

Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) (Amendment) Act, 1972

1 of 1973

CONTENTS

1. Short Title And Commencement
2. Amendment Of Section 2 Of The Bihar Act Xii Of 1962
3. Substitution Of New Section For Section 4 Of Bihar Act Xii Of 1962
4. Amendment Of Section 5 Of Bihar Act Xii Of 1962
5. Amendment Of Section 6 Of Bihar Act Xii Of 1962
6. Amendment Of Section 8 Of Bihar Act Xii Of 1962
7. Substitution Of The New Section For Section 9 Of Bihar Act Xii Of 1962
8. Amendment Of Section 10 Of Bihar Act Xii Of 1962
9. Amendment Of Section 15 Of Bihar Act Xii Of 1962
10. Substitution Of New Section For Section 27 Of Bihar Act Xii Of 1962
11. Amendment Of Section 29 Of Bihar Act Xii Of 1962
12. Amendment Of Section 45 Of Bihar Act Xii Of 1962
13. Repeal And Saving

Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) (Amendment) Act, 1972

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An Act to amend the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, to provide for fixation of ceiling on the basis of family for Acquisition of surplus land in excess of the ceiling area and to provide for equitable distribution of such land and such other public purposes in pursuance of the directive principle of State Policy contained in Article 39 of the Constitution of India. Be it enacted by the Legislature of the State of Bihar in the Twenty-third year of the Republic of India, as follows : 1. Published in Bihar Gazette (Ex-ord.) dated 19.5.1973.

1. Short Title And Commencement :-

(1) This Act may be called the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act,

1972.

(2) It shall be deemed to have come into force with effect from the 9th September, 1970.

2. Amendment Of Section 2 Of The Bihar Act Xii Of 1962 :-

In Section 2 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962) hereinafter referred to as the said Act).

(i) after clause (e) the following clauses shall be inserted namely :

"(ee) "family" means and includes a person his or her spouse and minor children.

Explanation.-In this clause the word person includes any company, institution, trust, association, or body of individual whether incorporated or not;

(eee) "minor child" means a person (male or female) who has not completed eighteen years of age; and

(ii) for clause (g) the following clause shall be substituted, namely :-

"(g) "Land holder" means a family, as defined in clause (ee) holding land as raiyat or as under-raiyat and includes a mortgagee of land in possession."

3. Substitution Of New Section For Section 4 Of Bihar Act Xii Of 1962 :-

For Section 4 of the said Act, the following section shall be substituted, namely:-

"4. The following shall be the ceiling area of land for one family consisting of not more than five members for the purposes of this Act,-

(a) fifteen acres that is equivalent to 6.0705 hectares of land irrigated or capable of being irrigated by flow irrigation work or tube-wells or lift irrigation which are constructed, maintained, improved or controlled by the Central or the State Government or by a body corporate constituted under any law and which provide or are capable of providing water for more than one season (hereinafter referred to as Class I land).

Explanation.-A land shall not be regarded as Class I land unless it is capable of growing at least two crops in a year; or

(d) eighteen acres, equivalent to 7.2846 hectares of land irrigated by private lift irrigation or private tube-well driven by electric power (hereinafter referred to as Class II land).

Explanation.-Private lift irrigation or private tube-wells mean those which are not constructed, maintained, improved or controlled by the Central or the State Government or by a body corporate constituted under any law; or

(c) thirty acres equivalent to 12.141 hectares of land other than those referred to in clauses (a), (b), (d) and (e) or land which is an orchard or used for any other horticulture purpose (hereinafter referred to as Class III land); or

(d) thirty-seven and a half acres equivalent to 15.386 hectares of Diara land or chaur (hereinafter referred to as Class IV land); or

(e) forty-five acres, equivalent to 18.211 hectares of hilly, sandy or other kind of land none of which yields paddy, rabbi or cash crop (hereinafter referred to as Class V land)."

4. Amendment Of Section 5 Of Bihar Act Xii Of 1962 :-

In Section 5 of the said Act.-

(a) in sub-section (1)-

(1) for clause (i) the following clause shall be substituted, namely:-

(i) "It shall not be lawful for any family to hold, except as otherwise provided under Act, land in excess of the ceiling area.

Explanation.-All lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed owned or held by the family; and

(2) for clause (ii) the following clauses shall be substituted, namely:-

"(ii) No land-holder holding land in excess of the ceiling area shall from the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 and till the publication of notification under Section 15, transfer any land held by him except with the previous permission in writing of the Collector, who may refuse to give such permission if he is satisfied for the reasons to be recorded in writing that the transfer is proposed to be made with a mala fide intention of defeating the object of this Act.

(iii) The Collector shall have power to make enquiries in respect of any transfer of land by a land-holder whether made by a registered instrument or otherwise, made after the 22nd day of October, 1959, and if he is satisfied that such transfer was made, with the object of defeating, or in contravention of the provision of this Act or for retaining, benami or farzi, land in excess of the ceiling area, the Collector may after giving reasonable notice to the parties

concerned to appear and be heard, annul such transfer and thereupon the land shall be deemed to be held by the transferor for the purposes of determining the ceiling area he may hold under this section."

and the existing clause (iii) shall be renumbered as clause (iv).

(b) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) A land-holder may in addition to the ceiling area retain-

(i) any land forming part of his homestead not exceeding one acre equivalent to 0.4047 hectare in area :

Provided that the land-holder shall be entitled to retain all permanent structures and the land as may, in the opinion of the Collector, be necessary for the use and enjoyment thereof and shall continue to retain the same only so long as the land remains his homestead; and

Explanation.-Under this proviso a fencing is not included in structures and no person shall be entitled to retain any land within any fencing only on account of such fencing.

(ii) any land in compact block or blocks not exceeding three acres, equivalent to 1.241 hectares in area, which is an orchard, or Banswari so long as the land remains or is used as such",

(c) For clause (i) of sub-section (3) the following clause shall be substituted, namely:-

(i) where the number of members in a family exceeds five the family may hold in addition to the area specified in sub-sections (1) and (2) land not exceeding one-tenth of the ceiling area for that class of land for every such additional members :

Provided that in no case shall the aggregate of the land held by the family exceed one and a half times of the ceiling area."

(cc) Explanation (ii) occurring in clause (ii) of sub-section (3) shall be omitted and the serial number of explanation (i) should be deleted.

(d) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) The ceiling area which a Co-operative Society may hold, in addition to such area as may be mortgaged or sublet to it under Section 20 shall be the aggregate of the land held by its individual members, subject to the ceiling area for each member"; and

(e) sub-section (5) and its proviso shall be omitted.

5. Amendment Of Section 6 Of Bihar Act Xii Of 1962 :-

In Section 6 of the said Act-

(a) in sub-section (1), for the words occurring before clause (i) the following shall be substituted, namely:-

"As soon as may be, after the commencement of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act 1972, the State Government shall cause to be published a notice in the manner laid down in sub-section (3) calling upon all the land holders of the State who hold land in excess of the ceiling area, any where in the State to submit to the Collector of the district where they ordinarily reside, within thirty days of the date specified in the notice, a return containing the following particulars namely-"; and

(aa) for the proviso to sub-section (1), the following proviso shall be substituted, namely:-

"Provided that the Collector may on an application made by the land-holder extend the period specified in such notice for submission of the return by a period not exceeding thirty days".

(b) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) The substance of the notice shall be published in the Official Gazette and in not less than three issues of at least two newspaper having circulation in the State of Bihar".

(c) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) Where the land-holder or the guardian mentioned in subsection (2) as the case may be, fails to submit the return required under sub-section (1) without sufficient cause the Collector may after giving him a reasonable opportunity of being heard and adducing evidence impose a fine which may extend to five hundred rupees".

6. Amendment Of Section 8 Of Bihar Act Xii Of 1962 :-

In Section 8 of the said Act-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Whenever it comes to the notice of the Collector that a land holder holds land in excess of the ceiling area or has not submitted the return within the period specified in the notice, or the extended period, under Section 6 or has submitted a return containing incorrect particulars, the Collector shall cause a notice to be served on the landholder or his guardian, if he is a minor or person of

unsound mind, directing him to submit the return with the necessary or correct particulars within thirty days of the service of such notice".

(b) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) If any person fails, without sufficient cause to submit the return in compliance with the notice served under sub-section (1), within the period specified in this notice or within such extended period as may be allowed by the Collector in this behalf, the Collector may, after giving the person concerned a reasonable opportunity of being heard and adducing evidence, if any, and after considering the same impose fine which may extend to fifty rupees for every day after the expiry of the said period or the extended period until the return is submitted.

(ii) If the said person does not submit the return after one month from the first date of imposition of fine he shall on conviction by a Magistrate of the first class be liable to be punished with simple imprisonment which may extend to six months or with a fine which may extend to two thousand rupees, or with both :

Provided that no court shall take cognizance of any offence under this section without the previous sanction in writing of the District Magistrate."

7. Substitution Of The New Section For Section 9 Of Bihar Act Xii Of 1962 :-

For Section 9 of the said Act, the following section shall be substituted, namely:-

"9. Option of family to select its ceiling area.-Where area of land held by a family exceeds the ceiling area, it shall have, subject to the other provision of this Act, the option to select, within three months of the publication of the notice under Section 6, the land which it desires to retain in accordance with the provision of Section 5".

8. Amendment Of Section 10 Of Bihar Act Xii Of 1962 :-

In Section 10 of the said Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Any objection to the draft statement received within thirty days of the publication, or service thereof, under sub-section (2) whichever is later, shall, after giving the parties a reasonable opportunity of being heard and adducing evidence, pass such order

as he thinks fit".

9. Amendment Of Section 15 Of Bihar Act Xii Of 1962 :-

In Section 15 of the said Act-

"(2) On the publication of the notification under sub-section (1), the land specified in the notification shall, subject to the provisions of this Act, be deemed to have been acquired for the purpose of this Act and vested in the State free from all encumbrances with effect from the date of the notification and all right, title and interest of all persons claiming interest therein shall, with effect from the date, be deemed to have been extinguished."

(b) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) On the publication of the notification under sub-section (1) any person claiming interest in and specified in the notification, may, within thirty days of such publication file a claim before the Collector"; and

(c) for Section (6), the following sub-section shall be substituted, namely:-

"(6) subject to the provisions of sub-sections (4) and (5) and any order made on appeal or revision, the Collector may, at any time after the publication of the notification under sub-section (1), take possession of the land specified in the said notification and may for that purpose use such force as may be necessary".

10. Substitution Of New Section For Section 27 Of Bihar Act Xii Of 1962 :-

For Section 27 of the said Act, the following section shall be substituted, namely:-

"27. Disposal of surplus land.-(1) Subject to the other provisions of this Act, all land acquired or deemed to be acquired by the State Government under this Act may, subject to Rules made in this behalf be settled by the Collector-

(i) with landless persons belonging to the Scheduled Castes, Scheduled Tribes, or Backward Classes mentioned in Government of Bihar, Revenue Department notification No. A/T-1015/55-1091-R., dated the 7th February, 1956 and No. A/T-3043/61-4523 R, dated the 23rd June, 1962, published in Bihar Gazette, dated the 22nd February, 1956 and 18th July, 1962, respectively, of the village in which the land is situated;

(ii) with persons belonging to the Scheduled Castes, Scheduled

Tribes, or Backward Classes mentioned in the notifications referred to in clause (i) of the village in which the land is situated and not having more than one acre of Class III land or its equivalent in area;

(iii) with other landless persons of the village in which the land is situate;

(iv) with other persons of the village in which land is situated having not more than one acre of Class I land or equivalent area;

(v) with persons serving in the Army, Navy or Air Force of the Union of India or with families of such persons killed in action;

(vi) with ex-servicemen of Army, Navy or Air Force of the Union of India, who are resident of the village in which the land is situated :

Provided that if the village in which the land is situate is uninhabited the land shall be settled with the aforesaid categories of persons of an adjoining village :

Provided further that in the district of Santhal Parganas the Collector shall while making such settlement, follow the principles prescribed for settlement of waste land or vacant land under Section 28 of the Santhal Parganas Tenancy (Supplementary Provision) Act, 1949 (Bihar Act XIV of 1949) :

Provided also that the land acquired or deemed to be acquired from sugar factories, to which the provisions of sub-clause (i) of clause (a) of subsection (2) of Section 29 are applicable may be managed by the State Government directly or in such other manner as may be prescribed.

(2) All arrears of rent in respect of the land so vested and due by the land-holder for any period prior to the date on which the land-holders, in consequence of such vesting divested of his possession by an order of the Collector under this Act, shall continue to be recoverable from such landholder and may without prejudice to any other mode of recovery, be realised by deducting the amount from the compensation payable under this Act to such land-holder.

(3) A person with whom the land is settled by the Collector under subsection (1) shall pay to the State Government such amount as is specified in the schedule in respect to a new settlee and the amount so payable by him shall be a charge on the land shall take priority over all claims on the land :

Provided that if ten or more such settlees of the same village form a cooperative farming society registered under the law for the time being in force governing co-operative societies, the amount payable by the settlees concerned to the Government after the date of registration of the Society shall be reduced by half.

(4) The land settled by the Collector under sub-section (1) shall be heritable but shall not be transferable :

Provided that the settlee may enter into a simple mortgage in respect of the land with a society or bank registered or deemed to be registered under the Bihar and Orissa Co-operative Societies Act, 1935 (B. & O. Act VI of 1935) or with the State Bank of India or a bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act 5 of 1970) or with a Company or a Corporation owned by or in which not less than fifty-one percent of share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government for raising loan for agricultural purposes".

11. Amendment Of Section 29 Of Bihar Act Xii Of 1962 :-

In Section 29 of the said Act-

(a) in clause (b) of sub-section (1) for items (iv) and (v) the following items shall be substituted, namely:-

"(iv) Such extent of land held on the date of commencement of this Act by Educational Institutions, Universities, Research Council or Research Institutes recognised by the State, hospitals, maternity homes and orphanages, as may be notified by the State Government in this behalf so long as they continue as such; and

(v) Such extent of land held on the date of commencement of this Act by such public or charitable bodies or religious institutions of public nature running educational institutions, hospitals, maternity homes and orphanages, as may be notified by the State Government in this behalf, so long as they continue as such";

(ii) item No. (vi) shall be omitted; and

(iii) items (vii) and (viii) shall be re-numbered as items (vi) and (vii) respectively; and

(b) in sub-section (2), for clause (a) the following clause shall be substituted, namely:-

"(a) The State Government may, by notification in the Official Gazette, exempt from the operation of Section 5.

(i) Sugarcane farms owned and operated on the date of commencement of the Act by sugar factories holding a licence under any law relating to sugar factories for the time being in force, to such extent as may be determined in the prescribed manner to be necessary for the production of sugarcane seeds but in no case exceeding one hundred acres.

(ii) So much of land not exceeding fifteen acres of Class I land or equivalent area of other classes owned and held under personal cultivation by any religious institution of a public nature on the date of the commencement of the Act as may be determined by the Collector in the prescribed manner to be necessary for the purpose of performing religious rites and maintenance of the religious institutions.

12. Amendment Of Section 45 Of Bihar Act Xii Of 1962 :-

In Section 45 of the said Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) The State Government may make Rules not inconsistent with the provisions of this Act to carry out all or any of the purposes of this Act".

13. Repeal And Saving :-

(1) The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Ordinance, 1972 (Bihar Ordinance No. 64 of 1972) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of power conferred by this Act as if this Act were in force on the day on which such thing was done or action taken.

(3) Nothing in this Act or the amendments affected thereby shall effect or be deemed to affect anything done or any action taken under the provisions of the said Act :

Provided that in case where the land-holder has already submitted a return in accordance with the notice issued under Section 6 or Section 8 of the said Act and has exercised the option under Section 9 of the said Act, he shall be given an opportunity to further exercise the option under the said section in view of the provisions of this Act within 15 days from the date of service of notice issued by the Collector for this purpose or within such extended period as may be allowed by the Collector.