

West Bengal Act I of 1954¹

THE WEST BENGAL ESTATES ACQUISITION ACT, 1953².

REGALED

.. Nil.

West Ben.	Act XIII of 1954. Act	West Ben.	Act XIV of 1966. Act
West Ben.	XXXVIII or 1954. Act	West Ben.	IX or 1967. Act XXXI
West Ben.	XXXV of 1955. Act IV	West Ben.	of 1969. Act I of 1973,
West Ben.	of 1957. Act XXV of	West Ben.	Act XXXDI of 1973.
West Ben.	1957. Act VI of 1958.	West Ben.	Act XXI of 1975. Act
West Ben.	Act XXV or 1958. Act	West Ben.	XXXVI of 1977. Act
West Ben.	XVII of 1960. Act IX	West Ben.	XXII of 1978. Act XX
West Ben.	of 1961. Act XIX of	West Ben.	of 1982. Act XI of
West Ben.	1961. Act XXII of	West Ben.	1987. Act XXV of
West Ben.	1963. Act XL of 1963.	West Ben.	1992. Act XX of 1997.
West Ben.	Act XXII of 1964.	West Ben.	
West Ben.		West Ben.	
West Ben.		West Ben.	

AMENDED

[J2i/i February, 1954.]

Act to provide for the Stare acquisition of estates, of rights of intermediaries therein and of certain rights of raiyats and under raiyats -{aiul of the rights dfcertain other persons in lands comprised in estates.}
It is hereby enacted as follows:ô

CHAPTER I,

Preliminary.

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

West Ben. (2) It extends to the whole of Wesl Bengal cxxcpt the areas described an95*X11, an Schedule I of ihe Calcutta Municipal Act, 1951, as deemed to have been amended under section 594 of thai Act.

¹In terms of the provisions of sub-section (3) of section 3 read with Schedule III of [the West Bengal Trans ferred Territories (Assimilation of Laws) Act, 1958 (West Ben, Act XIX of 1958). [his Act shall not extend 10, or come in 10 force in, ihe territories transferred from the Si ale of Bihar (ie Slate of West Bengal hys. 3 of ihe Bihar and West Bengal (Transfer of Temlories) Act, 1956 (XL of 1956). This Act extended 10 Chan dent agorc with effect from the appointed dale under sec lion 8 of ihe ChandentagDie (Assimilation of Laws) Act, 1955 (West Ben, Act IV of 1956).

²LEGISLATIVE PAPERS,ô For Statement of Objects and Reasons, see ihe *Catania Gazette. Extraordinary*, dated the 5ih May, 1953, Pan IVA, page 609; for Report or [tie Joint Select Com mi lice, see the *CaJculM Gazette, Extraordinary*, dated ihe 12th November, 1953, Pan IVA, pages 1275-13 M; for Ihe proceedings of Ihe West Bengal Legislative Assembly, see the Official Report of Ihe West Bengal Legislative Assembly, Vol. VII. No. 3, pages JCW7, 1110-11-47. Vol, VIII, pages 95-135, 178-218, 278-298, 433-466, 486-501, 529-55, 577-M8. 684-756, 775-846. S90-952, 996-1102 and 1119-12 IB; and for the proceedings of the Wesl Bengal Legislative Council, see Ihe Official Report of [he Wesl Bengal Legislative Council, Vol. III, pages 194-252 and 258-316.

³These words wilhin Ihe square brackets were inserted with retrospective effect by s. 2 of ihe West Bengal Estates Acquisition (Ante

(Chapter I.—Preliminary.—Section 2.)

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

- (a) "agricultural year" means the Bengali year commencing on the first day of *Baisakh*;
- (b) "agricultural land" means land ordinarily used for purposes of agriculture or horticulture and includes such land, notwithstanding that it may be lying fallow for the time being;
- (c) "charitable purpose" includes the relief of the poor, medical relief or the advancement of education or of any other object of general public utility;
- (d) "Collector" means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of the Collector under this Act;
- (e) "date of vesting" means the date mentioned in the notification under sub-section (1) of section 4;
- (f) "estate" or "tenure" includes part of an estate or part of a tenure;
- (ff) * * * * *
- (g) "homestead" means a dwelling house together with any courtyard, compound, garden, out-house, place of worship, family grave-yard, library, office, guest-house, tanks, wells, privies, latrines, drains and boundary walls annexed to or appertaining to such dwelling house;
- (h) "incumbrance" in relation to estates and rights of intermediaries therein does not include the rights of a *raiyat* or of an under-raiyar or of a non-agricultural tenant *, but shall, except in the case of land allowed to be retained by an intermediary under the provisions of section 6, include all rights or interests of whatever nature, belonging to intermediaries or other persons, which relate to lands comprised in estates or to the produce thereof];

*Clause (ff), which was inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955), was omitted with retrospective effect by s. 2(1) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

*These words within the square brackets were inserted with retrospective effect by s. 2(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

(Chapter J.—Preliminary.—Section 2.)

- h. (i) "intermediary" means a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a *raiyat* or a non-agricultural tenant and includes a service tenure-holder and, in relation to mines and minerals, includes a lessee and a sub-lessee;
- (j) "non-agricultural land" means land other than agricultural land -[or other than land comprised in a forest];
- (k) "non-agricultural tenant" means a tenant of non-agricultural land who holds under a proprietor, a tenure-holder [, a service tenure-holder] or an under-tenure-holder;
- (l) "notified area" means a district or part of a district in respect of which a notification has been duly published under section 4;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "religious purpose" means a purpose connected with religious worship, teaching or service or any performance of religious rites;
- (o) "rent" means whatever is lawfully payable or deliverable in money or kind or both, by a tenant to his landlord, on account of the use or occupation of the land held by the tenant and includes also money recoverable under any enactment for the time being in force as if it was rent;
- (p) expressions used in this Act and not otherwise defined have the same meaning as in section 2 of the Bengal Tenancy Act, 1885, applies, the same meaning as in that Act and in relation to other areas meaning as similar thereto as the existing law relating to land tenures applying to such areas, permits.

¹Clause (i) was substituted for the original clause with effect by s. 2(2) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

²These words within the square brackets were inserted with retrospective effect by s. 2(b) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

³These words within the square brackets were inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act V of 1960).

[West Ben. Act

(Chapter I.—Preliminary.—Section 3.—Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 4.)

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

Provided that nothing in this Act shall apply to any land held by a Corporation, not being a local authority or a Company, established by or under any law for the time being in force:

Provided further that nothing in this Act shall affect any land possession of which was taken by the State Government before the date mentioned in the notification issued under section 4, in furtherance of any proposal for acquiring such land, whether any formal proceedings for such acquisition were started or not, and proceedings for acquisition of such land may be continued or commenced as if this Act had not been passed.

CHAPTER II.**Acquisition of estates and of the rights of intermediaries therein.**

4. (1) The State Government may from time to time by notification declare that with effect from [the date mentioned in the notification, all estates and the rights of every intermediary in each such estate situated in any district or part of a district specified in the notification, shall vest in the State free from all

Notification vesting estates and rights of intermediaries

incumbrances.

(2) The date mentioned in every such notification shall be the commencement of an agricultural year; and the notifications shall be issued so as to ensure that the whole area to which this Act extends, vests in the State on or before the 1st day of *Baisakh* of the Bengali year 1362,

(3) Every such notification shall be published in the first instance, in at least two issues of each of two newspapers (one of which must be in the Bengali language) circulating in West Bengal and also by affixing at each police-station and sub-registry office within the district or part of the district, specified in the notification and by beat of drums and in any other manner, if any, as may be prescribed.

(4) When the State Government is satisfied that the notification has been published in the first instance as required under sub-section (3), it shall issue the notification in the *Official Gazette*.

These provisions were added with retrospective effect by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

Those words and figure within the square brackets were substituted with retrospective effect for the words and figure "before the issue of a notification under section 4." by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 5.)

(5) The publication of the notification in the *Official Gazette* shall be conclusive evidence that all requirements relating to publication in the first instance as mentioned in sub-section (3) have been complied with and also of the due publication of the notification and of notice to all persons affected by the notification.

(6) Notwithstanding anything contained in the foregoing subsections, an intermediary may, at any time before the 15th day of February, 1955, apply to the State Government to have all his estates, tenures, under-tenures and other rights as intermediary, to be vested in the State and the State Government may, after considering the facts and circumstances of the case, if it thinks fit, make an order granting the application. Upon the order being made, all such estates, tenures, under-tenures and rights of the intermediary, shall vest in the State Government on and from the date of the order, free from all incumbrances (other than the rights of subordinate intermediaries, if any) and the provisions of this Act, except the foregoing sub-sections and clauses (a) and (b) of section 5, shall, with necessary modifications, apply as if, in relation to such estates, tenures, under-tenures and rights of the intermediary, references in the publication of a notification under section 4 or to the date of vesting were references to the order granting the application or to the date of such order, and references to the vesting under section 5 were references to the vesting under this sub-section. The State Government shall have also power to make such other orders for giving effect to the provisions of this sub-section as it deems necessary.

5. [(1)] Upon the due publication of a notification under section 4, on and from the date of vesting¹

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(a) the estates and the rights or intermediaries in the estates, to which the declaration applies, shall vest in the State free from all incumbrances; in particular and without prejudice to the generality of the provisions of this clause, every one of the following rights which may be owned by an intermediary shall vest in the State, namely:

- (i) rights in sub-soil, including rights in mines and minerals,
- (ii) rights in *hats*, bazars, ferries,² fisheries, tolls and other *sairati* interests;

¹Sub-section (6) was substituted for the original sub-section by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVII of 1954).

²Section 5 was re-numbered as sub-section (1) of that section by s. 2 of the West Bengal Estates Acquisition Act, 1964 (West Ben. Act XXII of 1964).

³The word "ferries" was omitted with retrospective effect by s. 3(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 5.)

- (aa) all lands in any estate comprised in a forest together with all rights to the trees therein or to the produce thereof and held by an intermediary or any other person shall vest in the State;
- (b) all grants of, and confirmation of rights to, estates and rights therein, to which the declaration applies and which were made in favour of intermediaries shall determine;
- (c) ¹ [(subject to the provisions of sub-section (3) of section 6, every non-agricultural tenant holding any land) under an intermediary, and until the provisions of Chapter VI are given effect to, every *raiyat* holding any land under an intermediary], shall hold the same directly under the State, as if the State had been the intermediary, and on the same terms and conditions as immediately before the date of vesting:
- ^Provided that if any non-agricultural tenant pays rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in the foregoing clause, he shall pay such rent as a Revenue Officer specially empowered by the State Government in this behalf may determine in the prescribed manner and in accordance with the principle laid down in clause (ii) of section 42:
- ⁵Provided further that any person aggrieved by an order passed by the Revenue Officer determining rent under the first proviso may appeal to such authority and within such time as may be prescribed;
- (d) Every non-agricultural tenant holding under an intermediary and until the provisions of Chapter VI are given effect to, every *raiyat* holding under an intermediary, shall be bound

¹These provisos were added by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act XXII of 1963).

These words within square brackets were substituted with retrospective effect for the words "every *raiyat* or non-agricultural tenant holding under an intermediary" by s. 3(2) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

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(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 5A.)

to pay to the State his rent and other dues in respect of his land, accruing on and from the date of vesting, and every payment made in contravention of this clause shall be void and of no effect.

¹ (2) For the removal of doubts it is hereby declared that notwithstanding anything to the contrary contained in any judgment, decree or order of any court or Tribunal or in any other law, all rights and interests in mines and minerals of all intermediaries, being lessees and sub-lessees, in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of such notified area.

(3) It is further declared that notwithstanding anything to the contrary contained in any judgment, decree or order of any court or Tribunal or in any other law, all lands in any estate comprised in a forest with all rights to the trees or to the produce thereof as mentioned in clause (aa) of sub-section (1) in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of that area.

² 5 A. (1) The State Government may after the date of vesting enquire into any case of transfer of any land by an intermediary made between the 5th day of May, 1953 and the date of vesting, if in its opinion there are *prima facie* reasons for believing that such transfer was not *bona fide*.

(2) If after such enquiry the State Government finds that such transfer was not *bona fide*, it shall make an order to that effect and thereupon the transfer shall stand cancelled as from the date on which it was made or purported to have been made:

Provided that, subject to such cancellation, nothing in this subsection shall be deemed to affect any rights which the transferor or the transferee may otherwise have against each other.

(3) If after such enquiry the State Government finds that the transfer was *bona fide*, it shall make an order to that effect and thereupon the following consequences shall ensue, namely:

- (i) the land shall, without prejudice to any rights which the transferor or the transferee may have against each other, be deemed to be the land of the transferee for the purpose of this Act;

¹ Sub-section (2) was added by s. 2(2) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964). See also foot-note 2 on page 5, *mile*.

² Sub-section (3) was inserted by s. 2(b) of the West Bengal Estates Acquisition (Amendment) Act, 1977 (West Ben. Act XXXVI of 1977).

³ Section 5A was inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1954 (West Ben. Act XIII of 1954).

[West Ben. Act*(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 5A.)*

(ii) if any such land or any part thereof is retained by the transferee under the provisions of this Chapter, such land or such part thereof may be taken into account in calculating the land which may be retained by the transferor under this Chapter as if such land or such part thereof had never been transferred and were retained by the transferor or chosen by him as land to be retained by him.

(4) The State Government may delegate¹ all or any of its powers under this section to such officers in its service as it may deem fit.

(5) The procedure to be followed in such enquiry shall be such as may be prescribed:

Provided that

(i) no order shall be passed in an enquiry held under this section except after giving the transferor and the transferee an opportunity of being heard;

(ii) in conducting such enquiry the State Government and any officer to whom any powers have been delegated under subsection (4), shall have all the powers of a civil court for the purposes of taking evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents and shall be deemed to be a civil court within

the meaning of sections 480, 481 and 482 of the Code of Civil Procedure of

1898 *

Criminal Procedure, 1898.

(6) An appeal against any order passed by the State Government under sub-section (2) or sub-section (3), or passed under any of those sub-sections as read with section (4) by an officer to whom powers have been delegated under subsection (4), if preferred within sixty days of such order -[or within sixty days from the date of appointment of the Special Judge, whichever is later], shall lie to a Special Judge³ (being a person who is or has been a District Judge or an Additional District Judge) appointed by the State Government for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

¹For delegation of powers, see notification No. F-786L. Ref., dated the 9th April, 1953 of the Land and Land Revenue Department, published in the *Calcutta Gazette, Extraordinary* on the 10th April, 1956, Part I, page 75D.

²These words within square brackets were inserted by 5.3(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

³These words within square brackets were substituted for the words "not being an Officer below the rank of a District Judge" by s. 3(2), *ibid*.

⁴For notification relating to appointment of certain Officers to be the Special Judges for the purpose of section 5A of the Act in respect of the districts specified, see notification No. 1535-11. Ref., dated 14.10.60, published in the *Calcutta Gazette, Extraordinary* of 1960, Part I, page 2677.

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 5B.)

(7) In this section,

(i) a transfer shall be held to be not *bona fide* if it was made principally or partially with the object of increasing the amount of land which a person may retain under this Chapter or principally or partially with the object of increasing the amount of compensation payable under Chapter III or Chapter IV;

(ii) a transfer in favour of one or more of the following relatives of the transferor, that is to say,

a wife, a husband, a child, a grand-child, a parent, a grand parent, a brother, a sister, a brother's son, a sister's son, a daughter's husband, a son's wife, a wife's brother or sister, or a brother's wife,

made between the 5th day of May, 1953 and the date of vesting shall be presumed to be not *bona fide* until the contrary is proved:

Provided that no such presumption shall be made in respect of transfer of land by an intermediary if the aggregate area of such land owned by the intermediary at any time between the 5th day of May, 1953 and the date of transfer did not exceed twenty acres in extent in the case of non-agricultural land and twenty-five acres in extent in the case of agricultural land;

(iii) 'transfer' means a transfer by sale, mortgage, lease, exchange or gift;

(iv) 'transferor' and 'transferee' include the successors in interest of a transferor or a transferee.

'SB. On and from the 1st day of June 1954, no estate, tenure or under-tenure shall be liable to be sold under the Bengal Land Revenue Act, 1859, the Cooch Behar Revenue Sales Act, 1897 or the Bengal Patni Taluks Regulation, 1819, or the Bengal Tenancy Act, 1885, as the case may be, and any sale which took place on or after that day under any of those Acts or that Regulation shall be deemed to have been void and of no effect: Provided that where by reason of the foregoing provision of this section, any estate, tenure or under-tenure is not sold, or where such sale is void and of no effect, the arrears for which the estate, tenure or under-tenure would have been sold or were sold, shall, notwithstanding anything

Section 5B was inserted with retrospective effect from the 1st day of June, 1954 by s. 3 of the West Bengal Estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVII of 1954).

Estate or tenure not liable to be sold under Act XI of 1859, Cooch Behar Act V of 1897, Bengal Regulation VIII of 1819 and Act VIII of 1885.

Chapter II,—Acquisition of estates and of the rights of intermediaries therein.—Section 6.)

to the contrary *ⁿ any other law, bear simple interest at the rate of ten per centum per annum from the date on which they become or became payable or from which the sale is deemed to have been void and of no effect, as the case may be up to the date immediately preceding the date of vesting of such estate, tenure or under-tenure.

6. (1) Notwithstanding anything contained in sections 4 and 5, an intermediary shall, except in the cases mentioned in the proviso to subsection (2) but subject to the other provisions of that sub-section, be entitled to retain with effect from the date of vesting

the Right of intermediary in retain certain lands.

(a) land comprised in homesteads;

(b) land comprised in or appertaining to buildings and structures [owned by the intermediary or by any person, not being a tenant, holding under him by leave or license];

'Explanation-6 For the purposes of this clause 'tenant' shall not include a *thika* tenant as defined in the Calcutta West Ben. *Thika* Tenancy Act, 1949; f<m^{of}

(c) non-agricultural land in his *khas* possession [including land held under him by any person, not being a tenant, by leave or license] not exceeding fifteen acres in area, and excluding any land retained under clause (a):

Provided that the total area of land retained by an intermediary under clauses (a) and (c) shall not exceed twenty acres, as may be chosen by him;

Provided further that if the land retained by an intermediary under clause (c) or any part thereof is not utilised for a period of five consecutive years from the date of vesting, for a gainful or productive purpose, the land or the part thereof may be resumed by the State Government subject to payment of compensation determined in accordance with the principles laid down in sections 23 and 24 of the Land Acquisition Act, 1894;

(d) agricultural land in his *khas* possession, not exceeding twenty-five acres in area, as may be chosen by him:

These words within square brackets were substituted with retrospective effect for the words "whether created by the intermediary or not" by s. 4(1)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

-This *Explanation* was added with retrospective effect by s. 4(1)(b), *ibid.* These words within square brackets were inserted with retrospective effect by s. 4(1)(c), *ibid.*

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—
Section 6.)

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Provided that in such portions of the district of Darjeeling as may be declared by Notification by the State Government to be hilly portions, an intermediary shall be entitled to retain all agricultural land in his *khas* possession, or any part thereof as may be chosen by him;

(c) tank fisheries;

Explanation. "tank fishery" means a reservoir or place for the storage of water, whether formed naturally or by excavation or by construction of embankments, which is being used for pisciculture or for fishing, together with the sub-soil and the banks of such reservoir or place, except

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such portion of the banks as are included in a homestead or in a garden or orchard and includes any right of pisciculture or fishing in such reservoir or place;

(f) [subject to the provisions of sub-section (3),] land comprised in tea gardens or orchards or land used for the purpose of livestock breeding, poultry farming or dairy;

(g) [subject to the provisions of sub-section (3),] land comprised in mills, factories, or workshops;

(h) where the intermediary is a local authority, land held * * *

²The words, brackets and figure within square brackets were inserted with retrospective effect by s. 3(1)(c). *ibid.*

The words "in *khas* for public purposes" were inserted with retrospective effect by s. 4(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

This proviso was added with retrospective effect by s. 4(2), *ibid.*

This clause was substituted with retrospective effect for the original clause by s. 3(1)(d) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955);

These words within the square brackets were inserted with retrospective effect by s. 3(1)(w) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

The Indian Companies Act, 1913 (VII of 1913) was repeated and re-enacted by the Companies Act, 1956 (I of 1956).

Clauses (k) and (l) were inserted with retrospective effect by s. 3(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

³See foot-note 4 on page 12, *ante*.

This paragraph was added with retrospective effect by s. 3(1)(e) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁴Substituted with retrospective effect for the words "Nothing in this sub-section" by s. 3(1) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

These words within the square brackets were inserted with retrospective effect by s. 4(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

These words within the square brackets were inserted with retrospective effect by s. 4(1)(e) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

These words within the square brackets were inserted with retrospective effect by s. 4(2). *ibid.*

⁵Sub-section (3) was added with retrospective effect by s. 3(2) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

This proviso was added with retrospective effect by s. 1 of the West Bengal Estates Acquisition (Amendment) Act, 1969 (West Ben. Act XXXL of 1969).

by such authority, notwithstanding such land or any part thereof may have been let out by such authority;

^Provided that where any land which has been let out by any local authority is retained by such authority under this clause, no person holding such land shall have any right of occupancy therein, and every such person shall be bound to deliver possession of (he land lo the local authority when required by it for its purposes;

¹This *Explanation* was added with retrospective effect by 5, 4 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

²This *Eirepiion* was added with retrospective effect by s. 3(2) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

³Sub-sections (3A), (3B), (3C) and (3D) were inserted with retrospective effect by s. 3(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 6.)

- (i) where the intermediary is a corporation or an institution established exclusively for a religious or a charitable purpose or both, or is a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious of *bolhô land* held in *khas* by such corporation or institution, or person, for such purpose -[including land held by any person, not being a tenant, by leave or license of such Corporation or institution or person];
- (j) where the intermediary is a co-operative society registered or deemed to have been registered under the Bengal Co-operative Societies Act, 1940, or a company incorporated under the Indian Companies Act, 1913^{XXI}, engaged exclusively in or 1913. in farming (and in business, if any, connected directly with such farming), *ô* agricultural land in the *khas* possession of the society or the company on the 1st day of January, 1952, and chosen by the society or the company, not exceeding in area the number of acres which persons, who were the members of the society or the company on such date, would have been entitled to retain in the aggregate under clause (d), if every such person were an intermediary:
- Provided that where any such person retains any land under clause (d), such person shall not be taken into account in calculating the aggregate area of the land which the society or the company may retain.
- ¹(k) so much of requisitioned land as the intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses;
- Explanation.* *ô* 'requisitioned land' means any land which was in the *khas* possession of the intermediary and which was requisitioned by Government under the provisions of any law for the time being in force or was occupied by

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 6.)

Government in pursuance of rule 49 of the Defence of India Rules and continued to be subject to requisition or occupation on the date mentioned in the notification issued under section 4;

{D} so much of land in the unauthorised occupation of refugees from East Bengal immediately before the date of vesting as an intermediary would be entitled to retain after taking into consideration any other land which he may have retained under (b) other clauses;

Explanation. 'Refugees from East Bengal' includes those who are displaced persons within the meaning of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951.

-Exception. [Subject to the provisions contained in sub-section (3), nothing in this sub-section] shall entitle an intermediary [or any other person] to retain any land comprised in a forest [or any land comprised in any embankment as defined in the Bengal Embankment Act, 1882, the proper maintenance of which should, in the opinion of the State Government, be taken-over by the State Government in the public interest.]

(2) An intermediary who is entitled to retain possession of any land under sub-section (1) shall be deemed to hold such land directly under the State from the date of vesting as a tenant, subject to such terms and conditions as may be prescribed and subject to payment of such rent as may be determined under the provisions of this Act and as entered in the record-of-rights finally published under Chapter V except that no rent shall be payable for land referred to in clause (h) or (i):

Provided that if any tank fishery or any land comprised in a lease-garden, orchard, mill, factory or workshop was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by the State Government on the same terms and conditions as immediately before such date [subject to such modification therein as the State Government may think fit to make.]

West Ben.
Act XV of
1951.

Ben. Art 11
of 1892.

(Chapter VI.—Acquisition of estates and of the rights of intermediaries therein.—Section 6.)

^
*'
(5) In the case of land comprised in a tea-garden, mill, factory or workshop the intermediary, or where the land is held under a lease, the lessee, shall be entitled to retain only so much of such land as, in the opinion of the State Government, is required for the tea-garden, mill,

factory or workshop, as the case may be, and a person holding under a lease shall, for the purpose of assessment of compensation, be deemed to be an intermediary:

-Provided that the State Government may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the intermediary or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this sub-section specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea-garden, mill, factory or workshop, as the case may be.

[^]Explanation.—The expression 'land held under a lease' includes any land held directly under the State under a lease.

["]Exception.—In the case of land allowed to be retained by an intermediary or lessee in respect of a tea-garden, such land may include any land comprised in a forest if, in the opinion of the State Government, the land comprised in a forest is required for the tea-garden.

^S(3A) Land which may be retained under clause (k) or clause (l) of sub-section (1) shall, if necessary, be demarcated in such manner as may be prescribed and shall be specified in an order made in this behalf by a Revenue Officer specially empowered for the purpose by the State Government.

[\](3B) In executing any order for eviction of persons in unauthorised occupation of land in pursuance of proceedings under the Rehabilitation [^]West Ben. of Displaced Persons and Eviction of Persons in Unauthorised Occupation Act XVI of Land Act, 1951, possession shall be given to the intermediary of only ¹⁹⁵¹ so much of such land as he is entitled to retain under clause (1) of subsection (1) and possession of any land in excess thereof shall be given to the Revenue Officer having jurisdiction over the area in which the land is situated.

⁴(3C) For the purpose of sub-section (3B) the officer or authority executing the order for eviction shall ascertain from the Revenue Officer referred to in sub-section (3A) particulars of the land possession of which may be given to the intermediary.

¹(3D) Except as otherwise specifically provided in this Act or in the rules made thereunder, the provisions of the Bengal Tenancy Act, 1885 or of 1885, or the Cooch Behar Tenancy Act, 1910 shall not apply in the case of Cooch Behar any land referred to in sub-section (2). ^{of}

(Chapter 11.—Acquisition of estates and of the rights of intermediaries therein.—Section 7.)

(4) In the case of lands comprised in a forest [or in any embankment, referred in the *Exception* to sub-section (1)] and held by a person other than an intermediary which vest in the State, such person shall, for the purpose of assessment of compensation, be deemed to be an intermediary.

(5) An intermediary shall exercise his choice for retention of land under sub-section (1) within such time and in such manner as may be prescribed. If no choice is exercised by him during the prescribed period, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the lands as do not exceed the limits specified in clauses (c), (d) and (j) of this sub-section:

Provided that nothing in this sub-section shall require an intermediary to exercise the choice if he has already done so before the date of coming into force of the West Bengal Estates Acquisition (Second Amendment)

Act, 1957.

West Ben. Act
XXV of 1957.

7. (1) All arrears of land revenue, cesses, taxes and other Arrears of impositions by the State relating to any period prior to the date of vesting lawfully recoverable from any intermediary in respect of [his share in] cesses, taxes any estate which vests in the State under section 5 shall, after the date of vesting, continue to be recoverable from such intermediary, and shall, due from any impositions without prejudice to any other mode of recovery, be recoverable under intermediary, an order of a Collector by deduction of the amount of such arrears from the money [which such intermediary is entitled to receive as compensation] under this Act:

^Provided that where the intermediary agrees in writing that the whole of the compensation money payable to him including the amount recovered by the State Government under the provisions of section 9, if any, may be adjusted against the arrears recoverable from the intermediary under this sub-section, no other mode of recovery shall be adopted for the recovery of any such arrears, except the balance, if any, remaining due after such adjustment and suits and proceedings, if any, pending for the recovery or any such arrears shall remain stayed until such adjustment has been made.

[West Ben. Act

(Chapter 11.—Acquisition of estates and of the rights of intermediaries therein.—Sections 8, 9.)

(2) In computing the period of limitation for the institution of any suit or proceeding for the recovery of any arrears referred to in sub-section (1), the time taken for adjustment of the arrears in accordance with the proviso to sub-section (1) shall be excluded.

8. All arrears of rent and cesses [together with interest thereon and other amounts lawfully recoverable by] any intermediary on the date of vesting from any person, in respect of any interest of such intermediary which vests under section 5, and all sums due from such person in respect of any decree for arrears of rent in respect of such interest, whether having the effect of a rent-decree or money-decree and whether obtained before or after the date of vesting, and the execution of which is not barred by limitation, shall continue

to be recoverable by such intermediary

-[Provided that if such person be himself an intermediary, the recovery of such arrears from the compensation payable to him shall be subject to the provisions of section 26 of this Act.]

"Provided further that if on the date of vesting a notification under section 99 of the Cess Act, 1880, was in force in respect of any interest or an intermediary or if any interest of an intermediary was let in farm or managed by a Collector under clause (b) or clause (c) of section 73 of the Bengal Embankment Act, 1882, then in computing the period of limitation for the institution of any suit or proceeding by the intermediary for the recovery of any arrears of rent or cesses in respect of such interest, the period during which such notification was in force or during which the interest was let in farm or managed by the Collector, shall be excluded.

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

9. (1) An intermediary may * * apply to the State

Government for recovery by the State Government or all sums recoverable through the by him under the provisions of section 8.

State
Government on certain
conditions.

These words within the square brackets were substituted with retrospective effect for the words "together with interest thereon remaining due to" by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

The words "and shall without prejudice to any other mode of recovery be recoverable by attachment of any money that may be payable as compensation to such person under this Act" were omitted by s. 4 of the West Bengal Estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVIII of 1954).

This proviso within the square brackets was added by s. 4, *ibid.*

This further proviso was added with retrospective effect by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

This sub-section was substituted with retrospective effect for the original sub-section by s. 6(1) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

The words "at any time within twelve months from the date of vesting" were omitted with retrospective effect by s. 6(a) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

1 of 1954.]

(Chapter 11.—Acquisition of estates and of the rights of intermediaries therein.—
Section 9.)

(2) The State Government may grant or refuse such application as it thinks fit [but no such application shall be granted if made after the expiry of twelve months from the date of vesting unless the intermediary makes an agreement in writing referred to in the proviso to sub-section (1) of section 7],

(3) If the State Government grants the application, it shall be competent for the State Government to recover [all such sums] as if they were public demands, or in any other manner as if the State Government were the intermediary:

Provided that if any such sum be recoverable from more persons than one who are co-sharers and who are jointly and severally liable to pay such sum, the extent of liability of each such co-sharer shall first- of all be ascertained by the Court in which, or the Officer before whom, proceedings in execution are taken, and no such proceedings shall, after the passing of the West Bengal Estates Acquisition (Amendment) Act, 1961* or 1961, be continued against all the co-sharers until the proceedings against each co-sharer in respect of his individual liability as so ascertained have been wholly or partially unsuccessful.

(4) The State Government shall, from time to time in accordance with such rules as may be prescribed, send to the intermediary, accounts of the [amount recovered in pursuance of sub-section (3)], [and shall, subject to the terms of the agreement made in compliance with subsection (2), where such an agreement is made, pay] to the intermediary [the amount so recovered after deducting therefrom the actual cost of recovery subject to a minimum of twenty per centum of the amount recovered]. Such accounts shall be treated as conclusive and shall not be questioned in any manner.

(5) The State Government shall not be liable if it fails to recover the whole or any portion of [the sums referred to in sub-section (1)].

These words within the square brackets were added with retrospective effect by s. 6(b) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

These words within the square brackets were substituted with retrospective effect for the words "such arrears aforementioned" by s. 6(2) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

This proviso was added by s. 6 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

¹ These words within the square brackets were substituted with retrospective effect for the words "amounts of arrears aforementioned actually collected" by s. 6(3)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

These words within the square brackets were substituted with retrospective effect for the words "and shall pay" by s. 6(c) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

These words within the square brackets were substituted with retrospective effect for the words "half of the amount so collected and retain the other half for itself" by s. 6(3)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

² Substituted with retrospective effect for the words "such arrears aforementioned" by s. 6(4). *ibid.*

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

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

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

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

(4) An intermediary shall be entitled in accordance with such rules as may be prescribed, to take inspection of any documents, registers, records or collection papers which have been delivered to or taken possession of by the Collector, to make notes therefrom or to have certified copies thereof granted to him. No fees shall be charged for taking inspection or for making notes but fees may be charged according to the prescribed scale for certified copies. Certified copies granted under this sub-section shall be admissible in evidence.

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

(6) If after any estate or any interest therein of an intermediary has vested in the State under section 5, the intermediary or any other person possesses any land which was in the *khas* possession of the intermediary before the date of vesting bill which the intermediary has not retained or cannot retain under section 6, then, whether possession of such land has been taken by the Collector in pursuance of sub-section (2) or not, the intermediary or such other person shall be liable for the period for which he is in possession of such land to pay

(a) where such possession is authorised by the licence of the Collector, such licence fee as may have been agreed upon between him and the Collector or, in the absence of any agreement, as shall be calculated at the rate of Rs. 10 per acre *per annum*, or

¹Sub-sections (6) and (7) were inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1966 (West Ben. Act XIV of

[of 1954.]

{Chapter ii.—Acquisition of estates and of the rights of inrent/ncdkiries therein. —Section 11.}

- (b) where such possession is not authorised by the Collector, " such damages for use and occupation of such land as may be determined by the Collector, after giving the intermediary or such other person an opportunity of being heard, at a rate not exceeding—
- (i) in the case of agricultural land, twenty-five *per centum* of the money value of the gross annual produce of such land;
 - (ii) in other cases, ten *per centum* of the market value of the land *per annum*.

(7) Any amount payable under sub-section (6) on account of licence fee or damages, as the case may be, shall be recoverable as a public demand:

Provided that where damages are due from an intermediary, the same may, without prejudice to any other mode of recovery, be set off under an order of the Collector against the compensation payable to the intermediary under this Act.

11. (1) If any person on whom an order has been served under sub-section (2) of section 10, wilfully fails or neglects to comply with all or any of the directions given in such order within the time specified in the order or within such further time as the Collector may allow or withholds any documents, registers, records or collection papers, or wilfully furnishes any incorrect statement, it shall be lawful for the Collector, after giving such person an opportunity of being heard, to impose a fine upon such person. Such fine may extend—

- (a) in the case of a proprietor, to five times the annual revenue and cess payable by him or to one thousand rupees, whichever is greater;
- (b) in the case of an intermediary who is not a proprietor, to five times the annual rent payable by him or to one thousand rupees, whichever is greater;
- (c) in other cases, to one thousand rupees.

(2) An appeal against any order of the Collector under subsection (1), if preferred within sixty days of such order, shall lie to a Special Judge appointed for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

Clause (b) was substituted for the original clause by s. 2(a) of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975).

-See foot-note 1 on page 18. *nine*

This proviso was added by s. 2(b) of the West Bengal Estates Acquisition Act, 1975 (West Ben. Act XXI of 1975).

[West Ben. Act*(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 12.)*

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

12. ¹ [1] Every intermediary whose estate or interests have vested in the State and have been taken charge of by the Collector under section 10 shall be entitled to receive in cash, in respect of such estate or interests at such time and in such manner as may be prescribed, an annual *interim* payment of [such amount as may be prescribed]. Such payments shall be deemed to be part of the compensation payable to such intermediary and shall, at the time of payment of such compensation, be deducted and adjusted against it, so however that where such compensation is payable partly in cash and partly in bonds, the adjustment shall be first against the compensation payable in cash ¹ (and the interest on such compensation payable under this Act) and then, if necessary, against the compensation payable in bonds:]

Provided that the first annual *ad interim* payment shall be made within eighteen months from the date of vesting and no *ad interim* payment shall be made [after assessment of the compensation payable to the intermediary and publication on the Compensation Assessment Roll under sub-section (1) of section 14 or sub-section (5) or section 15, as the case may be:]

¹The original section 12 was renumbered as sub-section (1) of that section by s. 5 of the West Bengal Estates Acquisition (Second Amendment) Act, 1953 (West Ben. Act XXVIII of 1954).

²These words within the square bracket; were substituted for the words "one third of the net approximate annual income from such estates and interests calculated in the prescribed manner" by s. 4 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

³These words within the square brackets were substituted for the words "annual instalments, the adjustment shall, as far as practicable, be against the interim" by s. 7(1)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁴These words within first brackets were inserted with retrospective effect by s. 4 of the "West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁵The words "and no *ad interim* payment shall be made after the date of final publication under section 21 or the Compensation Assessment Roll in respect of such intermediary" were originally added with retrospective effect by s. 7(1) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955). and [hereafter these words within square brackets were substituted for the words "after the date of final publication under section 21 of the Compensation Assessment Roll in respect of such intermediary" by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XV of 1960).

I of 1954.]

(Chapter II.—Acquisition of estates and of tile rights of intermediaries therein.—Section 12.)

Provided further that where having regard to the financial position and other circumstances, if any, of an intermediary or a class of intermediaries or of a person or a class of persons entitled to receive compensation under the provisions of this Act, the State Government considers it necessary so to do, the State Government may, by order, direct *ad interim* payment to such intermediary or such class of intermediaries or to such person or such class of persons of such amounts and at such intervals as may be specified in the order, the amount so paid being adjusted in the manner laid down in the foregoing provisions of this sub-section.

²(2) Notwithstanding anything contained in sub-section (1), where the estate or interest of an intermediary referred to in clause (i) of subsection (1) of section 6 has vested in the State and has been taken charge of by the Collector under section 10, such intermediary shall be entitled to receive an annual *ad interim* payment of the approximate net annual income from the estate or interest excluding the portion thereof which the intermediary has retained under the provisions of sub-section (1) of section 6, subject to deduction or adjustment in such manner as may be determined in this behalf by the Compensation Officer against the annuity payable under the proviso to sub-section (1) of section 17.

³(3) It shall be competent, notwithstanding anything to the contrary elsewhere in this Act or in any enactment or any general principle of law, to make any payment or any compensation (*ad interim* or final) under this Act,

(a) in the case of a minor, to the guardian of such minor, and

(b) in the case of a lunatic, to the manager of the estate of such lunatic appointed under the Indian Lunacy Act, 1912:

Provided that except in the case of the following classes of guardians, that is to say,

(i) a natural guardian,

(ii) a guardian appointed by the will of a minor's father or mother,

(iii) a guardian appointed or declared by a court, and

¹The second proviso to section 12 was originally added to that section by s. 5(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVIII of 1954), and thereafter this proviso was substituted for the proviso originally added by s. 7(1)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

²Sub-section (2) was originally added to this section by s. 5(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVIII of 1954), and thereafter this sub-section was substituted with retrospective effect for the sub-section originally added by s. 7(2) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

³Sub-section (3) was added with retrospective effect by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act XLIII of 1957).

(Chapter II.—Acquisition of estates and of the rights of intermediaries therein.—Section 13.—Chapter III.— Assessment and payment of compensation.—Section 14.)

(iv) a person empowered to act as or exercise the powers of a guardian by or under any enactment relating to court of wards,

no payment as aforesaid shall be made unless [he guardian furnishes security in accordance with prescribed rules.

(4) An intermediary who is a limited owner shall be entitled to receive *ad interim* payment to the extent of the amount of interest, calculated in accordance with the provisions of this Act on the estimated total compensation payable for the estate or interests vesting in the State.

13. All estates and all interests of intermediaries therein, which have vested in the State under a notification under section 4 and which have been taken possession of by the Collector under section 10 shall be managed according to such rules as the State Government may from time to time make in this behalf:

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

CHAPTER III

Assessment and payment of compensation.

14. (1) The Compensation Officer shall * * * * * prepare in respect of all intermediaries having lands in the notified area or in any part thereof over which the Compensation Officer has jurisdiction, a Compensation Assessment Roll on the basis of the record-of-rights prepared and finally published under Chapter V and publish the same in such manner as may be prescribed.

Preparation of Compensation Assessment Roll.

'Sub-section (4) was added by s. 7(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

'Section 14 was substituted for the original section by s. 6 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

The words, "within (ten years of the date of vesting," were omitted by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

(Chapter III.—Assessment and payment of compensation.— Section 15.)

(2) The Compensation Assessment Roll shall contain particulars about the gross income and net income of each intermediary from all his estates and interests within the area, the amount of compensation payable in accordance with the provisions of this Act and such other particulars as may be prescribed.

(3) Every intermediary who had a share in any estate or interest, which has vested in the State under section 5, shall be treated separately for assessment of compensation:

Provided that any intermediary who acquired by a voluntary transfer made after the 1st day of January, 1952, a share in any estate or interest, not being the entire share of the transferor, shall not be treated separately.

15. (1) Within one month of the publication of the Compensation Assessment Roll under section 14

- (a) an intermediary may file before the Compensation Officer an objection in writing in the prescribed form in respect of any entry therein or any omission therefrom relating to his estates, interests or income;
- (b) an intermediary having estates or interests in any other area or areas shall submit to the Compensation Officer a statement in the prescribed form containing particulars of all his estates and interests wherever situated and the income therefrom.

(2) The Compensation Officer shall, except in a case where an intermediary has filed a statement under clause (b) of sub-section (1), hear and dispose of any objection filed under clause (a) of the said subsection according to such procedure as may be prescribed.

(3) When an intermediary files a statement under clause (b) of sub-section (1), the Compensation Officer shall forward it to the Collector

(4) On receipt of any statement forwarded to him under subsection (3), the Collector shall

- (a) refer the case to such Compensation Officer as may be specially appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that all the estates and interests of the intermediary are situated within the district;

Filing and disposal of objections to Compensation ARWS- mem Roll prepared under section 14 and preparation of roll in respect of intermediaries having interests in more than one area.

Section 15 was substituted for the original section by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVI of 1960).

The words "of the district" were omitted by s. 6 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

For Notification relating to special appointment of Compensation Officers for the purpose of section 15(4)(a) and (b) of the Act, see Notification No. 171H4L. Rcf., dated the 19th November, 1960, published in the *Catcut Cmeue. Extraordinary* of 1960, Part I, page 3034.

(Chapter III.—Assessment and payment of compensation.—
Sections ISA, 16.)

(b) refer the case to such Compensation Officer as may be specially appointed by the State Government in his behalf for assessment of compensation when it appears from the statement that the estates and interests of the intermediary are situated in more than one district.

(5) When cases have been referred to a Compensation Officer under clause (a) or clause (b) of sub-section (4), such Compensation Officer shall prepare a Compensation Assessment Roll in respect of all the intermediaries whose cases have been so referred and publish it in such manner as may be prescribed. The provisions of section 14 shall apply *mutatis in mi land is* to the preparation of such Compensation Assessment Roll.

15A. [An intermediary may, within three months] of the publication of the Compensation Assessment Roll referred to in sub-section (5) of section 15, * * file before the Compensation Officer

Filing and disposal of objections to Compensation Assessment Roll prepared under sub-section (5) of section 15.

an objection in writing in respect of any entry therein or any omission therefrom relating to his estates, interests or income and the Compensation Officer shall [thereupon] hear and dispose of such objection according to such procedure as may be prescribed.

16. (1) For the purpose of the preparation of the Compensation Assessment Roll * * * *

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

Gross income and net income.

(i) the aggregate of the rents and cesses payable or deemed to be payable to him for the previous agricultural year by his immediately subordinate tenants including [the average value of any rent in kind which was payable by such tenants during seven years immediately preceding the date of vesting commuted and determined] in the prescribed manner^K* * * *;

¹Set foot-note .1 on page 21, *aiif*.

²Section ISA was inserted by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

³These words within square brackets were substituted for the words "Within three months" by s. 7(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁴The words "an intermediary may" were omitted by s. 7(2). *ibid* This word within the square brackets was inserted by s. 7(3), *ibid*.

⁵The words "for any notified area" were omitted by s. 9(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁶These words within square brackets were substituted for the words "the commuted value of rents in kind of such tenants determined" by s. V(2)(a)(i), *iwrf*.

⁷The words "and subject to the provisions of section 40" were omitted by

I of 1954.]

(Chapter I.—Assessment and payment of compensation.— Section 16.)

West Bwi-
Act XIV of
1948.

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- ³(ii) in respect of *khas* land which the intermediary does not retain under sub-section (I) of section 6, the annual income of such land determined in the prescribed manner;
- (iii) the income derived from *jawan*, *in*, *are*, *ferries*, *fisheries*, *holls* and other *sairati* interests, calculated on the basis of the average annual income for five agricultural years immediately preceding the agricultural year in which the date of vesting falls or for such shorter period for which evidence is available;
- (iv) in respect of forests the average annual income from the forests for twenty-five agricultural years immediately preceding the agricultural year in which the date of vesting falls as determined by an Officer appointed in this behalf by the State Government, on the following basis:
- (I) for the period after the commencement of the West Bengal Private Forests Act, 1948,
- (A) where the forests have been under the management of private owners in accordance with working plans approved under this Act, the annual income yielded by the forests, and
- (B) in other cases, the annual income calculated on the basis of the income determined under subparagraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district,

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

- (11) For the period before the commencement of the West Bengal Private Forests Act, 1948,⁶
- (A) where evidence as to the income yielded by the forest is available, the annual income according to such evidence, and
- (B) where no such evidence is available, the annual income calculated on the basis of the income determined under sub-paragraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district;
- (v) the annual income derived during the previous agricultural year from any other interest of such intermediary not expressly mentioned in sub-clauses (i) to (iv), but excluding income derived from mines directly worked by the intermediary or from leases of mines and minerals granted by him.
- (b) The net income of an intermediary shall be computed by deducting from his gross income the following, namely:
- (i) any sum payable [or deemed to be payable] by such intermediary during the previous agricultural year as land revenue, cesses or rent, [including the average value of any rent in kind which was payable by him during seven years immediately preceding the date of vesting commuted and determined in the prescribed manner,] if any, to the State Government or to his immediately superior landlord, as the case may be, in respect of the interests to which his gross income relates;
- ³(ii) the average of all sums payable as tax under the Bengal Ben. Act or Agricultural Income-tax Act, 1944, or the Indian Income-tax Act, 1922, in respect of the interest to which his gross income relates, for the seven years ending on the 31st day of March, 1955 or any shorter period for which evidence is available;
- (iii) the expenditure calculated on the basis of the average expenditure for five agricultural years immediately preceding the agricultural year in which the date of

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vesting falls or for such shorter period for which evidence is available,

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

incurred by such intermediary on account or the maintenance of any irrigation or protective works which he is bound by law or under any agreement to maintain, in respect of interests to which his gross income relates or where such expenditure should have been incurred but was not so incurred, an amount calculated in the prescribed manner;

(iv) charges on account of management and collection at the following rates, namely:

'Table

Amount of gross income.	Rate
(i) Where the gross income does not exceed Rs. 2,500.	.
(ii) Where the gross income exceeds Rs. 2,500 but does not exceed Rs. 5,000.	Nil.
(iii) Where the gross income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Two and a half <i>per centum</i> of the gross income.
(iv) Where the gross income exceeds Rs. 10,000 but does not exceed Rs. 15,000.	Four <i>per centum</i> of the gross income.
(v) Where the gross income exceeds Rs. 15,000 but does not exceed Rs. 25,000.	Seven and a half <i>per centum</i> of the gross income.
(vi) Where the gross income exceeds Rs. 25,000. -Provided that where deduction of such charges, at the rates specified above, from gross income yields no net income, the Collector shall, notwithstanding anything contained in this clause, fix by actual figures, subject to the approval of the State Government, such charges on account of management and collection as he may consider to be reasonable having regard to the circumstances of each particular case.	Ten <i>per centum</i> of the gross income. Fifteen <i>per centum</i> of the gross income;

This table or rates was substituted for the original [table of rates by s. 5(2)(n) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961)- This proviso was added with retrospective effect by s. 8(2) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

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Section 16A.}

¹(v) any sum payable by such intermediary out of the income from his estates or interests which have vested in the State under section 5 to any person or institution exclusively for a religious or a charitable purpose or both by virtue of any charge on such income created by operation of law or by a decree of any court or by an instrument in writing.]

²(vi) any sum payable by such intermediary out of the income of an estate or interest which has vested in the State under section 5, to a corporation or an institution established exclusively for a religious or a charitable purpose or both, or to a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both, where such estate or interest was held partly for a religious or charitable purpose and partly for a purpose other than religious or charitable.

*Explanation.*³ Any income from a wakf, madd or an endowment which is payable for the support of the founder or his family or descendants shall not be deemed to be income payable for a religious or charitable purpose.

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

*Explanation.*⁴ For the purposes of this section "previous agricultural year" means the agricultural year immediately preceding the agricultural year in which the date of vesting falls.

Exclusion of '16A. A Compensation Officer shall, in preparing under section 14 or section 15 a Compensation Assessment Roll, exclude from the income of an intermediary whose rights in mines and minerals have vested in the State his income from such mines and minerals and shall after assessment of compensation for his other estates and interests refer the case to the Compensation Officer appointed under Chapter IV for assessment of compensation in accordance with the provisions of that Chapter.

estates and
interests
relating to
mines and
minerals

¹Sub-clause (v) was inserted by s. 5, S(2)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

²Sub-clause (vi) was added by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

³Section 16A was inserted by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1965 (West Ben. Act XVII of 1965).

17. (1) After the net income has been computed under section 16, the Compensation Officer shall, in accordance with the following table, determine the amount of compensation payable to intermediaries in accordance with the following table, namely:

Table

Net income.	Amount of compensation payable.
For the first Rs. 500 or less of net income.	Twenty times of such net income.
For the next Rs. 500 or less of net income.	Eighteen times of such net income.
For the next Rs. 1,000 or less of net income.	Seventeen times of such net income.
For the next Rs. 2,000 or less of net income.	Twelve times of such net income.
For the next Rs. 1,000 or less of net income.	Ten times of such net income.
For the next Rs. 15,000 or less of net income.	Six times of such net income.
For the next Rs. 80,000 or less of net income.	Three times of such net income.
For the balance of the net income.	Two times of such balance of net income.

Provided that in the case of an intermediary referred in clause (i) of sub-section (1) of section 6, compensation payable to such intermediary shall be a perpetual annuity³, or where the interest of the intermediary is terminable or is liable to be exhausted, an annuity for such number of years as may be prescribed, having regard to the circumstances, equal to the net annual income from the estate or interest of such intermediary excluding the portion thereof which the intermediary has retained under the provisions of sub-section (1) of section 6:

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(Chapter III.—Assessment and payment of compensation.—
Section 17.)

Provided further that in the case of an intermediary

- whose income consisted only of rent in kind the commuted value of which does not exceed Rs. 1,000 per year, or
- whose income from rent in kind taking the commuted value thereof together with his other income from his estates or interests which have vested in the State under section 5 does not exceed the sum mentioned in clause (a),

the compensation payable to such intermediary shall be an annuity, payable for a period of twenty-five years, equal to the net annual income from the estates or interests in respect of which the intermediary received rent in kind and in the case of an intermediary mentioned in clause (b), the amount of such annuity shall be excluded from his net income for the purpose of assessing the compensation payable to him under the general provisions of sub-section (1).

(2) (a) Where an intermediary is the holder of a temporary interest the

compensation payable to such intermediary in respect of such interest shall not exceed the amount of net income which the intermediary would have derived from such interest during the unexpired period thereof), or

- (b) where the interest of an intermediary is subject to a usufructuary mortgage, the compensation payable to such intermediary shall be apportioned between him and his usufructuary mortgagee [in such proportions as may be just and fair having regard to the unexpired period of the usufructuary mortgage]:

j* * * * *

⁵(3) The sum referred to in sub-clause (v) or sub-clause (vi) of clause (b) of sub-section (J) of section 16 shall be payable to the corporation, institution or person, as the case may be, as a perpetual annuity.

The further proviso was added by s. 9(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben- Act IX of 1961).

These words within the square brackets were substituted **for** the words "shall be paid out of the compensation which would, but for the existence of such temporary interest, be payable to his immediate superior landlord" by s. 9(2)(a). *ibid.*

These words within the square brackets were inserted by s. 9(2)(b). *ibid.*

The words beginning with "and the Compensation Officer" and ending with "temporary interest or the usufructuary mortgage" were omitted by s. 6(c). *ibid.*

Sub-section (3) was originally added by s. 9(3) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961) and thereafter this sub-section was substituted by s. 6 of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben Act XXI of 1963).

18. [Preliminary publication of Compensation Assessment Roll and disposal of objections.— Omitted by s. 12 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960.)]

19. The order of the Compensation Officer deciding an objection under [section 15 or section 15A] or an order under sub-section (2) of section 25 shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

Contents of the order of Compensation Officer.

20. (1) An appeal, if presented within ninety days from the date of the order appealed against, shall lie from every order passed by a Compensation Officer under [section 15 or section 15 A] or under proviso (b) of sub-section (2) of section 25 to a Special Judge appointed for the purpose of this section.

Appeals.

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

Act V of 1908.

21. (1) When no objection has been filed or when all such objections have been disposed of, the Compensation Officer shall make such alterations, if any, in the Compensation Assessment Roll as may be necessary to give effect to any order passed on objections made under [section 15 or section 15AJ and shall cause the said roll or the roll as so altered to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official designation.

Final publication of the Compensation Assessment Roll.

(2) The publication of the Compensation Assessment Roll under sub-section (1) shall be conclusive evidence that the said roll has been duly made under this Chapter and every entry in such roll so finally published shall, subject to any modification by any order on appeal under section 20 [or on revision under section 22], be conclusive evidence of the matters referred to in such entry.

22. A Compensation Officer may, on application or of his own motion at any time before payment or compensation under section 23, correct any entry in the Compensation Assessment Roll, which he is satisfied has been made owing to *bona fide* mistake:

Correction of
bona fide
mistake; es.

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 20 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

23. (t) (a) As soon as may be after the date of the final publication of a Compensation Assessment Roll under section 21, the Compensation Officer shall, in the prescribed manner; ²[proceed to make payment] of the compensation to the intermediary who is entitled to such compensation in terms of the Compensation Assessment Roll together with interest at the rate of three *per centum per annum* of such compensation accruing from the date of vesting to ⁴[the date of final publication of the Compensation Assessment Roll]:

Manner of
payment of
compensation.

⁴Provided that in assessing interest under this clause interest on all *ad interim* payments made under section 12 shall, from the date of any such payment to the date of final publication of the Compensation Assessment Roll, be excluded:

Provided further that in any case where the amount of compensation is enhanced as a result of an appeal under section 20, interest shall, subject to the provisions of the first proviso, be calculated from the date of vesting to the date of final publication of the Compensation Assessment Roll on the amount as determined on appeal.

(b) Where the compensation to which an intermediary is entitled is in respect of interests which vested in the State on two different dates, interest shall be calculated on such compensation from the later of such dates and to the interest so calculated there shall be added the interest on the net income of the intermediary from his interests which vested in the State on the earlier date calculated at the same rate from such earlier date of vesting up to the later date of vesting:

Provided that such payment shall be without prejudice to the right of the intermediary to file an appeal under section 20.

⁵(1A) Where the intermediary is a limited owner, the Compensation Officer shall make payment to such intermediary of only the amount of interest calculated at the rate mentioned in sub-section (1) on the

¹Sub-section (1) was substituted for the original sub-section by s. 10(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961), and the former this sub-section was substituted by s. 8(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

²The words within the square brackets were substituted for the words "make an offer of payment" by s. 6(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

³The words within the square brackets were substituted with retrospective effect for the words "the date of the offer of payment under this sub-section" by s. 8(i) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

⁴These provisos were added with retrospective effect by s. 6(ii), *ibid.*

⁵Sub-section (1A) was inserted by s. 10(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁴The word "and" was omitted by s. 15(1), *ibid.*

³These words and figures within the square brackets were substituted for the words, brackets and figures "sub-section (1) of section 15" by s. 15(2), *ibid.*

¹These words within the square brackets were inserted by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

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(Chapter III.—Assessment and payment of compensation.— Section 23.)

compensation payable for the estates or interests vesting in the State less such amount, if any, as may have been paid under the provisions of sub-section (4) of section 12, before depositing the amount of compensation with the Collector under section 24.

(2) [Subject to the provisions of section 12 and sub-section (3) of section 26, all sums payable] as compensation to an intermediary shall be paid in the manner following, that is to say:

(a) Payment in cash shall be made in accordance with the following table, namely:

Net income.	compensation payable in respect of such net income.
For the first Rs. 250 or less of the net income.	50 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 250 or less of the net income.	45 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 500 or less of the net income.	40 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 2,000 or less of the net income.	30 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 2,000 or less of the net income.	25 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 25,000 or less of the net income.	20 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 70,000 or less of the net income.	15 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the next Rs. 1,00,000 or less of the net income.	12 <i>per centum</i> of the amount of compensation payable in respect of such net income.
For the balance of the net income. Payment to be made in cash.	10 <i>per centum</i> of the amount of

These words, figures and brackets within the square brackets were substituted with retrospective effect for the words "All sums payable" by s. 10U of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

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[West Ben. Act

(Chapter III. Assessment and payment of compensation.—
Section 23.)

(b) The balance of the compensation shall be paid in [negotiable and transferable bonds of not less than fifty rupees each] carrying interest at three *per centum per annum* with effect from the date of issue and payable in the prescribed manner in twenty equal annual instalments ²* * * ³[and the remainder, if any, below fifty rupees, shall be paid in cash]:

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

(3) Notwithstanding ⁴[anything to the contrary contained in sub-section (2), where the compensation payable to an intermediary or other person is an annuity, [the Collector of the district shall make the annual payment in respect of such annuity in the prescribed manner] to the trustee or other person ⁵entitled for the time being to receive such payment]:

Provided that having regard to the financial position and other circumstances of an intermediary referred to in clause (a) or clause (b) of the second proviso to sub-section (1) of section 17, the State Government may pay to such intermediary the commuted value of the annuity payable to him calculated in the prescribed manner, in one or more instalments.

¹These words within the square brackets were substituted for the words "non-negotiable bonds" by s. 3(2)(l) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

²The words "subject to any deduction from such payment of any sum which the Collector may order to be made under section 7 or any *ad interim* payment made under section 12 or any other sum recoverable from such compensation under section 8 or under an order or attachment" were omitted with retrospective effect by s. 10(2) of the West Bengal Estates Acquisition (Amendment) Act, 1953 (West Ben. Act XXXV of 1953).

³These words within the square brackets were added by s. K(2)(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁴These words within the square brackets were substituted for the words "anything contained in sub-section (2), the entire amount of the compensation in respect of any interest or portion of any interest referred to under the proviso to sub-section (1) of section 17, shall be payable in perpetual annuity bonds," by s. 10(3)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IK of 1961).

⁵The words within the square brackets were substituted with retrospective effect for the words "such annuity shall be payable in bonds. Such bonds shall be deposited with the Collector of the district and such Collector shall make the annual payment in respect of such bonds" by s. 6(2)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act XXII of 1961).

These words within the square brackets were substituted for the words "entitled to the management or such interest or the portion of such interest" by s. 1(H3)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

This proviso was added by s. 6(2Kb) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXVI of 1964).

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(Chapter II.—Assessment and payment of compensation.—
Sections 24, 25, J

24. If any intermediary entitled to receive such compensation in respect of any interest be a person incompetent to alienate such interest, the Compensation Officer shall keep the amount of compensation payable for such interest whether in cash or bonds, after deducting therefrom any amount recoverable under section 7, in deposit with the Collector of the district and such Collector shall arrange to invest the cash and the income from the bonds in the purchase of such Government or other approved securities as such Collector thinks fit and shall direct the payment of the income from such investment to the intermediary who would for the time being have been entitled to hold and enjoy such interest if it had not vested in the State and such bonds and securities shall remain so deposited until they are made over to any person or persons becoming absolutely entitled thereto:

Provided that nothing in this section shall affect the right of a limited owner to receive the whole or any part of such compensation in circumstances where such limited owner would be entitled under the law to spend the corpus of the interest:

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

25. (1) [No intermediary] shall be entitled to receive on account of compensation any amount in excess of the amount calculated on his total net income from all his interests held by him within the State at the rate specified in the table contained in section 17.

(2) The Compensation Officer shall, before making any payment under section 23 of any compensation payable in terms of a Compensation Assessment Roll, ascertain from the intermediary in the prescribed manner if any amount has already been paid to him on account of compensation and, if so, shall, by order, adjust the payment by making any deduction he considers necessary:

Certain
restrictions
as to
amounts
payable as
compensa-
tion.

These words and figure within square brackets were inserted with retrospective effect by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

The words "Hindu widow or other" were omitted by s. 11 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

These words within the square brackets were substituted for the words "Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment Roll as finally published under section 21 but subject always to the provisions of Chapter IV, no intermediary" by s. 12(1), *ibid.*

These words within the square brackets were substituted for the words "prepared for any notified area, ascertain from such intermediary in the prescribed manner if any amount has been paid to him on account of compensation in respect of any other notified area and" by s. 12(2), *ibid.*

(Chapter III.—Assessment and payment of compensation.—
Section 25J

Provided that

- (a) no such deduction shall be made until a reasonable notice has been given to the intermediary to appear and be heard in the matter; and
- (b) any such order for deduction shall be subject to appeal in the manner provided under section 20.

(3) If any intermediary having estates and interests in an area or areas other than the one in respect of which his Compensation Assessment Roll has been prepared and published does not submit a statement under clause (b) of subsection (1) of section 15 or does not include in such a statement (lied by him full and correct details regarding all his estates and interests and the income (herefrom, with a view to getting higher compensation than what is admissible under the provisions of subsection (1), the State Government may, by order made in his behalf, direct that such intermediary shall forfeit the whole or such part of the compensation payable to him as may be specified in the order.

³(3A) If an intermediary executes any instrument purporting to transfer any *khas* land which he has not retained under subsection (1) of section 6 to any person and puts such person in possession of such land at any time before the payment of the compensation under section 23 to him, then, without prejudice to its right to recover possession of such land from such person, the State Government may, by order made in this behalf, direct that such intermediary shall forfeit such part of the compensation payable to him as may be specified in the order.

(3B) An appeal against any order of forfeiture passed under subsection (3) or subsection (3A), if preferred within sixty days of such order, shall lie to a Special Judge, being a person who is or has been a District Judge or an Additional District Judge, appointed by the State Government for the purpose of hearing appeals under this subsection and such Special Judge shall dispose of the appeal according to the prescribed procedure.

(4) If, in any case, it is found that the amount of compensation paid to an intermediary is in excess of what is payable to him under the provisions of this Act, the excess amount so paid shall be adjusted against future instalments, if any, so payable to him, and, if no such adjustment is possible, may be recovered from the intermediary as a public demand.

³Sub-sections (3) and (4) were inserted by s. 16 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

¹Sub-sections (3A) and (3B) were inserted with retrospective effect by s. 8 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

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(Chapter III.—Assessment and payment of compensation. Section 26.)

26. (1) [Save as otherwise provided in the proviso to sub-section (I) of section 7² (or the proviso to sub-section (7) of section 10), no portion] of the compensation payable to any intermediary in terms of any Compensation Assessment Roll finally published under section 21, in excess of fifty per cent³ thereof shall

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

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

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

(3) Except

- (a) in a case covered by the proviso to sub-section (I) of section 7¹ [or the proviso to sub-section (7) of section 10], or
- (b) when the entire amount of compensation is payable in cash⁵ [under clause (a) of sub-section (2) of section 23

all sums to be deducted under section 7 or recoverable under an order of attachment under sub-section (I) shall be deducted from the amount of compensation payable in * * * bonds under the provisions of clause (b) of sub-section (2) of section 23⁴ [or from the annuity payable under sub-section (3) of that section] *, and no such sum shall be deducted from the amounts payable under sub-section (1) or sub-section (2) of section 12].

¹These words, brackets and figures within the square brackets were substituted with retrospective effect for the words "No portion" by s. 11(1) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXX of 1955).

²The words, figures and brackets within brackets were inserted by s. 1(a) of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975).

³Sub-section (3) was added with retrospective effect by s. 11(2) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁴The words, figures and brackets within the square brackets were inserted by s. 3(b) of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975).

⁵These words, brackets and figures within the square brackets were added by s. 13 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁶The words "or the result of any adjustment made under sub-section (I) of section 12 or the second proviso thereto" were omitted by s. 9(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁷The word "non-negotiable" was omitted by s. 9 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁸Inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁹These words, brackets and figures within the square brackets were added with retrospective effect by s. 5 of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

Act V of ISO*.

Extent of recovery of compensation money by attachment.

CHAPTER IV

Mines and Minerals.

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

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

Rights of intermediaries directly working mines.

28. So much of the land * * * * in a notified area held by an intermediary immediately before the date of vesting [(including sub-soil rights therein, but excluding rights in *hats* and *bazars* not in the *khas* possession of the intermediary and lands comprising forests, if any)] as was comprised in or as appertained to any mine which was being directly worked by him immediately before such date shall with effect from such date be deemed to have been leased by the State Government to such intermediary. The terms and conditions of such lease shall be as agreed upon between him and the State Government, or in default of agreement as may be settled by the Mines Tribunal: "

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

29. (1) All leases of mines and minerals in a notified area granted by an intermediary and subsisting immediately before the date of vesting shall, with effect from such date, be deemed to have been granted by the State Government to the holder of the said subsisting lease on the same terms and conditions as of the subsisting lease [, so, however, that

Subsisting leases of mines or mine sites.

- (a) rights in *hats* and *bazars* not in the *khas* possession of the holder of the lease and lands comprising forests, if any, shall be excluded from such lease;]
- (i) in cases where the holder of the lease had not in the opinion of the State Government done any prospecting or development work before the date of vesting, that he shall

The words "(including sub-soil rights (herein))" were omitted by s. 15(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961). These words within the square brackets were inserted by s. 15(2), *ibid.*

¹These words within the square brackets were substituted for the words "with the additional condition" by s. 15(1), *ibid.*

Minerals.—Section 30.)

be allowed one year's time from the date of vesting, to begin prospecting or development work, and [if, in the opinion of the State Government, he has failed to do so] the State Government shall be entitled to terminate the lease at any time after the expiry of such period by giving three months' notice in writing, unless sufficient cause is shown to the satisfaction of the State Government;

- (ii) in other cases, that if the holder of the lease has developed or done any prospecting work in respect of any part of the land included in the lease but has, in the opinion of the State Government, failed to do any prospecting or development work within three years from the date of vesting in respect of the remaining part of the land included in the lease, the State Government shall be entitled to resume the whole or any portion of such remaining part of the land together with the minerals lying thereunder, after giving three months' notice in writing, but in so resuming, the State Government shall have regard to the reasons for such failure and to the requirements, as appear to it to be reasonable, for the future development of the mining concern of the lease:

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

(2) Where in pursuance of additional conditions mentioned in sub-section (1), any lease of mines and minerals is terminated by the State Government under clause (i) of sub-section (1) or any land is resumed by the State Government under clause (ii) of that sub-section, the lessee shall be entitled to compensation calculated in accordance with the principles laid down in section 32, as far as they are applicable, together with an amount not exceeding what has been expended by the lessee in works or operations connected with such lease or such resumed land included in the lease, less the value of any assets used or employed by him in such connection taken away by him.

30. Where any land is deemed to have been leased by the State Government to an intermediary under section 28 or where a lease is deemed to have been granted by the State Government under section 29 to the holder of a subsisting lease, any land not included in such lease,

Provision for
lands
comprised in
works,
buildings, etc.

These words within the square brackets were substituted for the words "if he fails to do so" by s. 15(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

(Chapter IV.—Mines and Minerals.—Sections 31, 32.)

which vests in the State by the operation of this Act and is in the use or occupation of the lessee for purposes connected with the working of any mine or the extraction of any minerals, including the land comprised in any works, buildings, machinery, mine ways, siding, roads, streets or thoroughfares, connected with such purpose, shall be deemed to have been included in such lease with effect from the date of vesting [subject to the payment or rent at the rate of rupees forty-five per 0.4047 hectare *per annum* unless a different amount is agreed upon between the State Government and the lessee.]

31. (1) The Compensation Officer shall² * * * * prepare in the prescribed form and in the prescribed manner a Compensation Assessment Roll showing the compensation payable for mines and minerals³

Compensation Officer to prepare Compensation Assessment Roll for mines and minerals for three classes of land termed i-

- (a) to every intermediary in whose land [not being land deemed to have been leased under section 28 or land included in a lease referred to in section 29] there is, in the opinion of the State Government, reason to believe that there are minerals not yet prospected or developed or partially prospected and developed and then abandoned;
- (b) to every intermediary to whom any land is deemed to have been leased under section 28;
- (c) to every intermediary, who granted a lease of mines and minerals and such lease was subsisting immediately before the date of vesting.

32. ¹[(1)] In preparing the Compensation Assessment Roll for every intermediary referred to in clause (a) of subsection (1) of section 31, the Compensation Officer shall

Determination of compensation for intermediaries to be included in section 31—(1)(a).

The words within the square brackets were substituted for the words "subject to the payment of such fair and equitable rent as may be agreed upon between the State Government and the intermediary or the lessee, or in default of agreement, as may be fixed by the Mines Tribunal" by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1977 (West Ben. Act XXXVI of 1977).

The words "in respect of any notified area," were omitted by s. 17(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

²Sub-section (2) was omitted by s. 17(2), *ibid.*

³Section 32 was re-numbered as sub-section (1) of the section, and after that subsection, subsection (2) was added with retrospective effect by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

(Chapter IV.—Mines and Minerals.—Section 33.)

[calculate the gross annual income] of such intermediary on the probable income out of royalty which might have been derived by the grant of lease of such land based on the opinion of ²[a Mining Expert], appointed by the State Government, as regards the nature, quantity and the value of the minerals, likely to exist in the land and capable of being worked and developed and other matters that may be prescribed. An amount equal to five *per centum* of [such gross income] shall be deemed to be the net income of such land; and the Compensation Officer shall determine four times such net income as the amount of compensation payable.

¹(2) Where such intermediary as aforesaid has estates and interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates and interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for such estates and interests and compensation for mines and minerals had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

33. (1) In preparing the Compensation Assessment Roll for every intermediary referred to in clause (b) of sub-section (1) of section 31, the Compensation Officer shall take the gross income of such intermediary to be the average annual income calculated on the basis of annual returns filed by him for the assessment of cess or income-tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which returns have been filed; and an amount equal to five *per centum* of such gross income shall be deemed to be the net income from such mines.

Determina-
tion of
compensation
for interme-
diaries
referred to in
section
31(1)(b).

(2) The Compensation Officer shall then determine the amount of compensation payable to the intermediary as aforesaid, after taking into consideration his net income and the opinion of a Mining Expert appointed by the State Government as regards the extent of the mining operations

¹These words within the square brackets were substituted for the words "Calculate the probable gross annual income" by s. 16(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

²These words within the square brackets were substituted for the words "Mining Expert" by s. 16(2), *ibid.*

³These words within the square brackets were substituted for the words "such probable gross income" by s. 16(3), *ibid.*

⁴See footnote 4 on page 40, *ante.*

(Chapter IV.—Mines and Minerals.—Section 34.)

and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that may be prescribed. Where the intermediary has no estates or interests for which he is entitled to compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter II, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

Delunna-
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compensaion
for intermedi
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inferred in
sub-section -
D(1)«.

34. (1) In preparing the Compensation Assessment Roll for every intermediary referred to in clause (c) of sub-section (1) of section 31, the gross income of the intermediary shall be the average annual gross income received (excluding any sum received by way of *salami* or premium) calculated on the basis of the annual returns filed by such intermediary for the assessment of cess or income-tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which such returns have been filed; and the net income shall be computed by deducting from the gross income so determined the average of the income-tax payable thereon during the said period and the cost of the collection at such rates as may be prescribed.

(2) The Compensation Officer shall determine the amount of compensation payable to the intermediary as aforesaid after taking into consideration his net income, the duration of the unexpired portion of the lease, and the opinion of a Mining Expert appointed by the State Government with regard to the extent of the mining operations carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that may be prescribed. Where the intermediary has no estates or interests for which he is entitled to compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1)

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(Chapter IV.—Mines and Minerals.—Sections 35, 36.)

of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

35. If the amount or compensation determined under sub-section (2) Reference to of section 29, section 32, section 33 or section 34, is not agreed to by the intermediary, the Compensation Officer shall refer the question of the determination of the amount of compensation to the Mines Tribunal.

36. (1) The Mines Tribunal appointed for the purposes of this Chapter shall consist of a Chairman who shall be [a person who is or has been ^{Tribunal} a District Judge or an Additional District Judge] and another member who shall be a Mining Expert. Both the Chairman and the Mining Expert Member shall be appointed by the State Government with the previous approval of the Central Government.

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

(3) In regard to any matter of compensation referred to the Tribunal by the Compensation Officer under section 35, the Tribunal at the commencement of the proceedings before it may require the State Government and the intermediary to state what in their respective opinions is the amount of compensation payable; and in giving its decision as to the amount of compensation to be paid, the Tribunal shall follow the principles laid down in sub-section (2) of section 29, section 32, section 33 or section 34, as the case may be.

(4) In settling the terms and conditions of a lease by the State Government under section 28, the Tribunal shall have power to determine the area of land to be comprised in the lease and in so doing shall have regard to the amount of land reasonably required for the future development of the mining concern and also to the provisions of section 30.

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

These words within the square brackets were substituted for the words "an officer not below the rank of a District Judge" by 5. 18 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

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[West Ben. Act

(Chapter IV.—Mines and Minerals.—Sections 37, 38.— Chapter V.—
Preparation of Record-of-rights.—Section 39.)

Appeal against
orders of
the
Tribunal.

37. An appeal, if presented within two months from the date of the order appealed against, shall lie against any order of the Tribunal to the High Court except in respect of matters of difference disposed of under subsection (5) of section 36.

Provision
of
compensa-
tion for
minerals.

38. The provisions of sections [14, 15,] [15A,] [16, 17, 18, 19, 20, 21, 22,] 23, 24, and 26 shall apply *mutatis mutandis* in regard to the procedure of preparation of Compensation Assessment Roll and the manner of payment of compensation for mines and minerals under this Chapter.

¹These figures within the square brackets were substituted for the figure "15." by s. 19(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

²These figures and letter within the square brackets were inserted by s. 10(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

³This figure within the square brackets was inserted with retrospective effect by s. 11(1) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

⁴The figures "18," were omitted by s. 19(2) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVI of 1960).

⁵The figures and brackets "20(1)." were omitted with retrospective effect by s. 11(2) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

⁶These figures within the square brackets were inserted by s. 10(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

CHAPTER V.

Preparation of Record-of-rights.

Preparation 39. (1) Subject to the provisions of sub-section (4), the State Government may, for carrying out the purposes of this Act, make an order directing

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

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

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

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

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

I of 1954.]

(Chapter V.6 Preparation of Record-of-rights.—Section 40.)

(4) Where any proceedings in respect of the preparation of the record-of-rights have been commenced under Chapter X of the Bengal Tenancy Act, 1885, before the date on which this Act comes into force and such record-of-rights has not been finally published, steps shall be taken for the completion and final publication of such record-of-rights.

In taking such steps, the proceedings may be continued from the stage at which they rested on such date or may be reopened and recommenced from any earlier stage as may be decided by the Revenue Officer in his discretion having regard to the facts and circumstances of the case. The proceedings shall be in accordance with such rules as may be prescribed by the State Government. The record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Chapter.

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Explanation. Where before the commencement of the West Bengal Estates Acquisition (Amendment) Ordinance, 1957, any proceedings were reopened or recommenced by any Revenue Officer, such proceedings,

- (i) shall not be invalid merely on the ground of the proceedings being reopened and recommenced or not being in accordance with the rules prescribed under this sub-section, and
- (ii) shall be deemed to be proceedings under this sub-section.

40. If, in respect of a holding, a *raiyat* pays rent wholly in kind or *Raiyat* partly in kind and partly in cash, the Revenue Officer shall assess as rent payable for the land comprised in the holding,

- (a) where the *raiyat* pays rent wholly in kind, an amount calculated at the rate of nine rupees per acre, and
- (b) where the *raiyat* pays rent partly in kind and partly in cash, an amount calculated at the prevailing average rate of cash rent for lands of similar description and with similar advantages in the vicinity or at the rate of nine rupees per acre, whichever is less,

and record such rent in the record-of-rights.

Explanation. In this section 'rent in kind' includes rent which is the cash equivalent of a specified portion of the produce.

¹Sub-section (4) was substituted for the original sub-section with retrospective effect by s. 12 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

²Section 40 was substituted for the original section with retrospective effect by s. 17 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

(Chapter V.—Preparation of Record-of-rights.—Sections 41, 42.)

Kistim or
unifeneant
holding land
free of rent.

41. In preparing or revising any record-of-rights under this Chapter, the Revenue Officer shall fix in respect of any land held free of rent by a person who holds such land free of rent in consideration of some service to be rendered, a rent determined on the basis of the rent paid by *raiyats* or non-agricultural tenants for lands of similar description and with similar advantages in the vicinity.

42. [(1)] [Save as otherwise provided in sub-section (2), when an intermediary is entitled] to retain possession of any land under sub-section (1) of section 6, then except in cases of land retained under clause (h) or (i), and except in the cases referred to in the proviso to sub-section (2) of section 6, the Revenue Officer shall determine the rent payable in the prescribed manner and in accordance with the following principles, that is to say

- (i) if the land be agricultural land, on the basis of the rate of rent [paid by *raiyats* or other persons holding lands] of similar description and with similar advantages in the vicinity;
- (ii) if the land be non-agricultural land, at a rate which the Revenue Officer may deem fair and equitable having regard to the rent generally paid for non-agricultural lands of similar description and with similar advantages in the vicinity [or where such non-agricultural lands are not available in the vicinity or the rent generally paid for such non-agricultural lands cannot be readily ascertained, at such rate, not exceeding five *per centum* of the net annual income from the land estimated in the prescribed manner, as the Revenue Officer may deem fair and equitable];

Provided that in the case of an intermediary, who immediately before the date of vesting held any tenure comprising exclusively of non-agricultural lands, he shall, subject to any law for the time being in force for assessment or re-assessment of rent,

- (a) pay the same rent as he was paying immediately before the date of vesting if he retains all such lands;

¹Section 42 was re-numbered as sub-section (1) of that section by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

²These words within square brackets were substituted for the words "When an intermediary is entitled" by s. 10(1)(a), *ibid.*

³These words within square brackets were substituted with retrospective effect for the words "paid by *raiyats* for lands" by s. 15 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁴These words within square brackets were inserted with retrospective effect by s. 10(1)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁵This proviso was added with retrospective effect by s. 6 of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

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{Chapter V.—Preparation of Record-of-rights.—Section 42.}

- (b) pay as rent an amount which shall bear the same proportion to the rent he was paying immediately before the date of vesting, as the area of the land retained by him bears to the area of all the lands which were comprised in the tenure if he retains only part of such lands;
- (c) pay no rent for the land retained by him if he held such land rent-free immediately before the date of vesting.

(2) When an intermediary is entitled to retain possession of any land comprised in a tea garden under clause (b) of sub-section (1) as read with sub-section (3) of section 6, the Revenue Officer shall determine the rent payable in respect of such land in the following manner, that is to say—

- (a) for land under cultivation of tea or covered by factories, office buildings or quarters for labourers of the tea garden, at twice the average rate of rent paid for the highest class of agricultural lands in the vicinity, subject to a maximum of Rs. 6.50 per acre,
- (b) for land under cultivation of cardamom, at Rs. 15 per acre,
- (c) for land under cultivation of any other crop, not more than one and a half times the average rate of rent paid for the average class of agricultural lands in the vicinity,
- (d) for land under *hais* or markets, at the average rate of rent paid for the highest class of agricultural lands in the vicinity, plus an amount equivalent to 50 per centum of the net profits from such *hais* or markets, and
- (e) for any other land, at the average rate of rent paid for the average class of agricultural lands in the vicinity.

(3) Notwithstanding anything to the contrary contained in the proviso to sub-section (2) of section 6 or in any contract, where any land comprised in a tea-garden is held under a lease, the rent payable by the lessee in respect of such land shall be the rent determined by the Revenue Officer in the manner specified in sub-section (2).

Explanation.—In this sub-section "lease" includes a lease granted directly by the State Government.

(4) Notwithstanding anything to the contrary contained in any judgment, decree or order of any court or tribunal or in any law, the rent determined under sub-section (2) or sub-section (3) shall take effect and shall be deemed always to have taken effect from the date of vesting.

*Sub-section (2) was added by s. 10(2) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

**Sub-sections (3) and (4) were inserted by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1969 (West Ben. Act XXXI of 1969).

(Chapter V. Preparation of Record-of-rights.—Sections 42A-44.)

42A. (1) If, for any reason, the rent payable in respect of any land retained by an intermediary under sub-section (1) of section 6 has not been determined before the draft or final publication of the record-of-rights under this Chapter, then, notwithstanding anything contained elsewhere in this Act, the Revenue Officer may, at any time, after giving notice to the person concerned, determine the rent in accordance with the provisions of sections 40, 41 and 42 and enter the rent so determined in the record-of-rights.

(2) Any person aggrieved by an order of the Revenue Officer determining rent under sub-section (1) may appeal to such authority and within such time as may be prescribed.

(3) The decision of the Appellate Authority on such appeal shall be final and the Revenue Officer shall, if necessary, correct, in accordance with such decision, the entry relating to rent made by him in the record-of-rights.

43. All rents determined under this Chapter, and entered in the record-of-rights shall be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act³ and shall be payable at such times and in such instalments as may be prescribed, and the period of limitation for the institution of suits relating to the recovery of arrears of rent shall be as provided in article 149 of the First Schedule to the Indian Limitation Act, 1908.]

44. (1) When a record-of-rights has been prepared or revised¹*, the Revenue Officer shall publish a draft of the record so prepared or revised in the prescribed manner and for the prescribed^{IX of 1908.} 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;

"Provided that no order passed under section 5A shall be liable to be reopened in pursuance of an objection made under this sub-section,

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

¹Section 42A was inserted with retrospective effect by s. 11 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

*These words and figures within square brackets were added by s. 12. *ibid.*

³The words "as aforesaid" were omitted with retrospective effect by s. 13(1). *ibid.*

^{IX of 1908.} This proviso was added with retrospective effect by s. 12 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

I of 1954.]

(Chapter V.—Preparation of Record-of-rights.—Section 44.) i* * * * *

1(2a) Separate publication or different parts of draft or final records may be made under sub-section (1) or sub-section (2).

2(2a) An officer specially empowered by the State Government may, "[on

8 of 1973), the words "twenty-one years" were substituted for the words "eighteen years" by s. 4 of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975), the words "twenty-five years" were substituted for the words "twenty-one years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXII of 1975), the words "thirty years" were substituted for the words "twenty-five years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1982 (West Ben. Act XX of 1982), the words "thirty-five years" were substituted for the words "thirty years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1987 (West Ben. Act XI of 1987), the words "forty years" were substituted for the words "thirty-five years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1992 (West Ben. Act XXV of 1992), and the words "fifty years" were substituted for the words "forty years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1997 (West Ben. Act XX of 1997).

These words within (hi; square brackets were substituted with retrospective effect for the words "by a Revenue Officer on any objection made under sub-section (1)" by s. 7(b) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

These words within the square brackets were inserted with retrospective effect by s. 13(1) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

Sub-sections (3a), (3b) and (3c) were inserted with retrospective effect by s. 13(2), *ibid.*

Sub-section (-1) was substituted with retrospective effect for the original sub-section by s. 7(c) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

The words, figures and letters within the square brackets were inserted with retrospective effect by s. 13(4) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

The words "until it is proved by evidence to be incorrect" were omitted by s. 3 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Ben. Act XXXI of 1973).

For Notification empowering certain officers specially to make corrections in the record-of-rights in respect of lands in the districts of Cooch Behar, Jalpaiguri and Darjeeling, see Notification No. 7462 L. Ref., dated 23.4.57, published in the *Calcutta Gazette* of 1957, Part I, page 1475.

These words within the square brackets were substituted with retrospective effect for the words "or of his own motion within one year" by s. 20 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

These words within the final brackets were substituted for the words "within five years" by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

This new section 45A was inserted with retrospective effect by s. 14 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

For Notification especially empowering certain officers to make corrections in the record-of-rights prepared in respect of lands in the districts of Cooch Behar, Jalpaiguri and Darjeeling, see Notification No. 17212 L. Ref. dated 6.9.57, published in the *Calcutta Gazette* of 1957, Part I, page 3337, as subsequently amended.

These words, figure and letter within the square brackets were inserted by s. 21(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

These words, figure and letter within the square brackets were inserted by s. 21(2), *ibid.*

This heading was substituted with retrospective effect for the original heading by s. 13 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act XXV of 1957).

Section 49 was substituted with retrospective effect for the original section by s. 11, *ibid.*

This Chapter came into force in all the districts of West Bengal with effect from the 1st day of April, 1956, vide notification No. 6B04L. Ref. dated the 9th April, 1956, of the Land and Land Revenue Department, published in the *Calcutta Gazette, Extraordinary*, of the 9th April, 1956, Part I, page 743.

application within nine months, or of his own motion within (fifty years,)] from the date of final publication of the record-of-rights or from West Ben. the date of coming into force of the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, whichever is later, revise an entry in the record finally published in accordance with the provisions of sub-section (2) after giving the persons interested an opportunity of being heard and after recording reasons therefor:

Provided that nothing in the foregoing paragraph shall be deemed to empower such officer to modify or cancel any order passed under section 5A, while revising any entry:

Provided further that no such officer shall entertain any application under this sub-section or shall of his own motion take steps to revise any entry, if an appeal against an order passed by a Revenue Officer on any objection made under sub-section (1), has been filed before the commencement of the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, before a Tribunal appointed for the purpose of this section, and, notwithstanding anything in this section, any such appeal may continue and be heard and disposed of as if the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, had not been promulgated.

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(Chapter V.—Preparation of Record-of-rights.—Section 44.)

(3) Any person aggrieved by an order passed [in revision under sub-section (2a)] may appeal in [the prescribed manner] to a Tribunal appointed for the purpose of this section, and within such period [and on payment of] such court fees] as may be prescribed.

(3a) The certificate of final publication referred to in sub-section (2), or in the absence of such certificate, a certificate signed by the Collector of any district in which the area to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a

¹Section 52 was substituted for the former section with retrospective effect by s. 16 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

²This proviso was originally added with retrospective effect by s. 15 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957), and thereafter this proviso was substituted with retrospective effect for the proviso originally added by s. 22 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

³The words and figures "provisions of section 42: and" were substituted for the words "provisions of section 42," by s. 11(i) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963) and thereafter the word "and" at the end was omitted by s. 11(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁴Onuses) was added by s. 11(ii) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

⁵-These words and figures within the square brackets were substituted for the words "provisions of section 40," by s. 11(2) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁶Clause (d) was added with retrospective effect by s. 11(3), *ibid.*

⁷Section 53 was re-numbered as sub-section (1) of this section, and after that subsection, sub-section (2) was added by s. 20 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁸Clause (f) was inserted by s. 14 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁹For notification vesting certain officers with the powers of a Compensating Officer under the Act, see notification No. 17Q36L. Ref. dated 16.1.60, published in the *Calcutta Gazette*, Extraordinary of 1960. Part I. page 3031.

specified date, shall be conclusive proof of such publication and of the date thereof.

-(3b) The State Government may, by notification, declare with regard to any specified area, that a record-of-rights has been finally published. For every village included in such area and such notification shall be conclusive proof of such publication.

(3c) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.

(4) Every entry in the record-of-rights finally published under subsection (2) including an entry revised under sub-section (2a) [made under section 42A] or corrected under section 45 or section 45A shall, subject to any modification by an order on appeal under sub-section (3), be presumed to be correct * * * * *

I of 1954J

(Chapter V.—Preparation of Record-of-rights.—Sections 45, 45A, 46.)

45. Any Revenue Officer specially empowered by the State Government in this behalf may, on application of his own motion (within one year, or within nine years,) from the date of certificate of the final publication of the record-of-rights under sub-section (2) of section 44, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bona fide* mistake: nghis.

Provided that no such correction shall be made if an appeal affecting such entry has been presented under sub-section (3) or section 44 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

45A. Any Revenue Officer specially empowered by the State Government in this behalf may correct any entry in any record-of-rights if it is necessary in his opinion to do so [in pursuance of an order under section 5A or] on account of any amendment made in the provisions of this Act or the rules made thereunder: Campion
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Provided that no such correction shall [except where it is made in pursuance of an order under section 5A,] be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

46. [(Bar to jurisdiction of Civil Court in respect of certain matters.)—omitted by the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Ben. Act XXXIII of 1973).]

(Chapter V.—Preparation of Record-of-rights.—Sections 47, 48.— Chapter VI.—Acquisition of interests of raiyats and under-raiyats.—Sections 49, 50.)

Modification or
of the finally
published
record-of-
rights.

47. The record-of-rights prepared and finally published under the provisions of this Chapter or deemed to have been so prepared and finally published. For any district or part of a district in respect of which a notification under section 4 has been duly published, shall as soon as may be after the date of vesting be modified by eliminating therefrom all the interests of the intermediaries which have vested in the State and showing (herein only the tenants who hold directly under the State as a result of vesting of such interests in the State, One or more numbers to be borne on the revenue roll of the district shall be assigned by the Collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the State Government may make in this behalf and the Revenue Officer shall make a certificate that the record-of-rights has been so modified and shall date and subscribe the same under his name and official designation:

Provided that entries in record-of-rights eliminated under the foregoing paragraph shall be deemed to be in force for the purpose of the preparation of the Compensation Assessment Roll and for all proceedings connected therewith or arising therefrom.

Costs of
preparation of
record-of-
rights.

48. The cost of preparation of record-of-rights prepared or deemed to have been prepared under this Chapter shall be borne by the State Government.

CHAPTER VI.

'[Acquisition of interests of raiyats and under-raiyats.]

Chapter is to "49. The provisions of this Chapter shall come into force on such commencing date and in such district or part of a district as the State Government may, by notification in the *Official Gazette*, appoint and for this purpose different dates may be appointed for different districts or parts of districts.

50. *[(Certain persons to be deemed to be intermediaries.)—Omitted with retrospective effect by s. 15 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).]*

[West Ben. Act

(Chapter VI.—Acquisition of raiyats and under-raiyats.—
Sections 51, 52.)

51. [(Notification vesting certain khas lands and rent-receiving interests.)—Omitted with retrospective effect by s. 15 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).]

52. On the issue of a notification under section 49 the provisions Application of Chapters II, III, V and VII shall, with such modifications as may be

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necessary, apply *mutatis mutandis* to raiyats and under-raiyats as if such raiyats and under-raiyats were intermediaries and the land held by them were estates and a person holding under a raiyat or an under-raiyat were a raiyat for the purposes of clauses (c) and (d) of section 5:

^Provided that, where a raiyat or an under-raiyat retains, under section 6 read with this section, any land comprised in a holding, then notwithstanding anything to the contrary contained in sub-section (2) of section 6, he shall pay,

- (a) in cases where he was paying rent for the lands comprised in the holding and held by him immediately before the date of vesting (hereafter in this proviso referred to as the holding lands),
 - (i) if he retains all the holding lands, the same rent as he was paying therefor immediately before the date of vesting, and
 - (ii) if the land retained by him forms part of the holding lands, such rent as bears the same proportion to the rent which he was paying for the holding lands immediately before the date of vesting as the area of the land retained by him bears to the area of all the holding lands;
- (b) in cases where he was liable to pay rent but was not paying any rent for the holding lands immediately before the date of vesting on the ground that the rent payable by him therefor was not assessed, such rent as may be assessed, *mutatis mutandis*, in accordance with the provisions of section 42;^{3*}

[West Ben. Act

f Chapter VII.—Supplemental and Miscellaneous.—Section 53.)

(c) in cases where he was liable to pay rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in clause (c) of section 5, such rent as may be assessed in accordance with the provisions of section 40; and]

^J(d) in cases where he was liable immediately before the date of vesting to pay for the holding lands a variable cash rent periodically assessed, such rent as may be assessed, *mutatis mutandis*, in accordance with the provisions of section 42.

CHAPTER VII.

Supplemental and Miscellaneous

53. ^J[(1)] There shall be the following authorities for the purposes of this Act, namely:ô

Authorises
For the
purposes of
this Act.

- (a) The Board of Revenue;
- (b) Director of Land Records and Surveys;
- (c) Settlement Officers;
- (d) Assistant Settlement Officers;
- (e) Compensation Officers;
- (f) Revenue Officers;
- ^J(ff) Officers appointed by the State Government for the purposes of sub-clause (iv) of clause (a) of sub-section (1) of section 16;
- (g) Mining Experts for the purposes of sections 32, 33 or 34.

The State Government may "appoint any person as a Compensation Officer or a Revenue Officer or may vest any officer with the powers of a Compensation Officer or a Revenue Officer under this Act.

(Chapter VII.—Supplemental and Miscellaneous.—Sections 54-55A.)

54. (1) The State Government may, by notification in the *Official Gazette*, delegate any of the powers under this Act, except the power of making rules under section 59, to the Board of Revenue [the Commissioner of a Division or a Collector] subject to such reservations, if any, as may be specified in the notification.

Delegation of powers by the State Government and powers and duties of the authorities.

(2) All authorities referred to in section 53 shall exercise such powers and perform such duties under this Act or any rules made thereunder as may be conferred or imposed on them.

55. (1) The State Government may appoint a person who is or has been a District Judge or an Additional District Judge to be a Special Judge for the purpose of section 11 or of section 20.

Appointment of Special Judges and Tribunals.

(2) The State Government may appoint one or more Tribunals for the purpose of section 44. Such Tribunal shall be composed of a single member who shall be [a person who is or has been] a District Judge [or an Additional District Judge] and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908.

55A. The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall apply to any appeal or application under this Act.

Act V of 1908.
9 of 1908.

Limitation.

For illustration relating to

(a) authorisation of authority and certain officers to sanction *ad interim* payment is under sub-section 2 of section 12(1) of the Act but intermediary up to the amount specified, subject to certain conditions, see notification No. 576L, Ref. dated 9.1.59, published in the *Calcutta Gazette* or 1959, Part I, page 3B1, as subsequently amended.

(b) appointment of certain officers as Revenue Officers for the purpose of the Act in respect of their respective jurisdictions, see notification No. 196Q2L, Ref. dated 16.12.60, published in the *Calcutta Gazette* of 1960, Part I, page 4072.

These words within the square brackets were inserted by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1958 (West Ben. Act XXV of 1958).

Sub-section (1) was substituted for the previous sub-section by s. 21(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

For notification relating to appointment of certain officers to be Special Judges appointed for the purpose of section 20 of the Act in respect of the districts specified, see notification No. 8316L, Ref., dated 7.5.57, published in the *Calcutta Gazette* of 1957, Part I, page 1636.

For notification relating to appointment of

(a) a Tribunal for the purpose of section 44 of the Act in respect of the districts of Midnapore, 24-Parganas, Burdwan, Jalpaiguri and Malda, see notification No. 13464L, Ref., dated 15.7.55, published in the *Calcutta Gazette* of 1955, Part I, page 2898, as subsequently amended.

(b) a Tribunal for the purpose of section 44 of the Act in respect of each of the districts specified, see notification No. 185Q4L, Ref., dated 22.9.55, published in the *Calcutta Gazette* of 1955, Part I, page 4115, as subsequently amended.

(c) the additional District Judge, Midnapore, as a Tribunal for the purpose of section 44 of the Act in respect of the district of Midnapore, see notification No. 6676L, Ref., dated 11.1.57, published in the *Calcutta Gazette* of 1957, Part I, page 1340.

These words within the square brackets were substituted for the words "an officer not below the rank of" by s. 21(2) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

These words within the square brackets were inserted with retrospective effect by s. 17 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

This new section 55A was inserted by s. 22 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

[West Ben. Act

(Chapter VIII.6 Supplemental and Miscellaneous.—Sections 56-57B.)

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

Power to enter upon land to make survey, etc.

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

Power to compel production of documents and to enforce attendance of witnesses.

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

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

Act XLV of 1860.

Power of State Government to invest certain authorities with powers of a Civil Court,

57A. The State Government may by order invest any authority referred to in section 53 with all or any of the powers of a Civil Court under the Code of Civil Procedure, 1908.

Act V of 1908.

Bar to jurisdiction of Civil Court in respect of certain matters.

57B. (1) Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of rent or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application, in which any of the aforesaid matters is in issue, is pending before a Civil Court on the date of such order, it shall be stayed, and it shall, on the expiry of the period prescribed for an appeal under subsection (3) of section 44 or when an appeal has been filed under that subsection, as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.

This new section 57A was inserted with retrospective effect by s. 16 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

For notification investingô

(a) all Compensation Officers with the powers of a Civil Court under s. 30, 31 and 32 of the Code of Civil Procedure, 1908, notification No. 19622L. Ref., dated 25.10.57, published in the *Calcutta Gazette* of 1957, Part I, page 3909.

(b) all Settlement, Assistant Settlement and Revenue Officers with all the powers of a Civil Court under the Code of Civil Procedure, 1908, see notification No. 340L. Ref., dated 9.1.58, published in the *Calcutta Gazette* of 1958, Part I, page 191.

Section 57B was inserted by s. 5 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Ben. Act XXXIII of 1973).

I of 1954.]

(Chapter VIII.—Supplemental and Miscellaneous.—Section 58.)

(2) No Civil Court shall entertain any suit or application concerning any land or any estate, or any right in such estate, if it relates to—

- (a) alteration of any entry in the record-of-rights finally published, revised, made, corrected or modified under any of the provisions of Chapter V,
- (b) a dispute involving determination of the question, either expressly or by implication, whether a *raiyat* or an intermediary, is or is not entitled thereunder under the provisions of this Act such land or estate or right in such estate, as the case may be, or
- (c) any matter which under any of the provisions of this Act is to be, or has already been, enquired into, decided, dealt with or determined by the State Government or any authority specified therein,

and any such suit or application which is pending before a Civil Court immediately before the commencement of the West Bengal Estates Acquisition (Second Amendment) Act, 1973, shall abate so far as it relates to all or any of the matters referred to in clause (a), clause (b) or clause (c).

West. Hen.
Act XXXIII
of 1973.

(3) Any dispute referred to in clause (b) of sub-section (2) may be decided by a Revenue Officer not below the rank of an Assistant Settlement Officer, specially empowered by the State Government in this behalf, who shall dispose of the same in such manner as may be prescribed:

Provided that in deciding a dispute under this sub-section the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act.

(4) Any person aggrieved by a decision of the Revenue Officer made under sub-section (3) may appeal to the prescribed authority not below the rank of a Settlement Officer, within such time, in such manner and subject to payment of such fees as may be prescribed.

(5) A decision made by the Appellate Authority under sub-section (4) shall be final.

Explanation.—In this section,—

- (i) suit includes an appeal, and
- (ii) an authority includes an authority to hear an appeal.

58. (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.

Act.

(Chapter VII.—Supplemental and Miscellaneous.—Section 59.—
Chapter VIII.—Application of the Act to transferred territories. Sections 60, 61.)

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

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

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

-CHAPTER VIII.

Application of the Act to transferred territories.

60. The provisions of this Chapter shall come into force on such date and in such area of the transferred territories as the State Government may, by notification in the *Official Gazette*, appoint, and for this purpose different dates may be appointed for different areas.

When this Chapter is to come into force.

Explanation. In this Chapter 'transferred territories' means the territories transferred from the State of Bihar to the State of West Bengal by section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.

40 of 1956

61. On the issue of a notification under section 60, in the area in respect of which such notification is issued,

(1) the Bihar Land Reforms Act, 1950, shall stand repealed and the provisions of the foregoing Chapters of this Act shall *Mutatis mutandis* apply.

Application of the Act to transferred territories.

Provided that any reference in the foregoing Chapters of this Act to the Bengal Tenancy Act, 1885, or any provision thereof shall, as the case may be, be construed as a reference to

Bihar Act 30 of 1950.

For rules made in exercise of the power conferred by this section, see Notification No. 8074L, Ref. dated the 28th May, 1954 of the Land and Land Revenue Department, published in [the *Calcutta Gazette, Extraordinary*, dated the 28th May, 1954, Part I, pages 741-769, as subsequently amended from time to time.

Chapter VIII containing ss. 60 and 61 was added by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1963 (West Ben. Act XL of 1963).

VIII of 1885.

This Chapter was brought into force in all the areas of the territories transferred from the State of Bihar to the State of West Bengal under the Bihar and West Bengal (Transfer of Territories) Act, 1956 (Act 40 of 1956) with effect from the 1st day of March, 1964 vide notification No. 2672-L, Ref., dated the 17th February, 1964, published in the *Calcutta Gazette, Extraordinary*, dated the 17th February, 1964, Part I, page 407.

(Chapter VIII—Application of the Act to transferred territories.—Section 61.)

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Ben. Act VI
of 1908
- (i) in the case of application of such Chapters to the area
comprised in the district of Purulia, to the Chota
Nagpur Tenancy Act, 1908, or the corresponding
provision thereof, and
- (ii) in the case of application of such Chapters to any other area
of the transferred territories, to the Bihar Tenancy Act, 1885, or the
corresponding provision thereof;
- Act 10
or 1950,
- (2) estates or interests vested in the State Government under the Bihar
provisions of the Bihar Land Reforms Act, 1950, prior to
(the date of issue of the notification shall be deemed to have
vested in the State Government under the provisions of this Act:
Provided that
- (i) no intermediary shall be allowed to retain any land other
than, or in excess of, what is permitted under the provisions
of section 6 or any other provision of this Act;
- (ii) any land or interest which has vested in the State
Government under the provisions of the Bihar Land
Reforms Act, 1950, but which the ex-intermediary shall be
entitled to retain under the provisions of this Act shall, if
possible, be restored to him and no compensation shall be
payable for any land or interest so restored;
- (iii) assessment of compensation already made or in progress
on or before the date of issue of the notification shall be
reopened and assessment of compensation for all lands and
interests vested or deemed to have been vested in the State
Government under this Act shall be made afresh under the
provisions of this Act;
- (iv) if an intermediary has possessed any land other than, or in
excess of, what is permitted under the provisions of section
6 or any other provision of this Act, he shall be liable to
pay to the State Government for the period for which he
has continued in possession of such land after his estate or
interest vested in the State Government, such damages for
use and occupation of such land as shall be calculated at
the rate of Rs. 10 per acre *per annum*;
- (v) any sum payable by an intermediary as damages under
clause (iv) shall be recoverable as a public demand.

¹Clauses (iv) and (v) were added by s. 3 of the West Bengal Estates Acquisition Amendment Act, 1966 (West Ben. Act XIV of 1966).

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[SAKA 1932

PART III Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1516-L. 9th November, 2010. The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information :

West Bengal Act XIX of 2009

THE WEST BENGAL ESTATES ACQUISITION (AMENDMENT) ACT, 2009.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Kolkata Gazette, Extraordinary*, of the 9th November, 2010.]

An Act to amend the West Bengal Estates Acquisition Act, 1953.

WHEREAS it is expedient to amend the West Bengal Estates Acquisition Act, 1953, for the purposes and in the manner hereinafter appearing;

west Ben. Act
1 of 1954,

It is hereby enacted in the Sixtieth Year of the Republic of India by the Legislature of West Bengal, as follows:

The West Bengal Estate Acquisition (Amendment) Act, 2009.

(Sections 1-3.)

Short title and commencement.

1. (1) This Act may be called the West Bengal Estates Acquisition (Amendment) Act, 2009.

(2) This Act shall come into force at once.

Amendment of section 6 of West Ben. Act I of 1954.

2. *Explanation* to sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953 (hereinafter referred to as the principal Act), shall be renumbered as *Explanation I* to that sub-section and to *Explanation I* so renumbered, the following *Explanation* shall be, and shall be deemed always to have been, added, namely:ô

'Explanation II.ô For the removal of doubts, it is hereby declared that the expression "revise any order" mentioned in the proviso to this sub-section, shall, notwithstanding anything contained in any law for the time being in force or in any agreement or in any decree, judgement, decision, award of any court, tribunal or other authority, include revision of an order of retention made under this sub-section, at any time after such order of retention so made, if the intermediary or the lessee, as the case may be, fails to use or ceases to use the whole or any part of the land for the purpose for which it has been retained i.e. for tea-garden, mill, factory or workshop, as the case may be, by him, so as to resume such land as being surplus to his requirement, by the State Government in the manner laid down in this proviso.'

Validation.

3. The amendment made in the principal Act by section 2 shall be deemed to have been made with effect from the date of commencement of the principal Act and accordingly, anything done or any action taken or purported to have been taken or done under the principal Act on or after its commencement and before the commencement of this Act, shall, notwithstanding anything contrary contained in any judgment, decree or order of any court, tribunal or other authority, be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the said amendment had been in force at all material time.

By order of the Governor,

K.Y.S. MANHAS, *Pr Secy.-in-charge to the Govt, of West Bengal, Law Department.*

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¹Clause(aa) was inserted with retrospective effect by s. 3 (b) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

²The words "notwithstanding anything to the contrary contained in any judgement, decree or order of any court or Tribunal." were omitted by s. 2(a) of the West Bengal Estates Acquisition (Amendment) Act, 1977 (West Ben. Act XXX VI of 1977).

³These words within square brackets were substituted with retrospective effect for the words "unit of the provisions of Chapter VI are given effect to, every *raiyat* or non-agricultural tenant holding any land under an intermediary" by s. 3(1) of the West Bengal Estates Acquisition (Amendment) Act, 1937 (West Ben. Act IV of 1937).

Substituted with retrospective effect for the words "every non-agricultural land holding any land" by s. 2(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXI of 1964). See also foot-note 2 on the previous page.

This proviso was substituted with retrospective effect for the original proviso by s. 3(1)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

For notification declaring the areas comprised in the Sadar, Kurseong and Kalimpong 5 sub-divisions of the district of Darjeeling to be hilly portions for the purposes of the proviso (clause (d) of sub-section (1) of section 6 of the Act, see Notification No. 734 SL Ref. dated 17.4.56, published in the *Calcutta Gazette* for 1956, Part I, page 1543.

These words, brackets and figure within square brackets were inserted with retrospective effect by s. 3(1)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

Sub-sections (4) and (5) were inserted with retrospective effect by s. 4(b) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

These words within the square brackets were inserted by s. 3(3) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

Section 7 was substituted with prospective effect for the original section by s. *1 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

That words within the square brackets were inserted with retrospective effect by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

These words within the square brackets substituted with retrospective effect for the words "payable as compensation to such intermediary" by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

This proviso was substituted for the original proviso by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Ben. Act XXXIII of 1973).

¹Sub-clause (ii) was originally substituted with retrospective effect for the original subclause by s. 8 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955), and (hereafter this sub-clause was substituted by s. 9(2)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

²Sub-clause (iv) was originally substituted with retrospective effect for the original sub-clause by s. 3(1) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957), and thereafter this sub-clause was substituted by s. 8 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1960).

For Notification relating to the appointment of

- (a) the Divisional Forest Officer, Malda for the purposes of s. 16(1)(a)(iv) of the Act. *see* Notification No. 619BL. Ref., dated 3.4.58, published in the *Cuttack Gazette* of 1958, Part 1, page 1248.
- (b) the Divisional Forest Officer for the purposes of s. 16(1)(a)(v) of the Act within
- (c) the Divisional Forest Officers of East Midnapore, West Midnapore, Birbhum and Burdwan Divisions to be Divisional Forest Officers, *see* Notification No. 19788L. Ref., dated 20.9.58, published in the *Cuttack Gazette* of 1958, Part 1, page 3550.

³These words within the square brackets were inserted by s. 9(3)(a)(i) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁴These words within the square brackets were inserted by s. 9(3)(a)(ii), *ibid.* Sub-clause (ii) was substituted for the original sub-clause by s. 9(3)(b). *ibid.*

⁵The Indian Income-tax Act, 1922 was repealed and re-enacted by the Income-tax Act, 1961 (43 of 1961).

⁶The words for the purpose or preparing [the Compensation Assessment Roll for the notified area," were omitted by s. 11 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁷This proviso was substituted with retrospective effect for the original proviso by s.

9 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁸The words or where the interest of the intermediary is terminable or is liable to be exhausted, an annuity for such number of years as the State Government may prescribe by rules, having regard to the circumstances," were inserted with retrospective effect by s. 9 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957), and thereafter the words within the square brackets were substituted for the words "the State Government may prescribe by rules" by s. 11(b) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

These words and figures within the square brackets were substituted for the words, brackets and figures "sub-section (i) of section 15" by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

These words and figures within the square brackets were substituted for the words, brackets and figures "sub-section (1) of section 15" by s. 14, *ibid* (West Ben. Act XIX of 1961).

The proviso to sub-section (2) was omitted by s. 13(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

Sub-section (2a) was inserted with retrospective effect by s. 19(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

Sub-section (2a) was inserted with retrospective effect by s. 7(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

These words within the square brackets were substituted with retrospective effect for the words "on application or of his own motion, within nine months" by s. 13(3) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1960).

These words within the square brackets "nine years" were substituted for the words "six years" by s. 9 of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963), the words "twelve years" were substituted for the words "nine years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1967 (West Ben. Act IX of 1967), the words "fifteen years" were substituted for the words "twelve years" by s. 4 of the West Bengal Estates Acquisition (Amendment) Act, 1969 (West Ben. Act XXXI of 1969), the words "eighteen years" were substituted for the words "fifteen years" by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1973 (West Ben. Act

