

Bihar Land Reforms Act, 1950

30 of 1950

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An Act to provide for the transference to the State of the interests of proprietors and tenure-holders in land of the mortgagees and lessees of such interests including interests in trees, forests, fisheries, jalkars, ferries, hats, bazars, mines and minerals and to provide for the constitution of a Land Commission for the State of Bihar with powers to advise the State Government on the agrarian policy to be pursued by the State Government consequent upon such transference and for other matters connected therewith. Whereas it is expedient to provide for the transference to the State of the interests of proprietors and tenure holders in land and of mortgagees and lessees of such interests including interests in trees, forests, fisheries, jalkars, ferries or hats, bazars, mines and minerals and to provide for the constitution of a Land Commission for the State of Bihar with powers to advise the State Government on the agrarian policy to be pursued by the State Government consequent upon such transference and for other matters connected therewith: It is hereby enacted as follows : - 1. For

Statement of Objects and Reasons, see the Bihar Gazette, Extraordinary of the 10th December, 1949, for report of the S.C see the Bihar Gazette, Extraordinary of the 1st February, 1950, for proceedings in the Legislative Assembly see the Bihar Legislative Assembly Debates. 1949 Vol. VII, No. 21, PP, 1-40, 1950, Vol 1 No. 3 p. 81, 4, pp, 14-35, 37-39, 40-43, No. 5, pp. 9-47, No. 6. pp. 19-48. No, 27. pp. 21-49, No. 28. pp. 18-57, No. 29, pp. 54-83. No. 30, pp. 1-32, No. 31, pp. 17-51, No. 32. pp. 21-45, No. 33, pp 83-89, No. 34, pp. 17-30, 31-54. No. 36, pp. 42-65, No. 37, pp. 15-58, No. 38. pp. 18-78, No. 39 pp. 29-92. No. 50, 39-71, No. 51 pp. 43-50 and for proceedings in the Legislative Council, see the Bihar Legislative Council Debates, 1950, Vol. 1, No. 24pp. 10-38, No. 25, pp. 16-48. No. 26 pp.. 12-39, No. 28. pp. 16-44, No. 29, pp. 54-97, No. 30, pp. 16-53, No. 31, pp. 9-46.

CHAPTER 1

PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Land Reforms Act, 1950. (2) It extends to the whole of the State of Bihar. (3) It shall come into force on such date [1] as the State Government may, by notification, appoint in this behalf. 1. The Act came into force on the 25th September 1950. see notification no. 5067. L. R. dated 24.9.1950. Presidents assent published in Bihar Gazette (ex-ord) dated 25.9.1950.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context, - (a) "agricultural year" means, where the Bengali year prevails, the year commencing on the first day of Baisakh, where the Fasli or Amli year prevails. the year commencing on the first day of Asin and, where any other year prevails for agricultural purposes, that year; (b) "Board" means the Board constituted under section 18; 1[(bb) "building used primarily as office or cutchery, for the collection of rent" includes, in relation to an estate or tenure vested in the State, any building used by the intermediary primarily for the purpose of collecting rent, depositing cash collections, storing produce rents, doing office work in connection with the settlements of lands or custody of settlement papers or other records relating to the estate or tenure;] (c) "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility; (d) "Claims officer" means the Claims officer appointed

under sub-section (1) of section 14; (e) "Collector" includes any officer 2[not below the rank of a Sub-Deputy Collector] appointed]3 by the State Government to discharge all or any of the functions of a Collector under this Act; (f) "Commission" means the Bihar Land Commission constituted under section 34; (g) "Compensation Officer" means the Compensation Officer appointed under section 19; Where a lease of land for 50 years was executed by the Commissioner as Court of Wards of Ghatwali estate known as Rohini estate and the lessee selling his interest over the land to the petitioner in whose name jamabandi was also opened. The land was developed and tenanted to the State of Bihar and dispute being raised for vacating the tenanted premises proceeding for cancelling jamabandi was initiated and jamabandi was cancelled by the Additional Collector on the ground of vesting of the estate land and right of the raiyat in possession as defined in Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 did not vest, - In view of the provisions of Secs. 5 & 6 of the Act is clear and specific. The Additional Collector has no jurisdiction to cancel jamabandi. D. N. Jatia v. The State of Bihar and ors, 1990 (2) BLJ 693 : 1990(2) BLJR 1075 : 1991 BBCJ 428. (h) "date of vesting" means in relation to an estate or tenure vested in the State, the date of publication in the official Gazette of the notification under subsection (1) of section 4[or sub-section (1) or (2) of section 3A] in respect of such estate or tenure; 5(i) "estate" means any land and several fishery and ferry rights included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes revenue-free land and several fishery and ferry rights not entered into any register and a share in or of an estate.] (j) "homestead" means a dwelling house used by the proprietor or tenure-holder for the purposes of his own residence or for the purpose of letting out on rent together with any courtyard, compound, attached garden orchard and outbuildings and includes any out-buildings used for purposes connected with agriculture or horticulture and any tank, library and place of worship appertaining to such dwelling house; 6[Explanation. - In this clause, the expression "dwelling house" or outbuilding shall include any land on which there stood such dwelling house or outbuilding at any time before the date of vesting.] 7[(jj) "industrial undertaking" means any industrial undertaking other than a public sector undertaking relating to; (a) heavy industry: (b) explosives; (c) fertilizers; (d) iron and steel;

(e) cement; or (f) coal; 8[(jjj)] "intermediary" in relation to any estate or tenure, means a proprietor, tenure-holder, under-tenure-holder and trustee; 8[(jjjj)] "intermediary interest" means the interest of an intermediary in an estate or tenure; (k) "khas possession" used with reference to the possession of a proprietor or tenure-holder of any land used for agricultural or horticultural purposes means the possession of such proprietor or tenure-holder by cultivating such land or carrying on horticultural operations thereon himself with his own stock or by his own servants or by hired labour or with hired stock; Explanation. - "Land used for horticultural purposes" means land used for the purpose of growing fruits, flowers or vegetables. (l) "lease" in relation to mines and minerals, shall include a sub-lease, prospecting lease and an agreement to lease and sublet and "lessee" shall be construed accordingly; (m) "Mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, but does not include any works, machinery, tramways or sidings appertaining to a mine and a mine shall be deemed to be in operation" if a notice of the commencement of its operation has been given under section 14 of the Indian Mines Act, 1923 (4 of 1923)] 9 to the District Magistrate of the district in which such mine is situated and the discontinuance of the operation thereof has not been notified to the competent authority; (n) "Prescribed" means prescribed by rules made under this Act; (o) "Proprietor" means a person holding in trust or owning for his own benefit an estate or part of an estate, and includes the heirs and successors-in-interest of a proprietor and, where a proprietor is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator; 7[oo) "public sector underaking" means a corporation established by or under a Central or State Act which is owned or managed by the Central Government or a State Government and includes a company in which not less than fifty-one percent of the paid-up share capital is held by the Central Government or by any State Government or partly by the Central Government and partly by one more State Government relating to - (a) heavy industry; (b) explosives; (c) fertilizers; (d) iron and steel; (e) cement, or (f) coal;] 10[ooo) "religious purpose" means a purpose which relates exclusively to religious worship, teaching or service or to the performance of religious rites but does not include a Wakf-al-aulad;] (p) "temporary lease" in relation to an estate or tenure, means a lease from year to year or for a term of years commonly as thica, but does not include a lease of mines and

minerals comprised in such estate or tenure; 11[(q) "tenure" means the interest of a tenure-holder or an under tenure-holder and includes - (i) a ghatwali tenure, (ii) a tenure created for the maintenance of any person and commonly known as kharposh, babuana, etc., and (iii) a share in or of a tenure but does not include a Mundari Khunt Kattidah tenancy within the meaning of the Chota Nagpur Tenancy Act, 1908 (Ben. Act 6 of 1908), or a bhuinhari tenure prepared and confirmed under the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869);] 11[(r) "tenure-holder" means a person who has acquired from a proprietor or from any other tenure-holder a right to hold land for the purpose of collecting rent or bringing it under cultivation by establishing tenants on it and includes - (i) the successors-in-interest of persons who have acquired such right, (ii) a person who holds such right in trust, (iii) a holder of a tenure created for the maintenance of any person. (iv) a ghatwal and the successors-in-interest of a ghatwal, and (v) where a tenure-holder is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator;] (s) "trust" includes any express or constructive trust created or existing for a public purpose of a charitable or religious nature and a Hindu, Muslim, Christian Buddhist or any other religious or charitable endowment; and (t) all words and expressions used in this Act not defined in this Act and defined in the Bihar Tenancy Act, 1885 (8 of 1885) or the Chota Nagpur Tenancy Act, 1908 (Ben. Act 6 of 1908) shall. - (i) in their application to the area to which the Chota Nagpur Tenancy, Act, 1908 (Ben. Act 6 of 1908), applies, have the same meanings as in that act; (ii) in their application to the area to which the Bihar Tenancy Act, 1885 (8 of 1885) applies, have the same meanings as in that Act; and (iii) in their application to any area in the Santal Parganas, have the same meanings as in the Bihar Tenancy Act, 1885 (8 of 1885). 1. Inserted by Act 20 of 1954. 2. Substituted by Act 20 of 1954. 3. For a notification appointing Additional Collectors and Additional Subdivisional Officers in the State to discharge all the functions of a Collector under the Act, see B.O. R. O. Vol. 1, Pt. VIII. 4. See notifications. 5067 L. R. dated 24-9-1950. 5. Substituted by (Amdt.) Act 11 of 1990. 6. Inserted by Act 1 of 1959. 7. Inserted by Act 5 of 1972. 8. Re-numbered by Act 5 of 1972. 9. See Mines Act, 1950. 10. Inserted by Act 20 of 1954 and re-numbered by *ibid*. 11. Substituted by *ibid*. Section

2A. Interpretation :-

1[The expressions proprietor or tenure-holder and estate or tenure wherever they occur in this Act shall unless the context or subject otherwise requires be construed to mean and include; intermediary and the intermediary interest respectively.] 1. Inserted by Bihar Act 20 of 1954. Section 2B - Repealed 1[X X X X] 1. Repealed by Act 5 of 1972.

CHAPTER 2

VESTING OF AN ESTATE OR TENURE IN THE STATE AND ITS CONSEQUENCES

3. Notification Vesting An Estate Or Tenure In The State :-

(1) The State Government may from time to time, by notification [1], declare that the estates or tenures of a proprietor or tenure-holder, specified in the notification, have passed to and become vested in the State. 2[(2) The notification referred to in sub-section (1) shall be published in the Official Gazette. A copy of such notification shall be sent by registered post, with acknowledgment due, to the proprietor of the estate recorded in the general register of revenue-paying or revenue-free lands maintained under the Land Registration Act, 1876 (Ben, Act 7 of 1876)5 or in case where the estate is not entered in any such registers and in the case of tenure-holders to the proprietor of the estate or to the tenure-holder of the tenure if the Collector is in possession of a list of such proprietors or tenure-holders together with their addresses, and such posting shall be deemed to be sufficient service of the notification on such proprietor or, where such notification is sent by post to the tenure-holder, on such tenure-holder for the purposes of this Act.] (3) The publication 3[*.] of such notification. 4[in the official Gazette] shall be conclusive evidence of the notice of the declaration to such proprietors or ten-ure-hoder whose interests are affected by the notification. 1. For notification declaring certain estates and tenures vested in the State under the Act, see B.O. R. O., Vol. I. Pt. VIII. 2. Substituted by Act 20. of 1954. 3. Repeated by ibid. 4. Substituted by ibid.

3A. Vesting Of Estates And Tenures In The State :-

- 1[(1) Without prejudice to the provision in the last preceding section the State Government may, at any time, by notification, declare that the intermediary interests of all intermediaries in the whole of the State have passed to and become vested in the State. (2) It shall be lawful for the State Government, if it so thinks fit, to issue, from time to time, a notification of the nature mentioned in sub-section (1) in respect of the intermediary interests situate in a part of the State specified in the notification and, on the publication of such notification, all intermediary intersets situate in such part of the State shall have passed to and become vested in the State. (3) The notification referred to in sub-section (1) or sub-section (2) shall be published in the official Gazette] 1. Inserted by Act 20 of 1954.

3B. Provisions Applicable To Notifications Proposed To Be

Issued Under Section 3A :-

- 1[Where it is proposed to issue a notification under section 3A in respect of all intermediary interests in the whole of the State, or in a part of the State, the following provisions shall apply, namely:- (1) The State Government shall publish a proclamation in the official Gazette, not less than three months before the date on which it is proposed to issue a notification under sub-section (1) or sub-section (2) of section 3A, announcing its intention to take over, on the expiration of the said period, all intermediary interests in the whole of the State or, as the case may be, in such part of the State as may be specified in the proclamation. (2) The substance of the proclamation shall be announced by beat of drum in all the villages of the State or, as the case may be, in the villages situate within such part of the State as may be specified in the proclamation. (3) On the publication of the proclamation every intermediary shall at any time before the expiration of the said period, make to the Collector an application in the form set out in the schedule to this Act. (4) The application shall be verified and signed in the manner provided for the verification of a plaint and shall be accompanied by - (a) Such documents relating to the intermediary interests held by the intermediary as are required by the Schedule: Provided that the Collector may dispense with the production of any document or any particulars in any statement. (b) a certificate from the intermediary that he has not concealed or with any material information or particulars relating to his intermediary interests; (c) a declaration by such intermediary that the documents filed by him are genuine and the information furnished by him in the application is true to the best of his knowledge and belief and that he has made no other application claiming compensation under this Act. (5) If any intermediary fails, without sufficient cause, to make the application to the Collector or to file the documents, certificate and declaration required by clause (4) within the period specified in clause (3) or within such extended period as may be allowed by the Collector in this behalf, the intermediary shall be liable to a penalty which may extend to fifty rupees for every day after the expiration of said period or the extended period until such application has been made and the documents, certificate and declaration have been filed and such penalty shall be realised as a public demand: Provided that where the sum of such penalty exceeds five hundred rupees, the Collector shall refer the matter to the Commissioner whose orders thereon shall be final: Provided further that the Commissioner may at any time, of his own motion or on the application of any intermediary, revise any order of the Collector imposing any penalty and the order of the Commissioner in revision shall be final. (6) When an application has been made in accordance with the provisions of this section, the Collector shall transfer it with all the materials and documents accompanying it to the Compensation Officer. (7) Where an intermediary has intermediary interests in more than one district of the State, he shall, with his application to the Collector of the district in which the major portion of his interest lies or in which he ordinarily resides, furnish particulars and documents in respect of his intermediary interests in other parts of the State and shall state in his application to the Collector of other districts in which his intermediary interests lie that the particulars and documents have been so furnished.] 1 Inserted by Act 20 of 1954

4. Consequences Of The Vesting Of An Estate Or Tenure In The State :-

1[Notwithstanding anything contained in any other law for the time being in force or any contract and notwithstanding any non-compliance or irregular compliance of the provisions of sections 3, 3A and 3B except the provisions of sub-section (1) of section 3 and sub-section (1) of section 3A, on the publication of the notification under sub-section (1), of section 3 or sub-section (1) or sub-

section (2) of section 3A, the following consequences shall ensue and shall be deemed always to have ensued, namely:] (a) 2[xxx] Such estate or tenure including the interests of the proprietor or tenure-holder in any building or part of a building comprised in such estate or tenure and used primarily as office or cutchery for the collection of rent of such estate or tenure, and his interests in trees, forests, fisheries, jalkars, hats, bazars, 3[mela] and ferries and all other sairati interests , as also his interest in all subsoil including any rights in mines and minerals whether discovered or undiscovered, or whether been worked or not, inclusive of such rights of a lessee of mines and minerals, comprised in such estate or tenure (other than the interests of raiyats or under - raiyats) shall, with effect from the date of vesting, vest absolutely in the State free from all incumbrances and such proprietor or tenure-holder shall cease to have any interest in such estate or other than the interests expressly saved by or under the provisions of this Act. 4[(b) All rents, cesses and royalties accruing in respect of lands comprised in such estate or tenure on or after the date of vesting shall be payable to the State and not to the outgoing proprietor or tenure-holder and any payment made in contravention of this clause shall not be binding on the State Government. Explanation- The expression "rent, cess and royalty" in relation to the year in which an estate or tenure vests in the State, shall mean the amount of rent, cess or royalty accruing in respect of lands comprised in such estate or tenure for the period commencing from the date of vesting which amount shall bear the same proportion to the total rent, cess or royalty, as the case may be, accruing in respect of such lands for the whole year as such period bears to the whole year. 5[(c) All arrears of revenue and cesses remaining lawfully due in respect of the estate or tenure on the date of vesting and all other amounts recoverable by the State Government from the outgoing intermediary under any law for the time being in force, shall continue to be recoverable from him and shall, without prejudice to any other mode of recovery, be recoverable, when so ordered by the Collector, by the deduction thereof from the amount payable to such intermediary under section 32, section 32A.or section 33. Explanation.-The expression arrears of revenue and cesses in relation to an estate or tenure vested in the State shall mean the amount of land revenue and the amount of cess in respect of such estate or tenure for any period prior to the date of vesting, which amount shall bear the same proportion to the total amount of the land revenue or, as the case

may be, to the total amount of cess, of such estate or tenure payable for the whole year as the period prior to the date of vesting bears to the whole year. 1[(cc) in case any out going intermediary have recovered any amount from the tenant of an estate or a tenure payable by such tenant as rent for any period after the date of the vesting of such estate or tenure, such amount shall without any prejudice to any other mode of recovery be recoverable from the amount of compensation payable to him under section 32, section 32A or section 33. 6[Provided that an appeal against an order passed under this clause, if preferred within sixty days of the date of such order, shall lie to the prescribed authority not below the rank of the Collector of district who shall dispose of the same according to the prescribed procedure.] (d) No suit shall lie in any Civil Court for the recovery of any money due from such proprietor or tenure-holder the payment of which is secured by a mortgage of, or is a charge on, such estate or tenure and all suits and proceedings for the recovery of any such money which may be pending on the date of vesting shall be dropped. (e) No such estate or tenure shall be liable to attachment or sale under the processes of any Court and any order of attachment passed in respect of such estate or tenure before the date of vesting shall cease to be in force. 4[(ee) In every suit, appeal or proceeding, in respect of any estate or tenure which has vested under section 3 or section 3A pending on the date of the commencement of the Bihar Land Reforms (Amendment) Act, 1953, the Court in which the suit, appeal or proceeding is pending shall cause a notice thereof to be served on the State Government who may within three months of the service of the notice apply to the Court to be added, and shall thereupon be added, as a party there to and shall be entitled to conduct or defend such suit or proceeding, as the case may be, and in the absence of service of such notice, the decree or order passed in such suit, appeal or proceeding shall not be binding on the State Government.] (f) The Collector shall 4[be deemed to have taken charge] of such estate or tenure and of all interests vested in the State under this section: Provided that nothing contained in this clause or in any other provision of this Act shall be deemed to authorise the Collector to take charge of any institution, religious or secular, of any trust or any building connected therewith or to interfere with the right of a trustee to apply the trust money to the objects of the trust. 5[(g) Where by reason of the vesting of any estate or tenure or any part thereof in the State under the provision of this Act, the Collector is

of opinion that the State is entitled to the direct possession of any property he shall, by an order in writing served in the prescribed manner on the person in possession of such property, require him to deliver possession thereof to the State or show cause, if any, against the order within a time to be specified therein and if such person fails to deliver possession or show cause or if the Collector rejects any cause, shown by such person after giving him a reasonable opportunity of being heard, the Collector shall for reasons to be recorded, take or cause to be taken such steps or use or cause to be used such force as, in his opinion may be necessary for securing compliance with the order or preventing a breach of the peace: Provided that if the order under clause (g) is passed by an officer below the rank of the Collector of a district, an appeal shall if preferred within sixty days of the order, lie to the Collector of the district and the Collector shall dispose of the appeal in accordance with the prescribed procedure.] 4(h) The Collector shall have power to make inquiries in respect of any transfer including the settlement or lease of any land comprised in such estate or tenure or the transfer of any kind of interest in any building used primarily as office or cutchery for the collection of rent of such estate or tenure or part thereof, 2[* * *] and if he is satisfied that such transfer was made 4[at any time after the first day of January, 1946, with the object of defeating any provisions of this Act or causing loss to the State or obtaining higher compensation there under the Collector may, after giving reasonable notice to the parties concerned to appear and be heard 2[* * *] annul such transfer, dispossess the person claiming under it and take possession of such property on such terms as may appear to the Collector to be fair and equitable;] 7[Provided that an appeal against an order of the Collector under this clause if preferred within sixty days of such order, shall lie to the prescribed authority not below the rank of the Collector of a district who shall dispose of the same according to the prescribed procedure:] Provided further that no order annulling a transfer shall take effect nor shall possession be taken in pursuance of it unless such an order has been confirmed by the State Government.] 5[(hh) the Collector shall have power to make inquiries into all cases of reduction or partial or entire remission of rents of agricultural holdings comprised in such estate or tenure made by the outgoing intermediary either for a specified period or in perpetuity and may, after giving reasonable notice to the parties concerned to appear and be heard, if he is satisfied that such reduction or remission was

made after the first day of January, 1946, with the object of defeating the purpose of the Act or causing loss to the State, cancel all such reduction or remission and order the restoration of the rents of such holdings or class of such holding which were payable in respect of the said holdings immediately before the first day of January, 1946: Provided that an appeal against an order of the Collector under this clause, if preferred within sixty days of such order, shall lie to the prescribed authority not below the rank of the Collector of a district who shall dispose of the same according to the prescribed procedure.] (i) After serving a notice in writing on the proprietor or tenure holder for the production of such documents, registers and papers as are in his opinion necessary for the management of such estate or tenure, and if such notice is not complied with within forty-eight hours or such further time as the Collector may allow it shall be lawful for the Collector or any officer, not below the rank of a Sub-Deputy Collector, authorised by him in writing in this behalf, to enter upon any land or building with such assistance as he considers necessary and seize and take possession of such documents, registers and papers as are in his opinion necessary for the management of such estate or tenure: Provided that no action under this clause shall be taken unless a requisition under section 40 has not been complied with within the time fixed in the said requisition. 1. Subs by Act 15 of 1974. 2. Repeated by Act 16 of 1956. 3. Inserted by ibid. 4. Inserted by Act 20 of 1954. 5. Substituted by Act 16 of 1956. 6. Inserted by Act 15 of 1974. 7. Inserted by Act 16 of 1959.

4A. Revision :-

1[The Commissioner of the division may at any time call for and examine the record of any proceeding under clause (h) or clause (hh) for the purpose of satisfying himself as to the correctness, legality or propriety of any finding or order recorded or passed in such proceeding whether before or after the commencement of the Bihar Land Reforms (Amendment) Act, 1959 and on examining the record, he may, after hearing if necessary, the person concerned.- (a) direct such further inquiry to be made as he may specify, (b) in a proceeding under clause (h), report the matter for orders of Government which may thereupon pass such order as it may consider necessary. (c) in a proceeding under clause (hh), pass such orders as he may consider necessary; or (d) decline to interfere with the finding or order.] 1. Inserted by Act 16 of 1959.

5. Homesteads Of Intermediaries To Be Retained By Them As Tenants :-

(1) With effect from the date of vesting all homesteads comprised in an estate or tenure and being in the possession of 1[an intermediary] on the date of such vesting shall, 1[subject to the

provisions of sections 7 A and 7B] be deemed to be settled by the State with such 1[intermediary and he) shall be entitled to retain possession of the land comprised in such homesteads and to hold it as a tenant under the State free of rent: Provided that such homesteads as are used by the 1[intermediary] for purposes of letting out on rent shall be subject to the payment of such fair and equitable ground rent as may be determined by the Collector in the prescribed manner. (2) If the claim of 1[an intermediary] as to his possession over such homestead or as to the extent of such homesteads is disputed by any person within three months from the date of such vesting, the Collector shall, on application, make such inquiry into the matter as he deems fit and pass such order as may appear to him to be just and proper. 1. Substituted by Act 20 of 1954

6. Certain Other Lands In Khas Possession Of Intermediaries To Be Retained By Them On Payment Of Rent As Raiyats Having Occupancy Rights :-

(1) On and from the date of vesting all lands used for agricultural or horticultural purposes, which were in khas possession of 1[an intermediary] on the date of such vesting, including.- (a) (i) proprietors private land let out under a lease for a term of years or under a lease, from year to year, referred to in section 116 of the Bihar Tenancy Act, 1885 (8 of 1885), (ii) landlords, privileged lands let out under a registered lease for a term exceeding one year or under a lease, written or oral, for a period of one year or less; referred to in section 43 of the Chota Nagpur Tenancy Act, 1908 (Ben. Act 6 of 1908), (b) lands used for agricultural or horticultural purposes and held in the direct possession of a temporary lessee of an estate or tenure and cultivated by himself with his own stock or by his own servants or by hired labour or with hired stock, and 2(c) lands used for agricultural or horticultural purposes forming the subject-matter of a subsisting mortgage on the redemption of which the intermediary is entitled to recover khas possession thereof;] shall, 2[subject to the provisions of sections 7A and 7B] be deemed to be settled by the State with such 1[intermediary and he] shall be entitled to retain possession thereof and hold them as a raiyat under the State having occupancy rights in respect of such lands subject to the payment of such fair and equitable rent as may be determined by the Collector in the prescribed manner: 3[Provided that nothing contained in this sub-section shall entitle an intermediary to retain possession of any naukarana land or any

land recorded as chaukidari chakran or goraiti jagir or mafigoraiti in the record of right has already accrued to a raiyat before the date of vesting. Explanation. - For the purposes of this sub-section, naukarana land means land as a grant burdened with service in lieu of rent or held simply in lieu of wages for services to be rendered-]

(2) If the claim of 3[an intermediary] as to khas possession over the lands referred to in sub-section (1) or as to the extent of such lands is disputed by any person prior to the determination of rent of such lands under the said sub-section the Collector shall, on application, make such inquiry into the matter as he deems fit and pass such order as may appear to be just and proper. Provided that the Collector in making such inquiry shall give due weight to the circumstances under which the area in which such lands were situated was declared to be a disturbed area under the Police Act, 1861, after the first day of November, 1946. 1. Substituted by Act 20 of 1954 2. Substituted by Act 16 of 1959. 3. Substituted by Act 15 of 1974.

7. Buildings Together With Lands On Which Such Buildings Stand In The Possession Of Intermediaries And Used As Golas, Factories Or Mills To Be Retained By Them On Payment Of Rent :-

(1) Such buildings or structures together with the lands on which they stand, other than any buildings used primarily as offices or cutcheries referred to in clause (a) of section 4, as were in the possession of 1[an intermediary] at the commencement of this Act and used as golas, factories or mills, for the purpose of trade, manufacture or commerce or used for storing grains or keeping cattle or implements for the purpose of agriculture and constructed or established and used for the aforesaid purposes before the first day of January, 1946, shall, 1[subject to the provisions of sections 7 A and 7B] be deemed to be settled by the State with such 1[intermediary and he shall be entitled to retain possession of such buildings or structures together with the lands on which they stand as a tenant under the State subject to the payment of such fair and equitable ground rent as may be determined by the Collector in the prescribed manner. 2[Provided that in respect of Industrial undertaking fair and equitable rent shall, be determined by the State Government in respect of land or buildings and structures together with lands on which they stand.] (2) If the claim of such 1[intermediary] as to the possession over such buildings or structures, or lands on which they stand or as to the extent of such

buildings, structures or lands is disputed by any person within three months from the date of vesting the Collector shall make inquiry in the matter as he deems fit and pass such order as may appear to him to be just and proper. (3) Where a building or structure, constructed by 1[an intermediary] in his estate or tenure after the first day of January, 1946, is used for the purposes mentioned in subsection (1), the 1[intermediary] shall be entitled to retain the possession of such building or structure, together with the land on which it stands as a tenant under the State subject to the payment of the rent as provided in sub-section (1), if and only if the State Government is satisfied that such building or structure was not constructed or used for the aforesaid purposes with the object of defeating any provisions of this Act. 1. Substituted by Act 20 of 1954. 2. Inserted by Act 17 of 1983 (2-1-84)

7A. Lands On Which Hat Or Bazar Was Held Not Deemed To Be Settled With Intermediary :-

- 1[Nothing in section 5, section 6 or section 7 shall be deemed to confer any right on the intermediary in respect of any land on which at any time within one year prior to the date of vesting to the estate or tenure the intermediary was holding a hat or bazar]. 1. Inserted by Act 18 of 1959.

7B. Right To Hold Mela To Vest In The State :-

1[Where on any land deemed to be settled with the intermediary under section 5, section 6 or section 7, a mela was being held by the intermediary at any time within three years of the date of vesting, the right to hold such mela on such land shall, with effect from the date of vesting, vest in the State and notwithstanding anything contained in any law, the State Government shall have and the intermediary shall not have the right to hold mela on such land: Provided that where any such mela on any such land has already been settled by the State Government with any outgoing intermediary on his foregoing the compensation payable to him under section 32 and settlement is still subsisting, it shall not be disturbed till the expiry of the period of settlement.] 1. Substituted by Act 14 of 1974.

7C. Omitted :-

- 1[X X X XI 1. Omitted by Act 14 of 1974.

7D. Land And Buildings, Etc. Acquired For An Industrial Undertaking And Utilised For Providing Civic Amenities, Namely, Health, Housing, Welfare, Power House, And Educational Facilities To Be Deemed Settled With It By The State :-

- 1[2(1) If any land has been acquired for an industrial undertaking under the Land Acquisition Act, 1894 (Act I of 1894) so much of such land and buildings and structures thereon in possession of the industrial undertaking as are being utilised for providing civic amenities, namely health, housing, welfare, power house and

education facilities to its employees and so much of the remaining portion of such land and building and structures thereon as are found essential on enquiry by the State Government for production processes of the industrial undertaking shall be deemed to have been leased out by the State Government with the owner of the industrial undertaking for such period as determined by the State Government subject to payment of such fair and equitable rent as determined by the State Government.] 1[(2) The provisions of sub-section (1) shall have effect notwithstanding anything contained in section 4 (a) and shall be without prejudice to the exemptions granted or concession given to intermediaries under sections 5,6,7A, 7B and 7C. (3) If the claim of the industrial undertaking as to possession over the lands, buildings and structures thereon, referred to in sub-section (1) or to the extent of such lands, buildings and structure is disputed by any person within three months of the commencement of the Bihar Land Reforms (Amendment) Act, 1972, the Collector shall make such inquiries in the matter as he deems fit and pass orders as may appear to him as just and fair. (4) The provisions of sub-section (1) shall be deemed to have been inserted in this Act from the commencement thereof.] 1. Inserted by Act 5 of 1972. 2. Substituted by Act 17 of 1983 (w.e.f. 2.1.1984)

7E. Land And Building, Etc., Acquired For An Industrial Undertaking And Leased Out By It To Another Industrial Undertaking For Its Expansion By Establishing New Industry Or To An Individual To Be Deemed As Leased With It By State Government On Same Terms :-

- 1[2[If any portion out of the land acquired for an industrial undertaking under the Land Acquisition Act, 1894 (Act I of 1894) has been leased out by the industrial undertaking before the 22nd June, 1970 to another industrial undertaking for establishment of a new industry or its expansion or to any individual or society or association for residential commercial or for such other purpose, the whole of such land, buildings or structures covered by such lease shall with effect from the commencement of this Act, be deemed to be leased to the industrial undertaking for such period as may be determined by the State Government subject to payment of fair and equitable rent as determined by the State Government and the other industrial undertaking, individual, society or association to whom lease has been granted by the industrial undertaking shall be deemed to be the sub-lessee of the original industrial undertaking and the provisions -of clauses (G) and (H) of section 4 shall not be effective with respect to such land or buildings or structures thereon.] The terms and conditions of the lease granted under sub-section (1), shall be determined by the State Government : Provided that if the period of sub-lease expires before the expiry of the lease granted under sub-section (1) then in that condition at the time of renewal of the sub-lease, the State Government shall have power to revise the amount of rent payable to State Government by the lessee.] 1. Inserted by Act 5 of 1972. 2. Substituted by Act 17 of 1983 (w.e.f. 2.1.1984)

7F. Repealed :-

- 1[X X X] 1. Repealed by Act 17 of 1983.

7G. Land Acquired For Public Sector Undertaking On Which No :-

occupancy right has been acquired to be saved to public sector undertaking 1[Notwithstanding anything contained in this Act, where any land has been acquired for public sector undertaking under the Land Acquisition Act, 1894 (Act 1 of 1894), so much of land on which occupancy right has not been acquired by any

tenant before the commencement of this Act. in accordance with the tenancy law of the area in which it is situated, shall be saved to the said public sector undertaking. Provided that nothing in this section shall entitle the public sector undertaking to create any Intermediary interest or tenancy in accordance with the tenancy law of the area in which it is situated. Explanation. - Nothing in this proviso shall, however, affect the right of a public sector undertaking to lease out or settle lands with a view to provide civic, ammenity, health, housing, welfare and educational facilities to its employees, or for industries concerning or ancillary to the industrial process carried on by the public sector undertaking : Provided further that nothing contained in this section shall override the provisions of the Land Acquisition Act, 1894 (Act 1 of 1894) or rules made thereunder] 1. Inserted by Act 5 of 1972.

8. Appeal Against Collectors Order Under Sections 5, 6 Or 7

:-

An Appeal against any order of the Collector under sub-section (2) of section 5, or section 6 or section 7, if preferred within sixty days of such order, shall lie to the prescribed authority 1[not below the rank of an Additional Collector] who shall dispose of the appeal according to the prescribed procedure. 1. Repealed by Act 17 of 1983.

9. Mines Worked By Intermediary :-

(1) With effect from the date of vesting all such mines comprised in the estate or tenure as were in operation at the commencement of this Act and were being worked directly by the 1[intermediary] shall, notwithstanding anything contained in this Act, be deemed to have been leased by the State Government to the1[intermediary and he] shall be entitled to retain possession of those mines as a lessee thereof. (2) The terms and conditions of the said lease by the State Government shall be such as may be agreed upon between the State Government and the 1[intermediary] or in 1[the absence] of agreement as may be settled by a Mines Tribunal appointed under section 12: Provided that all such terms and conditions shall be in accordance with the provisions of any Central Act for the time being in force regulating the grant of new mining leases. 1. Substituted ty Act 20 of 1954

10. Subsisting Leases Of Mines And Minerals :-

(1) Notwithstanding anything contained in this Act, where immediately before the date of vesting of the estate or tenure there is a subsisting lease of mines or minerals comprised in the estate or tenure or any part thereof, the whole or that part of the estate or tenure comprised in such lease shall, with effect from the date of vesting, be deemed to nave been leased by the State Government to the holder of the said subsisting lease for the remainder of the term of that lease, and such holder shall be

entitled to retain possession of the lease hold property. (2) The terms and conditions of the said lease by the State Government shall mutatis mutandis be the same as the terms and conditions of the subsisting lease referred to in sub-section (1), but with the additional condition that, if in the opinion of the State Government the holder of the lease had not,¹[before the coming into force of the Bihar Land Reforms (Amendment) Ordinance, 1965 (Bihar Ordinance 1 of 1965, done any prospecting or development work in the area or in any part of the area comprised in the lease, the State Government shall be entitled at any time after the coming into force of the said Ordinance to determine the lease in regard to the whole or part of such area, as the case may be, after giving three months notice in writing but in determining the lease in regard to the part of such area the State Government shall have regard to the reasons for the failure to do any prospecting or development work in such part and to the requirements for the future development of the remaining part but no such action shall be taken in respect of leases of minerals specified in the First Schedule to the Mines and Minerals (Regulation and Development) Act, 67 of 1957) except with the previous consent of the Central Government]: Provided that nothing in this sub-section shall be deemed to prevent any modifications being made in the terms and conditions of the said lease in accordance with the provisions of any Central Act for the time being in force regulating the modification of existing mining leases: 2[Provided further that the terms and conditions of the said lease in regard to minor minerals as defined in the Mines and Minerals (Regulation and Development) Act, 1957 (Act 67 of 1957). shall, in so far as they are inconsistent with the rules made by the State Government under section 15 of that Act, stand substituted by the corresponding terms and conditions prescribed by those rules and if further ascertainment and settlement of the terms will become necessary proceedings for that purpose shall be undertaken by the Collector.] (3) The holder of any such lease of mines and minerals as is referred to in sub-section (1) shall not be entitled to claim any damages from the outgoing proprietor or tenure-holder on the ground that the terms of the lease executed by such proprietor or tenure-holder in respect of the said mines and minerals have become incapable of fulfilment by the operations of this Act. 3[(4) The rent and royalty on account of mines or minerals payable to the State Government shall always be deemed to be the first charge on the property whether or not it is so specified in the document of lease held by the lessee]. 1.

Substituted by Act 4 of 1965 2. Inserted by Act 4 of 1965. 3. Substituted by Act 4 of 1965.

10A. Vesting Of Interest Of Lessee Of Mines Or Minerals Which Is Sub-Ject To Sub-Lease :-

1[(1) The interest of every lessee of mines or minerals which is subject to a sub-lease shall with effect from such date as may be notified in this behalf by the State Government in the official Gazette, vest in the State and thereafter the sub-lessee whose lease is not subject to any further sub-lease shall hold his lease directly under the State Government and the provisions of sub-section (2) and (4) of section 10 shall mutatis mutandis, apply to his lease. (2) No sub-lessee of mines or minerals holding under a lessee whose interest vests in the State Government under sub-section (1) shall be entitled to claim any damages from his lessor on the ground that the terms of the lease in respect of mines or minerals have become incapable of fulfilment by the operation of this section.] 1. Inserted by Act 4 of 1965

11. Buildings And Lands Appurtenant To Mines :-

Where by virtue of section 9 or section 10, any lease of mines and minerals comprised in an estate or tenure is deemed to be given by the State all buildings and lands not included in such lease, whether comprised in that or any other estate or tenure, which vest in the State by operation of this Act and are in the use and occupation of the lessee for purposes connected with the working or extraction of the mines and minerals comprised in the lease, including the lands upon which any works, machinery, tramways or sidings appertaining to the mines are situate, shall be deemed to have been leased by the State to that lessee with effect from the date of vesting of the estate or tenure, and the lessee shall be entitled to retain possession of all such buildings and land subject to the payment of such fair and equitable ground rent as may be agreed upon between the State and the lessee, or in default of agreement as may be fixed by a Mines Tribunal appointed under section 12.

12. Mines Tribunal :-

1[(1) Any Mines Tribunal appointed for the purposes of sections 9, 11 and 31 shall consist of a Chairman who shall be a District Judge and a member who shall be a mining expert, both of whom shall be 2[appointed by the State Government with the previous approval of the Central Government.] (2) In settling the terms and conditions of a lease by the State Government under section 9, the Mines Tribunal shall have power to determine the extent of the property deemed to have been leased by the State and in so doing shall have regard to the reasonable requirements for the future development of lessees mining concern. (3) The Tribunal shall

follow such procedure as may be prescribed by the State Government. (4) If there is a difference of opinion between the Chairman and the member in regard to any matter, it shall be referred by the Chairman to a Judge of the High Court nominated by the Chief Justice in this behalf, and the decision of such Judge shall be binding on the Tribunal. 1. Substituted by Act 15 of 1974. 2. For notification appointing members of Mines Tribunal see Appendix B of this book.

CHAPTER 3

MANAGEMENT OF ESTATES AND TENURES TRANSFERRED TO THE STATE

13. Management Of Estates And Tenures Vested In The State :-

All estates and tenures vested in the State under the provisions of this Act shall, as far as practicable, be managed according to the rules for the time being in force for the management of Government estates subject to such directions as may, by general or special order, be issued from time to time by the State Government in his behalf: Provided that in an area in respect of which a Gram Panchayat has been established under section 3 of the Bihar Panchayat Raj Act, 1947 (Bihar Act 7 of 1948), the State Government may on such terms and conditions as it may by general or special order, fix and, subject to such rules as may be prescribed, entrust the management of such estates and tenures including trees, forests, fisheries, Jalkars, hats, bazars and ferries, comprised in such estates and tenures within the said area to the Executive Committee of such Gram Panchayat.

CHAPTER 4

PROVISIONS RELATING TO CERTAIN DEBTS OF PROPRIETOR AND TENURE-HOLDER

14. Time Within Which Secured Creditor May File Claims :-

(1) Every creditor, whose debt is secured by the mortgage of, or is a charge on any estate or tenure or part thereof vested in the State under section 3 or 1[3A] may, within six months of date of such vesting or the date on which such creditor is dispossessed under the provisions of clause (g) of section 4, or within three months from the date of appointment of the Claims Officer, whichever date is later, notify in the prescribed manner his claim in writing to a Claims Officer to be appointed by the State Government for the purpose of determining the amount of debt legally and justly payable to each creditor in respect of his claim. Explanation I. - For the purpose of this section a zarpeshgi lease and satua patua lease

or a lease executed in lieu of advances made or a dower debt of a widow in lieu of which she is in possession of an estate or tenure shall be deemed to be a debt secured by mortgage. Explanation II. - Defferent Claims Officers may be appointed for different areas. 1[(2) The Claims Officer shall be either a Subordinate Judge or a Munsif, but if the claims notified under sub-section (1) exceeds ten thousand rupees, he shall be a Subordinate Judge.] (3) Every claim of the nature referred to in sub-section (1) which is not duly notified to the Claim Officers within the time and in the manner mentioned in the said sub-section shall be barred: Provided that, when proof is made to the Claims Officer that the claimant was prevented by any sufficient cause from complying with the provisions of the said sub-section, the Claims Officer may admit his claim within a further period of two months from the expiration of the said period of six months or three months as the case may be. 1. Inserted by Act 20 of 1954.

15. Creditor To Furnish Full Particulars And Documents :-

Every creditor submitting his claim in compliance with the provisions of section 14 shall furnish, along with his written statement of claims full particulars thereof; and shall within such time as the Claims officer may appoint, produce all document which are in his possession, power or control (including entries in books of accounts) on which he relies to support his claim, together with a true copy of every such document.

16. Determination Of Amount Due To Creditor And The Order Of Priority As Between Two Or More Creditors :-

(1) The Claims Officer shall in accordance with the rules to be made under this Act, determine the principal amount justly due to each creditor and the interest (if any) due at the date of such determination in respect of such principal amount. (2) In determining the principal amount and interest under sub-section (1), the Claims Officer shall proceed in the following manner: - (a) he shall ascertain the amount of the principal originally advanced in each case irrespective of the closing of accounts, execution of fresh bonds, of decree or order of a Court; (b) he shall ascertain the amount of the interest already paid or realised and shall set off towards the amount of the principal any- amount paid or realised as simple interest in excess of six per centum per annum or the stipulated rate of interest whichever is lower; (c) he shall separately specify the amount of the principal and the amount of the interest, if any due to the creditor, such interest being

calculated at the rate mentioned in clause (b) and being limited to the amount of the principal originally advanced; (d) if he finds that in any case the creditor has received or realised by way of interest an amount equal to or more than the amount of the principal, he shall not allow any further interest to run on such principal; Explanation. - In the case of usufructuary mortgage, zarpeshgi lease or a satua patua lease of an estate or tenure, or in the case of possession of such estate or tenure or part thereof by a widow in lieu of her dower debt the net amount of rent and proftis accruing from such estate or tenure shall be deemed to be the interest for the purposes of the section, (e) in other cases the amount of the principal ascertained to be due to the claimant shall carry interest at the rate of three per centum per annum or such other rate not exceeding six per centum per annum as may be prescribed by the State Government. (f) no future interest shall run on any interest ascertained to be due to a creditor. (3) When there are two or more such creditors, the Claims Officer shall also settle the order in which case creditor is entitled to receive the amount due to him. In doing so he shall be guided by the appropriate provisions of the Transfer of Property Act. 1882 (Act 4 of 1882).

17. Appeal Against The Decision Of Claims Officer :-

An appeal shall lie against any decision of the Claims Officer under section 16, if preferred within sixty days of the date of such decision to a Board to be constituted by the State Government in the manner provided in section 18: 1[Provided that if the decision is recorded before the constitution of such Board, an appeal against such decision may be preferred within ninety days of the commencement of the Bihar Land Reforms (Amendment) Act, 1959.] 1. Inserted by Act 16 of 1959.

18. Constitution Of The Board And Procedure :-

(1) The Board shall consist of one member who shall be - (a) a Judge of the High Court, if the appeal preferred involves a claim exceeding ten thousand rupees; (b) a District Judge, if such appeal involves a claim which does not exceed ten thousand rupees. (2) Such appeal shall be disposed of according to the prescribed procedure. (3) The decision of the Board and, where no appeal has been preferred to the Board, the decision of the Claims Officer shall be final.

CHAPTER 5

ASSESSMENT OF COMPENSATION

19. Appointment Of Compensation Officer :-

1[The State Government shall appoint one or more officers to be designated as Compensation Officer, who shall in the case of estate or tenure which has vested in the State under section 3, of his own motion or on application by the outgoing proprietor or tenure-holder and, in the case of an estate or tenure which has vested in the State under section 3-A, on receipt of an application on transfer by the Collector under clause (6) of section 3-B, prepare in the prescribed form and in the prescribed manner a Compensation Assessment roll containing the gross asset and the net income of each proprietor and tenure-holder of estate and tenures and the compensation to be paid in accordance with the provisions of this Act to such proprietor or tenure holder and all other persons whose interests are transferred to the State under this Act together with such other particulars as may be prescribed: Provided that if in the case of a tenure created after the first day of January, 1946 the Compensation Officer receives from the Collector within three months of the date of vesting or the commencement of the Bihar Land Reforms (Amendment) Act, 1953, whichever is later, a report that an inquiry in respect of such tenure under clause (h) of section 4 is pending, the Compensation Officer shall not prepare any Compensation Assessment roll until the expiry of three months from the date of the receipt of such report or until the receipt of the result of such inquiry from the Collector, whichever is earlier: and after the said period, unless the tenure has been annulled under clause (h) of section 4. the Compensation Officer shall proceed to prepare the Compensation Assessment - roll in respect of such tenure.] 1. Substituted by Act 20 of 1954.

20. Separate Treatment Of Proprietor And Tenure-Holder Having Share :-

In preparing such Compensation Assessment roll, every proprietor or tenure -holder or a member of a joint Hindu family having or entitled to a share in any estate or tenure as if there were a partition on the date of vesting shall for the purposes of assessment and payment of compensation be treated separately: Provided that all the interests of a person so treated in all the estates and tenure owned by him or the interests in all the estates or tenure owned by the same proprietor or -holder be treated jointly for the said purpose.

21. Determination Whether A Trust Is For Charitable Or Religious Purposes Or Not :-

1[(1) The Compensation Officer shall report every case of trust comprising an estate or tenure or part of an estate or tenure to the Collector, and if any trust was made after first day of January, 1946, the Collector shall take action under clause (h) of section 4. (2) In case of a trust which has not been annulled under clause (h) of section 4, though made after the first day of January, 1946, or a trust made before the first day of January, 1946, the Collector shall after giving reasonable notice to the parties and considering their written statements and evidence if any, submit a report containing his findings as to whether 1[the trust is genuine and has been acted upon and] the net income or any portion of the net income in respect of the estates and tenures held under the trust has been dedicated exclusively to charitable or religious purposes without any reservation of pecuniary benefit to any individual, with all the relevant papers to the State Government who shall pass final order thereon. (3) In preparing the Compensation Assessment roll, the Compensation Officer shall act in accordance with the order of the State Government under sub-section (2).] 1. Inserted by Act 16 of 1959.

22. "Previous Agricultural Year" And "Gross Asset" Defined For The Purposes Of The Chapter :-

(1) "previous agricultural year" means the agricultural year immediately preceding that in which the date of vesting falls; (2) "gross assets", when used with reference of 1[an intermediary], means the aggregate of the rents, including all cesses, which were payable in respect of the estates or tenures of such 1[intermediary] for the previous agricultural year- (a) by the immediately subordinate tenant, in case such immediately subordinate tenant is a tenure-holder of a permanent or resumable tenure; (b) by the raiyats, in all other cases and includes - (i) the aggregate of the rents determined in accordance with the provisions of the proviso to sub-section (1) of section 5, and sections 6 and 7 in respect of the lands in the possession of the 1[intermediary] referred to in the said provisions; (ii) rents determined in the prescribed manner in respect of gairmazrui khas or gairmazrui malik or parti land appertaining to such estates or tenures; (iii) rent of lands purchased by 1[an intermediary] in execution of decree for arrears of rent (such lands not being in khas possession of such proprietor or tenure-holder or settled with any raiyat) at the rate payable before such sale; (iv) annual rent determined in the prescribed manner of buildings or portions of buildings used primarily as

offices or cutcheries for the collection of rents; (v) rents to be determined in the prescribed manner of lands in respect of which an order for the partial or entire remission of rent has been passed under clause (c) of sub-section (1) of section 112-A of the Bihar Tenancy Act, 1885 (8 of 1885) or under clause (c) or clause (d) of section 33-A of the Chota Nagpur Tenancy Act, 1908 (Ben. Act 6 of 1908) and is in force in the agricultural year preceding the agricultural year in which the date of vesting falls; (vi) gross income of the previous agricultural year from fisheries trees, jalkars, ferries, hats, bazars 2[melas] and sairati interests. 3[X X X X] (vii) gross income from forest calculated on the basis of the average gross annual income of twenty-five agricultural years preceding the agricultural year in which the date of vesting falls, which in the opinion of Forest Officer, not below the rank of a Divisional Forest Officer, to be appointed in this behalf by the State Government, the forests would have yielded, if they had been placed during the said period of twenty five years under the management of the State Government under any law for the time being in force relating to forests; (viii) gross annual income of previous agricultural year from any other interest appertaining to an estate or tenure vesting in the State and not expressly mentioned in sub-clauses (i) to (vii). 1. Inserted by Act 16 of 1959. 2 Inserted by Act of 16 of 1959. 3. Repeated by ibid.

23. Computation Of Net Income :-

(1) For the purposes of preparing Compensation Assessment-roll, the net income of 1[an intermediary] shali be computed by deducting from the gross asset of such 2[intermediary, as the case may be, the following, namely : - (a) any sum which was payable as land-revenue or rent including cesses to the State Government or to the immediately superior landlord, as the case may be, in respect of the State or tenure of such 3[intermediary] for the previous agricultural year: Provided that where rent of a holding comprised in such estate or tenure has been commuted into cash rent and there has been no re-valuation of the cess payable in respect of that estate or tenure, the cess payable under this clause shall be determined on the basis of the commuted rent: Provided further that if any land comprised in such estate or tenure is lost by diluvion or is covered with water so as to make such land uncultivable, the cess payable under this clause shall be reduced by an amount which bears to the cess of the entire estate or tenure the same proportion as the area lost or covered bears to the area of

the entire estate or tenure; (b) any sum which was payable by such 3[intermediary] as agricultural income-tax in respect of any agricultural income derived from such estate or tenure for the previous agricultural year; (c) any sum which was payable by such 2[intermediary] as income tax in respect of any income derived from such estate or tenure, other than royalties, for the previous agricultural year: Provided that the income - tax payable under this clause shall be determined in accordance with the rate of assessment which would have been applicable if the 2[intermediary] had no income other than the income derived from such estate or tenure; (d) any sum which was payable as chaukidari tax or municipal tax in respect of any building or part of building used primarily as office or cutchery for the management of such estate or tenure; (e) cost of management of such estate or tenure at the following rates namely: - Amount of gross asset. Rate (i) Where the gross asset does not exceed Rs. 2,000 5 per centum of such gross asset; (ii) where the gross asset exceeds Rs. 2,000 but does not exceed Rs. 5,000. 7-1/2 per centum of such gross asset; (iii) where the gross asset exceeds Rs. 5,000 but does not exceed Rs. 10,000. 10 per centum of such gross asset; (iv) where the gross asset exceeds Rs. 10,000 but does not exceed Rs. 15,000. 12-1/2 per centum of such gross asset; (v) where the gross asset exceeds Rs. 15,000. Not less than 15 and not more than 20 per centum of such gross asset : 4[Provided that the deduction on account of the cost of management referred to in this clause, shall not in any case have the effect of reducing the net income of the intermediary, specified in any entry in sub-clauses (ii) to (iv) thereof, to an amount below the net income of the intermediary specified in the entry mentioned in sub-clauses (i) to (iv), respectively; Explanation. - For the purposes of this clause, the term, "net income" means the gross asset minus the deduction on account of the cost of management. Illustration. - An intermediary has a gross asset of Rs. 5,000. After deducting the cost of management at the rate of seven and a half per centum, his net income comes to Rs. 4,625. Another intermediary has a gross asset of Rs. 5,100. After deducting the cost of management at the rate of ten per centum, his net income comes to Rs. 4,590, but under the terms of the proviso, his net income shall be deemed to be Rs. 4,625.] 5[X X X] 6(f) any other tax or legal imposition payable in respect of such estate or tenure not expressly mentioned in 7[clauses (a) to (e) or the value, to be commuted in the prescribed manner, of any services or obligation of any other form

to be rendered or discharged as a condition precedent to his enjoyment of such estate or tenure. (2) The State Government may make rules providing for the manner of calculation of sums under the different clauses of sub-section (1), when the estate or tenure vested in the State under section 3 7[or section 3-A] is a share in an estate or tenure or when the previous agricultural year does not exactly coincide with the year according to which any sum referred to in any of the said clauses was payable. 1. Substituted by Act 20 of 1954. 2. Repeated by *ibid*. 3 Inserted by Act of 16 of 1959. 4. Inserted by Act 20 of 1954. 5. Repealed by *ibid*. 6. Re-numbered by *ibid*. 7. Substituted by *ibid*.

24. Rates Of Compensation :-

After the net income has been computed under section 23 the Compensation Officer shall for the purpose of preparing the Compensation Assessment roll proceed to determine the amount of compensation to be payable in respect of the transference to the State of the interests of each 1[intermediary as follows: - (1) in the case of a proprietor or tenure-holder of a permanent or resumable tenure, the compensation payable shall be determined in accordance with the following table, namely: -

Amount of net income.	Rate of compensation payable.
(a) Where the net income so computed does not exceed Rs. 500.	Twenty times such net income
(b) Where the net income so computed exceeds Rs.500 but does not exceed Rs. 1,250.	Nineteen times such net income but in any case not less than the maximum amount under item (a) above.
(c) Where the net income so computed exceeds Rs. 1,250 but does not exceed Rs. 2,000.	Eighteen times such net income but in any case not less than the Rate of compensation payable. 1, 250 but does not exceed Rs. 2,000. maximum amount under item (b) above.
(d) Where the net income so computed exceeds Rs. 2,000 but does not exceed Rs. 2,750	Seventeen times such net income but in any case not less than the maximum amount under item (c) above.
(e) Where the net income so computed exceeds Rs. 2,750 but does not exceed Rs. 3,500.	Sixteen times such net income but in any case not less than the maximum amount under item (d) above.
(f) where the net income so computed exceeds Rs. 3, 500 but does not exceed Rs. 4,250.	Fifteen times such net income but in any case not less than the maximum amount under item (e) above.
(g) Where the net income so computed exceeds Rs. 4,250 but does not exceed Rs. 5,000.	Fourteen times such net income but in any case not less than the maximum amount under item (f) above.
(h)	

Where the net income so computed exceeds Rs. 5000 but does not exceed Rs. 10,000 Ten times such net income but in any case not less than the maximum amount under item (g) above. (i) Where the net income so computed exceeds Rs. 10,000 but does not exceed Rs. 20,000. Eight times such net income but in any case not less than the maximum amount under item (h) above (j) Where the net income so computed exceeds Rs. 20,000 but does not exceed Rs. 50,000. Six times such net income but in any case not less than the maximum amount under item (i) above. (k) Where the net income so computed exceeds Rs. 50,000 but does not exceed Rs. 1,00,000. Four times such net income but in any case not less than the maximum amount under item (j) above. (I) Where the net income so computed exceeds Rs. 1,00,000. Three times such net income but in any case not less than the maximum amount under item (K) above. To the amount thus determined shall be added - 2[**] the amount of compensation payable to a proprietor or tenure holder in respect of mines and minerals as determined under section 25. Explanation - The expression "resumable tenure" in this clause means a tenure which is held subject to the condition that it shall lapse to the estate of the grantor and be resumable by him or his successor in title - (a) on failure of male heirs of the body of the original grantee in the male line; or (b) on the happening of any definite contingency other than that referred to above. (2) in the case of the holder of a temporary lease of an estate or tenure, the compensation shall be paid out of the compensation payable under this Chapter to the immediately superior landlord of such lessee and the Compensation Officer shall apportion the compensation between such lessee and his immediately superior landlord subject to the rules made under this Act and, in making the apportionment, the Compensation Officer shall take into consideration the unexpired period of the lease, 3[and the advances paid by such lessee] 3[(3) in case where according to the order of the State Government under sub-section (2) of section 21, the trust is genuine and has been acted upon and the net income or any portion of the net income in respect of any estate or tenure held under the trust has been dedicated exclusively to charitable or religious purposes without any reservation of pecuniary benefit to any individual, the compensation payable in respect of such income or such portion thereof shall, instead of being assessed under clause (1) be assessed as a perpetual annuity equal to such net income or such portion thereof as the case may be. 4[Provided that where the

property dedicated to a trust consists only of mines and minerals, compensation under section 32, instead of perpetual annuity, shall be payable to the trust, as if it were an intermediary.] Explanation.

- The salary, remuneration or any allowance payable to a Mutawalli in the case of a Waqf or to a trustee in any other case including a Shebait of a Hindu religious trust not exceeding fifteen per centum of the net income dedicated exclusively to charitable or religious purposes shall not be deemed to be a reservation of pecuniary benefit within the meaning of this clause]; 3[(4) in case where an estate or tenure or any part thereof is held in trust, other than a trust exclusively dedicated to religious or charitable purpose the compensation payable to each beneficiary shall be determined on the basis of his share of the net income in respect of such estate or tenure or part thereof, as the case may be. Explanation. - Where the beneficiaries are members of a Joint Hindu family, the share of each such beneficiary in the net income shall be computed as if there was partition among them on the date of the vesting; (5) in the case where, the interest of a proprietor or tenure holder is subject to a mortgage or charge, the compensation shall first be payable to the creditor holding such mortgage or charge and the balance, if any, shall be payable to the proprietor or tenure holder concerned. The amount of compensation payable to a creditor on account of such mortgage or charge shall be the amount determined under Chapter VI which, notwithstanding anything contained in any law for the time being in force, shall not in any case exceed the amount of compensation payable in respect of the estate or tenure or portion thereof which is subject to such mortgage or charge, and where there are two or more such creditors the compensation shall be payable to them in the order determined under said Chapter; 5[(6) in the case of an estate or tenure where any person is in receipt of a monetary allowance in lieu of maintenance which is a charge on the estate or tenure, the allowance paid to such person shall be deemed to be the net income of such person and he shall be paid compensation on such net income and the amount of such net income shall be deducted from the net income of the proprietor of such estate or tenure for the purpose of determining the amount of compensation payable to him under this Act: Provided that if the claim of any person to such monetary allowance or as to the extent of the charge on such estate or tenure on account of such maintenance is disputed by any person at any time before the final publication of the Compensation Assessment roll under section 28, the Compensation Officer shall on

application, make such inquiry into the matter as ne considers fit and pass such order as may appear to him to be just and proper; Provided further that an appeal against any such order of the Compensation Officer shall lie to the authority and be disposed of in the manner provided in section 27.] 1. Substituted by Act 20 of 1954. 2. Repeated by Act 20 of 1954. 3. Substituted by Act 19 of 1959. 4. Inserted by Act 18 of 1983 (31-10-83) 5. Substituted by Act 16 of 1359.

24A. Determination Of Compensation Of Any Intermediary Of Temporarily Settled Estate :-

1[(1) In the case of each inteimediary of a temporarily settled es-tate, the Compensation Officer shall determine the compensation payable in respect of the transference to the State of the interest of the intermediary in such temporarily settled estate, whether let in form or held khas, at a sum equal to twenty times of the malikana payable to him during the previous agricultural year and where the intermediary has taken out the engagement of the land comprised in such estate for a fixed period on the payment of a fixed jama, also a sum equal to the prorata re fund of the fixed jama paid by him for ihe unexpired period of the engagement. (2) Where an intermediary of a temporarily settled estate also holds interest in a permanently settled estate or a permanent or resumable tenure, his total net income shall be computed for the purpose of determining the total amount of compensation payable to him under this Act on the basis of the amount of compensation payable to him under sub-section (1) increased by the valuation of net income of his interest in such estate or tenure determined under section 23.] 1. Inserted by Act 20 ot 1954.

25. Computation Of Compensation Payable For Mines And Minerals :-

(1) The Compensation Officer shall prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll containing in respect of every 1[intermediary] in receipt of royalties on account of mines and minerals or directly working mines comprised in the estate or tenure - (a) his gross income and net income from such royalties: (b) his gross income from mines worked directly by him and the amount deemed to be his net income from royalties in respect of such mines; (c) the amount of compensation payable to him under the provisions of this Act for mines and minerals; and (d) such other particulars as may be prescribed. (2) For the purpose of clause (a) of sub-section (1), the gross income of1[an intermediary] from royalties shall be the average annual income on account of royalties, calculated on the basis of the annual returns filed by the 1[intermediary] for the assessment of cess or income-tax during the period of twelve agricultural years preceding the agricultural year in which the date of vesting falls, or any shorter period for which such returns have been filed, and the net income from royalties shall be computed by

deducting from the gross income so determined the average of the income-tax 2[and cess] paid thereon during the said period and the cost of collection at such rates as may be prescribed. Provided that any sum shown in either of the said annual returns as having been received by the 1[intermediary] by way of salami or premium shall not be taken in to account calculating the gross income from royalties. (3) For the purposes of clause (b) of sub-section (1), the gross income of 1[an intermediary] from mines worked directly by him shall be the average annual gross income from such mines calculated on the same basis as that specified in subsection (2); and an amount equal to five per centum of the gross income so determined shall be deemed to be the net income from royalties which he might have derived in respect of such mines if he had leased them to another person. 1[(4) After the net income from royalties has been computed under sub-sections (2) and (3), the Compensation Officer shall proceed to determine the amount of compensation to be payable to the intermediary in accordance with the rates prescribed under sub-section (1) of section 24.] 1. Substituted by Act 20 of 1954. 2. Inserted by Act 16 of 1959.

26. Preliminary Publication Of Compensation Assessment Roll :-

1[(1) (a) After the amount of compensation including the amount assessed as an annuity under clause (3) of section 24 to be paid in respect of the interests of the intermediaries which have vested in the State under the provisions of the Act has been determined in accordance with the provisions of section 24, section 24A and section 25, the Compensation Officer shall prepare the Compensation Assessment-roll under section 19 or section 25, as the case may be, and when such roll has been prepared, the Compensation Officer shall - (i) cause to be published in the prescribed manner and for the prescribed period which shall not be less than thirty days, a draft of such roll together with a public notice stating that the amount of compensation specified in the draft is the entire amount of compensation payable in respect of the interest of the intermediary in the estate or tenure or part thereof as the case may be, and that the person named therein is presumed to be the only person entitled thereto and the objections, if any, in respect of any entry in the draft Assessment-roll may be filed by any person before the Compensation Officer within sixty days of the expiry of the said prescribed period; and (ii) send by registered post, with acknowledgement due, a copy of the draft

together with a copy of the notice to the person whose name appears in the draft. (b) The Commissioner of the division, the Collector of the district or any other officer not below the rank of a Deputy Collector authorised in this behalf by the State Government may, before the publication of the draft Compensation Assessment-roll issue such directions to the Compensation Officer in regard to the computation of compensation and matters relating thereto as he may consider fit. (2) The Compensation Officer shall consider any objection which may be made under sub-section. M) to any entry in such draft Compensation Assessment-roll or to any omission therefrom and pass such orders thereon as he may consider fit. (3) Separate draft Compensation Assessment-roll shall be prepared and published under sub-section (1) for different proprietors and tenure-holders; Provided that it shall not be obligatory on the Compensation Officer to prepare a separate draft Compensation Assessment-roll for different members or a Joint Hindu family.] 1 Substituted by Act 16 of 1959.

27. Appeal :-

An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Compensation Officer under sub-section (1) of section 26 to a Judge of the High Court to be¹[nominated by the State Government for the purpose in consultation with the Chief Justice] and he shall consider and dispose of such appeals in the prescribed manner: 2[Provided that any order of the Collector made under clause (h) of section 4 or any order of the State Government made under sub-section (2) of section 21 shall not be questioned in any such appeal.] 1. Substituted by Act 20 of 1954. 2. Inserted by *ibid*.

28. Final Publication Of The Compensation Assessment-Roll :-

When all such objections and appeals have been disposed of, the Compensation Officer shall make such alterations in the draft Compensation Assessment-roll as may be necessary to give effect to any orders passed on objections made under subsection (1) of Section 26 or on appeals preferred under section 27 and shall cause the said roll as so altered to be finally published in the prescribed manner and every entry in the roll so finally published shall, except as hereinafter provided, be final and conclusive evidence of the matter referred to in such entry and also of the nature of the interests of ¹[an intermediary] and the apportionment of compensation among the persons claiming interest therein. 1.

Substituted by Act 20 of 1954.

29. Certificate And Presumption As To Final Publication Of Compensation Assessment-Roll :-

When a Compensation Assessment-roll has been finally published under section 28, the Compensation Officer shall, within such time as the State Government may by general or special order require, make a certificate stating the fact of such final publication and the date thereof and shall date & subscribe the same with his name and official designation and such certificate shall be a conclusive proof of such publication and of the date thereof.

30. Correction By Compensation Officer Of Bonafide Mistakes :-

(1) A Compensation Officer may, on application or on his own motion, at any time before payment of compensation in accordance with a Compensation Assessment-roll under section 32, correct any entry in the Compensation Assessment-roll as finally published in respect of any 1[intermediary] to whom such Compensation Assessment-roll relates or any entry in such Compensation Assessment-roll which he is satisfied has been made owing to a bona fide mistake or is necessary as a result of succession or to transfer of the interest of 1[an intermediary] or any other person whose name appears in such roll as a person entitled to compensation : Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 27.

(2) No correction of any entry in the Compensation Assessment-roll as finally published in respect of any 1[intermediary] to whom such Compensation Assessment-roll relates shall be made under sub-section (1) unless the Compensation Officer has first published a draft of such correction and sent by registered post, within acknowledgment due, a copy of such draft to the 1[intermediary] to whom such correction relates and has finally published such correction after considering and disposing of any objections which may have been made to any such correction in the manner, provided in the last four preceding sections 1. Substituted by Act 20 of 1954.

30A. Fresh Preparation Of Compensation Assessment-Roll Where New Interests Are Discovered :-

1[Where the Compensation / Assessment-roll of an intermediary in respect of his interests which have vested in the State has been prepared and finally published under the provisions of this Act, and where subsequent to the final publication of such Compensation Assessment roll it is discovered that further interests of such

intermediary have vested in the State, then, notwithstanding anything contained in this Act, the Compensation Officer shall prepare a fresh Compensation Assessment-roll under section 19 or section 25, after taking into consideration the total interests of such intermediary including the interests subsequently discovered in the manner provided in the last five preceding sections; Provided that the amount of the compensation in the fresh Compensation Assessment-roll shall be reduced by the amount of any compensation which may have been paid to the intermediary before the preparation of such assessment roll: Provided further that in case the amount of compensation which has been paid to the intermediary before the preparation of the fresh Compensation Assessment-roll exceeds the amount of compensation to which such intermediary would be entitled under the fresh Compensation Assessment-roll the excess amount shall be recoverable from the intermediary as a public demand] 1. Inserted by ibid.

31. Determination Of Compensation For Premature Termination Of Lease Of Mines And Minerals :-

(1) Where in pursuance of the additional condition mentioned in sub-section (2) of section 10, any lease of mines or minerals is terminated by the State Government 1[in respect of while or part of the area comprised in the lease, the lessee shall be entitled to such compensation from the State Government for such premature termination] as may be agreed upon between the State Government and the holder of the lease; or in default of agreement as may be determined by a Mines Tribunal appointed under section 12. (2) In determining the compensation payable under sub-section (1), the Tribunal shall, among other things, have regard to the genuineness of the transaction, and the period for which the lease has been in force 2[(3) Where the interest of lessee of mines c. minerals passes on and vests in the State under section 10A, the lessee shall, subject to sub-section (4), be entitled to such compensation from the State Government for his interest as may be agreed upon between the State Government and the lessee, or, in default of agreement, as may be determined by a Mines Tribunal appointed under section 12. (4) The amount of compensation payable to a lessee in respect of a lease the unexpired period of which is within the limits mentioned in column 1 of the following table shall be as many times of the net annual income which the lessee derives on account of the lease-hold property as is mentioned in the corresponding entry in column 2 thereof, namely:-

Column 1	Column 2
(a) Does not exceed five years	One time.
(b) Exceeds five years but does not exceed ten years	Two times.
(c) Exceeds ten years but does not exceed twenty years	Three times.
(d) Exceeds twenty years but does not exceed thirty years	Four times.
(e) Exceeds thirty years but does not exceeds fifty years	Five times.
(f) Exceeds fifty years but does not exceed eighty years	Six times.
(g) Exceeds eighty years but does not	

exceed one hundred years. Seven times. (h) Exceeds one hundred years. Eight time. Explanation.- For the purposes of this sub-section, the expression "net annual income" means the gross annual income of the lease-hold property minus the rents, royalties, taxes, cesses and other legal impositions payable annually by the lessee in respect of the lease-hold property and the mines or minerals comprised therein and the cost of collection at such rate as may be prescribed.] 1. Substituted by Act 6 of 1965. 2. Inserted by Act 4 of 1965.

CHAPTER 6

PAYMENT OF COMPENSATION

32. Manner Of Payment Of Compensation :-

(1) When the time within which appeals under section 27 may be made in respect of any entry in or omission from a Compensation Assessment-roll has expired or where any such appeal has been made under that section and the same has been disposed of, the Compensation Officer shall proceed to make payment, in the manner provided in this section, to the proprietors, tenure-holders and other persons who are shown in such Compensation Assessment-roll as finally published under section 28 to be entitled to compensation of the compensation payable to them in terms of the said roll after deducting from the amount of any compensation so payable any amount which has been¹[paid under section 32A or has been] ordered by the Collector under 2[**] clause (c) of section 4 3[or under any other section] to be so deducted. (2) The amount of compensation so payable in terms of a Compensation Assessment-roll as finally published shall be paid in cash or in bonds or partly in cash and partly in bonds. The bonds shall be either negotiable or non-negotiable and non-transferable and be payable in 4[forty equal instalments] to the person named therein and shall carry interest at two and a half per centum per annum with effect from the date of issue. (3) The Compensation Officer shall in the prescribed manner tender payment of the compensation so payable in cash or in bonds to the person or persons entitled thereto according to the Compensation Assessment-roll as finally published and shall pay it to such person or persons unless prevented by some one or more of the contingencies mentioned in sub-section (4) or sub-section (5). 5[(4) If the estate or tenure in respect of which the compensation is payable is held by a limited owner or the holder of a life interest, the Compensation Officer shall keep the amount of compensation in deposit with the Collector of

the district and the Collector shall direct the payment of the interest accruing on the amount of compensation to the limited owner or the holder of the life interest during his life time. Such amount shall remain deposited with the Collector until the [amount of compensation] or portion thereof after making payment, if any, under the proviso to this sub-section is made over to any person or persons becoming absolutely entitled thereto: Provided that nothing in this sub-section shall be deemed to affect the right of any limited owner or the holder of a life interest to apply to the District Judge for the payment of a part of the 4[amount of compensation] to defray an expense which may be necessary to meet any legal necessity. 1. Inserted by Act 16 of 1959. 2. Repeated by Act 20 of 1954. 3. Inserted by *ibid*. 4. Substituted by *ibid*. 5. Sub-sec. (4) Repeated and sub-sec. (5) re-numbered as (4) by *ibid*. Section

32A. Payment Of An Amount Not Exceeding Fifty Per Centum Of The Compensation :-

- 1[Where the Compensation Officer considers that delay is likely to occur in payment of compensation under section 32, he may subject to the provisions of section 32B, pay in the manner, so far as may be applicable, provided in section 32, to the person entitled thereto under this Act a sum not exceeding 50% of the approximate amount of compensation payable to him under section 32 calculated in the manner prescribed in this behalf : Provided that if, subsequently it is found by the Compensation Officer or the Collector that any amount has been paid to any person in excess of the amount payable to him under section 32 or that the person to whom the amount has been paid was not entitled to it under this Act, the amount so paid shall after giving the person concerned a reasonable opportunity of being heard, be recoverable from him together with interest at 6-1/4 percent per annum as if it were a public demand. 1. Inserted by Act 16 of 1959. Section

32B. No Payment To Be Made Under Section 32 Or 32A Unless Affidavit Sworn :-

- No part of the compensation shall be paid under section 32 or section 32A unless the person concerned swears at the time of receiving payment an affidavit declaring that he has not received any compensation under this Act from any other Compensation Officer and files the same before the Compensation Officer:] 1[Provided that no such affidavit shall be necessary where the amount of compensation payable is less than rupees five hundred.] 1. Substituted by Act 14 of 1974.

33. Making Ad Interim Payment To Proprietors, Etc. Or Trustee :-

1[(1) Where after the vesting of his estate or tenure and before the commencement of the Bihar Land Reforms (Amendment) Ordinance, 1973 and the date of payment of final compensation under sub-section (2) of section 32, any ad-interim payment has been made to any outgoing intermediary in excess of 2-1/2 per

cent per annum of the amount of compensation payable under section 32, such excess amount shall be deducted from the compensation payable to him. (2) No ad-interim payments shall be payable to any outgoing intermediary in respect of his estate or tenure vested in the State under the provisions of this Act, with effect from the 1st day of April, 1973. Provided that after the date of vesting and before the date of payment of the amount assessed as perpetual annuity under sub-section (3) of section 24 ad-interim payments in advance shall be made six-monthly to the trustees, whose intermediary interests have vested in the State under the provisions of this Act, and such advance payment shall be such portion of the approximate amount of annuity as the Collector may in each case direct : Provided further that if the State Government by notification in the Official gazette so directs, ad-interim advance payments towards annuity may be made at any time within a period of two months before the expiry of any six-monthly period fixed for making such payments.] 1. Substituted by Act 14 of 1974.

CHAPTER 7

BIHAR LAND COMMISSION

34. Constitution And Functions Of Bihar Land Commission :-

There shall be established for the State of Bihar a Commission [1] to be called the Bihar Land Commission which shall consist of the Minister of the Governor, of Bihar in charge of Revenue as the Chairman and eleven members, of whom:- (a) five shall be members of the Bihar Legislative Assembly to be elected in the prescribed manner by the said Assembly; (b) three shall be members of the Bihar Legislative Council to be elected in prescribed manner by the said Council; (c) two shall be persons appointed by the State Government; and (d) one shall be an official who shall also be the Secretary to the Commission to be appointed by the State Government. (2) Subject to the provisions of this Act and any rules which may be made by the State Government in this behalf, it shall be the duty of the Commission to advice the State Government generally with regard to the agrarian policy which the State Government may from time to time follow in administering the system of land-tenure in this State. (3) (a) The members of the Commission shall hold office for the prescribed period from the date on which their election or appointment is respectively notified in the Official Gazette: (b) The Commission may hold such inquiries as appear to it to be necessary or desirable for the purpose of the proper discharge of its functions. (4) The Commission shall function

purely as an advisory body and shall discharge such other functions as may be prescribed. 2[(5) No act or proceeding of the Commission shall be questioned by reason merely of the existence of any vacancy in or any defect in the constitution of the Commission.] 1. The Bihar Land Commission was constituted in notification no. 5761 L, R., dated the 26th December, 1953. see B.O. R.O., Vol. I. Pt. VIM. 2. Inserted by Act 16 of 1959

CHAPTER 8

MISCELLANEOUS

35. Bar To Jurisdiction Of Civil Courts In Certain Matters :-

No suit shall be brought in any Civil Court in respect of any entry in or omission from a Compensation Assessment roll or in respect of any order passed under Chapters II to VI or concerning any matter which is or has already been subject of any application made or proceeding taken under the said Chapters.

36. Delegation :-

The State Government may by notification, direct that any power which is conferred on it by this Act shall in such circumstances and under such conditions, if any, as may be specified in that direction, be exercised or discharged by any officer or authority subordinate to the State Government.

37. Protection Of Action Taken Under This Act :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for any thing which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder. (2) No suit or other legal proceeding shall lie against the State for any damage caused or likely to be caused or any injury suffered or like to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

38. Collector, Claims Officer And Compensation Officer To Have Powers Of A Civil Court And Inquiry Conducted By Them To Be Deemed To Be Judicial Proceedings :-

(1) The Collector, for the purposes of inquiries under sections 4,5,6 and 7, a Claims Officer, for the purposes of inquiries under section 16, a Compensation Officer, for the purposes of inquiries under Chapter V and VI, a Tribunal for the purposes of inquiries under sections 12, 25 and 31, and the Commission for the purposes of inquiries under section 34 shall have power to summon and enforce the attendance of witnesses or of any person having an interest in

the subject matter of such inquiry 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 (5 of 1908). (2) Every such inquiry conducted by the Collector or a Claims Officer or a Compensation Officer or a Tribunal or the Commission shall be deemed to be a "Judicial proceeding" within the meanings of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860), and every statement made by any person examined by or before him with reference to such inquiry, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

39. Protection Of Trustees :-

No proceeding shall be taken in any Civil, Criminal or Revenue Court against a trustee holding an estate or tenure which has vested in the State under the provisions of this Act on the ground that the right of managing such estate or tenure is not exercised by him or on the ground that such estate or tenure has been transferred to the State.

40. Power Of Collector, Claims Officer And Compensation Officer To Ask For Information, Require Production Of Documents, Etc. :-

1[(1) The Collector, the Claims Officer or the Compensation Officer may, at any time either before or after the date of vesting, by a written order served in the prescribed manner, require 2[any intermediary or any other person in possession of an estate or tenure or any part thereof] or any agents or employees of such 2[intermediary] or other person, as the case may be. to produce, at a time and place specified in the order, such documents 3[**] or to furnish 4[on affidavit otherwise] such information 5[relating to any estate or tenure of such intermediary] as the Collector, Claims Officer or the Compensation Officer may, from time to time require for any of the purposes of this Act or giving effect to any provision thereof. 1[(2) Where any intermediary or other person, referred to in sub-section (1), is so required by a written order of the Collector fails without sufficient cause, to produce such documents or to furnish such information at such time and place as may be specified in the order, such intermediary or other person, as the case may be, shall be liable to a penalty which may extend to fifty rupees for every day after the expiration of such time until such documents have been produced or such information has been furnished and

such penalty shall be realised as a public demand: Provided that where the sum of such penalty exceeds five hundred rupees, the Collector shall refer the matter to the Commissioner whose orders thereon shall be final : Provided further that the Commissioner may at any time, of his own motion or on the application of any intermediary, revise, any order of the Collector imposing any penalty and the order of the Commissioner on revision shall be final.] 1. Sec. 40 re-numbered as 40 (1) and sub-sec. (1) added by Act 20 of 1954, 2. Substituted by *ibid*. 3. Repeated by *ibid*. 4. Inserted by Act 16 of 1959. 5. Substituted by *ibid*.

41. Penalties :-

If any person 1[intentionally] fails or neglects to comply with any lawful order passed under this Act 2[**] or offers resistance or obstruction to the taking by the Collector of charge or possession of any property which has vested in the State under this Act or, furnishes information which he knows or has reason to believe to be false or does not believe to be true, he shall on conviction by a Magistrate be punishable with imprisonment which may extend to two years or with fine or with both : Provided that no prosecution under this section shall be undertaken except with the previous sanction of the Collector of the district. 1. Substituted by Act 20 of 1954. 2. Repeated by *ibid*.

42. Vesting Of Estates Or Tenure-Under The Management Of State Government :-

When the interest of 1[an intermediary] in an estate or tenure which is under the management of the State Government under the Court of Wards Act, 1879 (Ben Act 9 of 1879) or the Chota Nagpur Encumbered Estates Act, 1876 (6 of 1876) or under any law for the time being in force relating to the management of private estates by the Govt, is transferred to the State under the provisions of this Act, then notwithstanding any thing contained in the aforesaid Acts, the estate or tenure shall vest in the State and the provisions of the said Acts shall cease to apply to the said estate or tenure and all the provisions of this Act shall apply thereto. 1. Substituted by Act 20 of 1954. Section

42A. Power To Transfer Cases :-

- 1[(1) The Collector of the district may, within his jurisdiction, at any stage- (a) transfer any inquiry under sections 4, 5, 6 and 7 pending before him for disposal to any other officer competent to dispose of the same or withdraw any such inquiry from any such officer, and dispose of the same, or transfer it to any other officer competent to dispose of the same or transfer the same for disposal to the officer

from whom it was withdrawn, and (b) transfer any inquiry under Chapters V and VI pending before a Compensation Officer for disposal to any other Compensation Officer or re-transfer the same for disposal to the Compensation Officer from whom it was withdrawn. (2) The District Judge may, within his jurisdiction, at any stage transfer an inquiry under Chapter IV from one Claims Officer for disposal to another Claims Officer competent to dispose of the same or re-transfer the same for disposal to the Claims Officer from whom it was withdrawn. (3) The High Court may at any stage transfer an inquiry under Chapter IV pending before a Claims Officer in one district for disposal to a Claims Officer competent to dispose of the same in another district. 1. Substituted by Act 20 of 1954. Section

42B. Provisions Of Act To Prevail Over Other Laws :-

- The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.]

43. Power To Make Rules :-

(1) The State Government may, after previous publication make rules not inconsistent with the provisions of this Act, 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 following matters namely:- (a) the mode of service of any orders or notices issued under this Act; (b) the forms to be used under this Act; (c) the procedure to be followed in determining fair and equitable rent in respect of certain lands deemed to be settled with 1[an intermediary] under sections 5, 6 or section 7; 2[(d) the authority to which an appeal shall lie under the proviso to clause (cc) and the proviso to clause (hh) of section 4, and section 8, and the procedure to be followed in disposing of such appeal;] (e) the method of the management of estates and tenures under section 13 by the Executive Committee of a Gram panchayat; (f) the manner of notification of claims by a creditor to a Claims Officer under sub-section (1) of section 14; (g) the rate of interest to be admissible on the amount of the principal ascertained under clause (e) of sub-section (2) of section 16; (h) the procedure to be followed in the disposal of appeals under subsection (2) of section 18; (i) the mode of preparation of the Compensation Assessment roll under section 19 ; (j) the procedure to be followed in ascertaining the gross assets of 3[an intermediary] under any of the heads mentioned in sub-clauses (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of clause (2) of section 22; 4[(k) the particulars to be prescribed under clause (d) of sub-section (1) and the rates of the cost of collection to be prescribed under subsection (2) of section 25;] (I) the manner and period of publication of a draft Compensation Assessment-roll under sub-section (1) of section 26 and the disposal of objection under that sub-section; (m) the manner in which appeals under section 27 shall be considered and

disposed of; (n) the manner of final publication of the Compensation Assessment-roll under section 28; 4[(o) the procedure to be followed by the Tribunal under sub-section (3) of section 12, section 31 or sub-section (4) of section 32;] (p) the proportion in which compensation shall be payable in cash and in bonds and the manner of payment of such compensation under sub-sections (2) and (3) of section 32; (q) the manner of calculating the approximate amount of compensation 4[for annuity] mentioned in sub-section (1) of section 33; (r) the manner of holding elections under sub-section (1) of section 34 for the purpose of establishing the Commission, the term for which a member of the Commission shall hold office and the functions to be discharged by it; and (s) any other matter by this Act required, or expressly or impliedly authorised, to be prescribed. 1. Substituted by Act 15 of 1974. 2. Inserted by Act 20 of 1954. 3. Substituted by Act 20 of 1954. 4. Substituted by Act 15 of 1974. 5. Inserted by Act 20 of 1954.