section (3) of section 20 and the manner of allotment of lands under the said sub-section when no choice is exercised;
- (p) the manner of selection of lands under clause (ii) of sub-section (5) of section 20 which shall come within the purview of sub-clause (c) of clause (i) of the said sub-section;
- (q) the manner of and the procedure for revising the particulars referred to in sub-section (2) of section 31 and the powers to be exercised by Revenue-officer for the purpose;
- (r) the form of a Compensation Assessment-roll under section 33, the manner of preparing it and the particulars to be specified therein;
- (s) the manner of calculation of the sums and determination of the expenditure and charges referred to in sub-section (2) of section 35;
- (t) the procedure to be followed in the apportionment of the compensation between the holder of a temporary tenure or tenancy and his immediately superior landlord under clause (2) of section 37;
- (u) the manner of and the procedure for the calculation of compensation and preparation of Compensation Assessment-rolls in cases referred to in section 38;
- (v) the manner of determination of the annual letting value of lands referred to in items (e) and (f) and the manner of determination of the actual cost of construction and the amount on account of depreciation referred to in item (f) of the table in sub-section (1) of section 39;
- (w) the manner of determination of the normal annual produce of land under clause (a) of sub-section (3) of section 39;
- (x) the manner of determination of the cost of cultivation referred to in sub-clause (i) of clause (b) of sub-section (3) of section 39;
- (y) the manner of determination of net annual profit from fisheries referred to in sub-section (4) of section 39;
- (z) the procedure to be followed in making the apportionment of compensation referred to in sub-section (5) of section 39;

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- (za) the manner and period of publication of a draft Compensation Assessment-roll under sub-section (1) of section 40 and disposal of objections under that sub-section;
- (zb) the Revenue Authority to whom appeals under section 41 are to be preferred and disposal of appeals under that section;
- (zc) the manner of publication of a Compensation Assessment-roll under section 42;
- (zd) the manner of publication of a proclamation under section 45;
- (ze) the assignment under sub-section (1) of section 46 of numbers to be borne on the revenue-roll of a district in respect of areas to which a record-of-rights referred to in that sub-section relates and the manner in which copies of record-of-rights shall be distributed under sub-section (2) of that section;
- (zf) the powers and duties of the Commissioner of State Purchase referred to in sub-section (2) of section 48;
- (zg) the powers and duties of the Director of Land Records and Surveys referred to in sub-section (3) of section 48;
- (zh) the form of application referred to in sub-section (1) of section 52 or in section 53;
- (zi) the manner of ascertaining excess payment under sub-section (2) of section 57 and the superior Revenue Authority referred to in the second proviso to that sub-section;
- (zj) the manner of computing the sum referred to in section 67 and the manner and instalments for its payment to an outgoing rent-receiver under the said section;
- (zk) the manner of application under sub-section (1) of section 70;
- (zl) the manner of and the procedure for the determination of the extent of reduction in the net income referred to in sub-section (3) of section 70;
- (zm) the manner of and the procedure for the calculation of the net annual income and the income referred to in sub-section (4) of section 70;
- (zn) the manner of publication of a notice under sub-section (2) of section 71 and the form in which and the period within which a statement referred to in that sub-section is to be submitted and the particulars which such statement shall contain;
- (zo) the rules referred to in sub-section (5) of section 71;

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(Sections 78—81.)

- (zp) the period for presenting an appeal under sub-section (6) of section 71;
- (zq) the manner of recovery of debts under sub-section (7) of section 71;
- (zr) the procedure and conduct of the Revenue-officers and of officers and servants referred to in section 73;
- (zs) the exercise of powers under sub-section (1) of section 74 to enforce the making and delivery of statements and production of records or documents;
- (zt) the rules for settlement of lands referred to in section 76.

PART V.

CHAPTER XII.

Application of this Part and Class of agricultural tenants.

Commence-
ment of this
Part.

¹[79. This Part shall come into force in such areas and on such dates as the Provincial Government may, by notification, direct.]

Repeal.

²[80. On and from the date of coming into force of this Part in any area, the enactments specified in the Schedule shall be repealed in that area to the extent mentioned in the fourth Column of the Schedule.]

Class of agri-
cultural
tenants and
regulation
of their
rights and
liabilities.

³[81. (1) On and from the date of coming into force of this Part in any area, there shall, within that area, be only one class of tenants of agricultural land, namely, *rai-yats*, and the rights and liabilities of every such *rai-yat* shall be regulated by the provisions of this Part.]

¹This section was substituted for the original section 79 by E.B. Act VI of 1952, s. 25. The original section 79 read as follows:—

“79. This Part shall not apply to any area unless a notification has been published under sub-section (2) of section 43 declaring that a Compensation Assessment-roll in respect of such area has been finally published, and shall come into force in such area on and from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*.”

²This section was substituted for the original section 80 by E.B. Act VI of 1952, s.26. The said original section 80 read as follows:—

“80. On and from the first day of the agricultural year next following the date of publication of a notification in the *Official Gazette* under sub-section (2) of section 43 declaring that a Compensation Assessment-roll has been finally published, the enactments specified in the Schedule shall, in the area to which such roll relates, be repealed to the extent mentioned in the fourth column thereof.”

³This sub-section was substituted for the original sub-section (1) of section 81 by section 27, *ibid*. The said original sub-section (1) read as follows:—

“(1) On and from the first day of the agricultural year immediately following the publication of a notification in the *Official Gazette* under sub-section (2) of section 43 declaring that a Compensation Assessment-roll has been finally published, there shall, within the area to which such roll relates, be only one class of tenants of agricultural land, namely, *rai-yats*, and the rights and liabilities of every such *rai-yat* shall be regulated by the provisions of this Part.”

(Sections 82—84.)

(2) The provisions of this Part except those in Chapters XIII, XVI, XVII, XVIII and XIX shall not apply to tenants of land in so far as they are tenants of non-agricultural lands;

(3) The provisions of Chapters XIII, XVI, XVII, XVIII and XIX shall apply to the tenants of non-agricultural lands so far as such provisions are applicable to such tenants.

Interpreta-
tion.

82. In this Part,—

- (1) "*bona fide* cultivator" means a person who cultivates land by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*, and also includes an agricultural labourer;
- (2) "*raiyat*" means a person who, by virtue of section 44 or otherwise, has acquired a right to hold land directly under the Provincial Government mainly for the purpose of cultivating it by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*, and includes also the successors-in-interest of persons who have acquired such a right; and
- (3) the family of a *raiyat* includes all persons living in the same mess with him and dependent upon him but does not include any servant or labourer.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

CHAPTER XIII.

Incidents of holdings of raiyats, and transfer, purchase and acquisition of lands.

Rights of
raiyat in res-
pect of use
of land.

83. A *raiyat* shall have the right to occupy and use the land comprised in his holding in any manner he likes.

Devolution
of holding
on the death
of a *raiyat*.

84. If a *raiyat* dies intestate his holding shall subject to, and in a manner not inconsistent with, the provisions of this Act, descend in the same manner as his other immovable property:

Provided that in any case in which under the law of inheritance, to which the *raiyat* is subject, his other property goes to the State, his interest in the holding shall be extinguished.

of 1951.]

(Sections 85—87.)

Ground for
eviction of
rai-yats.

85. A *rai-yat* shall not be ejected from his holding or from any part of his holding, except in execution of a decree for ejectment from the whole holding or from any part of the holding, as the case may be, passed by a Civil Court, on the ground that he has done any act in contravention of the provisions of this Act with respect to the whole holding or the part concerned.

Abatement
of rent on
account of
diluvion and
re-entry into
lands which
re-appear.

86. (1) If the lands of a holding or a portion of such lands are lost by diluvion, the rent of the holding shall, on application made by the tenant in the prescribed form to the Revenue-officer, be abated by such amount as may be considered by the Revenue-officer to be fair and equitable in accordance with the rules made in this behalf by the Provincial Government.

(2) Notwithstanding anything contained in any other law for the time being in force, the right, title and interest of the tenant or his successors-in-interest shall subsist in such lands or portion thereof during the period of loss by diluvion, not exceeding twenty years, whether partly before and partly after or wholly after the commencement of this Part; and the tenant or his successors-in-interest shall have the right to immediate re-possession on the re-appearance of such lands or portion thereof within twenty years of their loss by diluvion, and be liable to pay such fair and equitable rent in respect thereof as may be settled by the Revenue-officer:

Provided that, when the lands or portion thereof which have so re-appeared added to the total area of land already in the possession of such tenant or his successors-in-interest exceed the area of land which the tenant was allowed to retain in his possession under section 20, or the limit laid down in section 90, whichever be greater, such tenant or his successors-in-interest shall not have the right to re-possession of such excess area of land; and such excess area shall vest in and be at the disposal of the Provincial Government:

Provided further that allotment of lands, of which such tenant or his successors-in-interest are entitled to re-possession under the above proviso, shall be made according to the choice of such tenant or his successors-in-interest.

Rights in
land gained
by gradual
accession
from recess
of river or
sea.

87. (1) Notwithstanding anything contained in any other law for the time being in force, when any land has been gained by gradual accession, whether from the recess of a river or of the sea, it shall, subject to the provisions of sub-section (2), be considered an increment to the holding of the *rai-yat* to whose land it is thus annexed; and such *rai-yat* shall be entitled to hold such land subject to the payment of such fair and equitable rent as may be determined for such land by the Revenue-officer.

(Sections 87—89.)

(2) If, when the whole or any part of the land which has been gained by such gradual accession is added to the total area of land including non-agricultural land, if any, held at the time by the *raiyat* to whose land it is so annexed, the aggregate of the areas of land held by him exceeds the limit laid down in section 90, then such excess shall not be considered as an increment to the holding of such *raiyat* but shall be at the disposal of the Provincial Government:

Provided that the limitation in respect of the area of the land in this sub-section shall not apply to a *raiyat* who has been certified in the prescribed manner by the prescribed Revenue Authority to be a person who has undertaken large scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances or to any land which is held for the purpose of cultivation and manufacture of tea or to any land held by a company for the cultivation of sugarcane for the purpose of manufacture of sugar by that company.

(3) In dealing with any such excess at the disposal of the Provincial Government, the Revenue-officer shall decide, in such manner as he may deem fair and equitable, after giving any parties interested an opportunity of being heard, which portion, being equal to such excess, of the land so annexed shall so be at the disposal of the Provincial Government and shall serve a notice on the *raiyat* in the prescribed form and manner stating the boundaries of the land so decided as being at the disposal of the Provincial Government; and thereupon such land shall vest in the Provincial Government absolutely.

Transfer-
ability of
holding of
rai-yats.

88. The holding of a *raiyat* or a share or portion thereof shall, subject to the provisions of this Act, be capable of being transferred by him in the same manner and to the same extent as his other immovable property.

Manner of
transfer.

89. (1) Every such transfer shall be made by registered instrument, except in the case of a bequest or a sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913; and a Registering Officer shall not accept for registration any such instrument unless the sale price, or where there is no sale price, the value of the holding or portion or share thereof transferred is stated therein and unless it is accompanied by—

Ben. Act
III of
1913.

(a) a notice giving the particulars of the transfer in the prescribed form together with the process fee prescribed for the transmission thereof to the Revenue-officer; and

(b) such notices and process fees as may be required by sub-section (4).

(Section 89.)

(2) In the case of a bequest of such a holding or portion or share thereof, no Court shall grant probate or letters of administration until the applicant files a notice similar to, and deposits a process fee of the same amount as, that referred to in clause (a) of sub-section (1).

(3) No Court or Revenue Authority shall confirm the sale of such a holding or portion or share thereof put to sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice or notices similar to, and deposits process fees of the same amount as, that referred to in sub-section (1).

Ben. Act
III of
1913.

(4) If the transfer of a portion or share of such a holding be one to which the provisions of section 96 apply, there shall be filed notices giving particulars of the transfer in the prescribed form together with process fees prescribed for the service thereof on all the co-sharer tenants of the said holding who are not parties to the transfer and for affixing a copy thereof in the office of the Registering Officer or the Court house or the office of the Revenue Authority, as the case may be.

(5) The Court, Revenue Authority or Registering Officer, as the case may be, shall transmit the notice referred to in clause (a) of sub-section (1) to the Revenue-officer and shall serve the notices on the co-sharer tenants referred to in sub-section (4) by registered post and shall cause a copy of the notice to be affixed in the Court house or in the office of the Revenue Authority or of the Registering Officer, as the case may be:

Provided that the service of such a notice shall not operate as an admission of the amount of rent or the area of such holding by the Provincial Government or by any co-sharer tenant of such holding on whom such notice is served or be deemed to constitute an express consent of the Provincial Government or such co-sharer tenant to the division of the holding or to the distribution of the rent payable in respect thereof:

Provided further that if a transfer is subsequently set aside or modified by a competent authority in any suit, appeal or other proceedings to which the Revenue-officer was not a party, the authority before whom the appropriate suit or proceedings was first initiated shall transmit a copy of such order to the Revenue-officer.

(6) In this section—

(a) “transferee”, “purchaser” and “mortgagee” include their successors-in-interest, and

(Sections 89—90.)

(b) “transfer” does not include partition or, until a decree or order absolute for foreclosure is made, simple or usufructuary mortgage or mortgage by conditional sale.

Limitation
of transfer
of holding.

90. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, after the commencement of this Part, be entitled to purchase or otherwise acquire, except in accordance with the provisions of this Part, any quantity of land which added to the total quantity of land already held by him for himself and his family exceeds one hundred standard *bighas*.

(2) Notwithstanding anything contained in any other law for the time being in force, the holding of a *raiyyat* or a share or portion thereof shall not be transferred whether by sale or gift or bequest or otherwise or by sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, except to a *bona fide* cultivator, and any other tenancy or a share or portion thereof shall not be transferred by any such means except to a person, who holds for the time being lands for himself and his family of a total area of less than one hundred standard *bighas*; and no such transfer shall be valid if, on such transfer, the area of the land so transferred added to the area of land held by the transferee at the time of such transfer exceeds one hundred standard *bighas*:

Ben. Act
III of
1913.

Provided that nothing in sub-sections (1) and (2) shall render a transfer to any person invalid in the case where the total area of the land held by such person on such transfer exceeds one hundred standard *bighas*, if such person has been certified by the prescribed Revenue Authority to be a person who has undertaken large-scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances and such transfer is limited to the extent specified in the certificate granted by such Revenue Authority:

Provided further that nothing in sub-section (1) or (2) shall apply to the transfer of lands to a person who is *bona fide* carrying on the cultivation of tea or to a co-operative society or company which is *bona fide* carrying on the cultivation of sugarcane for the purpose of manufacture of sugar by that society or company or to any other company the object of which is to develop industries by the manufacture of commodities.

(3) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a *bona fide* cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire such quantity of land as may be specified in such permission, for occupation and use for commercial or industrial purposes or for charitable or religious purposes.

of 1951.]

(Sections 90—92.)

(4) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a *bona fide* cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire, such quantity of land as may be specified in the permission, for the purpose of constructing a dwelling house for himself and his family or for the purpose of cultivating such land by himself or by the members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*; and such person shall hold the land so acquired as a tenant under the Provincial Government:

Provided that no such person shall be allowed to hold any area of land in excess of the limit imposed in sub-section (1):

Provided further that, in case of land acquired by such person for the purpose of constructing a dwelling house for himself or his family, if no dwelling house is constructed on the land within five years from the date of such acquisition, the right of such person in such land shall be extinguished and the land shall vest in the Provincial Government.

(5) Any transfer of a holding or tenancy or of a share or portion thereof made in contravention of the provisions of this section shall be void, and the lands comprised in the holding or tenancy or share or portion thereof so transferred shall vest absolutely in the Provincial Government free from all encumbrances.

Power of acquiring excess land devolved by inheritance.

91. Notwithstanding anything contained in any other law for the time being in force, when any area of land which has devolved on a person by inheritance added to the total area of land already in his possession exceeds the limit laid down in section 90, it shall be lawful for the Provincial Government to acquire an area of such land, equivalent to such excess, to be selected according to the choice of such person, on payment of compensation at the rates laid down in sub-section (1) of section 39.

Extinguishment of interest of *rai-yats* in certain cases.

92. (1) The interest of a *rai-yat* in a holding shall be extinguished—

- (a) when he dies intestate leaving no heir entitled to inherit under the law of inheritance to which he is subject;
- (b) when he surrenders his holding at the end of any agricultural year by giving notice in the prescribed form and in the prescribed manner and within the prescribed period to the Revenue-officer;
- (c) when he voluntarily abandons his residence without making any arrangement for payment of the rent as it falls due and ceases to cultivate his holding

(Section 92.)

either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars* for a period of three successive years; or—

- (d) when such interest has devolved by inheritance, under the law of inheritance to which such *raiyat* is subject, on a person who is not a *bona fide* cultivator and such person has not cultivated the land comprised in the holding either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars* during the period of five years from the date on which such interest has so devolved on him, and there is no sufficient cause why he has not so cultivated the land.

(2) When the interest of a *raiyat* in a holding is extinguished under sub-section (1), the Revenue-officer may enter on the holding; and the holding shall, with effect from the date on which the Revenue-officer so enters on it, vest absolutely in the Provincial Government free from all encumbrances except the encumbrances on the holding which is extinguished under clause (a) of the said sub-section, but the persons whose interests in the holdings are extinguished under clauses (b), (c) and (d) of that sub-section shall continue to be personally liable for the money secured by the encumbrances on such holdings.

(3) Before entering on a holding under sub-section (2), the Revenue-officer shall cause a notice to be published in the prescribed manner declaring his intention to so enter on the holding and specifying the reasons thereof and also inviting objections from all persons interested in the holding and shall consider any objections that may be submitted to him within the period specified in that behalf in the notice and shall record a decision.

(4) Any person aggrieved by an order passed by the Revenue-officer under sub-section (3) on any objection shown against the extinguishment of the interest of any *raiyat* in his holding under clause (d) of sub-section (1) may, instead of filing an appeal under section 147, institute a suit in the Civil Court against such order. Notwithstanding anything contained in any other law for the time being in force, such suit shall be filed within ninety days from the date of the order of the Revenue-officer under sub-section (3).

(5) All arrears of rent in respect of a holding remaining due from a *raiyat* whose interest in such holding has been extinguished under sub-section (1) shall be deemed to be irrecoverable.

of 1951.]

(Sections 93—95.)

Restrictions
on sublet-
ting.

93. (1) No *raiyat* shall sublet the whole or any part of his holding on any terms or conditions whatsoever.

(2) If any holding or any part of a holding is sublet in contravention of the provisions of this section, the interest of the *raiyat* in the holding or in that part of the holding shall be extinguished, and the holding or the part of the holding, as the case may be, shall vest in the Provincial Government from the date of such subletting free from all encumbrances.

Transfer of
encumbran-
ces in certain
cases.

94. Notwithstanding anything contained in any other law for the time being in force, the encumbrances referred to in sub-section (5) of section 90 or sub-section (2) of section 93 shall, with effect from the date of transfer or sub-lease of the lands concerned, be deemed to be transferred and attached to such other lands of the transferor or the lessor as may be selected by the Revenue-officer in accordance with the rules prescribed, and thereupon the encumbrancer shall continue to have the same rights in or against those lands as he had in the original lands before the transfer or sub-lease thereof. The transferor or the lessor, as the case may be, shall also be personally liable for the money secured by such encumbrances.

Limitation
on mortgage
of *raiyat* i
holdings.

95. (1) Notwithstanding anything contained in any other law for the time being in force, a *raiyat* shall not enter into any form of usufructuary mortgage other than a complete usufructuary mortgage in respect of his holding or of a portion or share thereof, and every such complete usufructuary mortgage shall be subject to the same limitations as are imposed by section 90 on a transfer of the holding of a *raiyat* or of any share or portion thereof; and the period for which such complete usufructuary mortgage may be entered into by any *raiyat* shall not exceed, by any agreement express or implied, fifteen years:

Provided that any such usufructuary mortgage may be redeemed at any time before the expiry of the said period, on payment of an amount which shall bear the same proportion to the total consideration money received by the mortgagor, as the unexpired period bears to the total period for which the mortgage had been entered into.

(2) Every such complete usufructuary mortgage shall be registered under the Registration Act, 1908.

XVI of
1908.

(3) If any usufructuary mortgage entered into by a *raiyat* does not fulfil any of the conditions specified in sub-section (1) or is not registered as required under sub-section (2), it shall be void.

(Section 96.)

Right of
Pre-emption.

96. (1) If a portion or share of a holding of a *raiyyat* is transferred, one or more co-sharer tenants of the holding may, within four months of the service of the notice given under section 89, or, if no notice has been served under section 89, within four months of the date of the knowledge of the transfer, apply to the Court for the said portion or share to be transferred to himself or themselves; and if a holding or a portion or a share of a holding is transferred, the tenant or tenants holding land contiguous to the land transferred may, within 4 months of the date of the knowledge of such transfer, apply to the Court for the holding or portion or share to be transferred to himself or themselves:

Provided that no co-sharer tenant or tenant holding land contiguous to the land transferred shall have the right to purchase under this section unless he is a person to whom transfer of the holding or the portion or share thereof, as the case may be, can be made under section 90.

(2) In an application made under sub-section (1) by a co-sharer tenant or co-sharer tenants, all other co-sharer tenants of the holding and the transferee shall be made parties; and in such an application made by a tenant holding land contiguous to the land transferred, all the co-sharer tenants of the holding and all the tenants holding lands contiguous to the land transferred and the transferee shall be made parties.

(3) (a) An application made under sub-section (1) shall be dismissed unless the applicant or applicants, at the time of making it, deposit in the Court the amount of the consideration money or the value of the transferred holding or portion or share of the holding as stated in the notice under section 89 or in the deed of transfer, as the case may be, together with compensation at the rate of ten *per centum* of such amount.

(b) On receipt of such application accompanied by such deposit, the Court shall give notice to the transferee and to the other persons made parties thereto under sub-section (2) to appear within such period as it may fix and shall require such persons to state the consideration money actually paid for the transfer and shall also require the transferee to state what other sums he has paid in respect of rent since the date of transfer and what expenses he has incurred in annulling encumbrances on, or for making any improvement in respect of, the holding, portion or share transferred, and the Court shall then, after giving all the parties an opportunity of being heard and after holding an enquiry as to the actual amounts of the consideration money and rent paid and the expenses incurred by the transferee in annulling encumbrances on, or for the improvement of, the land transferred, direct the applicant or applicants to deposit a further sum, if necessary, within such period as it thinks reasonable:

of 1951.]

(Section 96.)

Provided that the transferee shall, in no case, be entitled to claim consideration money in excess of the amount mentioned in the deed of transfer.

(4) When an application has been made under sub-section (1), any of the remaining co-sharer tenants including the transferee, if one of them, and the tenants holding lands contiguous to the land transferred may, within the period referred to in sub-section (1) or within two months of the date of the service of the notice of the application under clause (b) of sub-section (3), whichever be earlier, apply to join in the said application; any co-sharer tenant or tenant holding land contiguous to the land transferred, who has not applied either under sub-section (1) or under this sub-section, shall not have any further right to purchase under this section.

(5) (a) If (i) a co-sharer tenant whose interest has accrued by inheritance and (ii) a co-sharer tenant whose interest has accrued by purchase and (iii) a tenant holding land contiguous to the land transferred apply under this section and comply with the provisions herein contained, the applicant or applicants shall have the prior right to purchase under this section in the order in which they have been mentioned above.

(b) If more than one tenant holding land contiguous to the land transferred apply under this section, the Court shall determine the order of priority as among such tenants having regard to—

- (i) the total quantity of land in possession of each of the tenants applying;
- (ii) whether the contiguous land of the tenant is home-stead land or any other class of land;
- (iii) extent of contiguity;
- (iv) to what extent it is necessary for the applicant to have possession of the contiguous land; and
- (v) the right of easement, if any, of the applicants.

(6) (a) On the expiry of the period within which an application may be made under sub-section (4), the Court shall determine, in accordance with the provisions of this section, which of the applications filed under sub-section (1) or sub-section (4) shall be allowed.

(b) If the Court finds that an order allowing the applications made under this section is to be made in favour of more than one applicant, the Court shall determine the amount to be paid by each of such applicants and, after apportioning the amount, shall order the applicant or applicants who have joined in the original application under sub-section (4) to deposit the amounts payable by him or them within such period as it thinks reasonable; and if the deposit is not made by any such applicant within such period, his application shall be dismissed.

(Section 96.)

(7) (a) On the expiry of the period within which a deposit, if any, is to be made under clause (b) of sub-section (6), the Court shall pass orders allowing the application or applications made by the applicant or applicants who are entitled to purchase under and have complied with the provisions of this section and, when such orders are passed in favour of more than one applicant, shall apportion the holding or the portion or share of the holding among them in such manner as it deems equitable; and the applicant or applicants under sub-section (7), if found to be entitled to a refund of any money, shall get the refund from the amount deposited by the applicant or applicants under clause (b) of sub-section (6).

(b) The Court shall, at the same time, pass an order directing that the transferee be paid out of the deposits made under sub-section (3) the amount of consideration money paid by him for the transfer together with compensation at the rate of ten *per centum* of such amount, the amount, if any, paid by him on account of rent of the holding, portion or share transferred since the date of transfer and the amount of expenses, if any, incurred by him in annulling encumbrances on, or for making any improvement in respect of, such holding, portion or share.

(8) No apportionment order under sub-section (7) shall operate as division of the holding.

(9) From the date of the passing of the order under sub-section (7)—

(a) the right, title and interest in the holding or portion or share thereof accruing to the transferee from the transfer shall, subject to any orders passed under the said sub-section, be deemed to have vested free from all encumbrances which have been created after the date of transfer in the co-sharer tenants or in the tenants holding lands contiguous to the land transferred, as the case may be, whose applications to purchase have been allowed under sub-section (7);

(b) the liability of the transferee for the rent of the holding or portion or share from the date of the transfer shall cease; and the co-sharer tenants or the tenants holding lands contiguous to the land transferred whose applications to purchase have been so allowed shall be liable for any such rent due from the transferee; and

(c) the Court on further applications of such applicant or applicants may place him or them, as the case may be, in possession of the property vested in him or them,

(Sections 96—97.)

(10) Nothing in this section shall apply to—

- (a) a transfer to a co-sharer in the tenancy whose interest has accrued otherwise than by purchase; or
- (b) a transfer by exchange or partition; or
- (c) a transfer by bequest or gift (including *Heba* but excluding *Heba-Bil-Ewaj* for any pecuniary consideration) in favour of the husband or wife of the testator or donor, or of any relation by consanguinity within three degrees of the testator or donor; or
- (d) a simple or complete usufructuary mortgage or, until a decree or order absolute for foreclosure is made, a mortgage by conditional sale; or
- (e) a *wakf* in accordance with the provisions of the Muhammadan Law; or
- (f) a dedication for religious or charitable purposes without any reservation of pecuniary benefit for any individual.

Explanation.—A relation by consanguinity shall, for the purpose of this section, include a son adopted under the Hindu Law.

(11) Nothing in this section shall take away the right of pre-emption conferred on any person by the Muhammadan Law.

(12) An application under this section shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the land in connection with which the application is brought.

(13) An appeal shall lie to the ordinary Civil Appellate Court from any order of a Court under this section and, notwithstanding anything contained in any other law for the time being in force, there shall be no second appeal from an order of the first Appellate Court.

Restriction
on alienation
of land by
aboriginals.

97. (1) The Provincial Government may from time to time, by notification, declare that the provisions of this section shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this section, and the publication of such notification shall be conclusive evidence that the provisions of this section have been duly applied to such castes or tribes, namely:—

Sonthals, Bhuiyas, Bhumijes, Dalus, Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dacca Division), Koras, Maghs (Bakarganj District), Mal and Sauria Paharias, Maches, Mundas, Mundais, Oraons and Turis.

(Section 97.)

(2) Except as provided in this section, no transfer by an aboriginal *raiya*t of his right in his holding or in any portion thereof shall be valid unless it is made to another aboriginal domiciled or permanently residing in East Bengal who is a person to whom the transfer of such holding or portion thereof can be made under section 90.

(3) If in any case an aboriginal *raiya*t desires to transfer his holding or any portion thereof by private sale, gift or will to any person who is not such an aboriginal, he may apply to the Revenue-officer for permission in that behalf, and the Revenue-officer may pass such order on the application as he thinks fit.

(4) Every transfer referred to in sub-section (3) shall be made by registered deed; and before the deed is registered and the holding or any portion thereof is transferred, the written consent of the Revenue-officer shall be obtained to the terms of the deed and to the transfer.

(5) An aboriginal *raiya*t's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage.

(6) An aboriginal *raiya*t may enter with another aboriginal, domiciled or permanently residing in East Bengal, who is a person with whom a complete usufructuary mortgage can be entered into under sub-section (1) of section 95, into a complete usufructuary mortgage in respect of any land comprised within his holding for any period which does not and cannot, in any possible event, by any agreement express or implied, exceed seven years:

Provided that every mortgage so entered into shall be registered under the Registration Act, 1908.

XVI of
1908.

(7) Any transfer made by an aboriginal *raiya*t in contravention of the provisions of this section shall be void.

(8) (a) If a transfer of a holding or any portion thereof is made by an aboriginal *raiya*t in contravention of the provisions of this section, the Revenue-officer may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such holding or portion:

Provided that the transferee shall be given an opportunity of showing cause against such ejection before the order is passed.

(b) When the Revenue-officer has passed any order under clause (a), he shall either (i) restore the transferred land to the aboriginal or his heir or legal representative or, (ii) failing the transferor or his heir or legal representative, declare that the land has vested in the Provincial Government and the Revenue-officer may settle the land with another aboriginal.

(Sections 97—100.)

(9) Notwithstanding anything contained in any other law for the time being in force, no decree or order shall be passed by any Court for the sale of the right of any aboriginal *raiyyat* in his holding or any portion thereof, nor shall any such right be sold in execution of any decree or order:

Provided that any holding belonging to an aboriginal may be sold, according to the provisions of this Act, in execution of a certificate for the recovery of the arrears of rent of the holding.

(10) The Provincial Government may, by notification, declare that this section shall, in any district or local area, cease to apply to any caste or tribe to which it may have been applied under sub-section (1).

CHAPTER XIV.

Provisions as to enhancement and reduction of rent.

Revision of
rents of
raiyyats.

98. (1) The rent of a *raiyyat* shall not be enhanced, reduced or altered except as provided in this Chapter.

(2) Nothing in this Chapter shall apply to non-agricultural lands.

Order for
determina-
tion of rent-
rates and
preparation
of settlement
rent-roll.

99. (1) The Provincial Government may make an order directing the Revenue-officer—

(a) to determine the rent-rates for any district or part of a district or local area in accordance with the provisions of this Chapter and of such rules as may be made in this behalf by the Provincial Government and to prepare in the prescribed form and manner a table of rent-rates in which the rent-rate so determined, together with such other particulars as may be prescribed, shall be specified; and

(b) after the table of rent-rates in respect of any district, part of a district or local area has been prepared and confirmed under this Chapter, to settle fair and equitable rents for all tenants in such district or part or area and to prepare in the prescribed form and manner a settlement rent-roll in which the rents so settled, together with such other particulars as may be prescribed, shall be specified.

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

Procedure in
determining
rent-rates.

100. (1) When an order is made under clause (a) of sub-section (1) of section 99, the Revenue-officer shall, for the purpose of determining the rent-rates for the area specified in such order, divide such area into as many suitable

(Sections 100—101.)

is + equitable money rents

units of area as he considers necessary having regard to the conditions of the land and the principal crops grown in such area, and the Revenue-officer shall then determine the rent-rates for different classes of lands in each such unit.

(2) In determining the rent-rates for different classes of land under sub-section (1), the Revenue-officer shall take into consideration—

- (a) the nature of the soil and the general productivity of the class of land for which the rent-rate is being determined;
- (b) the normal yield per acre of the land to be determined in the prescribed manner;
- (c) the average prices of the crops grown on such land calculated on the basis of the average prices of such crops prevailing during the preceding twenty years excluding the years in which such prices were abnormal;
- (d) any means of irrigation or drainage or any other special facilities for cultivation of such land;
- (e) the result of any work of agricultural improvement effected within any particular unit at the expense of Government; and
- (f) the existing rates of rent or the average rate of rent determined in the prescribed manner.

(3) The rate of rent per acre for any class of land determined under sub-section (1) shall not exceed one-tenth of the total value of the produce per acre of such land obtained by multiplying the normal yield per acre of such land, determined in the manner prescribed, by the average price of crops grown in such land referred to in clause (c) of sub-section (2) or five-fourths of the existing rate of rent or the average rate of rent, determined in the prescribed manner, of such land, whichever is less.

Preliminary and final publication of table of rent-rates and its confirmation by the prescribed superior Revenue Authority.

101. (1) When the Revenue-officer has prepared a table of rent-rates, he shall cause a draft of it to be published in the prescribed manner and for the prescribed period in the area or village to which it relates.

(2) Any person objecting to any entry in the table of rent-rates may present a petition to the Revenue-officer within thirty days from the first date of publication under sub-section (1), and the Revenue-officer shall consider any such objection and may alter or amend the table.

(3) If no objection is made within the said period or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the prescribed Revenue Authority with a full statement of the grounds for his proposals together with all the necessary particulars relating to the value of the produce per acre of land and the existing rent-rates for each class of land and a summary of the objections (if any) which he has received.

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(Sections 101—106.)

(4) Such superior Revenue Authority may confirm a table submitted under sub-section (3), with or without modification, or may return it for revision.

(5) When a table of rent-rates has been confirmed by such superior Revenue Authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the table have been duly conducted in accordance with this Act, and it may be presumed that the rates shown in the table for each class of land are fair and equitable rates payable for land of that class within the area to which the table applies.

Rate shown in the table to be the maximum rate.

102. The rate of rent for any class of land shown in a table of rent-rates confirmed under section 101 shall be the maximum rate at which the rent of a *raiyyat* for such class of land can be settled.

Rates of rent, etc., determined under this Chapter to form part of record-of-rights.

103. The particulars regarding the principal crops grown on the land within any unit of area, the normal yield per acre of land in such unit, the average price of crops referred to in clause (c) of sub-section (2) of section 100 grown on such land and the rates of rent determined for different classes of land within such unit under this Chapter shall form part of the record-of-rights of such unit maintained under this Part.

Duration of rent-rates.

104. When the rent-rates for any district, part of a district or unit of area have been determined under this Chapter and shown in a table of rent-rates confirmed under section 101, they shall not be changed until after a period of thirty years has elapsed from the date of such confirmation.

Grounds of and limits to enhancement of rent.

105. (1) The rent payable by a *raiyyat* in respect of any land shall be liable to enhancement on the ground that the rent payable by him is substantially lower than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land is situated and entered in the table of rent-rates, confirmed under section 101, applicable to such unit.

(2) If the Revenue-officer considers that an immediate increase of rent will cause hardship, he may direct that the enhancement shall take effect by yearly increments extending over a period not exceeding five years as the Revenue-officer may fix in this behalf.

Grounds for reduction of rent.

106. The rent payable by a *raiyyat* in respect of a holding may be reduced on one or more of the following grounds, namely:—

(a) that the rent payable by the *raiyyat* is substantially higher than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land comprised in the holding is situated and entered in the table of rent-rates, confirmed under section 101, applicable to such unit;

(Sections 106—109.)

- (b) that the soil of the holding has deteriorated as a result of the deposit of sand or through the operation of other natural causes, sudden or gradual; and
- (c) that there has been any breakdown of the existing arrangements for irrigation or drainage or for the maintenance of any embankments or bunds which were in existence at the time when the rent was last settled, and the soil of the holding has thereby deteriorated.

Settlement of fair and equitable rents.

107. After a table of rent-rates has been prepared and confirmed under this Chapter, the Revenue-officer shall proceed to settle, according to the provisions of the preceding sections, the fair and equitable rents of all tenants in the area to which the table of rent-rates applies and to prepare the settlement rent-roll as directed under clause (b) of sub-section (1) of section 99.

(2) For the purpose of settling such fair and equitable rents and preparing the settlement rent-roll, the Revenue-Officer shall be guided by the rent-rates entered in the table of rent-rates so prepared and confirmed:

Provided that a Revenue-officer shall not be bound to apply the said rates to any particular case or area if he considers, for reasons to be recorded in writing, that the application of such rates to such case or area would be unfair or inequitable.

Preliminary publication and amendment of settlement rent-roll.

108. (1) When a settlement rent-roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period and shall receive and consider any objection made to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make.

(2) The Revenue-officer may, of his own motion or on application of any party aggrieved, at any time before a settlement rent-roll is submitted to the confirming authority under section 109, revise any rent entered therein:

Provided that no such entries shall be revised until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

Sanctioning and final publication of the settlement rent-roll and incorporation of the same in the record-of-rights.

109. (1) When all objections have been disposed of under section 108, the Revenue-officer shall submit the settlement rent-roll to the prescribed confirming authority with a full statement of the grounds for his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the settlement rent-roll with or without amendment or may return it for revision:

of 1951.]

(Sections 109—111.)

Provided that no entry shall be amended or omission supplied until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue-officer shall finally frame the settlement rent-roll and publish it in such manner as may be prescribed and shall incorporate it in the record-of-rights for the area, to which such settlement rent-roll relates, maintained under this Part; and such publication shall be conclusive evidence that the settlement rent-roll has been duly made under this Chapter.

Appeal to
and revision
by superior
Revenue
Authority.

110. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer on any objection made under section 108, or from an order passed by the confirming authority under section 109 to the prescribed superior Revenue Authority.

(2) The Board of Revenue may in any case under this Chapter, on application or of its own motion, direct the revision of any settlement rent-roll or any portion of it at any time within six months of the date of the order sanctioning the settlement rent-roll under sub-section (2) of section 109 or any order passed by the superior Revenue Authority under sub-section (1), whichever is later, but not so as to affect any order passed by the Special Judge under section 111:

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

Appeal to
the Special
Judge.

111. (1) Any person aggrieved by an order passed by the Revenue-officer on any objection made under section 108 or an order passed by the confirming authority under section 109, may present an appeal in the prescribed manner against such order, within three months of the final publication under sub-section (3) of section 109 of the settlement rent-roll to which such appeal relates, to the Special Judge appointed by the Provincial Government in this behalf provided that no appeal has been presented regarding the matter to the prescribed superior Revenue Authority under sub-section (1) of section 110.

(2) Subject to such orders as may be passed by the High Court in its revisional jurisdiction, the order of the Special Judge, on the appeal, shall be final; and no appeal shall lie to the High Court against the order of the Special Judge under this section.

(3) The provisions of the Code of Civil Procedure, 1908, shall, so far as it may be, apply to all appeals presented to the Special Judge under this section. V of 1908.

(Sections 112—117.)

Presumption
as to rents
settled under
this Chapter.

112. All rents settled under this Chapter shall be deemed to have been correctly settled and to be fair and equitable rents.

Date from
which settle-
ment takes
effect.

113. When a rent is settled by a Revenue-officer under this Chapter in respect of any area, it shall, subject to sections 110 and 111, take effect from the beginning of the agricultural year next after the date of the final publication under sub-section (3) of section 109 of the settlement rent-roll in which such rent is specified.

Period for
which rent as
settled is to
remain un-
altered.

114. When the rent of a tenant has been settled under this Chapter, it shall not be enhanced for a period of thirty years; and no such rent shall be reduced within the said period save on the ground specified in clause (b) or clause (c) of section 106.

Bar to juris-
diction of
Civil Court.

115. No suit or other legal proceeding shall be instituted in any Civil Court in respect of the determination of rent-rates or the settlement of any rent or the omission to determine any rent-rate or to settle any rent under this Chapter, except as provided in section 111.

CHAPTER XV.

Amalgamation, Subdivision and Consolidation of holdings.

Amalgama-
tion of hold-
ing of a
tenant in the
same village.

116. Where various parcels of land are held by one tenant within one village, and such parcels of land or some of them are the subject of separate tenancies, such parcels of land shall, under the orders of the Revenue-officer, be amalgamated into one tenancy:

Provided that no such amalgamation shall be ordered by the Revenue-officer if the tenant has any objection thereto which appears to such officer to be reasonable and sufficient.

Subdivision
of a holding
and restric-
tions thereon

117. The Revenue-officer, on application made to him by one or more co-sharer tenants for the division of a holding and for distribution of the rent payable in respect thereof, may, by order in writing, direct such division of the holding and distribution of rent thereof ¹[including arrears of rent, if any,] as he considers fair and equitable.

Provided that—

(a) no such orders shall be passed unless reasonable notice has been given to the parties concerned to appear and be heard in the matter, and

¹ These words and commas were inserted by E. B. Act XII of 1954, s. 15.

of 1951.]

(Sections 117—118.)

- (b) no order for the division of a holding and the distribution of the rent thereof shall be made which would result in bringing the rent of any portion to below rupee one.

Transfer of the interest of a co-sharer tenant in a holding on payment of compensation.

118. (1) If no order for the division of a holding and the distribution of rent thereof can be made under section 117 by reason of the restrictions contained in clause (b) of the proviso to that section, a co-sharer tenant of such holding may apply in the prescribed manner to the Revenue-officer for the transfer of his interest in the holding to other co-sharer tenants thereof, to whom a transfer of land can be made under sub-section (2) of section 90, on payment of compensation to him.

(2) On receipt of such application the Revenue-officer shall, if he is satisfied that the application is in order, determine the amount of compensation which he considers to be fair and equitable and declare by order in writing the amount so determined to be payable to the applicant by the remaining co-sharer tenant or tenants for the transfer of the interest of the applicant in the holding to such tenant or tenants; and thereupon the remaining co-sharer tenant or, if there be more such tenants than one, all such tenants jointly and severally shall be liable to pay the amount so determined:

Provided that no such order shall be made until reasonable notice has been given to the remaining co-sharer tenants of the holding to appear and be heard in the matter.

(3) In determining the amount of compensation under sub-section (2), the Revenue-officer shall take into consideration the encumbrance, if any, secured by a registered instrument to which the interest of the applicant in the holding is subject.

(4) In declaring, by order in writing, the amount of compensation payable to the applicant by the remaining co-sharer tenants under sub-section (2), the Revenue-officer shall fix in the order the period within which the amount of such compensation shall be payable and may direct the payment of such compensation by such yearly instalments extending over a period not exceeding five years as he may fix in this behalf.

(5) The amount of compensation ordered to be paid by instalments by the remaining co-sharer tenants under sub-section (4) shall be a charge on the entire land comprised in the holding of such co-sharer tenants on such transfer; and the said charge shall take priority over every other charge on the holding other than a charge for arrear of rent.

(Sections 118—120.)

(6) If default is made in payment of any amount declared by order in writing under sub-section (2) to be payable to a co-sharer tenant, such amount shall be recoverable by such tenant as an arrear of public demand.

(7) When the Revenue-officer makes an order under sub-section (2), the right, title and interest of the co-sharer tenant, who made the application under this section, in the holding in respect of which such order has been made shall, with effect from the first day of the agricultural year next following the date of such order, vest in the remaining co-sharer tenant or in the remaining co-sharer tenants jointly, as the case may be, of the holding; and the liability of the co-sharer tenant, who made such application, for the rent due from him on account of the holding shall cease; and the co-sharer tenant or tenants in whom such right, title and interest vest shall be liable for the rent so due.

Persons entitled to apply for consolidation of holding.

119. (1) Any two or more *raiyats* having lands in the same or contiguous villages may apply in the prescribed form to the Revenue-officer for consolidation of their holdings and submit along with such application a scheme for such consolidation.

(2) If not less than two-thirds of the *raiyats* in a village or a block of villages, which form one continuous area, holding not less than three-fourths of the total cultivable area in such village or block of villages, make an application under sub-section (1) for consolidation of their holdings, such application shall be deemed to be an application on behalf of all the *raiyats* of such village or block of villages.

Admission of application.

120. (1) On receipt of any application for consolidation under section 119, the Revenue-officer shall enquire into such application in the prescribed manner and shall, if he considers after such enquiry that there are good and sufficient reasons for rejecting such application or excluding any of such land from consolidation, submit the application to the prescribed superior Revenue Authority with a recommendation that the application be rejected, or disallowed in part, specifying his reasons therefor; and on receipt of such recommendation, such superior Revenue Authority shall pass such orders thereon as he thinks proper.

(2) If the Revenue-officer does not make any recommendation under sub-section (1), or if such superior Revenue Authority, on receipt of the recommendation of the Revenue-officer, makes an order directing the Revenue-officer to admit the application in whole or in part, the Revenue-officer shall admit such application either in whole or in part, as the case may be, and shall deal with it in accordance with the provisions of this Chapter and of any rules made by the Provincial Government under this Act.

of 1951.]

(Sections 121—122.)

Confirmation
of agreed
schemes for
consolidation.

121. When a scheme for the consolidation of holdings is submitted along with an application under sub-section (1) of section 119, and such scheme, including any stipulation for payment of any compensation by one party to another contained in such scheme, has been agreed to by all the *raiylats* affected by it, the Revenue-officer shall, after admitting the application either in whole or in part under section 120, examine such scheme and may, after such examination, either confirm the scheme with or without modification or may return it for revision and may confirm it after such revision:

Provided that the Revenue-officer shall not confirm the scheme if the sum total of the rent of all holdings under the scheme has been reduced by the distribution of the rent consequent on redistribution of lands.

Preparation
of a scheme
for consolidation
and appointment
of Advisory
Committee.

122. (1) In the case where no scheme for the consolidation of holdings is submitted along with the application under sub-section (1) of section 119, or where any such scheme has been submitted with such application but has not been agreed to by all the *raiylats* affected by it, the Revenue-officer shall prepare a scheme for consolidation of the holdings of the applicants, and in the case where an application has been made under sub-section (2) of that section the Revenue-officer shall prepare a scheme for the consolidation of the holdings of each *raiylat* in the village or in the block of villages to which such application relates; and every such scheme shall be prepared in accordance with the provisions of this Act and of such rules as may be made by the Provincial Government in this behalf.

(2) For the purpose of assisting him in the preparation of a scheme for consolidation of holdings under sub-section (1) in any local area, the Revenue-officer may, subject to such rules as may be made by the Provincial Government in this behalf, appoint an Advisory Committee in respect of such area.

(3) In preparing a scheme for the consolidation of holdings under sub-section (1), the Revenue-officer shall have due regard to any proposal with regard to the consolidation which has the largest measure of agreement amongst the parties affected by it, and in making the redistribution of lands for the purpose of the consolidation, he shall see that the total area of a holding or the profit to be derived therefrom is affected as little as possible.

(4) If in preparing a scheme for the consolidation of holdings under sub-section (1), it appears to the Revenue-officer that the redistribution of lands will result in allotment to any *raiylat* of any parcel of land of market value lower than the market value of his original parcel of land,

(Sections 122—125.)

the Revenue-officer shall in the scheme provide for the payment of compensation to such *raiyat* by the *raiyat* or *raiyyats* who, in the opinion of the Revenue-officer, will be benefited by the allotment of the more valuable land of the first-named *raiyat*.

Draft publication of the scheme and hearing of objections.

123. (1) When a scheme for consolidation of holdings has been prepared, the Revenue-officer shall cause a draft of the scheme to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made in regard to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make in this behalf.

(2) If no objection is made within the said period or, where objections are made, the Revenue-officer succeeds in meeting all such objections and the persons who made the objections have withdrawn them, the Revenue-officer shall pass an order confirming the scheme.

(3) If, where objections are made, the persons making the objections do not withdraw them, the Revenue-officer shall, after considering all the circumstances of the case, and giving the parties concerned an opportunity of being heard, pass such orders thereon as he thinks proper, and may thereafter make an order confirming the scheme with or without modification.

Appeals.

124. (1) Any person aggrieved by an order of the Revenue-officer confirming a scheme under section 121 or under sub-section (2) or sub-section (3) of section 123 may, within the period prescribed in this behalf, prefer an appeal in the prescribed manner to the prescribed superior Revenue Authority and the decision of the said superior Authority on such appeal shall, subject to the provisions of sub-section (2), be final.

(2) A second appeal, if presented in the prescribed manner and within the period prescribed in this behalf, shall lie from every order passed on appeal under sub-section (1) by such superior Revenue Authority to the Board of Revenue.

Final confirmation of the scheme.

125. When the time within which appeals may be made under sub-section (1) of section 124 has expired and, if any such appeal has been made, when the time within which the second appeal may be made under sub-section (2) of that section has also expired, and all appeals made under sub-sections (1) and (2) of that section have been disposed of, and no order rejecting the scheme has been finally passed on such appeal, the Revenue-officer shall, if necessary, modify the scheme to give effect to any orders passed on appeal under the said section, if any, and shall thereafter record an order finally confirming the scheme.

of 1951.]

(Sections 126—128.)

Modification of the village record-of-rights on confirmation of the scheme and the date from which the scheme takes effect.

126. (1) Upon the final confirmation of a scheme for consolidation of holdings under section 125, the Revenue-officer shall cause the record-of-rights, maintained under this Part, of the village or villages to which such scheme relates, to be modified in accordance with the scheme as finally confirmed; and every tenant affected by such scheme shall be entitled to obtain free of cost from the Revenue-officer a copy of the record-of-rights, so modified, containing the entries as relating to him.

(2) When a scheme for the consolidation of holdings has been finally confirmed under section 125, it shall take effect from the beginning of the agricultural year next after the date of the final confirmation of such scheme.

Demarcation of the boundaries of holdings.

127. As soon as may be after a scheme for the consolidation of holdings takes effect, the Revenue-officer shall depute a surveyor or *amin* to demarcate the boundaries of the holdings affected by the scheme or to take such other steps for the identification on the spot of the land included in the holdings so affected as the Revenue-officer may approve.

Effect of final confirmation of scheme for consolidation and the rights of *raiyyats* there-under.

128. (1) Where a scheme for the consolidation of holdings has been prepared on an application made under sub-section (1) of section 119, such scheme shall, on final confirmation, be binding on the applicant or applicants and all persons who have agreed to the consolidation of their holdings and also on every person who may subsequently be entitled to hold or occupy any land included in the scheme or have any right or interest in such land.

(2) Where any such scheme has been prepared on an application referred to in sub-section (2) of section 119, such scheme shall, on final confirmation, be binding on all the *raiyyats* in the village or villages to which such scheme relates and on every person who may subsequently be entitled to hold or occupy any land or any right or interest in land in such village or villages.

(3) Every *raiyyat* affected by any scheme for the consolidation of holdings finally confirmed under section 125 shall be entitled to the possession of the holding allotted to him under the scheme with effect from the date on which the scheme takes effect; and the Revenue-officer may, on application made in this behalf by such *raiyyat*, cause such steps to be taken as he may consider necessary for putting such *raiyyat* in possession of the holding so allotted to him.

(4) A *raiyyat* shall have the same right in the holding allotted to him under a scheme for the consolidation of holdings finally confirmed under section 125 as he had in his original holding before such consolidation.

(Sections 129—132.)

Encumbrances on land included in the scheme for consolidation.

129. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if the holding of a *raiayat* comprised within a scheme for the consolidation of holdings finally confirmed under section 125 is, immediately before the date on which such scheme takes effect, subject to any mortgage or other encumbrance, such mortgage or other encumbrance shall, with effect from such date, be deemed to be transferred and attached to the holding created and allotted to such *raiayat* under the said scheme or to such part of such holding as may be specified in the scheme by the Revenue-officer; and thereupon the mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the mortgage or other encumbrance has been transferred and shall continue to have the same rights in or against the holding so allotted or to such part thereof as he had in or against the original land from which the mortgage or other encumbrance had been transferred.

(2) Notwithstanding anything contained in sub-section (3) of section 128 the Revenue-officer may, on application made in this behalf by any mortgagee or other encumbrancer entitled to possession of any holding or part thereof to which his mortgage or other encumbrance has been transferred under sub-section (1), cause such steps to be taken as he may consider necessary for putting such mortgagee or other encumbrancer in possession of such holding or part thereof.

No instrument necessary to effect transfer.

130. Notwithstanding anything contained in any other law for the time being in force, no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme for consolidation of holdings.

Transfer of holding during the pendency of the proceedings for consolidation.

131. Where, during the pendency of proceedings under this Chapter and after an application has been made under section 119 for the consolidation of holdings, any holding, to which such application relates, is transferred, the transferee shall be deemed to be a party to such application and shall be substituted in place of the transferor of the holding.

Recovery of the cost of consolidation proceedings.

132. (1) The costs of proceedings of the consolidation of holdings under this Chapter shall, on the final confirmation under section 125 of the scheme for such consolidation, be assessed in the prescribed manner and be, subject to such rules as may be made by the Provincial Government in this behalf, recovered from the *raiayats* whose holdings are affected by such scheme:

Provided that no costs shall be recoverable in respect of any proceedings arising out of an application under sub-section (1) of section 119 where the applicants have submitted an agreed scheme for consolidation of their holdings.

of 1951.]

(Sections 132—136.)

(2) The portion of the aforesaid costs which any *raiya*t is liable to pay shall be recoverable by the Provincial Government as an arrear of rent due in respect of the holding of the *raiya*t affected by the said scheme.

Recovery of compensation as arrears of public demand. 133. Any amount specified in any scheme finally confirmed under section 125 as payable as compensation shall be recoverable as an arrear of public demand.

Bar to jurisdiction of Civil Courts. 134. No Civil Court shall entertain any application or suit concerning any matter relating to consolidation of holdings of *raiya*t dealt with in this Chapter.

CHAPTER XVI.

Provisions as to rent and realisation of rent.

Instalment of rent. 135. (1) Subject to agreement or established usage, the rent payable by a *raiya*t shall be paid in two equal instalments falling due on such dates as may be prescribed.

(2) Subject to agreement, the rent payable by a non-agricultural tenant shall be paid in one annual instalment falling due on the last day of the agricultural year.

Time and place for payment of rent. 136. (1) Every *raiya*t shall pay or tender each instalment of rent and every non-agricultural tenant shall pay or tender the rent before sunset of the day on which it falls due:

Provided that the *raiya*t or the non-agricultural tenant may pay or tender the rent payable for the year at any time during the year before it falls due.

(2) The payment or tender of rent may be made—

(a) at the village *tahsil* office or at such other convenient place as may be appointed in that behalf by the Collector; or

(b) by postal money-order in the manner prescribed.

(3) When rent is sent by postal money-order in the prescribed manner it shall be presumed, until the contrary is proved, that a tender has been made.

(4) When rent sent by postal money-order is accepted, the fact of this acceptance shall not be used in any way as evidence of the correctness of any of the particulars set forth in the postal money-order form.

(5) Any rent or any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed to be an arrear.

(Sections 137—142.)

Appropriation of payments.

137. (1) When a *raiyat* or a non-agricultural tenant makes a payment on account of rent, he may declare the year or the years and the instalment or the instalments in respect of which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment shall be credited towards the arrears, if any, and the balance, if any, after the arrears have been satisfied, and where there is no arrear, the whole amount, shall be credited as the rent of the current year.

Raiyat making payment of his rent entitled to a receipt.

138. Every *raiyat* or non-agricultural tenant who makes a payment on account of rent shall be entitled to obtain forthwith, from the person authorised in writing by the Collector to receive such rent, a written receipt in the prescribed form for the amount paid by him signed by the person so authorised.

Liability of holding to sale for arrears.

139. The holding of a *raiyat* or the tenancy of a non-agricultural tenant shall be liable to sale in execution of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for the rent thereof, and the rent shall be a first charge thereon.

Ben. Act
III of
1913.

Interest on arrears.

140. An arrear of rent shall bear simple interest at the rate of six and a quarter *per centum per annum* from the expiry of the year in which the rent or instalments of rent, as the case may be, fall due to the date of payment or of the filing of the certificate under the Bengal Public Demands Recovery Act, 1913, whichever date is earlier.

Ben. Act
III of
1913.

Realisation of arrears of rent under the Bengal Public Demands Recovery Act, 1913.

141. All arrears of rent shall be recoverable under the Bengal Public Demands Recovery Act, 1913, subject to such rules as may be made in this behalf by the Provincial Government and not otherwise:

Ben. Act
III of
1913.

Provided that a certificate signed under the said Act for arrears of rent shall not be executed by arresting the certificate-debtor and detaining him in the civil prison or by the attachment and sale of any movable or immovable property other than the land to which the arrears of rent, in respect of which the certificate has been signed, relates.

Limitation

142. The period of limitation for the recovery of an arrear of rent shall be three years running from the last day of the year in which the arrear fell due.

of 1951.]

(Sections 143—145.)

CHAPTER XVII.

Maintenance and revision of the record-of-rights.

Maintenance
of the record-
of-rights.

143. The Collector shall maintain up-to-date, in the prescribed manner, the record-of-rights prepared or revised under Part IV and modified under section 46 by incorporating therein the changes on account of—

- (a) the mutation of names as a result of transfer or inheritance;
- (b) the subdivision, amalgamation or consolidation of holdings;
- (c) the new settlement of lands or of holdings purchased by the Provincial Government; and
- (d) the abatement of rent on account of abandonment or diluvion or acquisition of land.

Revision of
the record-
of-rights.

144. (1) The Provincial Government may in any case if it thinks fit make an order directing that a record-of-rights in respect of any district, part of a district or local area be revised by a Revenue-officer in accordance with such rules as may be made by the Provincial Government in this behalf.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make such order in any of the following cases, namely:—

- (a) where not less than one-half of the total number of tenants applies for such an order;
- (b) where the revision of such a record is calculated to settle or avert a serious dispute existing or likely to arise amongst the tenants; and
- (c) where a settlement of rent is being or about to be made in respect of any district, part of a district or local area.

Recovery of
the cost of
revision of
record-of
rights.

145. (1) Where the revision of a record-of-rights has been directed under this Chapter in respect of any district, part of a district or local area, the expenses incurred in respect of such revision shall be recoverable from the *rai-yats* and other occupants of land in such proportions and in such instalments, if any, as the Provincial Government, having regard to all the circumstances, may determine:

Provided that no part of these expenses shall be recoverable from the *rai-yats* and other occupants in the case where the revision of the record-of-rights has been undertaken under clause (c) of sub-section (2) of section 144 with a view to settlement of fair and equitable rents of such *rai-yats* under the provisions of Chapter XIV.

(Sections 145—149.)

(2) The portion of the aforesaid expenses which any person is liable to pay under sub-section (1) shall be recoverable by the Provincial Government as if it were an arrear of rent due in respect of the holding or other interest, as the case may be, of such person, situated within the said district, part of a district or local area.

CHAPTER XVIII.

Jurisdiction, Appeal, Revision and Review.

Superintendence and control of Revenue-officers.

146. (1) Subject to supervision by the Provincial Government, the general superintendence and control over all Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Board of Revenue.

(2) Subject to the general superintendence and control of the Board of Revenue, a Commissioner of a division shall exercise control over all other Revenue-officers in his division.

(3) Subject as aforesaid and to the control of the Commissioner of the division, a Collector shall exercise control over all other Revenue-officers in his district.

Appeals.

147. Subject to any special provisions for appeal made in this Part or in any rules made under this Act, an appeal shall lie from every original or appellate order made under any of the provisions of this Part by a Revenue-officer as follows, namely:—

(a) to the Collector, when the order is made by a Revenue-officer subordinate to the Collector;

(b) to the Commissioner of the division, when the order is made by the Collector of a district within the division; and

(c) to the Board of Revenue, when the order is made by the Commissioner of a division.

Limitation for appeals.

148. The period of limitation for an appeal under section 147 shall run from the date of the order appealed against and shall be as follows, that is to say—

(a) When the appeal lies to the Collector..... thirty days.

(b) When the appeal lies to the Commissioner of a division..... sixty days.

(c) When the appeal lies to the Board of Revenue..... ninety days.

Revision.

149. (1) Subject to any special provision for revision made in this Part, the Collector may of his own motion within one month of the date of any order passed under this

(Sections 149—150.)

Part by a Revenue-officer subordinate to him or on application made in that behalf within one month of the date of such order, revise such order.

(2) The Commissioner of a division may of his own motion within three months of the date of any order passed under this Part by the Collector of a district within the division or on an application made in that behalf within three months of the date of such order, revise such order.

(3) The Board of Revenue may of its own motion within six months of the date of any order passed under this Part by the Commissioner of a division or on an application made in that behalf within six months of the date of such order, revise such order.

(4) The Board of Revenue may at any time order the correction of any entry in a record-of-rights maintained under this Part or in a settlement rent-roll prepared and finally published under this Part which, it is satisfied, has been made owing to a *bona fide* mistake:

Provided that an order shall not be revised under this section if an appeal has been preferred against such order:

Provided further that no order for correction shall be made under sub-section (4) until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Review by
Revenue-
officers.

150. (1) A Revenue-officer may, on application made in that behalf by any party interested or of his own motion, review any order passed by himself or by any of his predecessors in office under this Part, and in so reviewing any order, may modify, reverse or confirm any such order:

Provided that—

- (a) an application for review of an order shall not be entertained unless it is made within thirty days from the date of such order or, when such application is presented after the expiry of the said period of thirty days, unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within the said period;
- (b) an order shall not be reviewed if an appeal has been preferred against such order or an application for revision of such order has been made to the superior Revenue Authority; and
- (c) an order shall not be modified or reversed on a review until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(Sections 150—152.)

(2) No appeal shall lie from an order rejecting an application for review or confirming on a review any previous order.

Computation of the period of limitation for appeals, applications for revision and review under this Act.

151. (1) Sections 6, 7, 8 and 9 and sub-section (2) of section 29 of the Limitation Act, 1908, shall not and, subject to the provisions of Part V of this Act, the remaining provisions of the former Act, shall, so far as applicable, apply to all suits, appeals and applications arising under the said Part.

(2) All suits, appeals and applications referred to in Part V shall be instituted and made within the time prescribed therefor; and every such suit instituted, appeal preferred, and application made, after the prescribed period of limitation shall be dismissed, although limitation has not been pleaded.

CHAPTER XIX.

Rules.

Power to make rules.

152. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of the application referred to in sub-section (1) of section 86 and the manner of and procedure for determining the amount of abatement referred to in that sub-section;
- (b) the form and the manner of service of the notice referred to in sub-section (3) of section 87;
- (c) the form of the notice referred to in clause (a) of sub-section (1) and sub-section (4) of section 89 and the amounts of process fees referred to therein;
- (d) the Revenue Authority referred to in sub-sections (3) and (4) of section 90;
- (e) the form of the notice referred to in clause (b) of sub-section (1) of section 92, and the manner in which and the period within which such notice is to be given; and the manner of publication of the notice referred to in sub-section (3) of that section;
- (f) the manner of selection of land by the Revenue-officer for transferring encumbrances under section 94;

(Sections 152.)

- (g) the procedure to be followed and the power to be exercised by Revenue-officers in determining the rent-rates referred to in clause (a) of sub-section (1) of section 99, and the form of a table of rent-rates under that clause, the manner of preparing such table and the particulars to be specified therein;
- (h) the form of a settlement rent-roll under clause (b) of sub-section (1) of section 99, the manner of preparing the same and the particulars to be specified therein;
- (i) the manner of determining the normal yield per acre of land referred to in clause (b) of sub-section (2) and in sub-section (3) of section 100;
- (j) the manner of determining the average rate of rent referred to in clause (f) of sub-section (2) and in sub-section (3) of section 100;
- (k) the manner and period of publication of a draft table of rent-rates under sub-section (1) of section 101 and the Revenue Authority referred to in sub-section (3) of that section;
- (l) the manner and period of publication of a draft settlement rent-roll under sub-section (1) of section 108, and the disposal of objections under that sub-section;
- (m) the confirming authority referred to in sub-section (1) of section 109 and the manner of final publication of the settlement rent-roll under sub-section (3) of that section;
- (n) the superior Revenue Authority referred to in sub-section (1) of section 110;
- (o) the manner of presenting an appeal referred to in sub-section (1) of section 111;
- (p) the manner of making an application under sub-section (1) of section 118;
- (q) the form of the application referred to in sub-section (1) of section 119;
- (r) the manner of making the inquiry referred to in sub-section (1) of section 120, the superior Revenue Authority to whom the application referred to in that sub-section is to be submitted

(Section 152.)

by the Revenue-officer and the procedure to be followed in dealing with the applications referred to in sub-section (2) of that section;

- (s) the manner of preparation of the scheme for consolidation of holdings referred to in sub-section (1) of section 122 and the appointment and constitution of the Advisory Committee referred to in sub-section (2) of that section;
- (t) the manner and period of publication of a draft scheme for consolidation of holdings under sub-section (1) of section 123 and the disposal of objections under that sub-section;
- (u) the period within which and the manner in which an appeal under sub-section (1) of section 124 and a second appeal under sub-section (2) of that section shall be presented and the superior Revenue Authority referred to in sub-section (1) of that section;
- (v) the manner of assessment of the cost of proceedings for consolidation of holdings referred to in sub-section (1) of section 132 and the recovery of such cost under that sub-section;
- (w) the dates of payment of instalments of rent referred to in sub-section (1) of section 135;
- (x) the manner of payment or tender of rent by postal money order under section 136;
- (y) the form of the written receipt referred to in section 138;
- (z) the procedure to be followed in recovering arrears of rent under section 141;
- (za) the manner in which the record-of-rights referred to in section 143 shall be maintained up-to-date;
- (zb) the procedure to be followed and the powers to be exercised by Revenue-officers in revising the record-of-rights under section 144.

LEGISLATIVE DEPARTMENT

East Bengal Act V of 1953.

THE EAST BENGAL STATE ACQUISITION AND TENANCY
(AMENDMENT) ACT, 1953.*(Passed by the Assembly on the 14th March, 1953.)**[Assent of the Governor was first published in the "Dacca Gazette, Extraordinary",
dated the 7th April, 1953.]**An Act further to amend the East Bengal State Acquisition and Tenancy Act, 1950.*

Whereas it is expedient further to amend the East Bengal State Acquisition and Tenancy Act, 1950, for the purposes and in the manner hereinafter appearing;

East Ben.
Act No.
XXVIII
of 1951.

It is, hereby enacted as follows:—

Short title.

1. This Act may be called the East Bengal State Acquisition and Tenancy (Amendment) Act, 1953.

Amendment
of East Ben-
gal Act No.
XXVIII of
1951.

2. The East Bengal State Acquisition and Tenancy Act, 1950 (hereinafter referred to as the said Act), shall be amended in the manner hereinafter provided.

East Ben.
Act No.
XXVIII
of 1951.

Amendment
of section 2
of East Ben-
gal Act No.
XXVIII of
1951.

3. In clause (16) of section 2 of the said Act, *after* the word "includes", the words and comma "benefits to arise out of land," shall be *inserted*.

Amendment
of section 68
of East Ben-
gal Act No.
XXVIII of
1951.

4. In section 68 of the said Act *for* the word "twelve", the word "twenty-four" shall be *substituted*.

Repeal and saving.

5. (1) The East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1952, is hereby repealed.

East Ben.
Ord. No.
VII of
1952.

(2) Any orders passed, any notice served, any action taken, anything done or any proceedings commenced under the provision of the said Ordinance shall continue in force and be deemed to have been passed, served, taken, done or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had come into force on the date of commencement of that Ordinance

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(v) *relations bet. gov't & the land
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EAST BENGAL ACT XXVIII OF 1951.¹

**THE EAST BENGAL STATE ACQUISITION AND
TENANCY ACT, 1950.)**

(As modified up to the 27th May, 1957.)

[16th May, 1951.]

An Act to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in East Bengal and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith.

WHEREAS it is expedient to provide for the acquisition by the State of the interests of rent-receivers and certain other interests in land in East Bengal and to define the law relating to tenancies to be held under the State after such acquisition and other matters connected therewith;

It is hereby enacted as follows:—

PART I.

CHAPTER I.

Preliminary.

Short title
and extent.

1. (1) This Act may be called the East Bengal State Acquisition and Tenancy Act, 1950.

(2) It extends to the whole of East Bengal.

Definitions.

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

(1) “cesses” include local rates levied under the Assam Local Rates Regulation, 1879;

Assam
Regn. III
of 1879.

(2) “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility;

¹For Statement of Objects and Reasons, see *Dacca Gazette, Extraordinary*, dated the 6th April 1948; for Report of Select Committee, see *Dacca Gazette, Extraordinary*, dated the 16th August, 1949, Part IVA, page 547; for proceedings in Assembly see proceedings of the meetings of the East Bengal Legislative Assembly held on the 7th April, 1948, 16th to 17th, 21st to 26th, 28th to 30th November, 1st to 3rd, 5th to 10th, 12th to 13th, 15th to 17th and 19th December, 1949, 7th to 10th and 13th to 16th February, 1950.

* The Act was extended to the partially excluded areas of Mymensingh district with effect from the 16th May, 1951, vide notification No. 4342 L.R., dated the 30th April, 1951, published in the *Dacca Gazette, Extraordinary*, dated the 16th May, 1951, Part I, page 400.

(Section 2.)

(3) "Collector" means the Collector of a district and includes a Deputy Commissioner and such other officers as may be appointed by the Provincial Government to perform all or any of the functions of a Collector under this Act;

(4) "Commissioner" means the Commissioner of State Purchase appointed under sub-section (1) of section 48;

(5) "company" has the same meaning as in the Companies Act, 1913; Act VII of 1913.

(6) "complete usufructuary mortgage" means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage;

(7) "consolidation", used with respect to holdings means the redistribution of all or any of the areas of land comprised in the holdings for the purpose of rendering separate holdings more compact by reducing the total number of separate plots;

(8) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or the Bengal Co-operative Societies Act, 1940; Act II of 1912.
Ben. Act XXI of 1940.

(9) "cultivating *raiya*" or "cultivating under-*raiya*" means a *raiya* or an under-*raiya*, as the case may be, who holds land by cultivating it either by himself or by members of his family or by servants or by *bargadars* or by or with the aid of hired labourers or with the aid of partners;

¹[(9a) 'Director of Land Records and Surveys' includes Additional Director of Land Records and Surveys;]

(10) "encumbrance", in relation to any estate, tenure, holding, tenancy or land, means any mortgage, charge, lien, sub-tenancy, easement or other right or interest created by the holder thereof on such estate, tenure, holding, tenancy or land or in limitation of his own interest therein;

(11) "estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government *khas mahals* and revenue-free lands not entered in any register; and also includes the following in the district of Sylhet:—

- (i) any land subject either immediately or prospectively to the payment of land revenue for the discharge of which a separate engagement has been entered into;

¹This new clause was added by E. B. Ordinance III of 1956, s. 3.

of 1951.]

(Section 2.)

- (ii) any land subject to the payment of, or assessed with, a separate amount as land revenue although no engagement has been entered into with the Government for that amount;
- (iii) any land which is, for the time being, included under one entry in the Deputy Commissioner's register of revenue-free estates as well as revenue-free lands which are not so included in such register;
- (iv) any land, being the exclusive property of Government, of which a separate entry has been made in the general register of revenue-paying and revenue-free estate mentioned in Chapter IV of the Assam Land and Revenue Regulation, 1886;

Assam
Regn. I
of 1886.

(12) "*hat*" or "*bazar*" means any place where persons assemble daily or on particular days in a week primarily for the purposes of buying or selling agricultural or horticultural produce, livestock, poultry, hides, skins, meat, fish, eggs, milk, milk-products or any other articles of food or drink or other necessities of life, and includes all shops of such articles or manufactured articles within such place;

(13) "*holding*" means a parcel or parcels of land or an undivided share thereof, held by a *raiya*t or an under-*raiya*t and forming the subject of a separate tenancy;

(14) "*homestead*" means a dwelling house with the land under it, together with any courtyard, garden, tank, place of worship and private burial or cremation ground attached and appertaining to such dwelling house, and includes any out-buildings used for the purpose of enjoying the dwelling house or for purposes connected with agriculture or horticulture and such lands within well defined limits, whether vacant or not, as are treated to be appertaining thereto;

(15) "*khas* land" or "land in *khas* possession", in relation to any person, includes any land let out together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(16) "land" means land which is cultivated, uncultivated or covered with water at any time of the year, and includes ¹[benefits to arise out of land,] houses or buildings and also things attached to the earth, or permanently fastened to anything attached to the earth;

(17) "non-agricultural tenant" means a tenant who holds land for purposes not connected with agriculture or horticulture, but does not include a person holding land together with any building standing thereon and necessary adjuncts thereto under a lease other than a lease in perpetuity;

(18) "notification" means a notification published in the *Official Gazette*;

¹These words and comma were inserted by E. B. Act V of 1953, s. 3.

(Section 2.)

(19) "prescribed" means prescribed by rules made under this Act;

(20) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(21) "registered" means registered under any Act for the time being in force for the registration of documents;

(22) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

(23) "rent-receiver" means a proprietor or a tenure-holder, and includes a *raiya*, an under-*raiya* or a non-agricultural tenant whose land has been let out and also the immediate landlord of a person who holds any land free of rent in consideration of some service to be rendered, but does not include a person in respect of such of his lands, as has been let out, together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity;

(24) "Revenue-officer" includes any officer whom the Provincial Government may appoint to discharge all or any of the functions of a Revenue-officer under this Act or any rules made thereunder;

(25) "signed" includes "marked", when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to;

(26) "succession" includes both intestate and testamentary succession;

(27) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person:

Provided that a person who, under the system generally known as "*adhi*", "*barga*", or "*bhag*", cultivates the land of another person on condition of delivering a share of the produce to that person, is not a tenant, unless—

(i) such person has been expressly admitted to be a tenant by his landlord in any document executed by him or executed in his favour and accepted by him, or

(ii) he has been or is held by a Civil Court to be a tenant;

(28) "tenure" means the interest of a tenure-holder or an under-tenure-holder;

(29) "village" means the area defined, surveyed and recorded as a distinct and separate village in any survey made by, or under the authority of, the Government, and, where no such survey has been made, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village;

(30) "year" or "agricultural year" means the Bengali year commencing on the first day of *Baisakh*; and

of 1951.]

(Sections 2—3.)

(31) all words and expressions used in Parts I, II, III and IV of this Act, but not defined in this Act, and used in the Bengal Tenancy Act, 1885, or in the Sylhet Tenancy Act, 1936, have the same meanings as in those Acts in the respective areas to which those Acts apply.

VIII of
1885.
Assam
Act XI of
1936.

PART II.

CHAPTER II.

Special provisions for the acquisition of the interests of certain rent-receivers.

Acquisition of the interests of certain rent-receivers and consequences thereof. 3. (1) At any time after the commencement of this Act, it shall be lawful for the Provincial Government to acquire, by notification in the *Official Gazette*, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date),—

(i) all interests of such of the rent-receivers as may be specified in the notification, in their respective estates, ¹[*taluks*, tenures, holdings or tenancies], as the case may be, in any district, part of a district or local area, and

(ii) all interests of all rent-receivers whose properties are, for the time being, under the management of the Court of Wards under the Court of Wards Act, 1879, in their respective estates, ¹[*taluks*, tenures, holdings or tenancies], as the case may be,

Ben. Act
IX of
1879.

including all their interests in all sub-soil and rights to minerals in such estates, ¹[*taluks*, tenures, holdings or tenancies].

(2) Subject to the provisions of sub-sections (2), (3), (4) and (5) of section 20, the Provincial Government may also, simultaneously with or at any time after the publication of a notification under sub-section (1) in respect of the interests of any rent-receiver in any estate, ²[*taluk*, tenure, holding or tenancy], acquire, by notification in the *Official Gazette*, with effect from such date as may be specified in the notification (hereinafter referred to as the notified date), ³[all or any of the lands in his *khas* possession of which he shall not be entitled to retain possession under the said section and so much of the lands in his *khas* possession as has been acquired under this sub-section and has not vested in the Provincial Government under clause (a) of sub-section (4), shall vest absolutely in the Provincial Government free from all incumbrances].

* ¹These words and commas were substituted for the words "*taluks* or tenures" by E. B. Act VI of 1952, s. 3.

²These words and commas were substituted for the words "*taluk* or tenure" by section 3, *ibid*.

³These words and commas were substituted for the words and commas "all or any of the lands in his *khas* possession, in such estate, *taluk*, tenure, holding or tenancy, of which he shall not be entitled to retain possession under the said section" by E. B. Act XII of 1954, s. 3.

(Section 3.)

¹[(2a) In a notification issued under this section, rent-receivers may be specified or described by name, or by reference to areas wherein they have interests, or in such other manner as the Provincial Government may determine.]

(3) The notification referred to in sub-section (1) or sub-section (2) shall be in such form and shall contain such particulars as may be prescribed.

(4) On and from the date specified in a notification under sub-section (1),—

~~(a)~~ all interests of the rent-receivers in the estates, ²[*taluks*, tenures, holdings or tenancies] specified in the notification, including their interests in all lands in their *khas* possession, and interests in all sub-soil and rights to minerals, in such estates, ²[*taluks*, *tenures*, holdings or tenancies] and also including the interests of any such rent-receiver in any building or part of a building standing on any such land and used primarily as office or *cutchery* for the collection of rent of any estate, ³[*taluk*, tenure, holding or tenancy], shall vest absolutely in the Provincial Government free from all encumbrances⁴***:

Provided that nothing in this clause shall apply to any building within the homestead of the rent-receiver concerned;

(b) all arrears of revenue or rent and all cesses, together with interest, if any, payable thereon, remaining lawfully due to the Collector on the notified date in respect of any interest acquired under sub-section (1) shall, after the said date, continue to be recoverable from the person by whom they were payable and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears, cesses and interest from the compensation money payable to such person under section 58, when so ordered by the Collector;

(c) all arrears of rent and all cesses, together with interest, if any, due thereon, in respect of any period previous to the notified date payable to a rent-receiver in respect of any interest acquired under sub-section (1) which have not been barred by limitation shall, on and from the said

¹This new sub-section was added by E. B. Ordinance III of 1956, s. 4.

²See foot-note¹ on page 5.

³See foot-note² on page 5.

⁴The words "other than sub-tenancies" were omitted by E. B. Ordinance III of 1956, s. 4.

of 1951.]

(Section 3.)

date, vest in, and be recoverable by, the Provincial Government and shall, without prejudice to any other mode of recovery, be recoverable, from the persons by whom they were payable, by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;

- (d) all amounts recoverable by the Provincial Government from a rent-receiver under the Bengal Embankment Act, 1882, which remain outstanding on the notified date, whether on account of arrear dues or dues under future instalments under the said Act, in respect of any interest acquired under sub-section (1), shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amounts of such arrear and future instalments from the compensation money payable to such rent-receiver under section 58 in respect of such interest, when so ordered by the Collector; Ben. Act
II of 1882.
- (e) all tenants holding lands in such estates, ¹[*taluks*, tenures, holdings or tenancies] directly under the rent-receivers specified in the notification under sub-section (1) shall become tenants directly under the Provincial Government and shall pay rent at the existing rate, in respect of the rent-paying lands so held by them, to the Provincial Government and not to anybody else;
- (f) all such rent-receivers shall be entitled to hold as tenants directly under the Provincial Government such of their *khas* lands as has not been acquired under sub-section (2) and shall be liable to pay to the Provincial Government, the rent determined for such lands under section 5;
- (g) an arrear of rent payable under clauses (e) and (f) ²[may, without prejudice to any other mode of recovery,] be recoverable under the Bengal Public Demands Recovery Act, 1913; Ben. Act
III of
1913.
- (h) a transferable tenure coming ³[in whole] directly under the Provincial Government under clause (e) shall be deemed to be a tenure as defined in section 1 of the Bengal Land Revenue Sales Act, 1868. Ben. Act
VII of
1868.

¹See foot-note¹ on page 5.

²These words and commas were substituted for the word "shall" by E. B. Act VI of 1952, S. 4.

³These words were inserted by section 4, *ibid*.

(Sections 3, 3A and 4.)

(5) The outgoing rent-receivers, whose interests have been acquired under this section, shall be entitled to compensation as provided in this Act.

Service of
notice for
furnishing
return
before noti-
fication.

¹[3A. For the purpose of acquisition, under section 3, of the interest of any rent-receiver in any estate, *taluk*, tenure, holding or tenancy or of the lands in his *khas* possession, the Revenue-officer may, at any time before the publication of a notification under sub-section (1) or sub-section (2) of that section in respect of such interest or lands, cause a notice to be served on such rent-receiver in the prescribed manner, directing him to furnish, within such time, not being less than sixty days from the date of service of the notice, as may be specified therein, a return in the prescribed form showing all or any of the following particulars, as may be required by such notice:—

- (i) the total area and description of all the estates, *taluks*, tenures, holdings and tenancies held by him and the annual revenue or rent and cesses payable by him in respect thereof to the Provincial Government or to his immediate superior landlord, as the case may be;
- (ii) the names of the villages, thanas and districts in which the lands of the estates, *taluks*, tenures, holdings and tenancies are situated, together with a list of collection papers relating thereto, for a period not exceeding five years immediately preceding;
- (iii) the area, description and classification of all lands in his *khas* possession with the names of villages and thanas in which they are situated;
- (iv) the names of all co-sharers having joint collection with him, with their respective shares in such estate, *taluks*, tenures, holdings and tenancies; and
- (v) such other information as the Revenue-officer may deem necessary.]

Service of
notice to
furnish
returns, etc.,
and penalty
for non-
compliance.

4. (1) As soon as may be after the publication of a notification under sub-section (1) of section 3, ²[the Revenue officer may] cause a notice to be served in the prescribed manner on every rent-receiver specified in such notification other than a rent-receiver whose properties are under the

¹This new section was inserted by E. B. Act. VI of 1952, s. 5.

²These words were substituted for the words "the Revenue-officer shall" by E. B. Ordinance III of 1956, s. 5

of 1951.]

(Section 4.)

management of the Court of Wards under the Court of Wards Act, 1879, directing him to furnish,—

Ben. Act
IX of
1879.

(a) a return in the prescribed form showing—

(i) the total area and description of the estate, ¹[*taluk*, tenure, holding or tenancy] in respect of which his interests are acquired by the said notification and the annual revenue or rent and cesses payable by him in respect thereof to the Provincial Government or to his immediate superior landlord, as the case may be,

(ii) the names of the villages with thanas and districts in which the lands of the estate, ¹[*taluk*, tenure, holding or tenancy] are situated and the total annual demand of rent and cesses of each village with a list of collection papers in support of the demand,

(iii) the area and description of the lands in his *khas* possession, and

(iv) the names of all co-sharers having joint collection with him, with their respective shares in such estate, ¹[*taluk*, tenure, holding or tenancy], and

(b) such other information, papers or documents as the Revenue-officer may deem necessary,

and to hand over all papers of his *sherista* relating to the estate, ¹[*taluk*, tenure, holding or tenancy], to such officer and within such time, not being less than sixty days from the date of service of the notice, as may be specified in such notice :

²[Provided that it shall not be necessary for a rent-receiver to furnish such of the particulars as, in the opinion of the Revenue-officer, have already been correctly furnished by him pursuant to a notice under section 3A.]

(2) The officer taking delivery of the papers mentioned in sub-section (1) shall grant a receipt for the papers handed over to him.

¹See foot-note² on page 5.

²This proviso was added, after substituting a colon for the full-stop at the end of sub-section (1) of section 4, by E. B. Act VI of 1952, s. 6.

(Section 4.)

(3) All co-sharers having joint collection shall be jointly and severally liable to comply with the directions given in ¹[a notice under sub-section (1) of this section or section 3A] so far as they relate to any estate, ²[*taluk*, tenure, holding or tenancy] held by them jointly.

(4) If any person, on whom a notice has been served under ³[sub-section (1) of this section or section 3A], wilfully fails to comply with all or any of the directions contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, or wilfully furnishes any incorrect information or suppresses any information, paper or document, in respect of any estate, ²[*taluk*, tenure, holding or tenancy],—

(a) he shall be liable to a fine, to be imposed by the Revenue-officer after giving the defaulting person an opportunity of being heard, which may,—

(i) in the case of a revenue-paying estate or a rent-paying ²[*taluk*, tenure, holding or tenancy], extend to five times the annual revenue of the estate or the annual rent of the ²[*taluk*, tenure, holding or tenancy], as the case may be, and

(ii) in the case of a revenue-free estate or a rent-free ²[*taluk*, tenure, holding or tenancy], extend to such amount not exceeding two thousand five hundred rupees as the Revenue-officer may fix in his discretion; and

(b) in addition, he may be deprived of the benefit of the *ad interim* payment as provided in section 6, if so ordered by the Revenue-officer.

(5) (i) If any rent-receiver, on whom a notice has been served under sub-section (1), fails to hand over the papers of his *sherista* relating to any estate, ²[*taluk*, tenure, holding or tenancy] in accordance with the direction contained in such notice within the time specified therein or within such further time as the Revenue-officer may allow in his discretion, the Revenue-officer or any other person authorised by him, may, with such assistance, if any, as he thinks necessary, enter upon any land or building, where the Revenue-officer has reason to believe that such papers may be found, and seize and take possession of such papers as he may consider essential for the management of such estate, ²[*taluk*, tenure, holding or tenancy]:

Provided that the Revenue-officer or such other person shall not enter upon any enclosed courtyard or garden attached to a building except with the consent of the inmate

¹This expression was substituted for the expression "such notice" by E.B. Act VI of 1952, s.6.

²See foot-note² on page 5.

³This expression was substituted for the expression "sub-section (1)" by E.B. Act VI of 1952, s.6.

(Sections 4—5.)

or occupier thereof, or if such consent is refused, except after giving such inmate or occupier at least two hours' notice in writing of his intention to do so:

Provided further that an inventory of the papers taken possession of by the Revenue-officer or such other person under this sub-section shall be furnished to the rent-receiver concerned by the Revenue-officer.

(ii) The provisions of this sub-section shall apply without prejudice to the provisions of sub-section (4).

(6) Any rent-receiver, who has handed over the papers of his *sherista* relating to any estate, ¹[*taluk*, tenure, holding or tenancy] to an officer of the Provincial Government under sub-section (1), or any person interested in such an estate, ¹[*taluk*, tenure, holding or tenancy], shall be entitled to inspect such papers in the prescribed manner and to get copies of any such paper on payment of the prescribed fees.

✓
Determination
of rents of
khas lands
of rent-re-
ceivers.

✓²[5. As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue Officer shall determine, according to the principles laid down in sections 23, 24, 25, 26, 27 and 28, the rent of every parcel of lands in the *khas* possession of all rent-receivers specified in such notification and comprised in the estates, *taluks*, tenures, holdings or tenancies to which such notification relates.]

1 See foot-note 2 on page 5.

✓ ²This section was substituted for the former section 5 as amended by section 7 of E.B. Act VI of 1952, by E.B. Act XII of 1954, s.4. The said former section 5 as amended by section 7 of E.B. Act VI of 1952 read as follows:—

Determination
of rents of
khas lands of
rent-receivers.

“5. As soon as may be after the publication of a notification under sub-section (1) of section 3, the Revenue-officer shall determine the rent of every parcel of land in the *khas* possession of all rent-receivers specified in such notification in the estates, *taluks*, tenures, holdings or tenancies to which such notification relates—

- (i) if such land be agricultural land, on the basis of the prevailing rate of rent paid by occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, and
- (ii) if such land be non-agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to—
 - (a) the rent generally paid to the Provincial Government or to any other landlord for non-agricultural lands with similar advantages or of a similar description in the vicinity,
 - (b) the market value of the land immediately before the publication of such notification, and
 - (c) the rent which would be payable if the rate were fixed at not more than one *per centum* of such market value :

Provided that if any such land forms part of a holding or tenancy, the rent for such land shall be determined in accordance with the principles of section 27.

Explanation.—For the purposes of this section, “land” does not include any building or structure standing thereon.”

(Section 6.)

*Ad interim
payment.*

6. (1) A rent-receiver, whose interests in any estate, ¹[*taluk*, tenure, holding or tenancy] are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such 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 income on account of the demands of rent and cesses for any period after the notified date collected from such estate, ¹[*taluk*, tenure, holding or tenancy], as the case may be, in respect of such interests in the year to which such payment relates.

(2) A rent-receiver, whose *khas* land is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of five *per centum* of the amount of compensation payable for such land under sub-section (1) of section 39 and the provisions of sub-sections (2), (3) and (4) of that section shall apply *mutatis mutandis* in the matter of determination of such amount.

(3) For the purposes of sub-section (1), the net income from any estate, ¹[*taluk*, tenure, holding or tenancy] for any year shall be computed by deducting from the gross collections, made by the Provincial Government in such year from such estate, ¹[*taluk*, tenure, holding or tenancy] on account of the demands of rents and cesses for any period after the notified date due to the interests acquired under sub-section (1) of section 3, the following:—

(i) an amount equivalent to the sums which were or are determined to have been payable annually for such interests immediately before the notified date on account of revenue or rent and cesses to the Provincial Government or to the immediate superior landlord, as the case may be;

²[(ii) an amount equivalent to the amount of the taxes on such collections that would have been assessable, at the average rates, under the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922, had not the provisions of section 3 been applied;]

(iii) the expenditure, if any, incurred for the maintenance of any irrigation or protective works in such estate, ¹[*taluk*, tenure, holding or tenancy] if the outgoing rent-receiver was legally bound to maintain them; and

Ben. Act
IV of
1944.
Act No.
XI of
1922.

¹See foot-note² on page 5.

²This clause was substituted for the original clause (ii) by E.B. Act VI of 1952, s.8. The said original clause (ii) read as follows:—

“(ii) an amount equivalent to the amount of the tax that would have been payable under the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922, in respect of such collections, had not the provisions of section 3 been applied ;”

Ben Act. IV
of 1944.
Act XI
of 1922.

(Sections 6—6A.)

(iv) collection charges not exceeding twenty *per centum* of the gross collections.

¹[*Explanation*.—In this sub-section, “average rates” mean the average rates of taxes at which assessment was made for the last time, before the notified date, under the provisions of the Bengal Agricultural Income-tax Act, 1944, or the Income-tax Act, 1922.]

Ben. Act
IV of
1944.
Act No.
XI of
1922.

(4) In determining the amounts of deductions under sub-section (3), the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

²[(5) Nothing in this section shall apply to any estate, *taluk*, tenure, holding, tenancy or land held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust.]

Ad interim
payment in
respect of
trust proper-
ties.

³[6A. (1) A rent-receiver, whose interest in any estate, *taluk*, tenure, holding or tenancy held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust, are acquired under sub-section (1) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such interests at such time and in such manner as may be prescribed, an *ad interim* payment, as follows :—

(i) an annuity equivalent to so much of the net income of the estate, *taluk*, tenure, holding or tenancy as has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual;

(ii) for the portion of the net income, if any, of the estate, *taluk*, tenure, holding or tenancy, remaining after deduction of the annuity under clause (i), a sum calculated at the rate of three *per centum* of the amount of compensation payable for such portion of the net income under sub-section (1) of section 37.

(2) The amount of annuity referred to in clause (i) of sub-section (1) shall be determined in the same manner as is prescribed for the assessment of perpetual annuity under sub-section (3) of section 37, and the provisions of sub-section (4) of section 58 and sub-section (4) of section 59 shall apply in the matter of payment of such amount.

(3) For the purpose of clause (ii) of sub-section (1), the net income shall be determined in the manner provided in sub-sections (3) and (4) of section 6.

¹This explanation was added by E. B. Act VI of 1952, s. 8.

²This new sub-section was added by section 8, *ibid*.

³This section was inserted by section 9, *ibid*.

(Sections 6A—10.)

(4) A rent-receiver, whose *khas* land, held under *wakf*, *wakf-al-aulad*, *debutter* or any other trust, is acquired under sub-section (2) of section 3, shall, with effect from the notified date, be entitled to receive annually in cash in respect of such land, at such time and in such manner as may be prescribed, an *ad interim* payment at the rate of three *per centum* of the amount of compensation payable for such land under sub-section (1) of section 39, and the provisions of sub-sections (2), (3) and (4) of that section shall apply *mutatis mutandis* in the matter of determination of such amount.]

Appeals:

7. Any person aggrieved by an order of the Revenue-officer under sub-section (4) of ¹[section 4 or section 5, or by an order of the Revenue-officer determining the amount of any *ad interim* payment under section 6 or section 6A] may, within a prescribed period and in the prescribed manner, present an appeal in writing to a prescribed superior Revenue Authority; and the decision of such Authority and also, subject only to such decision, an order of the Revenue-officer passed under the said section and sub-sections shall be final.

Payment and recovery of fines imposed under this Chapter.

8. The fine imposed under this Chapter shall be paid, by the person fined, in the prescribed manner within sixty days from the date of the order of the Revenue-officer imposing the fine or, when an appeal is presented against such order under section 7, within sixty days from the date of the disposal of such appeal; and in default of such payment the amount of such fine shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Restriction on transfer.

9. (1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of publication of a notification under sub-section (1) of section 3, no rent-receiver specified in such notification shall; except with the previous permission of a prescribed authority, transfer his rights and interests in any estate, ²[*taluk*, tenure, holding or tenancy], to which such notification relates, by private sale, gift, will, mortgage, lease or any contract or agreement, or transfer any land in his *khas* possession by any such means.

(2) Any transfer made in contravention of the provisions of sub-section (1) shall be null and void.

Exemption of *ad interim* payments from attachments.

10. Notwithstanding anything contained in the Code of Civil Procedure, 1908, and the Bengal Public Demands Recovery Act, 1913, any amount payable to an outgoing

Act V of
1908.
Ben. Act
III of
1913.

¹These words, figures, comma and letter were substituted for the words, figures, brackets, and comma "section 4, section 5 or sub-section (1) or (2) of section 6" by E. B. Act VI of 1952, s. 10.

²See foot-note ² on page 5.

of 1951.]

(Sections 10—12.)

rent-receiver under sub-section (1) or (2) of section 6¹[or sub-section (1) or (4) of section 6A] shall not be liable to attachment in execution of any decree or order of a Civil Court or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, other than a decree or certificate for the recovery of arrears of revenue, rent or cesses due in respect of the estate, *taluk*,²[tenure, holding, tenancy or land] to which such payment relates.

Ben. Act
III of
1913.

PART III.

³CHAPTER III.

Special provisions regarding lands held in lieu of service.

Acquisition
of occupancy
rights.

11. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, any person who holds under another person any land, for agricultural or horticultural purposes or for the purposes of his homestead, free of rent in consideration of some service to be rendered under the system locally known as *Nankar*, *Chakran* or the like shall, on and from the date of commencement of this Act, acquire a right of occupancy in all such lands so held by him subject to the payment of a fair and equitable rent to the person under whom he holds such lands and the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, as the case may be, so far as they apply to occupancy *rai-yats*, shall apply to him.

VIII of
1885.
Assam
Act XI
of 1936.

(2) The fair and equitable rent, referred to in sub-section (1), shall mean such rent not exceeding the prevailing rate of rent paid by the occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages as may be agreed upon between such tenant and his landlord or, in the absence of such agreement, as may be determined by the Collector on the application of such tenant or the landlord.

Removal of
the home-
stead of a
tenant in cer-
tain cases.

12. (1) Notwithstanding anything contained in section 11, where such tenant has his homestead within the homestead of his landlord, either he or the landlord may, ⁴[within six months from the date of commencement of this Act], apply to the Civil Court having jurisdiction to entertain a suit for the possession of such land, for an order directing the removal of the homestead of such tenant.

¹The words, figures, brackets and letter within square brackets were inserted by E. B. Act VI of 1952, s. 11.

²The words and commas within square brackets were substituted for the words "tenure or land" by section 11, *ibid*.

³As to the protection of Service Tenants from eviction and giving them the benefit of Chapter III of the E. B. State Acquisition and Tenancy Act, 1950 (E. B. Act XXVIII of 1951) see the East Bengal Service Tenants (Protection) Act, 1952 (E. B. Act IX of 1952), sections 3 and 4.

⁴For the purpose of sub-section (1) of section 4 of the East Bengal Service Tenants (Protection) Act, 1952 (E. B. Act IX of 1952), the expression "within six months from the date of commencement of this Act" shall be deemed to have been substituted by the expression "within three months from the date of commencement of the East Bengal Service Tenants (Protection) Act, 1952."

(Sections 12—13.)

(2) When an application is made under sub-section (1), the Court, after giving the parties an opportunity of being heard and after taking such evidence and making such enquiries as it thinks fit, if satisfied that the homestead of the tenant is situated within the homestead of the landlord, shall make the order applied for:

Provided that the Court, if it finds that the total quantity of cultivable land held by such tenant as an occupancy *raiyyat*, whether by virtue of section 11 or otherwise, besides the homestead to which the application relates, is less than five standard bighas, shall assess such reasonable compensation to be paid to such tenant by the landlord as would, in the opinion of the Court, cover the cost of removal of the homestead of the tenant to a new site, the cost of reconstruction of a similar homestead, the cost of the land required for such construction and such other incidental expenses as the Court thinks fit; and it shall not make an order for such removal until the landlord deposits in the Court the amount of compensation so assessed for payment to the tenant, or the tenant admits before the Court in writing that he has received the amount from the landlord out of Court.

(3) An order under sub-section (2) shall be deemed to be a decree for ejectment against such tenant; and no appeal shall lie against such order.

Restoration
of agricultural
land in
certain
cases.

13. (1) If a person has been ejected after the 7th day of April, 1948, otherwise than by a decree or order of a Civil Court or an order of the Collector or of any Revenue-officer empowered by the Collector, from any agricultural or horticultural land held by him free of rent in consideration of some service to be rendered under any system referred to in sub-section (1) of section 11, such person may, within six months from the date of commencement of this Act, apply to the Collector for the restoration of such land to him.

(2) When an application has been made under sub-section (1), the Collector, after giving the parties an opportunity of being heard and taking such evidence and making such enquiries as he thinks fit, if satisfied that the applicant was so ejected after the said date from such land so held by him, shall pass an order restoring such land to the applicant with effect from such date not being later than the first day of the agricultural year next following the date of the order as the Collector thinks fit.

(3) If the person in possession of such land does not give up its possession to the applicant with effect from such date, the Collector shall, on the application of such applicant, eject such person and place such applicant in possession of such land:

Provided if such person be a person other than the landlord, he shall get reasonable compensation, as determined by the Collector, from the landlord.

of 1951.]

(Sections 13—17.)

(4) When any agricultural or horticultural land is restored to a person under this section, the provisions of section 11 shall apply to such land.

Appeal.

14. Any person who is aggrieved by an order of the Collector under sub-section (2) of section 11 or under sub-section (2) of section 13, may prefer an appeal to the District Judge having jurisdiction over the area within thirty days from the date of such order; and the decision of the District Judge having jurisdiction over the area, on such appeal, shall be final.

Miscellaneous.

15. An application under sub-section (2) of section 11, sub-section (1) of section 12 or sub-section (1) of section 13 shall be in such form and contain such particulars as may be prescribed, and shall be accompanied by a process fee of the prescribed amount.

Saving as to certain lands.

16. Nothing in this Chapter shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

PART IV.

CHAPTER IV.

Preparation of Record-of-rights.

Preparation of record-of-rights.

17. (1) The Provincial Government may, with a view to acquisition under the provisions of this Act of the interests of all rent-receivers within any district, part of a district or local area and of such other interests in land therein as are liable to be acquired under the provisions of this Act, and with a view to the assessment of compensation payable for all such interests including the interests which have already been acquired under Chapter II, make an order directing—

- (a) that a record-of-rights be prepared in respect of such district, part of a district or local area, or
- (b) that the record-of-rights, last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, in respect of such district, part of a district or local area, be revised,

VIII of 1885.

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

(2) If any order has been made under section 101 of the Bengal Tenancy Act, 1885, [or under section 117 of the Sylhet Tenancy Act, 1936,] for the preparation of a record-of-rights in respect of any district, part of a district or local area, but the preparation of such record-of-rights has not been completed or such record-of-rights has not been finally published at the time when an order is made under sub-section (1) for the preparation or revision of a record-of-rights in respect of such district, part or area, then on the

VIII of 1885.
Assam Act XI of 1936.

¹The words, commas and figures within square brackets were inserted by E. B. Ordinance III of 1956, s. 6.

(Sections 17—19.)

making of an order under the said sub-section, all further proceedings relating to the preparation of the record-of-rights under the said Act shall be stayed; and such record-of-rights shall be prepared in accordance with the provisions of this Chapter and with such rules as may be made in this behalf by the Provincial Government:

Provided that any proceedings in respect of the preparation of such record-of-rights commenced under Chapter X of the Bengal Tenancy Act, 1885 ¹[or under Chapter IX of the Sylhet Tenancy Act, 1936], and undertaken prior to the publication of the draft of such record-of-rights under section 103A of the ²[Bengal Tenancy Act, 1885, or under section 119 of the Sylhet Tenancy Act, 1936, as the case may be,] shall, for the purposes of the preparation of such record-of-rights under this Chapter, be deemed to have been commenced and undertaken under this Chapter.

VIII of
1885.
Assam
Act XI of
1936.

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

Particulars
to be record-
ed in the
record-of-
rights.

18. When an order is made under section 17, 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.

Draft and
final publi-
cation of the
record-of-
rights.

19. (1) When a record-of-rights has been prepared or revised so as to contain or include therein the particulars referred to in section 18, the Revenue-officer shall publish a draft of the record-of-rights 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 not below the rank of an Assistant Settlement Officer 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 Provincial Government may make in this behalf, the Revenue-officer shall finally frame the record and shall cause such record to be finally published in the prescribed manner and the publication shall be conclusive evidence that the record has been duly prepared or revised under this Chapter.

(4) When a record-of-rights has been finally published under sub-section (3), the Revenue-officer shall, within such time as the Board of Revenue may fix in this behalf, 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 title.

¹The words, comma and figures within square brackets were inserted by E.B. Ord. III of 1956, s. 6.

²The words, commas and figures within square brackets were substituted for the words "said Act" by section 6, *ibid.*

of 1951.]

(Section 20.)

Lands to be retained in the possession of rent-receivers, cultivating *rai-yats*, cultivating under-*rai-yats* and non-agricultural tenants.

20. (1) On the acquisition of the interests of rent-receivers in any area under Chapter V, no rent-receiver, cultivating *rai-yat*, cultivating under-*rai-yat* or non-agricultural tenant shall be entitled to retain possession of any of his *khas* lands in such area except as provided in sub-section (2).

(2) A rent-receiver, a cultivating *rai-yat*, a cultivating under-*rai-yat* or a non-agricultural tenant shall be entitled to retain, as a tenant under the Provincial Government, possession of—

- (a) lands covered by his homestead or any other building belonging to him with necessary adjuncts thereto, other than such building or part of a building outside his homestead as is used primarily as office or *cutchery* for the collection of rents of any estate, *taluk* or tenure and may be decided to be acquired by the Provincial Government;
- (b) lands in his *khas* possession of the following classes, namely:—
 - (i) lands used for agricultural or horticultural purposes including tanks;
 - (ii) lands which are cultivable or which are capable of cultivation on reclamation, and
 - (iii) vacant non-agricultural lands:

Provided that the aggregate quantity of all lands of the classes referred to in the clauses (a) and (b) in the whole province so retained in possession by a rent-receiver, a cultivating *rai-yat*, a cultivating under-*rai-yat* or a non-agricultural tenant shall not exceed one hundred standard bighas or an area determined by calculating at the rate of ten standard bighas for each member of his family, whichever is greater. In addition, he shall be entitled to retain an area of land equal to the area actually covered by his homestead or ten standard bighas, whichever is less.

Explanation.—For the purpose of clause (a), lands covered by buildings do not include *hats* or *bazars*.

(3) Allotments of lands, of which a rent-receiver, a cultivating *rai-yat*, a cultivating under-*rai-yat* or a non-agricultural tenant is entitled to retain possession under clause (b) of sub-section (2), shall be made by the Revenue-officer according to the choice of such rent-receiver, cultivating *rai-yat*, cultivating under-*rai-yat* or non-agricultural tenant or, where no such choice is exercised within a prescribed period, according to the rules to be made in this behalf by the Provincial Government.

(Section 20.)

(4) Notwithstanding anything contained in sub-section (2), a rent-receiver, a cultivating *raiyat* or a cultivating under-*raiyat* or a group of rent-receivers, cultivating *raiya*s or cultivating under-*raiya*s who has or have undertaken large scale farming on a co-operative basis or otherwise by the use of power driven mechanical appliances, or large scale dairy farming may, if he is or they are certified in that behalf by the prescribed Revenue Authority, retain possession of and hold such quantity of lands in excess of the limit specified in the said sub-section as may be specified in the certificate granted by such Revenue Authority:

Provided that such a certificate shall be subject to revisions by the said Revenue Authority at such intervals as may be fixed in this behalf by the Provincial Government.

(5) (i) Nothing in sub-sections (1), (2) and (3) of this section shall apply—

(a) to any land held for the purpose of the cultivation and manufacture of tea, or to any land held by a company for the cultivation of sugar-cane for the purpose of manufacture of sugar by that company, or

(b) to any land covered by buildings or structures and necessary adjuncts thereto as are used for the purpose of any large scale industry with such other lands as are used for growing raw materials therefor, or

(c) to so much of the lands held under *debutter*, *wakf*, *wakf-al-al-aulad* or any other trust as is exclusively dedicated and the income from which is exclusively applied to religious or charitable purposes without reservation of pecuniary benefit for any individual.

(ii) Where, under any *debutter*, *wakf*, *wakf-al-al-aulad* or any other trust, the income from the lands covered by such trust is partly dedicated for religious or charitable purposes and partly reserved for the pecuniary benefit of any individual, only such portion of the lands, as may be selected in accordance with the rules to be made in this behalf by the Provincial Government, shall come within the purview of sub-clause (c) of clause (i).

Explanation.—For the purpose of sub-section (2) of this section—

(a) a rent-receiver, cultivating *raiyat*, cultivating under-*raiyat* or non-agricultural tenant shall be deemed to include a group of them who are members of the same family; and

being relaxed?

as that the rule not apply to the aggr. economy, some exception to this rule were made for

of 1951.]

(Sections 20—23.)

- (b) a family shall, when used in relation to a rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant, be deemed to consist of such rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant and all persons living in the same mess with and dependant upon such rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant, but does not include any servant or hired labourer living in the same mess.

Payment of rent for land retained in possession.

21. All lands, of which a rent-receiver, a cultivating *raiyyat*, a cultivating under-*raiyyat* or a non-agricultural tenant retains possession under section 20, shall be held on payment of such fair and equitable rent as may be determined under the provisions of this Act.

All land to be liable to fair and equitable rent determined under this Act after the acquisition of the interests of rent-receivers.

22. Notwithstanding anything contained in any other law for the time being in force or in Chapter II of this Act or in any entry made in the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, all lands in any district or part of a district or local area in respect of which a record-of-rights is prepared or revised under this Chapter shall, after the acquisition under Chapter V of the interests of rent-receivers within such district, part or area, be subject to the payment of fair and equitable rent determined in accordance with the provisions of this Chapter; and the rent so determined shall be entered in the record-of-rights so prepared:

VIII of 1885.

¹[Provided that it shall not be necessary to determine, under this Chapter, the rent of any land, the rent of which has already been determined under section 5 and the rent so determined shall be deemed to be fair and equitable rent determined in accordance with the provisions of this Chapter.]

Determination of fair and equitable rents of *khas* lands.

✓ 23. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the rent of every parcel of land in the *khas* possession of a proprietor or tenure-holder, including a proprietor or tenure-holder whose interests have been acquired under Chapter II, within the area to which such record relates—

- (i) if such land be agricultural land, on the basis of the prevailing rate of rent paid by occupancy *raiyyats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, and

¹This proviso was inserted, after substituting a colon for the full stop at the end of section 22, by E.B. Act XII of 1954, s. 5.

(Sections 23—24.)

- (ii) if such land be non-agricultural land, at a rate which the Revenue-officer may deem fair and equitable having regard to—
- (a) the rent generally paid to the Provincial Government, or to any other landlord for non-agricultural lands with similar advantages or of a similar description in the vicinity,
 - (b) the market value of the land immediately before the publication of the notification under section 17, and
 - (c) the rent which would be payable if the rate were fixed at not more than one *per centum* of such market value,

whether or not such proprietor or tenure-holder is entitled to retain possession of such parcel of land under section 20:

¹[Provided that in any estate, *taluk* or tenure, where a land revenue settlement was made within the last fifteen years, the rate of rent adopted as fair and equitable in such settlement may be taken to be the prevailing rate of rent within the meaning of this section.]

Explanation.—For the purposes of this section “land” does not include any building or structure standing thereon.

Determina-
tion of fair
and equitable
rents of
rai-yats and
under-*rai-yats*.

✓ 24. (1) In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall, subject to the provisions of sub-sections (2), (3) and (4), presume the rent, payable in respect of any land held by a *rai-yat* or an under-*rai-yat* in the area to which such record relates at the time of preparation or revision of such record, to be fair and equitable.

(2) Where the rent so payable in respect of any such land by a *rai-yat* is in the opinion of the Revenue-officer unfair or inequitable, he may reduce such rent ²[to what is considered by him as fair and equitable, but not below] the prevailing rate of rent paid by the occupancy *rai-yats* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

¹This proviso was substituted for the original proviso by section 6 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952. The original proviso ran as follows :—

“Provided that it shall not be necessary to determine, under this section, the rent of any land, the rent of which has already been determined under section 5 ; and the rent so determined shall be deemed to be the fair and equitable rent determined in accordance with the provisions of this Chapter.”

²The words and comma within square brackets were substituted for the words “on the basis of” by section 7 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

(Sections 24—25.)

¹[(3) Where the rent payable for any land by an under-*raiyat* is, in the opinion of the Revenue-officer, unfair or inequitable, he may reduce such rent to an amount not exceeding the fair and equitable rent payable by an occupancy *raiyat* for lands of a similar description and with similar advantages in the same village or in the neighbouring villages, increased by fifty *per centum*.]

(4) If any *raiyat* or under-*raiyat* pays, in respect of any land referred to in sub-section (1), rent either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways, the Revenue-officer shall commute such rent to a fair and equitable money-rent at an amount not exceeding one-tenth of the total value of the annual gross produce of such land, obtained by multiplying the normal annual yield of that land, determined in the manner prescribed, by the average price of each kind of produce prevailing in the preceding twenty years, excluding the years in which such prices were abnormal:

²[Provided that the Revenue-officer shall, at the time of commuting such rent to a fair and equitable money-rent, allow for the superior landlord of such *raiyat* or under-*raiyat* a margin of profit of not less than twenty-five *per centum* and not more than fifty *per centum* of the rents payable by the superior landlord of such *raiyat* or under-*raiyat*]

³[when such superior landlord pays rents either in kind or on the estimated value of a portion of the crop or at rates varying with the crop or in more than one of these ways].

Determina-
tion of fair
and equita-
ble rents of
non-agricul-
tural tenants.

✓ 25. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall determine the fair and equitable rent of all non-agricultural lands held by non-agricultural tenants other than a tenure-holder in accordance with the provisions of section 23 so far as they apply to non-agricultural lands:

Provided that when any such tenant holds any such land immediately under any person other than a proprietor or a tenure-holder, the Revenue-officer shall presume the

¹This sub-section was substituted for the original sub-section (3) by section 7 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952. The original sub-section (3) ran as follows :—

“(3) Where the rent payable for any land by an under-*raiyat* is at the time of the preparation or revision of the record-of-rights under this Chapter found to exceed by more than fifty *per centum* the fair and equitable rent payable in respect of such land by the person under whom such under-*raiyat* holds such lands, the Revenue-officer shall fix the rent of the land so held by such under-*raiyat* at a rate not exceeding the rate of rent of such person by more than fifty *per centum*.”

²This proviso was added, after substituting a colon for the full stop at the end of sub-section (4) of section 24, by section 7 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

³These words were added at the end of the proviso to sub-section (4) of section 24 by E. B. Ordinance III of 1956, s. 7.

(Sections 25—28.)

existing rent payable by such tenant for such land to be fair and equitable unless it exceeds by more than fifty *per centum* the fair and equitable rent payable in respect of such land by such person; and if it so exceeds, the Revenue-officer shall fix the rent of such land so held by such tenant at a rate not exceeding the rate of the fair and equitable rent payable for such land by such person by more than fifty *per centum*.

Assessment
of rent for
rent-free
land.

✓ 26. (1) Where any land is held by a *raiya*t or an under-*raiya*t free of rent the rent for such land shall be determined on the basis of the prevailing rate of rent paid by the occupancy *raiya*ts for lands of a similar description and with similar advantages in the same village or in the neighbouring villages.

(2) Where any non-agricultural land is held by a tenant free of rent, the rent for such land shall be determined in accordance with the provisions of section 23 so far as they apply to non-agricultural lands.

Creation of
separate
holdings or
tenancies in
certain cases.

27. Where a rent-receiver other than a proprietor or tenure-holder holds only a portion of a holding or tenancy in his *khas* possession, such portion shall be constituted into a separate holding or tenancy and assessed to rent separately, and in making such assessment, the Revenue-officer shall have regard to the rent of the original holding or tenancy, the proportionate area and value of the new holding or tenancy and the provisions of this Chapter for the determination of fair and equitable rent of a holding or tenancy of that class.

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Assessment
of rents of
service
tenancies.

28. In preparing or revising a record-of-rights under this Chapter, the Revenue-officer shall fix, in respect of every land held within any area to which such record relates by a person who has been found on evidence produced before him to be entitled to hold 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 occupancy *raiya*ts 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 *raiya*t:

Provided that nothing in this section shall apply to any land held within the boundaries of a tea estate or any other industrial organisation.

¹The proviso to section 27 added by section 12 of E. B. Act VI of 1952 was omitted by E. B. Act XII of 1954, s. 8. The said proviso ran as follows :—

“Provided that it shall not be necessary to assess, under this section, the rent of any land, the rent of which has already been determined under the proviso to section 5 ; and the rent so determined shall be deemed to be the fair and equitable rent assessed in accordance with the provisions of this section.”

of 1951.]

(Sections 29—31.)

Effect of
rents settled
under this
Chapter.

29. (1) All rents determined under this Chapter and entered in the record-of-rights finally published under section 19, shall, subject to the provisions of section 53, be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act.

(2) No suit shall be brought in any Civil Court in respect of the determination of any rent to the determination of which the provisions of this Chapter apply or in respect of the omission to determine any such rent.

Bar to juris-
diction of
Civil Court.

30. (1) After an order has been made under section 17 directing the preparation or revision of a record-of-rights in respect of any area, no Civil Court shall entertain any suit or application for the alteration of rent or determination of the status of any tenant or the incidents of any holding or tenancy in such area; and if any such suit or application relating to such area is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Explanation.—Suit in this sub-section includes an appeal.

(2) No suit shall be brought in any Civil Court in respect of any order directing the preparation or revision of records-of-rights under this Chapter or in respect of framing, publication, signing or attestation of such record or any part of it.

(3) No suit, appeal or proceeding in a Civil Court or High Court in respect of any land, nor any order passed in such suit, appeal or proceeding, shall operate as a bar in any way to the preparation or revision of records-of-rights or of Compensation Assessment-rolls in accordance with the provisions of this Act.

Preparation
of Compens-
ation Assess-
ment-roll on
the basis of
the existing
record-of-
rights.

31. (1) The Provincial Government may, instead of proceeding under section 17, by notification in the *Official Gazette*, order that a Compensation Assessment-roll be prepared under Chapter V in respect of any particular district, part of a district or local area, on the basis of the record-of-rights last prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, ¹[or Chapter IX of the Sylhet Tenancy Act, 1936,] without any revision or after revising or recording only such particulars in such record as may be specified in such notification.

VIII of
1885.
Assam
Act XI of
1936.

(2) When an order is made under sub-section (1), the Revenue-officer shall revise or record such particulars, if any, in accordance with such rules as may be made in this behalf by the Provincial Government and settle fair and equitable rents according to the principles laid down in sections 23, 24, 25, 26, 27 and 28, and shall then correct such record-of-rights so as to incorporate therein the particulars, if any, so revised or recorded and the fair and equitable rents so settled.

¹The expression within square brackets was inserted by E. B. Act VI of 1952, s. 13.

(Sections 31—34.)

(3) A record-of-rights corrected under sub-section (2) shall be deemed to have been duly revised and finally published under this Chapter.

¹[(4) When an order is made under sub-section (1) in respect of any area, sections 105, 105A and 106 of the Bengal Tenancy Act, 1885, or sections 121, 122 and 123 of the Sylhet Tenancy Act, 1936, as the case may be, shall cease to apply to such area, and applications, suits or proceedings under those sections, pending on the date of such order, shall not be further proceeded with and shall abate.]

Act VIII.
of 1885.
Assam
Act XI
of 1936.

CHAPTER V.

Assessment of compensation and acquisition of interests of rent-receivers and of certain other interests.

Interpreta-
tion.

32. In this Chapter, a rent-receiver, proprietor or tenure-holder includes a rent-receiver, proprietor or tenure-holder, as the case may be, whose interests have been acquired under Chapter II.

Order for the
preparation
of a Compensa-
tion
Assessment-
roll.

33. As soon as may be after a record-of-rights in respect of any district, part of a district or local area has been prepared or revised and finally published under Chapter IV, the Revenue-officer shall prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of all rent-receivers within such district, part or area and the compensation to be paid in accordance with the provisions of this Act to all persons whose interests are acquired under this Chapter or under Chapter II, together with such other particulars as may be prescribed, shall be specified:

²[Provided that it shall not be necessary to prepare, under this Chapter, a Compensation Assessment-roll in respect of any property acquired under Chapter II, in respect of which a Compensation Assessment-roll has been prepared under Chapter VA.]

Separate
treatment of
proprietors,
tenure-hold-
ers and other
rent-receivers
in assessment
and payment
of compensa-
tion.

34. In preparing such Compensation Assessment-roll every proprietor, tenure-holder or other rent-receiver collecting rents in respect of any estate, tenure, holding or tenancy or part of any estate, tenure, holding or tenancy comprised within the area to which such roll relates shall, irrespective of whether he collects such rents separately or jointly with others, be treated separately for the purpose of assessment and payment of compensation under this Chapter:

¹This sub-section was added by E.B. Act VI of 1952, s. 13.

²This proviso was added, after substituting a colon for the full-stop at the end of section 33, by section 14, *ibid*.

of 1951.]

(Sections 34—35.)

Provided that in the case of a Hindu undivided family governed by the *Mitakshara* law, all rent-receivers included in such family shall be treated jointly for such purpose:

¹[Provided further that when more than one proprietor, tenure-holder or other rent-receiver jointly hold rent-receiving interests and the total net income of such interests does not exceed five hundred rupees, such proprietors, tenure-holders or other rent-receivers may be treated jointly for the purpose of assessment of compensation under this Chapter.]

35. (1) For the purpose of preparation of the Compensation Assessment-roll under this Chapter—

Calculation
of gross
assets and
net income
of rent-
receivers.

(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants—

(i) in the case of the interests acquired under Chapter II, for the agricultural year immediately preceding the notified date, and

(ii) in other cases, for the agricultural year immediately preceding that in which the record-of-rights is finally published under Chapter IV,

and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under Chapter IV for such of his *khas* lands as he retains possession of under section 20:

Provided that in the case of ²[a tenure-holder or] a *raiyat* or an under-*raiyat* or a non-agricultural tenant referred to in sections 24, 25, 27 and 28, the rent fixed or determined for any land under the provisions of the said sections and entered in the record-of-rights finally published under Chapter IV shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such ³[tenure-holder or] *raiyat* or under-*raiyat* or non-agricultural tenant to his immediately superior landlord;

(b) the net income of a rent-receiver shall be computed by deducting from his gross assets the following:—

(i) the sums which were or are calculated as payable by such rent-receiver for such year as land revenue or rent and cesses to the Provincial Government or to his immediate landlord, as the case may be, in respect of the lands to which the gross assets relate;

¹This further proviso was inserted, after substituting a colon for the full-stop at the end of the existing proviso, by section 9 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

²The words within square brackets were inserted by E. B. Ordinance III of 1956, s. 8.

³The words within square brackets were inserted by section 8, *ibid*.

(Sections 35—37.)

- (ii) the sum which was or is calculated as payable by such rent-receiver in respect of such assets for such year as tax under the Bengal Agricultural Income-tax Act, 1944; Ben. Act. IV of 1944.
- (iii) the sum which was or is calculated as payable by such rent-receiver in respect of his income from non-agricultural lands included in such assets for such year as tax under the Income-tax Act, 1922; Act XI of 1922.
- (iv) the average annual expenditure, if any, incurred by such rent-receiver on account of maintenance of any irrigation or protective works in such lands; and
- (v) collection charges not exceeding twenty *per centum* of the gross assets.

(2) In calculating the sums referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) or determining the expenditure and charges referred to in sub-clauses (iv) and (v) of the said clause, the Revenue-officer shall be guided by such rules as may be made in this behalf by the Provincial Government.

Net income of a recusant proprietor.

36. Notwithstanding anything contained in section 35, in the case of a recusant proprietor of a temporarily settled private estate, the *malikana* payable to such proprietor in the agricultural year referred to in sub-clause (i) or sub-clause (ii) of clause (a) of sub-section (1) of section 35, as the case may be, shall be deemed to be the net income of such proprietor computed under section 35.

Rate of compensation for rent-receiving interests.

37. After the net income has been computed under sections 35 and 36, the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers shall be determined as follows:—

(1) in the case where the rent-receiver is a proprietor of an estate, a holder of a permanent tenure or tenancy or a *raiyyat* or an under-*raiyyat*, the compensation payable in respect of the acquisition of the interests of such rent-receiver shall be determined on the basis of his total net income from rent-receiving interests in the Province in accordance with the following table, namely:—

Amount of the total net income in the Province.	Rate of compensation payable.
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(a) Where the net income so computed does not exceed Rs. 500.	Ten times such net income.
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(b) Where the net income so computed exceeds Rs. 500 but does not exceed Rs. 2,000.	Eight times such net income or the maximum amount under item (a) above increased by the excess of the net income over the maximum net income under item (a) above, whichever is greater.
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(Section 37.)

<i>Amount of the total net income in the Province.</i>	<i>Rate of compensation payable.</i>
(c) Where the net income exceeds Rs. 2,000 but does not exceed Rs. 5,000.	Seven times such net income or the maximum amount under item (b) above increased by the excess of the net income over the maximum net income under item (b) above, whichever is greater. 1
(d) Where the net income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Six times such net income or the maximum amount under item (c) above increased by the excess of the net income over the maximum net income under item (c) above, whichever is greater. 6
(e) Where the net income exceeds Rs. 10,000 but does not exceed Rs. 25,000.	Five times such net income or the maximum amount under item (d) above increased by the excess of the net income over the maximum net income under (d) above, whichever is greater. 5
(f) Where the net income exceeds Rs. 25,000 but does not exceed Rs. 50,000.	Four times such net income or the maximum amount under item (e) above increased by the excess of the net income over the maximum net income under (e) above, whichever is greater. 4
(g) Where the net income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000.	Three times such net income or the maximum amount under item (f) above increased by the excess of the net income over the maximum net income under (f) above, whichever is greater. 3
(h) Where the net income exceeds Rs. 1,00,000.	Two times such net income or the maximum amount under item (g) above increased by the excess of the net income over the maximum net income under (g) above, whichever is greater. 2

(2) in the case where the rent-receiver is the holder of a temporary tenure or of any other tenancy of a temporary duration, the compensation payable to such rent-receiver in respect of the acquisition of the interest of such rent-receiver shall be paid out of the compensation payable under this Chapter to the immediately superior landlord of such rent-receiver for the acquisition of the interests of such superior landlord; and the Revenue-officer shall apportion the compensation between the holder of such temporary tenure or tenancy and his immediately superior landlord subject to

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(Sections 37—39.)

rules made under this Act; and in making the apportionment the Revenue-officer shall take into consideration the unexpired period of the temporary tenure or tenancy; and

(3) in the case where the net income or any portion of the net income in respect of any estate, tenure, holding or tenancy wholly or partly held under *wakf*, *wakf-al-al-aulad*, *debutter* or any other trust or legal obligation has been dedicated and applied exclusively to charitable or religious purposes without any reservation of pecuniary benefit for any individual, the compensation payable for the acquisition of the interests of any rent-receiver in respect of the net income or the portion of the net income so dedicated and applied shall, instead of being assessed under clause (1), be assessed in the prescribed manner as a perpetual annuity equal to such net income or portion of the net income, as the case may be.

Preparation of Compensation Assessment-roll in respect of a rent-receiver having interests in more than one area.

38. If a rent-receiver holds rent-receiving interests in more than one area, the amount of compensation payable for the acquisition of such interests shall be calculated and the Compensation Assessment-rolls in respect of such interests shall be prepared in accordance with such rules as may be made in this behalf by the Provincial Government.

Rates of compensation for *khas* lands.

39. (1) Compensation to be payable to a rent-receiver, a cultivating *raiya*, a cultivating under-*raiya* or a non-agricultural tenant, in respect of the acquisition of lands in his *khas* possession which he is not entitled to retain under section 20, shall be determined in accordance with the following table:—

Class of lands.

Rate of compensation payable.

- | | |
|--|---|
| (a) For lands used for agricultural or horticultural purposes including tanks. | Five times the net annual profit from such lands. |
| (b) For lands on which <i>hats</i> or <i>bazar</i> are held. | Five times the net annual profit from such <i>hats</i> or <i>bazars</i> . |
| (c) For lands which are cultivable or which are capable of cultivation on reclamation— | |
| (i) lands bearing any profit; | Five times the net annual profit from such lands or ten times the annual <i>raiya</i> rent for an equal area of cultivated land in the neighbourhood which the Revenue-officer may select as appropriate for the purpose, whichever is greater. |
| (ii) lands not bearing any profit. | Rupees ten per acre. |

(Section 39.)

Class of lands.

Rate of compensation payable.

- (d) For lands which consist of forest, jungle, watercourses or marshy tracts with or without private rights of fishery therein, and sandy *chars* or other uncultivable lands other than lands, such as roads, pathways, common burial or cremation grounds, rivers, *khals* and watercourses, which the public may use by natural or customary right or right of easement.

Five times the net annual profit from such lands.

- (e) For vacant non-agricultural lands.

Five times the annual letting value of the lands to be determined in the prescribed manner.

- (f) For lands with buildings—

(i) lands; .. Five times the annual letting value of the land to be determined in the prescribed manner.

(ii) buildings. .. The actual cost of construction less depreciation both to be determined in the prescribed manner.

(2) Any dispute regarding classification of lands for the purposes of sub-section (1) shall be referred to the prescribed Revenue Authority whose decision thereon shall be final.

(3) For the purpose of items (a) and (c) of sub-section (1), the net annual profit from land shall be determined in the following manner:—

(a) the gross value of the annual produce of the land shall be calculated first by multiplying the normal annual produce of the land, determined in the prescribed manner, by the average price of each kind of produce during the 10 years immediately preceding the year in which the assessment roll is prepared;

(b) the net annual profit shall be computed by deducting from the gross value of the annual produce of the land, the following:—

(i) the sum determined in the prescribed manner as the cost of cultivation which shall not exceed fifty *per centum* of the gross value of the annual produce of the land;

Easement

(Sections 39—40.)

- (ii) the sum which is calculated as payable by the rent-receiver or cultivating *raiya*t or cultivating under-*raiya*t or non-agricultural tenant annually as land revenue or rent and cesses in respect to the land;
- (iii) the sum which was or is calculated as payable by such rent-receiver or cultivating *raiya*t or cultivating under-*raiya*t in respect of the income from such lands as taxes under the Bengal Agricultural Income-tax Act, 1944; and Ben. Act IV of 1944.
- (iv) the sum which was or is calculated as payable by such a rent-receiver or non-agricultural tenant in respect of the income from the lands as taxes under the Income-tax Act, 1922. Act XI of 1922.

(4) For the purposes of items (b) and (d) of sub-section (1), the net annual profit shall mean the net annual profit as determined by the Revenue-officer in accordance with the rules made in this behalf by the Provincial Government.

(5) Where the land, held by a cultivating *raiya*t or a cultivating under-*raiya*t or a non-agricultural tenant, for which compensation is payable under sub-section (1), is subject to a mortgage, the compensation payable under the said sub-section to such cultivating *raiya*t or cultivating under-*raiya*t or non-agricultural tenant shall be apportioned between such *raiya*t or under-*raiya*t or tenant and his mortgagee; and the Revenue-officer shall apportion such compensation in accordance with rules made in this behalf under this Act; and in making the apportionment the Revenue-officer shall, in the case where the mortgage is an usufructuary mortgage, take into consideration the unexpired period of such mortgage.

Preliminary
publication
of Compensation
Assessment-roll.

40. (1) After the amount of compensation to be payable in respect of the acquisition of the interests of rent-receivers and of the acquisition of the *khas* lands of rent-receivers, cultivating *raiya*t, cultivating under-*raiya*t and non-agricultural tenants, which are to be acquired under this Chapter or have been acquired under Chapter II, has been determined in accordance with the provisions of sections 37, 38 and 39, the Revenue-officer shall prepare the Compensation Assessment-roll under section 33; and when such roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period which shall not be less than thirty days and shall receive and consider any objection 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 Provincial Government may make in this behalf:

of 1951.]

(Sections 40—43.)

¹[Provided that no objection shall be made under this section—

(i) by any person who does not claim any title to any compensation entered in the draft Compensation Assessment-roll, or

(ii) to the amount of any rent entered in such roll which has been determined under section 5 or under Chapter IV or under sub-section (2) of section 46A.]

(2) Separate draft Compensation Assessment-rolls may be prepared and published under sub-section (1) for different villages or groups of villages in the district, part of a district or local area or for one or more persons having interests in different areas in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV.

Appeal to
superior
Revenue
Authority.

41. An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer under sub-section (1) of section 40 to the prescribed superior Revenue Authority; and such superior Revenue Authority shall consider and dispose of such appeals in accordance with rules made in this behalf by the Provincial Government.

Final publi-
cation of the
Compensa-
tion Assess-
ment-roll.

42. When all such objections and appeals have been disposed of, the Revenue-officer shall make such alterations in the draft Compensation Assessment-roll as may be necessary to give effect to any orders passed on objections made under sub-section (1) of section 40 or on appeals preferred under section 41 and shall cause the said roll as so altered to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the Compensation Assessment-roll has been duly made under this Chapter, and every entry in the Compensation Assessment-roll so finally published shall, except as hereinafter provided, be final and conclusive evidence of the matter referred to in such entry and also of the nature of the interests of the rent-receivers, the true area of the land and the apportionment of the compensation among the persons claiming interest therein.

Certificate
and presump-
tion as to
bli-
cation of
Compen-
sation Assess-
ment-roll.

43. (1) When a Compensation Assessment-roll has been finally published under section 42, the Revenue-officer shall within such time as the Commissioner may by general or special order require, 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 title.

(2) After the final publication under section 42 of the Compensation Assessment-roll in respect of any village or group of villages or local area, the Provincial Government

¹This proviso was inserted, after substituting a colon for the full-stop at the end of sub-section (1) of section 40, by section 10 of E. B. Act XII of 1954, which shall be deemed to have come into force on the first day of January, 1952.

(Sections 43—44.)

shall also by notification declare that a Compensation Assessment-roll has been finally published for such village or group of villages or local area, as the case may be, specifying in such notification the date of such final publication; and such notification shall be conclusive proof of such publication and of the date thereof.

Acquisition and vesting of the interests of proprietors, tenure-holders and other rent-receivers and of certain *khas* lands in the Provincial Government and the consequences thereof.

44. Notwithstanding anything contained in any other law for the time being in force or in Chapter II of this Act or in any contract, but subject to the provisions of clauses (a), (b), (c) and (d) of sub-section (4) of section 3 ¹[and sub-section (3) of section 46E], on the publication of a notification in the *Official Gazette* under sub-section (2) of section 43, declaring that a Compensation Assessment-roll has been finally published, the following consequences shall ensue, namely:—

(1) all the interests of all the proprietors in their respective estates, of all the tenure-holders in their respective tenures and of all other rent-receivers in the holdings or tenancies respectively let out by such rent-receivers within the area to which such roll relates or in such parts of such estates, tenures or holdings, or tenancies, as the case may be, as are within such area including the interests of all such proprietors, tenure-holders and other rent-receivers in all lands comprised in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area which are in the *khas* possession of such proprietors, tenure-holders and other rent-receivers and the interests of all such rent-receivers in all sub-soil including any rights to minerals in such estates, tenures and holdings or tenancies or part of such estates, tenures and holdings or tenancies within such area other than the interests which have already been acquired under Chapter II ¹[or sub-section (3) of section 46E] shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances but subject to the rights of such proprietors, tenure-holders and other rent-receivers specified in clause (2);

(2) each proprietor, tenure-holder and other rent-receiver, whose interests in any estate, tenure or holding or tenancy or in any part of any estate, tenure or holding or tenancy, as the case may be, within the area to which such roll relates, are acquired under this Act, shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be entitled to retain possession of and hold, subject to the

¹The words, figures, brackets and letter within square brackets were inserted by E.B. Ordinance III of 1956, s.9.

(Section 44.)

provisions of this Act, as a tenant directly under the Provincial Government all lands of which he is entitled to retain possession under Chapter IV and, be liable to pay rent for such lands to the Provincial Government;

(3) the interests of all cultivating *raiya*s, cultivating under-*raiya*s and non-agricultural tenants in all lands held by such *raiya*s, under-*raiya*s and non-agricultural tenants within the area to which such roll relates in excess of the lands of which such *raiya*s, under-*raiya*s or non-agricultural tenants are entitled to retain possession under Chapter IV, including the interests in the sub-soil of all lands so held in excess and all rights to minerals therein ¹[other than the interests which have already been acquired under any other provision of this Act] shall, with effect from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all encumbrances;

(4) all cultivating *raiya*s, cultivating under-*raiya*s and other tenants holding lands, within the area to which such roll relates, immediately before the first day of the agricultural year next following the date of such publication of such notification, shall, with effect from the first day of the said agricultural year, ²[if they have not already become tenants directly under the Provincial Government under any other provision of this Act,] become tenants directly under the Provincial Government and shall have the right to continue to hold, subject to the provisions of this Act, as tenants under the Provincial Government, such of those lands as have not vested in the Provincial Government under item (3) ³[or under any other provisions of this Act] and shall be liable to pay rent to the Provincial Government in respect of the lands so continued to be held;

(5) all arrears of revenue and all cesses together with interest, if any, payable thereon, other than the arrears, cesses and interest referred to in clause (b) of sub-section (4) of section 3, remaining lawfully due on the first day of the agricultural year next following the date of such publication of such notification in respect of any estate within the area to which such roll relates shall, after the first day of the said agricultural year, continue to be recoverable from the outgoing proprietor by whom they were payable, and shall, without prejudice to any other mode of recovery, be recoverable by the deduction of the amount of such arrears and cesses and interest from the compensation money payable to such proprietor under this Act, when so ordered by the Collector;

¹The words within square brackets were inserted by E.B. Ordinance III of 1956, s.9.

²The words and comma within square brackets were inserted by section 9, *ibid*.

³The words within square brackets were inserted by section 9, *ibid*.

(Sections 44—45.)

(6) all amounts, recoverable by the Provincial Government from a rent-receiver under the Bengal Embankment Act, 1882, which remain outstanding on the first day of the agricultural year next following the date of such publication of such notification and are not already covered by clause (d) of sub-section (4) of section 3, whether on account of arrear dues or dues under future instalments under the Bengal Embankment Act, 1882, shall, without prejudice to any other mode of recovery, be recoverable by deduction of the amount of such arrear and future instalments from the compensation money payable to such rent-receiver in respect of the interests or lands to which such outstanding amounts relate, when so ordered by the Collector;

Ben. Act
II of
1882.

Ben. Act
II of 1882.

(7) all arrears of rent and all cesses, together with interest, if any, due thereon, in respect of any period previous to the first day of the agricultural year next following the date of such publication of such notification, which have accrued due in respect of any tenure, holding or land to which such roll relates, and which have not been barred by limitation or have not already vested in the Provincial Government under clause (c) of sub-section (4) of section 3, shall, on and from the first day of the said agricultural year, vest in and be recoverable by the Provincial Government and shall, without prejudice to any other mode of recovery, be recoverable from the persons by whom they were payable by the deduction of the amount of such arrears, cesses and interest from the compensation money, if any, payable to such persons under section 58, when so ordered by the Collector;

(8) with effect from the first day of the agricultural year next following the date of such publication of such notification, the *ad interim* payments under section 6, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of *ad interim* payments made under sub-section (1) or (2) of the said section in respect of any such interests or lands, less an amount calculated at the rate of three *per centum per annum* on the amount of compensation assessed for such interests or lands in such roll from the date from which such *ad interim* payments for such interests or lands became payable under sub-section (1) or (2) of that section till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation.

Proclamation
by the Revenue-
Officer.

45. As soon as may be after the publication of a notification in the *Official Gazette* under sub-section (2) of section 43, the Revenue-officer shall cause to be published,

(Sections 45—46A.)

in the prescribed manner, in the area to which the Compensation Assessment-roll in respect of which such notification is published relates, a proclamation in the local vernacular—

- (a) explaining the consequences which as provided in section 44 have ensued on such publication of such notification, and
- (b) directing all persons in such area, who will become tenants under the Provincial Government with effect from the first day of the agricultural year next following the date of such publication of such notification, to pay rent to the Provincial Government and not to anybody else.

Printing and distribution of record-of-rights.

46. (1) After the Compensation Assessment-roll or Compensation Assessment-rolls in respect of all estates, tenures and interests of rent-receivers in holdings or tenancies comprised within a district, or in a district or local area, in respect of which a record-of-rights has been prepared or revised and finally published under Chapter IV, has or have been published, such record-of-rights shall be modified by eliminating therefrom the entire chain of interests of rent-receivers and showing therein only the tenants who will come directly under the Provincial Government as a result of the acquisition of such interests; 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 Provincial Government may make in this behalf; and the record-of-rights so modified shall be reprinted.

(2) Copies of the record-of-rights so reprinted shall be distributed free of cost to the tenants of the areas to which such record-of-rights relates in such manner as may be prescribed.

¹CHAPTER VA.

Special provisions for preparation of Compensation Assessment-rolls in respect of properties acquired under Chapter II.

Preparation of Compensation Assessment-roll in special cases.

✓ 46A. (1) The Provincial Government may, instead of proceeding under section 17 or section 31, by notification in the *Official Gazette*, order that a Compensation Assessment-roll be prepared in respect of the properties of any rent-receiver acquired under section 3 on the basis of the returns, papers and documents furnished or taken possession of under sections 3A and 4.

¹Chapter VA (containing sections 46A, 46B, 46C, 46D and 46E) was inserted by E. B. Act VI of 1952, s. 15.

(Sections 46A—46C.)

(2) When an order is made under sub-section (1), the Revenue-officer shall verify such returns, papers and documents in the prescribed manner and make such corrections therein as may be necessary, and settle fair and equitable rents of all tenants ^{1***}immediately subordinate to such rent-receiver according to the principles laid down in sections 24, 25, 26 and 28.

(3) The Revenue-officer shall, after taking action under sub-section (2), prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll in which the gross assets and the net income of such rent-receiver and the compensation to be paid to him in accordance with the provisions of this Act, together with such other particulars as may be prescribed, shall be specified.

Bar to jurisdiction of Civil Court.

46B. After an order has been made under section 46A, no Civil Court shall entertain any suit or application for the alteration or determination of rent of any land for which fair and equitable rent is required to be settled under sub-section (2) of that section; and if any such suit or application is pending before a Civil Court on the date of such order, it shall not be further proceeded with and shall abate.

Application of the provisions of sections 34 to 43 in the preparation of Compensation Assessment-roll under Chapter VA.

46C. In the matter of preparation and publication of a Compensation Assessment-roll under this Chapter,—

- (a) the provisions of sections 34, 38 and 40 to 43 shall apply so far as they are applicable;
- (b) the provisions of sections 37 and 39 shall apply in whole; and
- (c) the provisions of section 35 shall apply subject to the following amendment, namely:—

for clause (a) of sub-section (1) of section 35, the following clause shall be deemed to have been *substituted*, namely:—

“(a) the gross assets of a rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants for the agricultural year immediately preceding the notified date, and where such rent-receiver is the proprietor of an estate or the holder of a tenure, also of the aggregate of the fair and equitable rents determined under section 5 for such of his *khas* lands in that estate or tenure as he chooses to retain possession of under section 20:

¹The words “except tenure holders” inserted by section 11 of E. B. Act. XII of 1954 were omitted by E. B. Ordinance III of 1956, s. 10.

of 1951.]

(Sections 46C.—46E.)

Provided that in the case of ¹[a tenure holder or] a *raiyat* or an under-*raiyat* or a non-agricultural tenant, the rent determined for any land, under sub-section (2) of section 46A, according to the principles of sections 24, 25 and 28, shall, for the purposes of this clause, be deemed to be the rent payable for such land for such year by such *raiyat*, under-*raiyat* or non-agricultural tenant to his immediately superior landlord;”.

Net income of a recusant proprietor under Chapter VA.

46D. Notwithstanding anything contained in clause (c) of section 46C, in the case of a recusant proprietor of a temporarily settled private estate, the *malikana* payable to such proprietor in the agricultural year immediately preceding the notified date shall be deemed to be the net income of such proprietor computed under the said clause.

Consequences of final publication of Compensation Assessment-roll under Chapter VA.

46E. Notwithstanding anything contained in Chapter II, on the publication of a notification under sub-section (2) of section 43, declaring that a Compensation Assessment-roll prepared under this Chapter; has been finally published,—

- (1) all tenants who became tenants directly under the Provincial Government under clause (e) of sub-section (4) of section 3 shall, with effect from the first day of the agricultural year next following the date of publication of such notification, pay to the Provincial Government rent for the lands held by them at the rates determined under this Chapter;
- (2) with effect from the first day of the agricultural year next following the date of such publication of such notification, the *ad interim* payments under section 6 or section 6A, in respect of the rent-receiving interests or lands for which compensation has been assessed in the Compensation Assessment-roll to which such notification relates, shall cease; and the total amount of *ad interim* payments made under sub-section (1) or (2) of section 6 in respect of any such interests or lands, less an amount calculated at the rate of three *per centum per annum* on the amount of compensation assessed for such interests or lands in such roll from the date from which such *ad interim* payments for such interests or lands became payable under sub-section (1) or (2) of section 6 till the last day of the agricultural year in which such notification is so published, shall be deducted from the amount of such compensation;

¹These words were inserted by E. B. Ordinance III of 1956, s. 11.

(Sections 46—48.)

¹[(3) with effect from the first day of the agricultural year next following the date of such publication of such notification, the interest of a rent-receiver in all lands in his *khas* possession of which he is not entitled to retain possession under section 20 and for which compensation has been assessed in such Compensation Assessment-roll shall, if not already acquired under sub-section (2) of section 3, be deemed to have been acquired by the Provincial Government and vest absolutely in the Provincial Government free from all incumbrances.]

CHAPTER VI.

Authorities for the preparation of Compensation Assessment-roll.

Revenue and Judicial authorities. 47. There shall be the following authorities for the purposes of this Part of this Act:—

- (a) the Commissioner of State Purchase;
- (b) the Director of Land Records and Surveys;
- (c) Settlement Officers and Assistant Settlement Officers;
- (d) other Revenue-officers;
- (e) Special Judges.

Appoint-ments and powers. 48. (1) The Commissioner of State Purchase shall be appointed by the Provincial Government.

(2) The Commissioner of State Purchase shall, in respect of the whole of East Bengal, exercise the powers conferred and perform the duties imposed on him by this Act and by such rules as may be made under this Act. He shall also exercise general powers of superintendence and control over the Director of Land Records and Surveys and through him over all other officers subordinate to him.

(3) The Director of Land Records and Surveys shall exercise such powers and perform such duties of a Revenue-officer under this Act or any rules made thereunder as may be conferred or imposed on him.

(4) The Provincial Government may appoint one or more persons who has or have exercised the powers of a District Judge or a Subordinate Judge to be a Special Judge or Special Judges for the purposes of hearing appeals which may be preferred to him or them under the provisions of this Act and of inquiring into disputes as to the title to receive any compensation under a Compensation Assessment-roll finally published under section 42 or as to the apportionment of any compensation referred to him under section 60.

¹This new clause was added, after substituting a semi-colon for the full stop at the end of sub-section (2) of section 46E, by E. B. Act XII of 1954, s. 12.

of 1951.]

(Sections 49—50.)

Revision of
Compensa-
tion Assess-
ment-roll.

¹[49. The Commissioner, or any officer not inferior in rank to that of a Collector of a district empowered in this behalf by the Commissioner, or a Settlement Officer so empowered, may, on application, direct the revision of any Compensation Assessment-roll or any portion of such roll and any record-of-rights or any portion of record-of-rights on the basis of which such roll has been prepared, at any time during the preparation of such roll and may direct such revision on an application made within three months from the date of final publication of such roll and may also, of his own motion, direct such revision at any time before payment of compensation, but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under sub-section (4) of section 52 or under section 53:

Provided that no such direction shall be issued unless not less than fifteen days' notice has been given to the parties concerned to appear and be heard in the matter.]

Correction
by Revenue-
officers of
bona fide
mistakes.

50. A Revenue-officer may, on application or of his own motion at any time before payment of compensation in accordance with a Compensation Assessment-roll under section 58, correct any entry in the record-of-rights prepared or revised and finally published under Chapter IV in respect of any area to which such Compensation Assessment-roll relates, or any entry in such Compensation Assessment-roll, if he is satisfied that such entry has been made owing to a *bona fide* mistake or correction of such entry is necessary as a result of succession to or transfer of the interest of a rent-receiver, cultivating *raiyyat*, cultivating under-*raiyyat* or non-agricultural tenant whose name appears in such roll as a person entitled to compensation:

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 51 or section 53 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

¹This section and the proviso to it were substituted for the original section 49 as amended by E. B. Act V of 1955, and the proviso thereto, by E. B. Ordinance III of 1956, s. 12.

The original section 49 as amended by E. B. Act V of 1955 and the proviso thereto read as follows:—

“49. The Commissioner, or any officer not inferior in rank to that of a Collector of a district, or a Settlement Officer, empowered in this behalf by the Commissioner may, on application or of his own motion, direct the revision of any Compensation Assessment-roll or any portion of such roll at any time during the preparation of such roll or within three months from the date of final publication of such roll but so as not to affect any order passed by the superior Revenue Authority under section 41 or by the Special Judge under section 51 or under section 53 or under sub-section (4) of section 52:

Provided that no such direction shall be issued unless not less than 15 days' notice has been given to the parties concerned to appear and be heard in the matter.”

(Sections 51—52.)

Appeal to the
Special Judge

51. (1) Any person, aggrieved by an order of the superior Revenue Authority under section 41 or of the Commissioner or other officer under section 49 may present an appeal against such order within sixty days from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates or of the order appealed against, whichever is later, to the Special Judge appointed under sub-section (4) of section 48.

(2) When a Revenue-officer refers under section 60 to any Special Judge any dispute which has arisen as to the title of any person to receive any compensation payable under the Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, such Special Judge shall inquire into such dispute and decide the same; and such decision shall, subject to the provisions of section 52, be final.

Statement of
case by
Special Judge
to the High
Court.

52. (1) Any party aggrieved by an order of the Special Judge may, within sixty days from the date of such order by application in the prescribed form accompanied, when the application is made by any party other than the Provincial Government, by a fee of fifty rupees, require the Special Judge to refer to the High Court any question of law arising out of such order; and the Special Judge shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that, if in the exercise of the powers under sub-section (2) the Special Judge refuses to state a case which he has been required by any party other than the Provincial Government to state, such party may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw the application; and if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Special Judge refuses to state the case on the ground that no question of law arises, the party who made such application may, within sixty days from the date on which such party is served with notice of the refusal, apply to the High Court; and the High Court may, if it is not satisfied of the correctness of the decision of the Special Judge, require the Special Judge to state the case and to refer it; and on receipt of any such requisition the Special Judge shall state the case and refer it accordingly.

(3) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the High Court may refer the case back to the Special Judge to make such additions thereto or alterations therein as the High Court may direct in that behalf.

of 1951.]

(Sections 52—56.)

(4) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Special Judge who shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(5) When a reference is made to the High Court, the costs shall be in the discretion of the Court.

Appeal to the
Special Judge

53. Any person aggrieved by an order of the Revenue Authority under sub-section (2) of section 19 passed on appeal filed in respect of the determination of rent or recording of possession of any land, or by an entry made in a record-of-rights under sub-section (2) of section 31 relating to the determination of rent or recording of possession of any land ¹[or by an order settling fair and equitable rent of any land under sub-section (2) of section 46A], may present an appeal against such order or entry, within three months from the date of the final publication under section 42 of the Compensation Assessment-roll to which such appeal relates, to the Special Judge appointed under sub-section (4) of section 48. The decision of the Special Judge on such an appeal shall, notwithstanding anything contained in section 52, be final.

Correction of
the Compensation
Assessment-
roll.

54. The Revenue-officer shall make such alterations in the records-of-rights or the Compensation Assessment-roll as may be necessary to give effect to any direction issued by the Commissioner or other officer under section 49 or an order made by a Special Judge under section 51 or section 53 or under sub-section (4) of section 52 or to any final order or decree of a Civil Court or High Court passed in any suit, appeal or proceeding declaring title to and, or possession of any land.

Application
of the Civil
Procedure
Code to
appeals
before and
enquiries by
a Special
Judge.

55. The provisions of the Code of Civil Procedure, V of 1908, 1908, shall, as far as may be, apply to all appeals presented to a Special Judge under sub-section (1) of section 51 or under section 53 and to all inquiries held by him under sub-section (2) of section 51.

Bar to raising
of certain
issues.

56. No party to a suit, appeal or proceeding in a Civil Court or High Court in respect of any land shall, notwithstanding anything elsewhere contained in this Act, be entitled to raise before a Revenue-officer, Revenue Authority, Special Judge or the Commissioner or any other officer under section 19, 40, 41, 49, 51, 53 or 60 any issue in respect of such land, which is substantially in issue in such suit, appeal or proceeding.

¹The expression within square brackets was inserted by E. B. Act VI of 1952, s.16.

(Sections 57—58.)

CHAPTER VIII.

Payment of Compensation.

Limits of,
and amount
payable as,
compensa-
tion.

57. (1) Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment-roll as finally modified under section 54, no rent-receiver shall be entitled to receive on account of compensation for the acquisition of his rent-receiving interests any amount in excess of the amount calculated on his total net income from all his rent-receiving interests in all estates, tenures, holdings and tenancies held by him within the Province at the rate applicable to such net income under section 37.

(2) When a rent-receiver holds rent-receiving interests in different areas, the Revenue-officer shall, before making payment under section 58 of the compensation payable to him under a Compensation Assessment-roll as finally modified under section 54 for the acquisition of his rent-receiving interests in any such area, ascertain in the prescribed manner if any amount has been paid to such rent-receiver on account of compensation for the acquisition of his rent-receiving interests in any other area or areas in excess of the amount admissible under sub-section (1) and, if any such excess payment is found to have been made, deduct the amount of such excess from the amount of the compensation payable to him under such roll for the acquisition of such interests:

Provided that no such deduction shall be made until a reasonable notice has been given to the rent-receiver to appear and be heard in the matter:

Provided further that an appeal, if presented within thirty days from the date of the order making such deduction, shall lie against such order to the prescribed superior Revenue Authority whose order thereon shall be final.

(3) When any amount is deducted under sub-section (2) from the amount of any compensation payable to a rent-receiver under a Compensation Assessment-roll for the acquisition of his rent-receiving interests, the balance, if any, remaining after such deduction shall, for the purpose of section 58, be deemed to be the compensation payable to such rent-receiver in respect of such interests in the terms of the said roll.

Manner of
payment of
compensa-
tion.

58. (1) When the time within which appeals under section 51 or under section 53 may be made in respect of any entry in or omission from a Compensation Assessment-roll has expired and, where any such appeal has been made under section 51, the time within which a reference may be made to the High Court under section 52 with regard to any order made by the Special Judge in relation to such appeal has also expired and all references made under section 52 in relation to all such appeals have been disposed of

(Section 58.)

and all orders under sub-section (4) of that section arising out of such references have been passed and, where any appeal has been made under section 53, such appeal has been disposed of, the Revenue-officer shall proceed to make payment to the proprietors, tenure-holders and other rent-receivers, and to any groups of proprietors, tenure-holders or other rent-receivers and to the cultivating *raiyats*, cultivating under-*raiyats* and other persons, who are shown in such Compensation Assessment-roll as finally modified under section 54 to be entitled to compensation, of the compensation payable to them in the terms of the said roll after deducting from the amount of any compensation so payable any amount which has been ordered by the Collector to be so deducted under clause (b), (c) or (d) of sub-section (4) of section 3 or clause (5), (6) or (7) of section 44 and also any amount to be deducted from such compensation under clause (8) of section 44 ¹[or clause (2) of section 46E] ²[or section 76B] and any amount recoverable from such compensation under Chapter X:

Provided that if a rent-receiver applied for scaling down his debts under Chapter X of this Act, only half of the total amount of compensation payable to him under a Compensation Assessment-roll, less any amount to be deducted under clause (b), (c) or (d) of sub-section (4) of section 3 or clause (5), (6), (7) or (8) of section 44 ¹[or clause (2) of section 46E] ²[or section 76B], shall be paid to him and the payment of the other half shall be withheld until such application is disposed of and all debts recoverable from compensation money under that Chapter are recovered in accordance with the provisions of sub-section (7) of section 71:

Provided further that no compensation payable to any person under a Compensation Assessment-roll for any land with building shall be paid till the Provincial Government takes *khas* possession of such land and building.

(2) The amount of compensation so payable shall be paid in cash or in bonds or partly in cash and partly in bonds. The bonds shall be non-negotiable and payable in not more than forty annual instalments to the person named therein or his successor-in-interest and shall carry interest at three *per centum per annum* with effect from the date of issue.

(3) If any person, entitled to receive such compensation in respect of any estate, tenure or holding or part thereof or any land, had no power to alienate such estate, tenure, holding, part or land, or if there be any dispute as to the

¹These words, figures, brackets and letter were inserted by E.B. Act VI of 1952, s.17.

²These words, figures and letter were inserted by E.B. Ordinance III of 1956, s.13.

(Sections 58—59.)

title to receive the compensation or as to the apportionment of it, the Revenue-officer shall keep the amount of compensation, or the bonds in which it is to be paid, in deposit with the Collector of the district:

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

(4) Notwithstanding anything contained in sub-sections (2) and (3), an annuity referred to in clause (3) of section 37 shall be paid to the Commissioner of Wakfs in the case of a *wakf* or *wakf-al-al-aulad* and to a trustee to be appointed in this behalf by the Provincial Government in any other case.

Money or bonds deposited in respect of estates, tenures, holdings or lands belonging to persons incompetent to alienate.

59. (1) If the amount of any compensation paid in bonds or in cash is deposited with the Collector of the district under sub-section (3) of section 58 and it appears to the Collector that the estate, tenure or holding or part thereof or any land in respect of which such amount has been awarded as compensation was held by any person who had no power to alienate the same, the Collector shall, where the amount is deposited in cash, order such amount to be invested in the purchase of such Government or other approved securities as the Collector thinks fit and shall direct the payment of the interest of such bonds or interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the interest in such estate, tenure, holding or part thereof or other land, as the case may be, if such interest had not vested in the Provincial Government under section 3 or section 44, and such bonds or securities shall remain so deposited until—

(a) they are made over to any person or persons becoming absolutely entitled thereto; or

(b) they are mature.

(2) If, when such bonds or securities are mature, there is no person or persons absolutely entitled thereto, the Collector shall direct the investment of the proceeds of such bonds or securities in the purchase of such Government or other approved securities as the Collector thinks fit; and the provisions of sub-section (1) shall apply to such investment and to the interest and other proceeds arising from such investment as they apply to the investment made under sub-section (1) of the amount of compensation deposited in cash with the Collector under sub-section (3) of section 58 and the interest and other proceeds arising out of such investment.

(3) In all cases of moneys, bonds and other securities deposited to which this section applies, the Collector of the

(Sections 59—60A.)

district shall order the costs of the following matters including therein all reasonable charges and expenses incidental thereto, to be paid by the Provincial Government, namely:—

- (a) the cost of such investments as aforesaid;
- (b) the cost of the orders for the payment of the interest or other proceeds of securities upon which such moneys are for the time being invested or of such bonds or other securities, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

(4) When any annuity is paid as compensation under sub-section (4) of section 58 to the Commissioner of Wakfs, the Commissioner of Wakfs shall pay the same to the *Mutawalli* or other person or persons who would for the time being have been entitled to the possession of the wakf property in respect of which such compensation has been awarded; and when any amount is paid as compensation under the said sub-section to a trustee appointed in this behalf by the Provincial Government, such trustee shall pay the same to the *Shebait* or other person or persons who would for the time being have been entitled to the possession of the trust property in respect of which such compensation has been awarded; and all costs for the payment of every such annuity under this sub-section shall be paid by the Provincial Government:

Provided that the Commissioner of Wakfs or the Trustee may withhold the payment of the whole or any portion of such annuity until he is satisfied that the amount of annuity paid in the preceding year under sub-section (4) of this section has been spent for the purpose for which such amount was paid.

Dispute as to title or apportionment.

60. If any dispute arises as to the title of any person to receive any compensation payable under a Compensation Assessment-roll or as to the apportionment of any such compensation or any part thereof, the Revenue-officer may refer such dispute to the Special Judge appointed under sub-section (4) of section 48 to enquire into such disputes for decision.

Certain sections not applicable to future acquisition.

¹[**60A.** The provisions of clause (c) of sub-section (4) of section 3, clause (7) of section 44 and sections 61 to 68 shall not apply in the case of acquisition of rent-receiving interests on or after the date of coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.]

¹This section was added by E. B. Ordinance III of 1956, s. 14.

(Sections 61—64.)

CHAPTER IX.

Provisions relating to arrears of revenue, rent and cesses.

Definition of
arrears.

61. For the purpose of clause (c) of sub-section (4) of section 3 or clause (7) of section 44, the expression "arrears" shall include the arrears in respect of which suits were pending on the date or day, as the case may be, referred to in the said clauses or in respect of which decrees, whether having the effect of a rent-decree or money-decree, were obtained before the said date or day and have not been satisfied and are not barred by limitation and shall also include the costs allowed by such decrees.

Payment and
realisation of
arrears.

62. (1) All arrears of rent and all cesses and interest, which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3, or under clause (7) of section 44, shall be payable to the Provincial Government and not to anybody else; and no payment made in contravention of this sub-section shall be valid.

(2) Subject to the provisions of sections 63, 64 and 65, all such arrears of rent and cesses and interest and all arrears of revenue and all cesses and interest referred to in clause (b) of sub-section (4) of section 3 or in clause (5) of section 44 ¹[may, without prejudice to any other mode of recovery,] be recoverable by the Revenue-officer under the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Provision re-
garding pend-
ing suits and
proceedings.

63. If ²[any suit by a rent-receiver or rent-receivers] for the recovery of any arrears which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 or any proceeding in execution of a decree for the recovery of any such arrears is pending before any Civil Court on the date or day, as the case may be, referred to in the said clauses, such suit or proceeding, ³[where such rent-receiver was the sole landlord or such rent-receivers constituted the entire body of co-sharer landlords,] shall not be further proceeded with and shall be deemed to have been withdrawn, and any such decree may be executed as if it were a certificate filed under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of
1913.

Realisation
of arrears
in respect of
lands held
by tenants
under Gov-
ernment.

⁴64. (1) A certificate or decree for the recovery of any arrears of rent to the recovery of which the provisions of this Chapter apply shall not, in the case where the certificate or judgment-debtor is a tenant under the Provincial Government and where the arrears covered by such certificate or

¹These words and commas were substituted for the word "shall" by E. B. Act VI of 1952, s. 18.

²These words were substituted for the words "any suit or proceedings" by section 19, *ibid*.

³These words and comma and the comma preceding them were inserted by section 19, *ibid*.

⁴The original section 64 was numbered as sub-section (1) of the same section by section 20, *ibid*.

of 1951.]

(Sections 64—67.)

decree relate to any ¹[holding or land] held by such tenant, be executed by arresting the certificate or judgment-debtor and detaining him in the Civil prison or by the attachment and sale of any movable or immovable property other than the ¹[holding or land] to which such arrears relate.

²[(2) If the holding or land to which such arrears relate has, before the execution of such certificate or decree, been sold in execution of any other decree or certificate, such arrears shall, notwithstanding anything contained in any other law for the time being in force, be a charge on such holding or land.]

Sale of lands held by tenants under Government for arrears.

65. Where any certificate or decree is executed under this Chapter by the attachment and sale of any land which is held by the certificate or judgment-debtor as a tenant under the Provincial Government, such sale shall, ³[in areas where Part V applies,] be subject to the provisions of section 90.

Power to grant instalments and stay execution.

66. It shall be competent for the Certificate Officer in executing any certificate or decree under this Chapter to order the payment of the amount of such certificate or decree to be made by the certificate or judgment-debtor by instalments within a period not exceeding three years from the date of such order and to stay the execution of the certificate or decree for such period:

Provided that in default of payment of any instalment, the certificate or decree may be executed for the whole of the outstanding balance thereof.

Payment to outgoing rent-receivers

67. The Provincial Government shall pay to an outgoing rent-receiver to whom any arrears of rent and cesses and interest which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44 were due immediately before the date or day, as the case may be, referred to in the said clauses a sum equivalent to fifty *per centum* of ⁴[such arrears excluding interest], as computed in the manner prescribed, by way of compensation within a period not exceeding four years from the said date or day in such manner and in such instalments as may be prescribed:

⁵[Provided that before making such payment, the Provincial Government may, after giving the outgoing rent-receiver an opportunity of being heard, deduct from such sum any debts and dues payable to Government by such rent-receiver.]

¹These words were substituted for the word "land" by E.B. Act VI of 1952, s. 20.

²This new sub-section was added by section 20, *ibid*.

³These words, figure and comma, and the comma preceding them were inserted by section 21, *ibid*.

⁴These words were substituted for the words "such arrears and interest" by section 22, *ibid*

⁵This proviso was added, after substituting a colon for the full stop at the end of section 67, by section 22, *ibid*.

(Sections 68—68A.)

Computation of the period of limitation.

68. Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the recovery under this Chapter of any arrears which have vested in the Provincial Government under clause (c) of sub-section (4) of section 3 or under clause (7) of section 44, a period of ¹[twenty-four] months on and from the date or day, as the case may be, on which such arrears have so vested under the said clauses and, where a suit or proceeding referred to in section 63 filed for the recovery of any such arrears was pending before any Civil Court, also the period for which such suit or proceeding was so pending, shall be excluded.

[CHAPTER IXA.]

Special provisions relating to arrears of rent.

Procedure for realisation of arrears of rent by an outgoing rent-receiver.

68A. (1) Notwithstanding anything contained in any other law for the time being in force or elsewhere in this Act, no suit shall lie in any Civil Court for the recovery, by any rent-receiver whose interests in any estate, *taluk*, tenure, holding or tenancy or any part thereof have become vested in the Provincial Government under section 3 or section 44, of any arrears of rent and cesses due to such rent-receiver from his tenant in respect of such interests for any period prior to the date of vesting and, instead, such rent-receiver shall follow the procedure laid down in this section for the recovery of such arrears:

Provided that nothing in this sub-section shall apply to any suit instituted by any such rent-receiver for the recovery of any such arrears which is pending in any Court on the date of vesting of such interests and, subject to the provisions of section 68B, such suit shall be proceeded with and disposed of in accordance with the law which was applicable at the time of its institution.

(2) Any such rent-receiver may make a requisition in writing in the prescribed form and in the prescribed manner and within the prescribed period for the recovery of such arrears to such Revenue-officer as the Provincial Government may appoint for the purposes of this Chapter to perform the functions of a Certificate Officer under the Bengal Public Demands Recovery Act, 1913, and every such requisition shall be accompanied by the prescribed fee.

Ben. Act
III of
1913.

(3) On receipt of such requisition, the said Revenue-officer shall proceed in accordance with the provisions of the Bengal Public Demands Recovery Act, 1913, and the rules made thereunder and all proceedings before such Revenue-officer for the recovery of such arrears shall proceed at the instance of such rent-receiver and at his cost and responsibility and not otherwise:

Ben. Act
III of
1913.

¹This word was substituted for the word "twelve" by E. B. Act V of 1953, s. 4.

²This Chapter containing sections 68 A and 68B was added by E. B. Ordinance III of 1956, s. 15

of 1951.]

Provided that no such certificate in the case where the certificate-debtor is a tenant under the Provincial Government shall be executed by arresting such tenant and detaining him in the civil prison or, where the arrears of rent and cesses in respect of which the certificate has been signed relate to any land in the *khas* possession of such tenant, by the attachment and sale of any movable or immovable property other than such land:

Provided further that where any such certificate is executed by the attachment and sale of any land which is held by the certificate-debtor as a tenant under the Provincial Government, such sale shall be subject to the provisions of section 90:

Provided further that it shall be competent to the said Revenue-officer in executing any such certificate to order the payment of the amount of such certificate to be made by the certificate-debtor by instalments within a period not exceeding four years from the date of such order and to stay the execution of the certificate for such period.

Execution of decrees for arrears of rent obtained by an outgoing rent-receiver.

68B. (1) When a decree for arrears of rent and cesses referred to in sub-section (1) of section 68A has been passed, whether before or after the date on which the interests of a rent-receiver have vested in the Provincial Government under section 3 or section 44, in any suit instituted before the said date by such rent-receiver for the recovery of such arrears, such decree shall, notwithstanding anything contained in any other law for the time being in force, be executed in the manner provided in this section and not otherwise.

(2) Every such decree-holder may apply in the prescribed manner and within the prescribed period to the Revenue-officer referred to in sub-section (2) of section 68A for the execution of such decree and such Revenue-officer shall, on receipt of such application, if satisfied that the decree is not barred by limitation, execute such decree as if it were a certificate under the Bengal Public Demands Recovery Act, 1913 and the provisions of sub-section (3) of section 68A shall apply to the execution of such decree.

Ben. Act
III of
1913.

(3) Where any proceedings in execution of a decree referred to in sub-section (1) is pending in any Court on the date on which the interests of such decree-holder have become vested in the Provincial Government under section 3 or section 44, such execution proceedings shall abate and such decree-holder may apply for the execution of such decree in the manner provided in sub-section (2).]

(Sections 69—70.)

CHAPTER X.

Provisions relating to indebted rent-receivers.

Bar to execution of certain decrees and orders for the recovery of certain debts of rent-receivers.

69. (1) After the commencement of this Act, no Civil Court shall entertain any suit or execute any decree or order against any property of any rent-receiver, for the recovery of any debt which is liable to be scaled down under section 70, until all the interests of such rent-receiver which are liable to be acquired under this Act have been so acquired and compensation in respect of the acquisition of all such interests have been paid or deposited under section 58:

¹[Provided that if any rent-receiver fails to apply for the scaling down of his debts within the period mentioned in sub-section (1) of section 70, the provision of this sub-section shall cease to apply to his debts on the expiry of the said period.]

(2) Notwithstanding anything contained in any other law for the time being in force, in calculating the period of limitation applicable to a suit or an application for the execution of a decree or order, the time during which the institution of such suit or the execution of such decree or order is barred under sub-section (1) shall be excluded.

(3) The amount of any debt recoverable under any decree or order the execution of which is barred under sub-section (1) shall be deemed to be reduced, if any such debt has been scaled down under section 70, by the amount by which such debt has been so scaled down.

Scaling down of debts and recovery thereof.

70. (1) After the interests of a rent-receiver in a district, part of a district or local area have been acquired under this Act, the debts incurred by such rent-receiver before the 7th day of April, 1948, other than arrears of revenue, rent or cesses and other than debts and dues payable to the Provincial or Central Government or to a Co-operative Society ²[and also other than loans advanced for financing tea industry], shall, notwithstanding anything contained in any other law for the time being in force, be scaled down in the following manner, if the rent-receiver has applied in the prescribed manner for scaling down his debts to the Revenue-officer authorised under sub-section (1) of section 71 within 3 months of the publication under section 42 of the Compensation Assessment-roll in respect to his interests or lands which have been acquired first under section 3 or section 44:—

(a) in the case of a debt secured by a mortgage or charge on the interests of a rent-receiver which have been acquired under the provisions of this

¹This proviso was added, after substituting a colon for the full stop at the end of sub-section (1) of section 69, by E. B. Ordinance III of 1956, s. 16.

²These words were inserted by E. P. Act IV of 1956, s. 2.

of 1951.]

(Section 70.)

Act, the debt shall be scaled down proportionately to the reduction in the net income suffered by such a rent-receiver as a result of the acquisition of the interests concerned;

- (b) in the case of a debt secured by a mortgage or charge partly on the interests of a rent-receiver which have been acquired under this Act and partly on other properties which have not been so acquired under this Act, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, as calculated in the manner prescribed, from the interests mortgaged or charged which have been acquired bears to the net annual income from the properties mortgaged or charged which have not been so acquired; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction of the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned;
- (c) in the case of a debt not secured by any mortgage or charge on any interest or property, whether immovable or movable, of the rent-receiver, the debt shall be divided into two parts in the same ratio as the net annual income of the rent-receiver, calculated in the manner prescribed, from the interests, which have been acquired under this Act, bears to the net annual income of the rent-receiver from the properties which have not been so acquired and from other sources; and the part of the debt proportionate to the net annual income from the interests which have been acquired shall be scaled down proportionately to the reduction in the net annual income suffered by the rent-receiver as a result of the acquisition of the interests concerned:

Provided that no portion of the debt of any rent-receiver shall be scaled down if the total of the debts apportioned under clauses (a), (b) and (c) on the interests or lands of the rent-receiver acquired under this Act be less than one-fourth of the total amount of the compensation money payable under this Act to such rent-receiver:

Provided further that the debts liable to be scaled down under this section shall not be scaled down to an amount less than one-fourth of the total amount of such compensation money.

(Section 70.)

¹[(1a). Notwithstanding anything contained in sub-section (1), a rent-receiver, in respect of whose interest the Compensation Assessment-roll has been published under section 42 on or before the 15th day of March, 1955, may apply in the manner and to the officer laid down in that sub-section for scaling down his debts referred to therein within three months from the coming into force of the East Bengal State Acquisition and Tenancy (Amendment) Ordinance, 1956.]

E. B. ord.
III of
1956.

(2) If any rent-receiver holds lands and other immovable properties, including those which will not be acquired under this Act, in different areas, then, notwithstanding anything contained in this section, action shall not be taken for the scaling down of the debts under this section until a Compensation Assessment-roll or Compensation Assessment-rolls in respect of all such areas has or have been prepared under ²[this Act] and finally modified under section 54.

(3) The extent of reduction in the net income of a rent-receiver referred to in clauses (a), (b) and (c) of sub-section (1) shall be determined in accordance with the rules made in this behalf by the Provincial Government.

(4) The net annual income referred to in clauses (b) and (c) of sub-section (1) from the properties which have not been acquired under this Act and the income from other sources shall be calculated in accordance with the rules made in this behalf by the Provincial Government.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract,—

- (a) no creditor shall be entitled to recover in respect of any debt referred to in clause (a) of sub-section (1) any sum in excess of the debt as scaled down under that sub-section; and the liability of the rent-receiver for the balance of the debt shall be extinguished;
- (b) no creditor shall be entitled to recover from the rent-receiver, in respect of the part of any debt which has been apportioned under clauses (b) and (c) of sub-section (1) to the interests of the rent-receiver which have been acquired under this Act, any sum in excess of the amount to which such part of the debt has been scaled down under clauses (b) and (c) of sub-section (1); and the liability of the rent-receiver for the balance of such part of the debt shall be extinguished:

¹This new sub-section was added by E. B. Ordinance III of 1956, s. 17.

²These words were substituted for the word and figure "Chapter V" by E. B. Act VI of 1952, s. 23.

of 1951.]

(Sections 70—71.)

Provided that the aggregate of all debts of a rent-receiver so reduced under clauses (a), (b) and (c) of sub-section (1) shall be recoverable only from the compensation money payable for the acquisition of all his interests under this Act, and shall be limited to and shall not exceed half of the total compensation money so payable:

Provided further that no portion of the debt of a rent-receiver apportioned under clause (b) or (c) of sub-section (1) on his properties which have not been acquired, and no portion of his debt secured entirely by a mortgage or charge on such properties, shall be recoverable from any compensation money payable to such rent-receiver under this Act; and

(c) subject to the first proviso to clause (b), in the matter of recovery of debts from compensation money, the debts secured by the mortgage or charge on the interests of the rent-receiver in any land or other immovable property shall have preference in the sequence in which such mortgage or charge was created over the debts not so secured; and any amount available after payment of the debts so secured shall be rateably distributed for payment of the debts not so secured.

¹[*Explanation.*—For the purpose of this section, the lands retained by a rent-receiver under the provisions of section 20 shall be deemed as not acquired under the Act.]

Provincial Government to authorise Revenue-officer to take action under section 70.

71. (1) It shall be competent to the Provincial Government to authorise any Revenue-officer to scale down the debts of rent-receivers in any area under section 70 and to take other actions required or permitted by that section.

(2) A Revenue-officer, authorised under sub-section (1), shall publish in the prescribed manner a notice calling upon every creditor to submit to him within a prescribed period and in a prescribed form a statement showing all debts of the nature referred to in sub-section (1) of section 70 owed to him by the rent-receivers in such area whose interests have been acquired under section 3 or section 44 and who have applied under sub-section (1) of section 70 for scaling down their debts and such other particulars as may be prescribed.

(3) A creditor who has failed to submit under sub-section (2), within the period referred to therein, the statement of any debt of the nature referred to in sub-section (1)

¹This explanation was added by E. P. Act IV of 1956, s. 2.

(Sections 71—73.)

of section 70, the liability of the debtor to pay such debt shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be extinguished.

(4) After the expiry of the period referred to in sub-section (2), the Revenue-officer shall examine the statements of debts and other particulars submitted under that sub-section and shall, after giving the creditors and the debtors an opportunity of being heard and making such enquiries as he deems fit, make necessary modification in such statements.

(5) After a statement of debts has been examined and necessary modifications made therein under sub-section (4), the Revenue-officer shall proceed to scale down all debts shown in such statement as so modified in accordance with the provisions of section 70 and to take other actions in respect of such debts required or permitted by that section and in doing so and taking all other actions required or permitted by this Chapter the Revenue-officer shall follow such rules relating to procedure and other matters as may be made in this behalf by the Provincial Government.

(6) An appeal, if presented within a prescribed period, shall lie against an order passed by a Revenue-officer under this section to a Special Judge appointed under sub-section (4) of section 48; and the decision of the Special Judge and subject only to such decision an order of the Revenue-officer shall be final.

(7) A debt recoverable under this Chapter from the total compensation money payable to the debtor under a Compensation Assessment-roll or Compensation Assessment-rolls shall be so recoverable in the manner prescribed.

CHAPTER XI.

Miscellaneous.

Bar to jurisdiction of Civil Courts in certain matters.

72. Save as expressly provided in this Part, no suit shall be brought in any Civil Court in respect of the preparation, signing and publication of a Compensation Assessment-roll or any part thereof under Chapter V¹ [or Chapter VA] or in respect of any entry in or omission from such roll or in respect of any order passed under Chapters V to X concerning any matter which is or has already been the subject of any application made or proceedings taken under those Chapters.

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

73. A Revenue-officer, subject to any rules made under this Act, may at any time between the hours of sunrise and sunset enter upon any land with such officers or servants as he considers necessary, and make a survey 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.

¹These words, figure and letter were inserted by E. B. Act VI of 1952, s. 24.

of 1951.]

(Sections 74—75B.)

Power to compel production of Statements and documents.

74. (1) Subject to 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 estate, tenure, holding or land at a time or place specified in the notice.

(2) Every person required to make or deliver a statement or to 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 Pakistan Penal Code.

Act XLV of 1860.

Power to enforce attendance of witnesses and production of documents.

75. For the purposes of any enquiry under this Act, a Revenue-officer shall have power to summon and enforce the attendance of witnesses or of any person having an interest in any estate, tenure, holding or 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 Civil Court under the Code of Civil Procedure, 1908.

Act V of 1908.

Prohibition of subletting.

1[75A. (1) On and from the date of publication of a notification under sub-section (3) of section 17 or under sub-section (1) of section 31, no person shall sublet any land in his *khas* possession in the area to which such notification relates.

(2) Any subletting made in contravention of sub-section (1) shall be null and void ²[and the land so sublet shall be forfeited to the Provincial Government.]

³[(3) Any person may, at any time, apply to the Provincial Government for the acquisition of any of his *khas* lands under sub-section (2) of section 3 on payment of compensation at the rate prescribed for such land in section 39.]

Fees for application for enquiry.

4[75B. An application for fresh enquiry during the preparation or revision of records-of-rights or preparation of Compensation Assessment-rolls under this Act shall be accompanied by such fee as may be prescribed.]

¹This section was inserted by E. B. Act XII of 1954, s. 13.

²These words were added by E. P. Act IV of 1956, s. 3.

³This sub-section was substituted for the former sub-section (3) by section 3, *ibid*. The former sub-section (3) read as follows:—

“(3) Nothing in sub-sections (1) and (2) shall apply to the subletting of any land purchased by a landlord in execution of a rent decree or surrendered or abandoned under the provisions of the Bengal Tenancy Act, 1885, or the Sylhet Tenancy Act, 1936, when such land is sublet at a rent not more than the rent which was payable for such land by the outgoing tenant.”

⁴This new section was added by E. B. Ordinance III of 1956, s. 18.

(Sections 76—76A.)

Settlement
and use
of land
vested in the
Provincial
Government.

76. (1) Except as otherwise expressly provided in this Act, any land which vests in the Provincial Government under any of the provisions of this Act shall be absolutely at the disposal of the Provincial Government; and the Provincial Government shall be competent to make settlement of such land in accordance with such rules as it may make in this behalf or to use or otherwise deal with such land in such manner as it thinks fit:

Provided that no land shall be settled with a person unless he is a person to whom transfer of land can be made under section 90:

Provided further that in making settlement of any cultivable land preference shall be given to an applicant for settlement who cultivates land by himself or by the members of his family and holds a quantity of cultivable land which, added to the quantity of cultivable land, if any, held by the other members of his family, is less than three acres.

(2) No Civil Court shall entertain any application or suit concerning any matter relating to the settlement, by any officer of the Provincial Government, of any land under sub-section (1).

Explanation.—For the purposes of this section, the definition of “family” as given in the explanation under section 20 shall apply *mutatis mutandis*.

Creation of
separate
estate and
apportion-
ment of
revenue.

¹[76A. Notwithstanding anything contained in any other law for the time being in force or in any contract,—

(1) when the interests of a rent-receiver or rent-receivers in a share or part of any estate have been acquired by the Provincial Government under sub-section (1) of section 3 or clause (1) of section 44, nothing in the Bengal Land Revenue Sales Act, 1859 or in Chapter V of the Assam Land and Revenue Regulation, 1886, shall apply to such share or part, and the remaining share or part of such estate shall be deemed to constitute a separate estate for the purpose of the aforesaid Act or Regulation, as the case may be; and

Ben. Act
XI of
1859.

Assam
Regn. I
of 1886.

(2) the land-revenue and cesses payable for the parent estate shall be apportioned, between the acquired share or part and the separate estate constituted under clause (1), according to the following principles, namely:—

(a) when an acquired share consists of a separate account or separate accounts, the land-revenue and cesses of such separate estate shall be equivalent to the difference between

¹This new section was added by E. B. Act XII of 1954, s. 14.

of 1951.]

(Sections 76A—77.)

the land-revenue and cesses payable for the parent estate and the land-revenue and cesses fixed for the acquired separate account or accounts;

(b) when an acquired share does not consist of a separate account, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the share comprised in the separate estate bears to the parent estate;

(c) when an acquired share consists of a specific portion of the land of an estate having no separate account or when a part of an estate is acquired, the land-revenue and cesses of such separate estate shall bear the same proportion to the land-revenue and cesses of the parent estate as the area of the land comprised in the separate estate bears to the area of the entire land comprised in the parent estate;]

¹[(3) When the interests in a portion of a tenure, holding or other tenancy have been acquired under this Act and such portion consists of a definite share, the rent of such tenure, holding or tenancy shall be apportioned between the acquired and unacquired portions according to such share, but when it does not consist of a definite share, the Revenue-officer may apportion the rent of such tenure, holding or tenancy between the acquired and unacquired portions on the basis of the area or value as may appear to him fair and equitable.]

Recovery of advance rent or bid money realised by outgoing rent-receivers.

²[76B. When the Revenue-officer is satisfied that a rent-receiver, whose interests have been acquired under this Act, has realised any amount on account of the rent or bid money or consideration money in respect of any such interests for any period subsequent to such acquisition, he may recover such amount or any part thereof from such rent-receiver as a public demand.]

Protection of action taken under this Act.

77. (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.

¹This new clause was added, after substituting a semi-colon for the full stop at the end of clause (2) of section 76A, by E. B. Ordinance III of 1956, s. 19.

²This new section was added by section 20, *ibid*.

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(Sections 77—78.)

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Provincial 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 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.

78. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of Parts II, III and IV 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 following matters, namely:—

- (a) the forms of the notifications referred to in sub-section (3) of section 3 and the particulars which such notifications shall contain;
- (b) the manner of service of the notice and the form of the return referred to in sub-section (1) of section 4;
- (c) the time and manner of receiving an *ad interim* payment referred to in sub-sections (1) and (2) of section 6;
- (d) the determination of the amounts of deductions referred to in sub-section (4) of section 6;
- (e) the manner of and the period for filing appeals referred to in section 7;
- (f) the manner of recovery of fines referred to in section 8;
- (g) the authority referred to in sub-section (1) of section 9;
- (h) the form of the applications referred to in section 15, the particulars which such applications shall contain and the amounts of process fees which shall accompany such applications;
- (i) the manner of preparing or revising a record-of-rights under section 17 and the procedure to be followed and the powers to be exercised by Revenue-officers in preparing or revising such record-of-rights;
- (j) the particulars to be recorded in the record-of-rights to be prepared or revised under section 17;
- (k) the manner and period of publication of the draft record-of-rights under sub-section (1) of section 19;
- (l) the Revenue Authority to whom, the manner in which and the period within which an appeal under sub-section (2) of section 19 may be preferred;

of 1951.]

(Section 78.)

- (m) the disposal of objections and appeals under section 19;
- (n) the manner of publication of the record-of-rights under sub-section (3) of section 19;
- (o) the period for exercise of choice under sub-section (3) of section 20 and the manner of allotment of lands under the said sub-section when no choice is exercised;
- (p) the manner of selection of lands under clause (ii) of sub-section (5) of section 20 which shall come within the purview of sub-clause (c) of clause (i) of the said sub-section;
- (q) the manner of and the procedure for revising the particulars referred to in sub-section (2) of section 31 and the powers to be exercised by Revenue-officer for the purpose;
- (r) the form of a Compensation Assessment-roll under section 33, the manner of preparing it and the particulars to be specified therein;
- (s) the manner of calculation of the sums and determination of the expenditure and charges referred to in sub-section (2) of section 35;
- (t) the procedure to be followed in the apportionment of the compensation between the holder of a temporary tenure or tenancy and his immediately superior landlord under clause (2) of section 37;
- (u) the manner of and the procedure for the calculation of compensation and preparation of Compensation Assessment-rolls in cases referred to in section 38;
- (v) the manner of determination of the annual letting value of lands referred to in items (e) and (f) and the manner of determination of the actual cost of construction and the amount on account of depreciation referred to in item (f) of the table in sub-section (1) of section 39;
- (w) the manner of determination of the normal annual produce of land under clause (a) of sub-section (3) of section 39;
- (x) the manner of determination of the cost of cultivation referred to in sub-clause (i) of clause (b) of sub-section (3) of section 39;
- (y) the manner of determination of net annual profit from fisheries referred to in sub-section (4) of section 39;
- (z) the procedure to be followed in making the apportionment of compensation referred to in sub-section (5) of section 39;

(Section 78.)

- (za) the manner and period of publication of a draft Compensation Assessment-roll under sub-section (1) of section 40 and disposal of objections under that sub-section;
- (zb) the Revenue Authority to whom appeals under section 41 are to be preferred and disposal of appeals under that section;
- (zc) the manner of publication of a Compensation Assessment-roll under section 42;
- (zd) the manner of publication of a proclamation under section 45;
- (ze) the assignment under sub-section (1) of section 46 of numbers to be borne on the revenue-roll of a district in respect of areas to which a record-of-rights referred to in that sub-section relates and the manner in which copies of record-of-rights shall be distributed under sub-section (2) of that section;
- (zf) the powers and duties of the Commissioner of State Purchase referred to in sub-section (2) of section 48;
- (zg) the powers and duties of the Director of Land Records and Surveys referred to in sub-section (3) of section 48;
- (zh) the form of application referred to in sub-section (1) of section 52 or in section 53;
- (zi) the manner of ascertaining excess payment under sub-section (2) of section 57 and the superior Revenue Authority referred to in the second proviso to that sub-section;
- (zj) the manner of computing the sum referred to in section 67 and the manner and instalments for its payment to an outgoing rent-receiver under the said section;
- (zk) the manner of application under sub-section (1) of section 70;
- (zl) the manner of and the procedure for the determination of the extent of reduction in the net income referred to in sub-section (3) of section 70;
- (zm) the manner of and the procedure for the calculation of the net annual income and the income referred to in sub-section (4) of section 70;
- (zn) the manner of publication of a notice under sub-section (2) of section 71 and the form in which and the period within which a statement referred to in that sub-section is to be submitted and the particulars which such statement shall contain;
- (zo) the rules referred to in sub-section (5) of section 71;

of 1951.]

(Sections 78—81.)

- (zp) the period for presenting an appeal under sub-section (6) of section 71;
- (zq) the manner of recovery of debts under sub-section (7) of section 71;
- (zr) the procedure and conduct of the Revenue-officers and of officers and servants referred to in section 73;
- (zs) the exercise of powers under sub-section (1) of section 74 to enforce the making and delivery of statements and production of records or documents;
- (zt) the rules for settlement of lands referred to in section 76.

PART V.

CHAPTER XII.

Application of this Part and Class of agricultural tenants.

Commence-
ment of this
Part.

¹[79. This Part shall come into force in such areas and on such dates as the Provincial Government may, by notification, direct.]

Repeal.

²[80. On and from the date of coming into force of this Part in any area, the enactments specified in the Schedule shall be repealed in that area to the extent mentioned in the fourth Column of the Schedule.]

Class of agri-
cultural
tenants and
regulation
of their
rights and
liabilities.

³[81. (1) On and from the date of coming into force of this Part in any area, there shall, within that area, be only one class of tenants of agricultural land, namely, *rai-yats*, and the rights and liabilities of every such *rai-yat* shall be regulated by the provisions of this Part.]

¹This section was substituted for the original section 79 by E.B. Act VI of 1952, s. 25. The original section 79 read as follows:—

“79. This Part shall not apply to any area unless a notification has been published under sub-section (2) of section 43 declaring that a Compensation Assessment-roll in respect of such area has been finally published, and shall come into force in such area on and from the first day of the agricultural year next following the date of publication of such notification in the *Official Gazette*.”

²This section was substituted for the original section 80 by E.B. Act VI of 1952, s.26. The said original section 80 read as follows:—

“80. On and from the first day of the agricultural year next following the date of publication of a notification in the *Official Gazette* under sub-section (2) of section 43 declaring that a Compensation Assessment-roll has been finally published, the enactments specified in the Schedule shall, in the area to which such roll relates, be repealed to the extent mentioned in the fourth column thereof.”

³This sub-section was substituted for the original sub-section (1) of section 81 by section 27, *ibid*. The said original sub-section (1) read as follows:—

“(1) On and from the first day of the agricultural year immediately following the publication of a notification in the *Official Gazette* under sub-section (2) of section 43 declaring that a Compensation Assessment-roll has been finally published, there shall, within the area to which such roll relates, be only one class of tenants of agricultural land, namely, *rai-yats*, and the rights and liabilities of every such *rai-yat* shall be regulated by the provisions of this Part.”

(Sections 82—84.)

(2) The provisions of this Part except those in Chapters XIII, XVI, XVII, XVIII and XIX shall not apply to tenants of land in so far as they are tenants of non-agricultural lands;

(3) The provisions of Chapters XIII, XVI, XVII, XVIII and XIX shall apply to the tenants of non-agricultural lands so far as such provisions are applicable to such tenants.

Interpreta-
tion.

82. In this Part,—

- (1) "*bona fide* cultivator" means a person who cultivates land by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*, and also includes an agricultural labourer;
- (2) "*raiyat*" means a person who, by virtue of section 44 or otherwise, has acquired a right to hold land directly under the Provincial Government mainly for the purpose of cultivating it by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*, and includes also the successors-in-interest of persons who have acquired such a right; and
- (3) the family of a *raiyat* includes all persons living in the same mess with him and dependent upon him but does not include any servant or labourer.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

CHAPTER XIII.

Incidents of holdings of raiyats, and transfer, purchase and acquisition of lands.

Rights of
raiyat in res-
pect of use
of land.

83. A *raiyat* shall have the right to occupy and use the land comprised in his holding in any manner he likes.

Devolution
of holding
on the death
of a *raiyat*.

84. If a *raiyat* dies intestate his holding shall subject to, and in a manner not inconsistent with, the provisions of this Act, descend in the same manner as his other immovable property:

Provided that in any case in which under the law of inheritance, to which the *raiyat* is subject, his other property goes to the State, his interest in the holding shall be extinguished.

of 1951.]

(Sections 85—87.)

Ground for
eviction of
rai-yats.

85. A *rai-yat* shall not be ejected from his holding or from any part of his holding, except in execution of a decree for ejectment from the whole holding or from any part of the holding, as the case may be, passed by a Civil Court, on the ground that he has done any act in contravention of the provisions of this Act with respect to the whole holding or the part concerned.

Abatement
of rent on
account of
diluvion and
re-entry into
lands which
re-appear.

86. (1) If the lands of a holding or a portion of such lands are lost by diluvion, the rent of the holding shall, on application made by the tenant in the prescribed form to the Revenue-officer, be abated by such amount as may be considered by the Revenue-officer to be fair and equitable in accordance with the rules made in this behalf by the Provincial Government.

(2) Notwithstanding anything contained in any other law for the time being in force, the right, title and interest of the tenant or his successors-in-interest shall subsist in such lands or portion thereof during the period of loss by diluvion, not exceeding twenty years, whether partly before and partly after or wholly after the commencement of this Part; and the tenant or his successors-in-interest shall have the right to immediate re-possession on the re-appearance of such lands or portion thereof within twenty years of their loss by diluvion, and be liable to pay such fair and equitable rent in respect thereof as may be settled by the Revenue-officer:

Provided that, when the lands or portion thereof which have so re-appeared added to the total area of land already in the possession of such tenant or his successors-in-interest exceed the area of land which the tenant was allowed to retain in his possession under section 20, or the limit laid down in section 90, whichever be greater, such tenant or his successors-in-interest shall not have the right to re-possession of such excess area of land; and such excess area shall vest in and be at the disposal of the Provincial Government:

Provided further that allotment of lands, of which such tenant or his successors-in-interest are entitled to re-possession under the above proviso, shall be made according to the choice of such tenant or his successors-in-interest.

Rights in
land gained
by gradual
accession
from recess
of river or
sea.

87. (1) Notwithstanding anything contained in any other law for the time being in force, when any land has been gained by gradual accession, whether from the recess of a river or of the sea, it shall, subject to the provisions of sub-section (2), be considered an increment to the holding of the *rai-yat* to whose land it is thus annexed; and such *rai-yat* shall be entitled to hold such land subject to the payment of such fair and equitable rent as may be determined for such land by the Revenue-officer.

(Sections 87—89.)

(2) If, when the whole or any part of the land which has been gained by such gradual accession is added to the total area of land including non-agricultural land, if any, held at the time by the *raiyat* to whose land it is so annexed, the aggregate of the areas of land held by him exceeds the limit laid down in section 90, then such excess shall not be considered as an increment to the holding of such *raiyat* but shall be at the disposal of the Provincial Government:

Provided that the limitation in respect of the area of the land in this sub-section shall not apply to a *raiyat* who has been certified in the prescribed manner by the prescribed Revenue Authority to be a person who has undertaken large scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances or to any land which is held for the purpose of cultivation and manufacture of tea or to any land held by a company for the cultivation of sugarcane for the purpose of manufacture of sugar by that company.

(3) In dealing with any such excess at the disposal of the Provincial Government, the Revenue-officer shall decide, in such manner as he may deem fair and equitable, after giving any parties interested an opportunity of being heard, which portion, being equal to such excess, of the land so annexed shall so be at the disposal of the Provincial Government and shall serve a notice on the *raiyat* in the prescribed form and manner stating the boundaries of the land so decided as being at the disposal of the Provincial Government; and thereupon such land shall vest in the Provincial Government absolutely.

Transfer-
ability of
holding of
rai-yats.

88. The holding of a *raiyat* or a share or portion thereof shall, subject to the provisions of this Act, be capable of being transferred by him in the same manner and to the same extent as his other immovable property.

Manner of
transfer.

89. (1) Every such transfer shall be made by registered instrument, except in the case of a bequest or a sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913; and a Registering Officer shall not accept for registration any such instrument unless the sale price, or where there is no sale price, the value of the holding or portion or share thereof transferred is stated therein and unless it is accompanied by—

Ben. Act
III of
1913.

(a) a notice giving the particulars of the transfer in the prescribed form together with the process fee prescribed for the transmission thereof to the Revenue-officer; and

(b) such notices and process fees as may be required by sub-section (4).

(Section 89.)

(2) In the case of a bequest of such a holding or portion or share thereof, no Court shall grant probate or letters of administration until the applicant files a notice similar to, and deposits a process fee of the same amount as, that referred to in clause (a) of sub-section (1).

(3) No Court or Revenue Authority shall confirm the sale of such a holding or portion or share thereof put to sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice or notices similar to, and deposits process fees of the same amount as, that referred to in sub-section (1).

Ben. Act
III of
1913.

(4) If the transfer of a portion or share of such a holding be one to which the provisions of section 96 apply, there shall be filed notices giving particulars of the transfer in the prescribed form together with process fees prescribed for the service thereof on all the co-sharer tenants of the said holding who are not parties to the transfer and for affixing a copy thereof in the office of the Registering Officer or the Court house or the office of the Revenue Authority, as the case may be.

(5) The Court, Revenue Authority or Registering Officer, as the case may be, shall transmit the notice referred to in clause (a) of sub-section (1) to the Revenue-officer and shall serve the notices on the co-sharer tenants referred to in sub-section (4) by registered post and shall cause a copy of the notice to be affixed in the Court house or in the office of the Revenue Authority or of the Registering Officer, as the case may be:

Provided that the service of such a notice shall not operate as an admission of the amount of rent or the area of such holding by the Provincial Government or by any co-sharer tenant of such holding on whom such notice is served or be deemed to constitute an express consent of the Provincial Government or such co-sharer tenant to the division of the holding or to the distribution of the rent payable in respect thereof:

Provided further that if a transfer is subsequently set aside or modified by a competent authority in any suit, appeal or other proceedings to which the Revenue-officer was not a party, the authority before whom the appropriate suit or proceedings was first initiated shall transmit a copy of such order to the Revenue-officer.

(6) In this section—

(a) “transferee”, “purchaser” and “mortgagee” include their successors-in-interest, and

(Sections 89—90.)

(b) “transfer” does not include partition or, until a decree or order absolute for foreclosure is made, simple or usufructuary mortgage or mortgage by conditional sale.

Limitation
of transfer
of holding.

90. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, after the commencement of this Part, be entitled to purchase or otherwise acquire, except in accordance with the provisions of this Part, any quantity of land which added to the total quantity of land already held by him for himself and his family exceeds one hundred standard *bighas*.

(2) Notwithstanding anything contained in any other law for the time being in force, the holding of a *raiyyat* or a share or portion thereof shall not be transferred whether by sale or gift or bequest or otherwise or by sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, except to a *bona fide* cultivator, and any other tenancy or a share or portion thereof shall not be transferred by any such means except to a person, who holds for the time being lands for himself and his family of a total area of less than one hundred standard *bighas*; and no such transfer shall be valid if, on such transfer, the area of the land so transferred added to the area of land held by the transferee at the time of such transfer exceeds one hundred standard *bighas*:

Ben. Act
III of
1913.

Provided that nothing in sub-sections (1) and (2) shall render a transfer to any person invalid in the case where the total area of the land held by such person on such transfer exceeds one hundred standard *bighas*, if such person has been certified by the prescribed Revenue Authority to be a person who has undertaken large-scale farming on a co-operative basis or otherwise by the use of power-driven mechanical appliances and such transfer is limited to the extent specified in the certificate granted by such Revenue Authority:

Provided further that nothing in sub-section (1) or (2) shall apply to the transfer of lands to a person who is *bona fide* carrying on the cultivation of tea or to a co-operative society or company which is *bona fide* carrying on the cultivation of sugarcane for the purpose of manufacture of sugar by that society or company or to any other company the object of which is to develop industries by the manufacture of commodities.

(3) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a *bona fide* cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire such quantity of land as may be specified in such permission, for occupation and use for commercial or industrial purposes or for charitable or religious purposes.

of 1951.]

(Sections 90—92.)

(4) Notwithstanding anything contained in sub-section (1) or (2), a person who is not a *bona fide* cultivator, may, with the previous written permission of the prescribed Revenue Authority, purchase or otherwise acquire, such quantity of land as may be specified in the permission, for the purpose of constructing a dwelling house for himself and his family or for the purpose of cultivating such land by himself or by the members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars*; and such person shall hold the land so acquired as a tenant under the Provincial Government:

Provided that no such person shall be allowed to hold any area of land in excess of the limit imposed in sub-section (1):

Provided further that, in case of land acquired by such person for the purpose of constructing a dwelling house for himself or his family, if no dwelling house is constructed on the land within five years from the date of such acquisition, the right of such person in such land shall be extinguished and the land shall vest in the Provincial Government.

(5) Any transfer of a holding or tenancy or of a share or portion thereof made in contravention of the provisions of this section shall be void, and the lands comprised in the holding or tenancy or share or portion thereof so transferred shall vest absolutely in the Provincial Government free from all encumbrances.

Power of acquiring excess land devolved by inheritance.

91. Notwithstanding anything contained in any other law for the time being in force, when any area of land which has devolved on a person by inheritance added to the total area of land already in his possession exceeds the limit laid down in section 90, it shall be lawful for the Provincial Government to acquire an area of such land, equivalent to such excess, to be selected according to the choice of such person, on payment of compensation at the rates laid down in sub-section (1) of section 39.

Extinguishment of interest of *rai-yats* in certain cases.

92. (1) The interest of a *rai-yat* in a holding shall be extinguished—

- (a) when he dies intestate leaving no heir entitled to inherit under the law of inheritance to which he is subject;
- (b) when he surrenders his holding at the end of any agricultural year by giving notice in the prescribed form and in the prescribed manner and within the prescribed period to the Revenue-officer;
- (c) when he voluntarily abandons his residence without making any arrangement for payment of the rent as it falls due and ceases to cultivate his holding

(Section 92.)

either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars* for a period of three successive years; or—

- (d) when such interest has devolved by inheritance, under the law of inheritance to which such *raiyat* is subject, on a person who is not a *bona fide* cultivator and such person has not cultivated the land comprised in the holding either by himself or by members of his family or by, or with the aid of, servants or labourers or with the aid of partners or *bargadars* during the period of five years from the date on which such interest has so devolved on him, and there is no sufficient cause why he has not so cultivated the land.

(2) When the interest of a *raiyat* in a holding is extinguished under sub-section (1), the Revenue-officer may enter on the holding; and the holding shall, with effect from the date on which the Revenue-officer so enters on it, vest absolutely in the Provincial Government free from all encumbrances except the encumbrances on the holding which is extinguished under clause (a) of the said sub-section, but the persons whose interests in the holdings are extinguished under clauses (b), (c) and (d) of that sub-section shall continue to be personally liable for the money secured by the encumbrances on such holdings.

(3) Before entering on a holding under sub-section (2), the Revenue-officer shall cause a notice to be published in the prescribed manner declaring his intention to so enter on the holding and specifying the reasons thereof and also inviting objections from all persons interested in the holding and shall consider any objections that may be submitted to him within the period specified in that behalf in the notice and shall record a decision.

(4) Any person aggrieved by an order passed by the Revenue-officer under sub-section (3) on any objection shown against the extinguishment of the interest of any *raiyat* in his holding under clause (d) of sub-section (1) may, instead of filing an appeal under section 147, institute a suit in the Civil Court against such order. Notwithstanding anything contained in any other law for the time being in force, such suit shall be filed within ninety days from the date of the order of the Revenue-officer under sub-section (3).

(5) All arrears of rent in respect of a holding remaining due from a *raiyat* whose interest in such holding has been extinguished under sub-section (1) shall be deemed to be irrecoverable.

of 1951.]

(Sections 93—95.)

Restrictions
on sublet-
ting.

93. (1) No *raiyat* shall sublet the whole or any part of his holding on any terms or conditions whatsoever.

(2) If any holding or any part of a holding is sublet in contravention of the provisions of this section, the interest of the *raiyat* in the holding or in that part of the holding shall be extinguished, and the holding or the part of the holding, as the case may be, shall vest in the Provincial Government from the date of such subletting free from all encumbrances.

Transfer of
encumbran-
ces in certain
cases.

94. Notwithstanding anything contained in any other law for the time being in force, the encumbrances referred to in sub-section (5) of section 90 or sub-section (2) of section 93 shall, with effect from the date of transfer or sub-lease of the lands concerned, be deemed to be transferred and attached to such other lands of the transferor or the lessor as may be selected by the Revenue-officer in accordance with the rules prescribed, and thereupon the encumbrancer shall continue to have the same rights in or against those lands as he had in the original lands before the transfer or sub-lease thereof. The transferor or the lessor, as the case may be, shall also be personally liable for the money secured by such encumbrances.

Limitation
on mortgage
of *raiyat* i
holdings.

95. (1) Notwithstanding anything contained in any other law for the time being in force, a *raiyat* shall not enter into any form of usufructuary mortgage other than a complete usufructuary mortgage in respect of his holding or of a portion or share thereof, and every such complete usufructuary mortgage shall be subject to the same limitations as are imposed by section 90 on a transfer of the holding of a *raiyat* or of any share or portion thereof; and the period for which such complete usufructuary mortgage may be entered into by any *raiyat* shall not exceed, by any agreement express or implied, fifteen years:

Provided that any such usufructuary mortgage may be redeemed at any time before the expiry of the said period, on payment of an amount which shall bear the same proportion to the total consideration money received by the mortgagor, as the unexpired period bears to the total period for which the mortgage had been entered into.

(2) Every such complete usufructuary mortgage shall be registered under the Registration Act, 1908.

XVI of
1908.

(3) If any usufructuary mortgage entered into by a *raiyat* does not fulfil any of the conditions specified in sub-section (1) or is not registered as required under sub-section (2), it shall be void.

(Section 96.)

Right of
Pre-emption.

96. (1) If a portion or share of a holding of a *raiayat* is transferred, one or more co-sharer tenants of the holding may, within four months of the service of the notice given under section 89, or, if no notice has been served under section 89, within four months of the date of the knowledge of the transfer, apply to the Court for the said portion or share to be transferred to himself or themselves; and if a holding or a portion or a share of a holding is transferred, the tenant or tenants holding land contiguous to the land transferred may, within 4 months of the date of the knowledge of such transfer, apply to the Court for the holding or portion or share to be transferred to himself or themselves:

Provided that no co-sharer tenant or tenant holding land contiguous to the land transferred shall have the right to purchase under this section unless he is a person to whom transfer of the holding or the portion or share thereof, as the case may be, can be made under section 90.

(2) In an application made under sub-section (1) by a co-sharer tenant or co-sharer tenants, all other co-sharer tenants of the holding and the transferee shall be made parties; and in such an application made by a tenant holding land contiguous to the land transferred, all the co-sharer tenants of the holding and all the tenants holding lands contiguous to the land transferred and the transferee shall be made parties.

(3) (a) An application made under sub-section (1) shall be dismissed unless the applicant or applicants, at the time of making it, deposit in the Court the amount of the consideration money or the value of the transferred holding or portion or share of the holding as stated in the notice under section 89 or in the deed of transfer, as the case may be, together with compensation at the rate of ten *per centum* of such amount.

(b) On receipt of such application accompanied by such deposit, the Court shall give notice to the transferee and to the other persons made parties thereto under sub-section (2) to appear within such period as it may fix and shall require such persons to state the consideration money actually paid for the transfer and shall also require the transferee to state what other sums he has paid in respect of rent since the date of transfer and what expenses he has incurred in annulling encumbrances on, or for making any improvement in respect of, the holding, portion or share transferred, and the Court shall then, after giving all the parties an opportunity of being heard and after holding an enquiry as to the actual amounts of the consideration money and rent paid and the expenses incurred by the transferee in annulling encumbrances on, or for the improvement of, the land transferred, direct the applicant or applicants to deposit a further sum, if necessary, within such period as it thinks reasonable:

of 1951.]

(Section 96.)

Provided that the transferee shall, in no case, be entitled to claim consideration money in excess of the amount mentioned in the deed of transfer.

(4) When an application has been made under sub-section (1), any of the remaining co-sharer tenants including the transferee, if one of them, and the tenants holding lands contiguous to the land transferred may, within the period referred to in sub-section (1) or within two months of the date of the service of the notice of the application under clause (b) of sub-section (3), whichever be earlier, apply to join in the said application; any co-sharer tenant or tenant holding land contiguous to the land transferred, who has not applied either under sub-section (1) or under this sub-section, shall not have any further right to purchase under this section.

(5) (a) If (i) a co-sharer tenant whose interest has accrued by inheritance and (ii) a co-sharer tenant whose interest has accrued by purchase and (iii) a tenant holding land contiguous to the land transferred apply under this section and comply with the provisions herein contained, the applicant or applicants shall have the prior right to purchase under this section in the order in which they have been mentioned above.

(b) If more than one tenant holding land contiguous to the land transferred apply under this section, the Court shall determine the order of priority as among such tenants having regard to—

- (i) the total quantity of land in possession of each of the tenants applying;
- (ii) whether the contiguous land of the tenant is home-stead land or any other class of land;
- (iii) extent of contiguity;
- (iv) to what extent it is necessary for the applicant to have possession of the contiguous land; and
- (v) the right of easement, if any, of the applicants.

(6) (a) On the expiry of the period within which an application may be made under sub-section (4), the Court shall determine, in accordance with the provisions of this section, which of the applications filed under sub-section (1) or sub-section (4) shall be allowed.

(b) If the Court finds that an order allowing the applications made under this section is to be made in favour of more than one applicant, the Court shall determine the amount to be paid by each of such applicants and, after apportioning the amount, shall order the applicant or applicants who have joined in the original application under sub-section (4) to deposit the amounts payable by him or them within such period as it thinks reasonable; and if the deposit is not made by any such applicant within such period, his application shall be dismissed.

(Section 96.)

(7) (a) On the expiry of the period within which a deposit, if any, is to be made under clause (b) of sub-section (6), the Court shall pass orders allowing the application or applications made by the applicant or applicants who are entitled to purchase under and have complied with the provisions of this section and, when such orders are passed in favour of more than one applicant, shall apportion the holding or the portion or share of the holding among them in such manner as it deems equitable; and the applicant or applicants under sub-section (7), if found to be entitled to a refund of any money, shall get the refund from the amount deposited by the applicant or applicants under clause (b) of sub-section (6).

(b) The Court shall, at the same time, pass an order directing that the transferee be paid out of the deposits made under sub-section (3) the amount of consideration money paid by him for the transfer together with compensation at the rate of ten *per centum* of such amount, the amount, if any, paid by him on account of rent of the holding, portion or share transferred since the date of transfer and the amount of expenses, if any, incurred by him in annulling encumbrances on, or for making any improvement in respect of, such holding, portion or share.

(8) No apportionment order under sub-section (7) shall operate as division of the holding.

(9) From the date of the passing of the order under sub-section (7)—

(a) the right, title and interest in the holding or portion or share thereof accruing to the transferee from the transfer shall, subject to any orders passed under the said sub-section, be deemed to have vested free from all encumbrances which have been created after the date of transfer in the co-sharer tenants or in the tenants holding lands contiguous to the land transferred, as the case may be, whose applications to purchase have been allowed under sub-section (7);

(b) the liability of the transferee for the rent of the holding or portion or share from the date of the transfer shall cease; and the co-sharer tenants or the tenants holding lands contiguous to the land transferred whose applications to purchase have been so allowed shall be liable for any such rent due from the transferee; and

(c) the Court on further applications of such applicant or applicants may place him or them, as the case may be, in possession of the property vested in him or them,

(Sections 96—97.)

(10) Nothing in this section shall apply to—

- (a) a transfer to a co-sharer in the tenancy whose interest has accrued otherwise than by purchase; or
- (b) a transfer by exchange or partition; or
- (c) a transfer by bequest or gift (including *Heba* but excluding *Heba-Bil-Ewaj* for any pecuniary consideration) in favour of the husband or wife of the testator or donor, or of any relation by consanguinity within three degrees of the testator or donor; or
- (d) a simple or complete usufructuary mortgage or, until a decree or order absolute for foreclosure is made, a mortgage by conditional sale; or
- (e) a *wakf* in accordance with the provisions of the Muhammadan Law; or
- (f) a dedication for religious or charitable purposes without any reservation of pecuniary benefit for any individual.

Explanation.—A relation by consanguinity shall, for the purpose of this section, include a son adopted under the Hindu Law.

(11) Nothing in this section shall take away the right of pre-emption conferred on any person by the Muhammadan Law.

(12) An application under this section shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the land in connection with which the application is brought.

(13) An appeal shall lie to the ordinary Civil Appellate Court from any order of a Court under this section and, notwithstanding anything contained in any other law for the time being in force, there shall be no second appeal from an order of the first Appellate Court.

Restriction
on alienation
of land by
aboriginals.

97. (1) The Provincial Government may from time to time, by notification, declare that the provisions of this section shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this section, and the publication of such notification shall be conclusive evidence that the provisions of this section have been duly applied to such castes or tribes, namely:—

Sonthals, Bhuiyas, Bhumijes, Dalus, Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dacca Division), Koras, Maghs (Bakarganj District), Mal and Sauria Paharias, Maches, Mundas, Mundais, Oraons and Turis.

(Section 97.)

(2) Except as provided in this section, no transfer by an aboriginal *raiya*t of his right in his holding or in any portion thereof shall be valid unless it is made to another aboriginal domiciled or permanently residing in East Bengal who is a person to whom the transfer of such holding or portion thereof can be made under section 90.

(3) If in any case an aboriginal *raiya*t desires to transfer his holding or any portion thereof by private sale, gift or will to any person who is not such an aboriginal, he may apply to the Revenue-officer for permission in that behalf, and the Revenue-officer may pass such order on the application as he thinks fit.

(4) Every transfer referred to in sub-section (3) shall be made by registered deed; and before the deed is registered and the holding or any portion thereof is transferred, the written consent of the Revenue-officer shall be obtained to the terms of the deed and to the transfer.

(5) An aboriginal *raiya*t's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage.

(6) An aboriginal *raiya*t may enter with another aboriginal, domiciled or permanently residing in East Bengal, who is a person with whom a complete usufructuary mortgage can be entered into under sub-section (1) of section 95, into a complete usufructuary mortgage in respect of any land comprised within his holding for any period which does not and cannot, in any possible event, by any agreement express or implied, exceed seven years:

Provided that every mortgage so entered into shall be registered under the Registration Act, 1908.

XVI of
1908.

(7) Any transfer made by an aboriginal *raiya*t in contravention of the provisions of this section shall be void.

(8) (a) If a transfer of a holding or any portion thereof is made by an aboriginal *raiya*t in contravention of the provisions of this section, the Revenue-officer may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such holding or portion:

Provided that the transferee shall be given an opportunity of showing cause against such ejection before the order is passed.

(b) When the Revenue-officer has passed any order under clause (a), he shall either (i) restore the transferred land to the aboriginal or his heir or legal representative or, (ii) failing the transferor or his heir or legal representative, declare that the land has vested in the Provincial Government and the Revenue-officer may settle the land with another aboriginal.

(Sections 97—100.)

(9) Notwithstanding anything contained in any other law for the time being in force, no decree or order shall be passed by any Court for the sale of the right of any aboriginal *raiyyat* in his holding or any portion thereof, nor shall any such right be sold in execution of any decree or order:

Provided that any holding belonging to an aboriginal may be sold, according to the provisions of this Act, in execution of a certificate for the recovery of the arrears of rent of the holding.

(10) The Provincial Government may, by notification, declare that this section shall, in any district or local area, cease to apply to any caste or tribe to which it may have been applied under sub-section (1).

CHAPTER XIV.

Provisions as to enhancement and reduction of rent.

Revision of
rents of
raiyyats.

98. (1) The rent of a *raiyyat* shall not be enhanced, reduced or altered except as provided in this Chapter.

(2) Nothing in this Chapter shall apply to non-agricultural lands.

Order for
determina-
tion of rent-
rates and
preparation
of settlement
rent-roll.

99. (1) The Provincial Government may make an order directing the Revenue-officer—

(a) to determine the rent-rates for any district or part of a district or local area in accordance with the provisions of this Chapter and of such rules as may be made in this behalf by the Provincial Government and to prepare in the prescribed form and manner a table of rent-rates in which the rent-rate so determined, together with such other particulars as may be prescribed, shall be specified; and

(b) after the table of rent-rates in respect of any district, part of a district or local area has been prepared and confirmed under this Chapter, to settle fair and equitable rents for all tenants in such district or part or area and to prepare in the prescribed form and manner a settlement rent-roll in which the rents so settled, together with such other particulars as may be prescribed, shall be specified.

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

Procedure in
determining
rent-rates.

100. (1) When an order is made under clause (a) of sub-section (1) of section 99, the Revenue-officer shall, for the purpose of determining the rent-rates for the area specified in such order, divide such area into as many suitable

(Sections 100—101.)

*is + equitable
rents*

units of area as he considers necessary having regard to the conditions of the land and the principal crops grown in such area, and the Revenue-officer shall then determine the rent-rates for different classes of lands in each such unit.

(2) In determining the rent-rates for different classes of land under sub-section (1), the Revenue-officer shall take into consideration—

- (a) the nature of the soil and the general productivity of the class of land for which the rent-rate is being determined;
- (b) the normal yield per acre of the land to be determined in the prescribed manner;
- (c) the average prices of the crops grown on such land calculated on the basis of the average prices of such crops prevailing during the preceding twenty years excluding the years in which such prices were abnormal;
- (d) any means of irrigation or drainage or any other special facilities for cultivation of such land;
- (e) the result of any work of agricultural improvement effected within any particular unit at the expense of Government; and
- (f) the existing rates of rent or the average rate of rent determined in the prescribed manner.

(3) The rate of rent per acre for any class of land determined under sub-section (1) shall not exceed one-tenth of the total value of the produce per acre of such land obtained by multiplying the normal yield per acre of such land, determined in the manner prescribed, by the average price of crops grown in such land referred to in clause (c) of sub-section (2) or five-fourths of the existing rate of rent or the average rate of rent, determined in the prescribed manner, of such land, whichever is less.

Preliminary and final publication of table of rent-rates and its confirmation by the prescribed superior Revenue Authority.

101. (1) When the Revenue-officer has prepared a table of rent-rates, he shall cause a draft of it to be published in the prescribed manner and for the prescribed period in the area or village to which it relates.

(2) Any person objecting to any entry in the table of rent-rates may present a petition to the Revenue-officer within thirty days from the first date of publication under sub-section (1), and the Revenue-officer shall consider any such objection and may alter or amend the table.

(3) If no objection is made within the said period or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the prescribed Revenue Authority with a full statement of the grounds for his proposals together with all the necessary particulars relating to the value of the produce per acre of land and the existing rent-rates for each class of land and a summary of the objections (if any) which he has received.

of 1951.]

(Sections 101—106.)

(4) Such superior Revenue Authority may confirm a table submitted under sub-section (3), with or without modification, or may return it for revision.

(5) When a table of rent-rates has been confirmed by such superior Revenue Authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the table have been duly conducted in accordance with this Act, and it may be presumed that the rates shown in the table for each class of land are fair and equitable rates payable for land of that class within the area to which the table applies.

Rate shown in the table to be the maximum rate.

102. The rate of rent for any class of land shown in a table of rent-rates confirmed under section 101 shall be the maximum rate at which the rent of a *raiyyat* for such class of land can be settled.

Rates of rent, etc., determined under this Chapter to form part of record-of-rights.

103. The particulars regarding the principal crops grown on the land within any unit of area, the normal yield per acre of land in such unit, the average price of crops referred to in clause (c) of sub-section (2) of section 100 grown on such land and the rates of rent determined for different classes of land within such unit under this Chapter shall form part of the record-of-rights of such unit maintained under this Part.

Duration of rent-rates.

104. When the rent-rates for any district, part of a district or unit of area have been determined under this Chapter and shown in a table of rent-rates confirmed under section 101, they shall not be changed until after a period of thirty years has elapsed from the date of such confirmation.

Grounds of and limits to enhancement of rent.

105. (1) The rent payable by a *raiyyat* in respect of any land shall be liable to enhancement on the ground that the rent payable by him is substantially lower than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land is situated and entered in the table of rent-rates, confirmed under section 101, applicable to such unit.

(2) If the Revenue-officer considers that an immediate increase of rent will cause hardship, he may direct that the enhancement shall take effect by yearly increments extending over a period not exceeding five years as the Revenue-officer may fix in this behalf.

Grounds for reduction of rent.

106. The rent payable by a *raiyyat* in respect of a holding may be reduced on one or more of the following grounds, namely:—

(a) that the rent payable by the *raiyyat* is substantially higher than the rent calculated at the rates of rent determined under this Chapter for similar classes of land in the unit in which the land comprised in the holding is situated and entered in the table of rent-rates, confirmed under section 101, applicable to such unit;

(Sections 106—109.)

- (b) that the soil of the holding has deteriorated as a result of the deposit of sand or through the operation of other natural causes, sudden or gradual; and
- (c) that there has been any breakdown of the existing arrangements for irrigation or drainage or for the maintenance of any embankments or bunds which were in existence at the time when the rent was last settled, and the soil of the holding has thereby deteriorated.

Settlement of fair and equitable rents.

107. After a table of rent-rates has been prepared and confirmed under this Chapter, the Revenue-officer shall proceed to settle, according to the provisions of the preceding sections, the fair and equitable rents of all tenants in the area to which the table of rent-rates applies and to prepare the settlement rent-roll as directed under clause (b) of sub-section (1) of section 99.

(2) For the purpose of settling such fair and equitable rents and preparing the settlement rent-roll, the Revenue-Officer shall be guided by the rent-rates entered in the table of rent-rates so prepared and confirmed:

Provided that a Revenue-officer shall not be bound to apply the said rates to any particular case or area if he considers, for reasons to be recorded in writing, that the application of such rates to such case or area would be unfair or inequitable.

Preliminary publication and amendment of settlement rent-roll.

108. (1) When a settlement rent-roll has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period and shall receive and consider any objection made to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make.

(2) The Revenue-officer may, of his own motion or on application of any party aggrieved, at any time before a settlement rent-roll is submitted to the confirming authority under section 109, revise any rent entered therein:

Provided that no such entries shall be revised until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

Sanctioning and final publication of the settlement rent-roll and incorporation of the same in the record-of-rights.

109. (1) When all objections have been disposed of under section 108, the Revenue-officer shall submit the settlement rent-roll to the prescribed confirming authority with a full statement of the grounds for his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the settlement rent-roll with or without amendment or may return it for revision:

of 1951.]

(Sections 109—111.)

Provided that no entry shall be amended or omission supplied until reasonable notice has been given to the tenant concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue-officer shall finally frame the settlement rent-roll and publish it in such manner as may be prescribed and shall incorporate it in the record-of-rights for the area, to which such settlement rent-roll relates, maintained under this Part; and such publication shall be conclusive evidence that the settlement rent-roll has been duly made under this Chapter.

Appeal to
and revision
by superior
Revenue
Authority.

110. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer on any objection made under section 108, or from an order passed by the confirming authority under section 109 to the prescribed superior Revenue Authority.

(2) The Board of Revenue may in any case under this Chapter, on application or of its own motion, direct the revision of any settlement rent-roll or any portion of it at any time within six months of the date of the order sanctioning the settlement rent-roll under sub-section (2) of section 109 or any order passed by the superior Revenue Authority under sub-section (1), whichever is later, but not so as to affect any order passed by the Special Judge under section 111:

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

Appeal to
the Special
Judge.

111. (1) Any person aggrieved by an order passed by the Revenue-officer on any objection made under section 108 or an order passed by the confirming authority under section 109, may present an appeal in the prescribed manner against such order, within three months of the final publication under sub-section (3) of section 109 of the settlement rent-roll to which such appeal relates, to the Special Judge appointed by the Provincial Government in this behalf provided that no appeal has been presented regarding the matter to the prescribed superior Revenue Authority under sub-section (1) of section 110.

(2) Subject to such orders as may be passed by the High Court in its revisional jurisdiction, the order of the Special Judge, on the appeal, shall be final; and no appeal shall lie to the High Court against the order of the Special Judge under this section.

(3) The provisions of the Code of Civil Procedure, 1908, shall, so far as it may be, apply to all appeals presented to the Special Judge under this section. V of 1908.

(Sections 112—117.)

Presumption
as to rents
settled under
this Chapter.

112. All rents settled under this Chapter shall be deemed to have been correctly settled and to be fair and equitable rents.

Date from
which settle-
ment takes
effect.

113. When a rent is settled by a Revenue-officer under this Chapter in respect of any area, it shall, subject to sections 110 and 111, take effect from the beginning of the agricultural year next after the date of the final publication under sub-section (3) of section 109 of the settlement rent-roll in which such rent is specified.

Period for
which rent as
settled is to
remain un-
altered.

114. When the rent of a tenant has been settled under this Chapter, it shall not be enhanced for a period of thirty years; and no such rent shall be reduced within the said period save on the ground specified in clause (b) or clause (c) of section 106.

Bar to juris-
diction of
Civil Court.

115. No suit or other legal proceeding shall be instituted in any Civil Court in respect of the determination of rent-rates or the settlement of any rent or the omission to determine any rent-rate or to settle any rent under this Chapter, except as provided in section 111.

CHAPTER XV.

Amalgamation, Subdivision and Consolidation of holdings.

Amalgama-
tion of hold-
ing of a
tenant in the
same village.

116. Where various parcels of land are held by one tenant within one village, and such parcels of land or some of them are the subject of separate tenancies, such parcels of land shall, under the orders of the Revenue-officer, be amalgamated into one tenancy:

Provided that no such amalgamation shall be ordered by the Revenue-officer if the tenant has any objection thereto which appears to such officer to be reasonable and sufficient.

Subdivision
of a holding
and restric-
tions thereon

117. The Revenue-officer, on application made to him by one or more co-sharer tenants for the division of a holding and for distribution of the rent payable in respect thereof, may, by order in writing, direct such division of the holding and distribution of rent thereof ¹[including arrears of rent, if any,] as he considers fair and equitable.

Provided that—

(a) no such orders shall be passed unless reasonable notice has been given to the parties concerned to appear and be heard in the matter, and

¹ These words and commas were inserted by E. B. Act XII of 1954, s. 15.

of 1951.]

(Sections 117—118.)

- (b) no order for the division of a holding and the distribution of the rent thereof shall be made which would result in bringing the rent of any portion to below rupee one.

Transfer of the interest of a co-sharer tenant in a holding on payment of compensation.

118. (1) If no order for the division of a holding and the distribution of rent thereof can be made under section 117 by reason of the restrictions contained in clause (b) of the proviso to that section, a co-sharer tenant of such holding may apply in the prescribed manner to the Revenue-officer for the transfer of his interest in the holding to other co-sharer tenants thereof, to whom a transfer of land can be made under sub-section (2) of section 90, on payment of compensation to him.

(2) On receipt of such application the Revenue-officer shall, if he is satisfied that the application is in order, determine the amount of compensation which he considers to be fair and equitable and declare by order in writing the amount so determined to be payable to the applicant by the remaining co-sharer tenant or tenants for the transfer of the interest of the applicant in the holding to such tenant or tenants; and thereupon the remaining co-sharer tenant or, if there be more such tenants than one, all such tenants jointly and severally shall be liable to pay the amount so determined:

Provided that no such order shall be made until reasonable notice has been given to the remaining co-sharer tenants of the holding to appear and be heard in the matter.

(3) In determining the amount of compensation under sub-section (2), the Revenue-officer shall take into consideration the encumbrance, if any, secured by a registered instrument to which the interest of the applicant in the holding is subject.

(4) In declaring, by order in writing, the amount of compensation payable to the applicant by the remaining co-sharer tenants under sub-section (2), the Revenue-officer shall fix in the order the period within which the amount of such compensation shall be payable and may direct the payment of such compensation by such yearly instalments extending over a period not exceeding five years as he may fix in this behalf.

(5) The amount of compensation ordered to be paid by instalments by the remaining co-sharer tenants under sub-section (4) shall be a charge on the entire land comprised in the holding of such co-sharer tenants on such transfer; and the said charge shall take priority over every other charge on the holding other than a charge for arrear of rent.

(Sections 118—120.)

(6) If default is made in payment of any amount declared by order in writing under sub-section (2) to be payable to a co-sharer tenant, such amount shall be recoverable by such tenant as an arrear of public demand.

(7) When the Revenue-officer makes an order under sub-section (2), the right, title and interest of the co-sharer tenant, who made the application under this section, in the holding in respect of which such order has been made shall, with effect from the first day of the agricultural year next following the date of such order, vest in the remaining co-sharer tenant or in the remaining co-sharer tenants jointly, as the case may be, of the holding; and the liability of the co-sharer tenant, who made such application, for the rent due from him on account of the holding shall cease; and the co-sharer tenant or tenants in whom such right, title and interest vest shall be liable for the rent so due.

Persons entitled to apply for consolidation of holding.

119. (1) Any two or more *raiyats* having lands in the same or contiguous villages may apply in the prescribed form to the Revenue-officer for consolidation of their holdings and submit along with such application a scheme for such consolidation.

(2) If not less than two-thirds of the *raiyats* in a village or a block of villages, which form one continuous area, holding not less than three-fourths of the total cultivable area in such village or block of villages, make an application under sub-section (1) for consolidation of their holdings, such application shall be deemed to be an application on behalf of all the *raiyats* of such village or block of villages.

Admission of application.

120. (1) On receipt of any application for consolidation under section 119, the Revenue-officer shall enquire into such application in the prescribed manner and shall, if he considers after such enquiry that there are good and sufficient reasons for rejecting such application or excluding any of such land from consolidation, submit the application to the prescribed superior Revenue Authority with a recommendation that the application be rejected, or disallowed in part, specifying his reasons therefor; and on receipt of such recommendation, such superior Revenue Authority shall pass such orders thereon as he thinks proper.

(2) If the Revenue-officer does not make any recommendation under sub-section (1), or if such superior Revenue Authority, on receipt of the recommendation of the Revenue-officer, makes an order directing the Revenue-officer to admit the application in whole or in part, the Revenue-officer shall admit such application either in whole or in part, as the case may be, and shall deal with it in accordance with the provisions of this Chapter and of any rules made by the Provincial Government under this Act.

of 1951.]

(Sections 121—122.)

Confirmation
of agreed
schemes for
consolidation.

121. When a scheme for the consolidation of holdings is submitted along with an application under sub-section (1) of section 119, and such scheme, including any stipulation for payment of any compensation by one party to another contained in such scheme, has been agreed to by all the *raiylats* affected by it, the Revenue-officer shall, after admitting the application either in whole or in part under section 120, examine such scheme and may, after such examination, either confirm the scheme with or without modification or may return it for revision and may confirm it after such revision:

Provided that the Revenue-officer shall not confirm the scheme if the sum total of the rent of all holdings under the scheme has been reduced by the distribution of the rent consequent on redistribution of lands.

Preparation
of a scheme
for consolidation
and appointment
of Advisory
Committee.

122. (1) In the case where no scheme for the consolidation of holdings is submitted along with the application under sub-section (1) of section 119, or where any such scheme has been submitted with such application but has not been agreed to by all the *raiylats* affected by it, the Revenue-officer shall prepare a scheme for consolidation of the holdings of the applicants, and in the case where an application has been made under sub-section (2) of that section the Revenue-officer shall prepare a scheme for the consolidation of the holdings of each *raiylat* in the village or in the block of villages to which such application relates; and every such scheme shall be prepared in accordance with the provisions of this Act and of such rules as may be made by the Provincial Government in this behalf.

(2) For the purpose of assisting him in the preparation of a scheme for consolidation of holdings under sub-section (1) in any local area, the Revenue-officer may, subject to such rules as may be made by the Provincial Government in this behalf, appoint an Advisory Committee in respect of such area.

(3) In preparing a scheme for the consolidation of holdings under sub-section (1), the Revenue-officer shall have due regard to any proposal with regard to the consolidation which has the largest measure of agreement amongst the parties affected by it, and in making the redistribution of lands for the purpose of the consolidation, he shall see that the total area of a holding or the profit to be derived therefrom is affected as little as possible.

(4) If in preparing a scheme for the consolidation of holdings under sub-section (1), it appears to the Revenue-officer that the redistribution of lands will result in allotment to any *raiylat* of any parcel of land of market value lower than the market value of his original parcel of land,

(Sections 122—125.)

the Revenue-officer shall in the scheme provide for the payment of compensation to such *raiyat* by the *raiyat* or *raiyyats* who, in the opinion of the Revenue-officer, will be benefited by the allotment of the more valuable land of the first-named *raiyat*.

Draft publication of the scheme and hearing of objections.

123. (1) When a scheme for consolidation of holdings has been prepared, the Revenue-officer shall cause a draft of the scheme to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made in regard to any entry therein or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Provincial Government may make in this behalf.

(2) If no objection is made within the said period or, where objections are made, the Revenue-officer succeeds in meeting all such objections and the persons who made the objections have withdrawn them, the Revenue-officer shall pass an order confirming the scheme.

(3) If, where objections are made, the persons making the objections do not withdraw them, the Revenue-officer shall, after considering all the circumstances of the case, and giving the parties concerned an opportunity of being heard, pass such orders thereon as he thinks proper, and may thereafter make an order confirming the scheme with or without modification.

Appeals.

124. (1) Any person aggrieved by an order of the Revenue-officer confirming a scheme under section 121 or under sub-section (2) or sub-section (3) of section 123 may, within the period prescribed in this behalf, prefer an appeal in the prescribed manner to the prescribed superior Revenue Authority and the decision of the said superior Authority on such appeal shall, subject to the provisions of sub-section (2), be final.

(2) A second appeal, if presented in the prescribed manner and within the period prescribed in this behalf, shall lie from every order passed on appeal under sub-section (1) by such superior Revenue Authority to the Board of Revenue.

Final confirmation of the scheme.

125. When the time within which appeals may be made under sub-section (1) of section 124 has expired and, if any such appeal has been made, when the time within which the second appeal may be made under sub-section (2) of that section has also expired, and all appeals made under sub-sections (1) and (2) of that section have been disposed of, and no order rejecting the scheme has been finally passed on such appeal, the Revenue-officer shall, if necessary, modify the scheme to give effect to any orders passed on appeal under the said section, if any, and shall thereafter record an order finally confirming the scheme.

of 1951.]

(Sections 126—128.)

Modification of the village record-of-rights on confirmation of the scheme and the date from which the scheme takes effect.

126. (1) Upon the final confirmation of a scheme for consolidation of holdings under section 125, the Revenue-officer shall cause the record-of-rights, maintained under this Part, of the village or villages to which such scheme relates, to be modified in accordance with the scheme as finally confirmed; and every tenant affected by such scheme shall be entitled to obtain free of cost from the Revenue-officer a copy of the record-of-rights, so modified, containing the entries as relating to him.

(2) When a scheme for the consolidation of holdings has been finally confirmed under section 125, it shall take effect from the beginning of the agricultural year next after the date of the final confirmation of such scheme.

Demarcation of the boundaries of holdings.

127. As soon as may be after a scheme for the consolidation of holdings takes effect, the Revenue-officer shall depute a surveyor or *amin* to demarcate the boundaries of the holdings affected by the scheme or to take such other steps for the identification on the spot of the land included in the holdings so affected as the Revenue-officer may approve.

Effect of final confirmation of scheme for consolidation and the rights of *raiyyats* there-under.

128. (1) Where a scheme for the consolidation of holdings has been prepared on an application made under sub-section (1) of section 119, such scheme shall, on final confirmation, be binding on the applicant or applicants and all persons who have agreed to the consolidation of their holdings and also on every person who may subsequently be entitled to hold or occupy any land included in the scheme or have any right or interest in such land.

(2) Where any such scheme has been prepared on an application referred to in sub-section (2) of section 119, such scheme shall, on final confirmation, be binding on all the *raiyyats* in the village or villages to which such scheme relates and on every person who may subsequently be entitled to hold or occupy any land or any right or interest in land in such village or villages.

(3) Every *raiyyat* affected by any scheme for the consolidation of holdings finally confirmed under section 125 shall be entitled to the possession of the holding allotted to him under the scheme with effect from the date on which the scheme takes effect; and the Revenue-officer may, on application made in this behalf by such *raiyyat*, cause such steps to be taken as he may consider necessary for putting such *raiyyat* in possession of the holding so allotted to him.

(4) A *raiyyat* shall have the same right in the holding allotted to him under a scheme for the consolidation of holdings finally confirmed under section 125 as he had in his original holding before such consolidation.

(Sections 129—132.)

Encumbrances on land included in the scheme for consolidation.

129. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if the holding of a *raiyat* comprised within a scheme for the consolidation of holdings finally confirmed under section 125 is, immediately before the date on which such scheme takes effect, subject to any mortgage or other encumbrance, such mortgage or other encumbrance shall, with effect from such date, be deemed to be transferred and attached to the holding created and allotted to such *raiyat* under the said scheme or to such part of such holding as may be specified in the scheme by the Revenue-officer; and thereupon the mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the mortgage or other encumbrance has been transferred and shall continue to have the same rights in or against the holding so allotted or to such part thereof as he had in or against the original land from which the mortgage or other encumbrance had been transferred.

(2) Notwithstanding anything contained in sub-section (3) of section 128 the Revenue-officer may, on application made in this behalf by any mortgagee or other encumbrancer entitled to possession of any holding or part thereof to which his mortgage or other encumbrance has been transferred under sub-section (1), cause such steps to be taken as he may consider necessary for putting such mortgagee or other encumbrancer in possession of such holding or part thereof.

No instrument necessary to effect transfer.

130. Notwithstanding anything contained in any other law for the time being in force, no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme for consolidation of holdings.

Transfer of holding during the pendency of the proceedings for consolidation.

131. Where, during the pendency of proceedings under this Chapter and after an application has been made under section 119 for the consolidation of holdings, any holding, to which such application relates, is transferred, the transferee shall be deemed to be a party to such application and shall be substituted in place of the transferor of the holding.

Recovery of the cost of consolidation proceedings.

132. (1) The costs of proceedings of the consolidation of holdings under this Chapter shall, on the final confirmation under section 125 of the scheme for such consolidation, be assessed in the prescribed manner and be, subject to such rules as may be made by the Provincial Government in this behalf, recovered from the *raiyats* whose holdings are affected by such scheme:

Provided that no costs shall be recoverable in respect of any proceedings arising out of an application under sub-section (1) of section 119 where the applicants have submitted an agreed scheme for consolidation of their holdings.

of 1951.]

(Sections 132—136.)

(2) The portion of the aforesaid costs which any *raiya*t is liable to pay shall be recoverable by the Provincial Government as an arrear of rent due in respect of the holding of the *raiya*t affected by the said scheme.

Recovery of compensation as arrears of public demand. 133. Any amount specified in any scheme finally confirmed under section 125 as payable as compensation shall be recoverable as an arrear of public demand.

Bar to jurisdiction of Civil Courts. 134. No Civil Court shall entertain any application or suit concerning any matter relating to consolidation of holdings of *raiya*t dealt with in this Chapter.

CHAPTER XVI.

Provisions as to rent and realisation of rent.

Instalment of rent. 135. (1) Subject to agreement or established usage, the rent payable by a *raiya*t shall be paid in two equal instalments falling due on such dates as may be prescribed.

(2) Subject to agreement, the rent payable by a non-agricultural tenant shall be paid in one annual instalment falling due on the last day of the agricultural year.

Time and place for payment of rent. 136. (1) Every *raiya*t shall pay or tender each instalment of rent and every non-agricultural tenant shall pay or tender the rent before sunset of the day on which it falls due:

Provided that the *raiya*t or the non-agricultural tenant may pay or tender the rent payable for the year at any time during the year before it falls due.

(2) The payment or tender of rent may be made—

(a) at the village *tahsil* office or at such other convenient place as may be appointed in that behalf by the Collector; or

(b) by postal money-order in the manner prescribed.

(3) When rent is sent by postal money-order in the prescribed manner it shall be presumed, until the contrary is proved, that a tender has been made.

(4) When rent sent by postal money-order is accepted, the fact of this acceptance shall not be used in any way as evidence of the correctness of any of the particulars set forth in the postal money-order form.

(5) Any rent or any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed to be an arrear.

(Sections 137—142.)

Appropriation of payments.

137. (1) When a *raiyat* or a non-agricultural tenant makes a payment on account of rent, he may declare the year or the years and the instalment or the instalments in respect of which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment shall be credited towards the arrears, if any, and the balance, if any, after the arrears have been satisfied, and where there is no arrear, the whole amount, shall be credited as the rent of the current year.

Raiyat making payment of his rent entitled to a receipt.

138. Every *raiyat* or non-agricultural tenant who makes a payment on account of rent shall be entitled to obtain forthwith, from the person authorised in writing by the Collector to receive such rent, a written receipt in the prescribed form for the amount paid by him signed by the person so authorised.

Liability of holding to sale for arrears.

139. The holding of a *raiyat* or the tenancy of a non-agricultural tenant shall be liable to sale in execution of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for the rent thereof, and the rent shall be a first charge thereon.

Ben. Act
III of
1913.

Interest on arrears.

140. An arrear of rent shall bear simple interest at the rate of six and a quarter *per centum per annum* from the expiry of the year in which the rent or instalments of rent, as the case may be, fall due to the date of payment or of the filing of the certificate under the Bengal Public Demands Recovery Act, 1913, whichever date is earlier.

Ben. Act
III of
1913.

Realisation of arrears of rent under the Bengal Public Demands Recovery Act, 1913.

141. All arrears of rent shall be recoverable under the Bengal Public Demands Recovery Act, 1913, subject to such rules as may be made in this behalf by the Provincial Government and not otherwise:

Ben. Act
III of
1913.

Provided that a certificate signed under the said Act for arrears of rent shall not be executed by arresting the certificate-debtor and detaining him in the civil prison or by the attachment and sale of any movable or immovable property other than the land to which the arrears of rent, in respect of which the certificate has been signed, relates.

Limitation

142. The period of limitation for the recovery of an arrear of rent shall be three years running from the last day of the year in which the arrear fell due.

of 1951.]

(Sections 143—145.)

CHAPTER XVII.

Maintenance and revision of the record-of-rights.

Maintenance
of the record-
of-rights.

143. The Collector shall maintain up-to-date, in the prescribed manner, the record-of-rights prepared or revised under Part IV and modified under section 46 by incorporating therein the changes on account of—

- (a) the mutation of names as a result of transfer or inheritance;
- (b) the subdivision, amalgamation or consolidation of holdings;
- (c) the new settlement of lands or of holdings purchased by the Provincial Government; and
- (d) the abatement of rent on account of abandonment or diluvion or acquisition of land.

Revision of
the record-
of-rights.

144. (1) The Provincial Government may in any case if it thinks fit make an order directing that a record-of-rights in respect of any district, part of a district or local area be revised by a Revenue-officer in accordance with such rules as may be made by the Provincial Government in this behalf.

(2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make such order in any of the following cases, namely:—

- (a) where not less than one-half of the total number of tenants applies for such an order;
- (b) where the revision of such a record is calculated to settle or avert a serious dispute existing or likely to arise amongst the tenants; and
- (c) where a settlement of rent is being or about to be made in respect of any district, part of a district or local area.

Recovery of
the cost of
revision of
record-of
rights.

145. (1) Where the revision of a record-of-rights has been directed under this Chapter in respect of any district, part of a district or local area, the expenses incurred in respect of such revision shall be recoverable from the *raiyats* and other occupants of land in such proportions and in such instalments, if any, as the Provincial Government, having regard to all the circumstances, may determine:

Provided that no part of these expenses shall be recoverable from the *raiyats* and other occupants in the case where the revision of the record-of-rights has been undertaken under clause (c) of sub-section (2) of section 144 with a view to settlement of fair and equitable rents of such *raiyats* under the provisions of Chapter XIV.

(Sections 145—149.)

(2) The portion of the aforesaid expenses which any person is liable to pay under sub-section (1) shall be recoverable by the Provincial Government as if it were an arrear of rent due in respect of the holding or other interest, as the case may be, of such person, situated within the said district, part of a district or local area.

CHAPTER XVIII.

Jurisdiction, Appeal, Revision and Review.

Superintendence and control of Revenue-officers.

146. (1) Subject to supervision by the Provincial Government, the general superintendence and control over all Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Board of Revenue.

(2) Subject to the general superintendence and control of the Board of Revenue, a Commissioner of a division shall exercise control over all other Revenue-officers in his division.

(3) Subject as aforesaid and to the control of the Commissioner of the division, a Collector shall exercise control over all other Revenue-officers in his district.

Appeals.

147. Subject to any special provisions for appeal made in this Part or in any rules made under this Act, an appeal shall lie from every original or appellate order made under any of the provisions of this Part by a Revenue-officer as follows, namely:—

(a) to the Collector, when the order is made by a Revenue-officer subordinate to the Collector;

(b) to the Commissioner of the division, when the order is made by the Collector of a district within the division; and

(c) to the Board of Revenue, when the order is made by the Commissioner of a division.

Limitation for appeals.

148. The period of limitation for an appeal under section 147 shall run from the date of the order appealed against and shall be as follows, that is to say—

(a) When the appeal lies to the Collector..... thirty days.

(b) When the appeal lies to the Commissioner of a division..... sixty days.

(c) When the appeal lies to the Board of Revenue..... ninety days.

Revision.

149. (1) Subject to any special provision for revision made in this Part, the Collector may of his own motion within one month of the date of any order passed under this

(Sections 149—150.)

Part by a Revenue-officer subordinate to him or on application made in that behalf within one month of the date of such order, revise such order.

(2) The Commissioner of a division may of his own motion within three months of the date of any order passed under this Part by the Collector of a district within the division or on an application made in that behalf within three months of the date of such order, revise such order.

(3) The Board of Revenue may of its own motion within six months of the date of any order passed under this Part by the Commissioner of a division or on an application made in that behalf within six months of the date of such order, revise such order.

(4) The Board of Revenue may at any time order the correction of any entry in a record-of-rights maintained under this Part or in a settlement rent-roll prepared and finally published under this Part which, it is satisfied, has been made owing to a *bona fide* mistake:

Provided that an order shall not be revised under this section if an appeal has been preferred against such order:

Provided further that no order for correction shall be made under sub-section (4) until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Review by
Revenue-
officers.

150. (1) A Revenue-officer may, on application made in that behalf by any party interested or of his own motion, review any order passed by himself or by any of his predecessors in office under this Part, and in so reviewing any order, may modify, reverse or confirm any such order:

Provided that—

- (a) an application for review of an order shall not be entertained unless it is made within thirty days from the date of such order or, when such application is presented after the expiry of the said period of thirty days, unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within the said period;
- (b) an order shall not be reviewed if an appeal has been preferred against such order or an application for revision of such order has been made to the superior Revenue Authority; and
- (c) an order shall not be modified or reversed on a review until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(Sections 150—152.)

(2) No appeal shall lie from an order rejecting an application for review or confirming on a review any previous order.

Computation of the period of limitation for appeals, applications for revision and review under this Act.

151. (1) Sections 6, 7, 8 and 9 and sub-section (2) of section 29 of the Limitation Act, 1908, shall not and, subject to the provisions of Part V of this Act, the remaining provisions of the former Act, shall, so far as applicable, apply to all suits, appeals and applications arising under the said Part.

(2) All suits, appeals and applications referred to in Part V shall be instituted and made within the time prescribed therefor; and every such suit instituted, appeal preferred, and application made, after the prescribed period of limitation shall be dismissed, although limitation has not been pleaded.

CHAPTER XIX.

Rules.

Power to make rules.

152. (1) The Provincial Government may, after previous publication, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of the application referred to in sub-section (1) of section 86 and the manner of and procedure for determining the amount of abatement referred to in that sub-section;
- (b) the form and the manner of service of the notice referred to in sub-section (3) of section 87;
- (c) the form of the notice referred to in clause (a) of sub-section (1) and sub-section (4) of section 89 and the amounts of process fees referred to therein;
- (d) the Revenue Authority referred to in sub-sections (3) and (4) of section 90;
- (e) the form of the notice referred to in clause (b) of sub-section (1) of section 92, and the manner in which and the period within which such notice is to be given; and the manner of publication of the notice referred to in sub-section (3) of that section;
- (f) the manner of selection of land by the Revenue-officer for transferring encumbrances under section 94;

(Sections 152.)

- (g) the procedure to be followed and the power to be exercised by Revenue-officers in determining the rent-rates referred to in clause (a) of sub-section (1) of section 99, and the form of a table of rent-rates under that clause, the manner of preparing such table and the particulars to be specified therein;
- (h) the form of a settlement rent-roll under clause (b) of sub-section (1) of section 99, the manner of preparing the same and the particulars to be specified therein;
- (i) the manner of determining the normal yield per acre of land referred to in clause (b) of sub-section (2) and in sub-section (3) of section 100;
- (j) the manner of determining the average rate of rent referred to in clause (f) of sub-section (2) and in sub-section (3) of section 100;
- (k) the manner and period of publication of a draft table of rent-rates under sub-section (1) of section 101 and the Revenue Authority referred to in sub-section (3) of that section;
- (l) the manner and period of publication of a draft settlement rent-roll under sub-section (1) of section 108, and the disposal of objections under that sub-section;
- (m) the confirming authority referred to in sub-section (1) of section 109 and the manner of final publication of the settlement rent-roll under sub-section (3) of that section;
- (n) the superior Revenue Authority referred to in sub-section (1) of section 110;
- (o) the manner of presenting an appeal referred to in sub-section (1) of section 111;
- (p) the manner of making an application under sub-section (1) of section 118;
- (q) the form of the application referred to in sub-section (1) of section 119;
- (r) the manner of making the inquiry referred to in sub-section (1) of section 120, the superior Revenue Authority to whom the application referred to in that sub-section is to be submitted

(Section 152.)

by the Revenue-officer and the procedure to be followed in dealing with the applications referred to in sub-section (2) of that section;

- (s) the manner of preparation of the scheme for consolidation of holdings referred to in sub-section (1) of section 122 and the appointment and constitution of the Advisory Committee referred to in sub-section (2) of that section;
- (t) the manner and period of publication of a draft scheme for consolidation of holdings under sub-section (1) of section 123 and the disposal of objections under that sub-section;
- (u) the period within which and the manner in which an appeal under sub-section (1) of section 124 and a second appeal under sub-section (2) of that section shall be presented and the superior Revenue Authority referred to in sub-section (1) of that section;
- (v) the manner of assessment of the cost of proceedings for consolidation of holdings referred to in sub-section (1) of section 132 and the recovery of such cost under that sub-section;
- (w) the dates of payment of instalments of rent referred to in sub-section (1) of section 135;
- (x) the manner of payment or tender of rent by postal money order under section 136;
- (y) the form of the written receipt referred to in section 138;
- (z) the procedure to be followed in recovering arrears of rent under section 141;
- (za) the manner in which the record-of-rights referred to in section 143 shall be maintained up-to-date;
- (zb) the procedure to be followed and the powers to be exercised by Revenue-officers in revising the record-of-rights under section 144.

LEGISLATIVE DEPARTMENT

East Bengal Act V of 1953.

THE EAST BENGAL STATE ACQUISITION AND TENANCY
(AMENDMENT) ACT, 1953.

(Passed by the Assembly on the 14th March, 1953.)

[Assent of the Governor was first published in the "Dacca Gazette, Extraordinary",
dated the 7th April, 1953.]

An Act further to amend the East Bengal State Acquisition and Tenancy Act, 1950.

Whereas it is expedient further to amend the East Bengal State Acquisition and Tenancy Act, 1950, for the purposes and in the manner hereinafter appearing;

East Ben.
Act No.
XXVIII
of 1951.

It is, hereby enacted as follows:—

Short title.

1. This Act may be called the East Bengal State Acquisition and Tenancy (Amendment) Act, 1953.

Amendment
of East Ben-
gal Act No.
XXVIII of
1951.

2. The East Bengal State Acquisition and Tenancy Act, 1950 (hereinafter referred to as the said Act), shall be amended in the manner hereinafter provided.

East Ben.
Act No.
XXVIII
of 1951.

Amendment
of section 2
of East Ben-
gal Act No.
XXVIII of
1951.

3. In clause (16) of section 2 of the said Act, after the word "includes", the words and comma "benefits to arise out of land," shall be inserted.

Amendment
of section 68
of East Ben-
gal Act No.
XXVIII of
1951.

4. In section 68 of the said Act for the word "twelve", the word "twenty-four" shall be substituted.

Repeal and
saving.

5. (1) The East Bengal State Acquisition and Tenancy (Second Amendment) Ordinance, 1952, is hereby repealed.

East Ben.
Ord. No.
VII of
1952.

(2) Any orders passed, any notice served, any action taken, anything done or any proceedings commenced under the provision of the said Ordinance shall continue in force and be deemed to have been passed, served, taken, done or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had come into force on the date of commencement of that Ordinance

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